

ZONING REGULATIONS TOWN OF MARLBORO, VERMONT

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TABLE OF CONTENTS

ARTICLE I - GENERAL PROVISIONS	5
Section 100 - Enactment.....	5
Section 110 - Intent	5
Section 115 – Affordable housing.....	5
Section 120 - Application of Regulations.....	5
Section 130 - Interpretation.....	6
Section 140 - Amendments	6
Section 150 - Separability	6
Section 160 - Effective Date.....	6
Section 161 – Prohibited Uses or Structures	6
ARTICLE II - ADMINISTRATION AND ENFORCEMENT	6
Section 201 - Administrative Officer.....	6
Section 202 - Zoning Permits.....	6
Section 203 - Site Plan Review by the Appropriate Municipal Panel	7
Section 204 - Zoning Board of Adjustment.....	8
Section 205 - Conditional Use Permit.....	9
Section 206 - Penalties	9
ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP	10
Section 300 - Purpose of Zoning Districts	10
Section 301 - Establishment of Zoning Districts	10
Section 305 - Rural Residential (RUR)	10
Section 306 - Commercial Districts.....	11
Section 307 - Recreational-Commercial (REC)	11
Section 308 - Rural-Commercial (RUC)	13
Section 309 - Resource Production (PRO).....	14
Section 310 - Resource Conservation (CON).....	16
Section 315 - Density Requirements for Residential Development.....	17
Section 320 – Educational (EDU).....	18
Section 325 - Zoning Map.....	19
Section 330 - Interpretation of District Boundaries.....	19
ARTICLE IV - GENERAL REGULATIONS.....	20
Section 400 - Requirements of the Act.....	20
Section 401 - Existing Small Lots	20
Section 402 - Required Frontage On, or Access To, Public Roads or Waters.....	20
Section 403 – Special Public Use Exceptions	20
Section 404 - Equal Treatment of Housing	21
Section 405 - Extraction of Soil, Sand, and Gravel.....	22
Section 410 - Calculation of Required Lot Area	23
Section 411 - Lots in Two Zoning Districts	23

Section 412 - Buildings on Lots	23
Section 413 – Nonconformities	23
Section 414 - Front Yard Setback on Highways with less than 50-Foot Rights-of-Way.....	24
Section 415 - Location of Driveways	24
Section 420 - Erosion and Sediment Control	24
Section 425 - Landscaping Requirements	24
Section 430 - Gasoline Stations.....	25
Section 435 - Off-street Parking and Loading Space Requirements.....	25
Section 440 - Camps	26
Section 441 - Campgrounds	27
Section 442 - Park Standards for Camping Trailers and Tent Sites.....	27
Section 450 - Home Enterprises	28
Section 455 - Signs.....	28
Section 456 - Permitted Signs	28
Section 457 - Prohibited Signs.....	29
Section 458 – Sign Exceptions.....	29
Section 460 - General Performance Standards	30
Section 465 - Surface Water Protection Standards.....	31
Section 470 - Permitted Use Regulation for Small Wind Energy Systems.....	35
Section 475 Steep Slopes Standards.....	37
ARTICLE V – PLANNED UNIT DEVELOPMENT AND DESIGN CONTROL DISTRICTS	39
Section 500 - Planned Unit Development (PUD).....	39
Section 501 - Purpose.....	39
Section 502 - Definition	40
Section 504 - Permitted Uses	40
Section 505 - Application and Review Procedures	40
Section 506 General and Specific Standards	40
Section 507 Density Bonus for Affordable Housing	41
Section 508 - District Regulations' Waivers.....	42
Section 509 - Open Space	42
Section 530 - Design Review District	42
ARTICLE VI - SHORE LAND AREA OVERLAY REGULATIONS	42
Section 600 - Statutory Authorization	43
Section 605 - Classification of Shore Lands: General Description.....	43
Section 610 - Shore Land Regulations	43
ARTICLE VII - FLOOD HAZARD AREA REGULATIONS	44
Section 700 - Statutory Authorization.....	44
Section 705 - Statement of Purpose.....	44
Section 710 - Flood Hazard Zoning Map.....	44
Section 711 - Interpretation of Flood Hazard Area Boundaries	44
Section 715 - Application Submission Requirements	44

Section 720 - Procedures.....	45
Section 725 - Standards.....	45
Section 730 - Special Requirements for Setback from Minor Streams.....	47
Section 735 - Administration	47
Section 740 - Warning of Disclaimer of Liability	49
Section 750 – Precedence of Regulations.....	49
Section 755 – Flood Hazard Area Definitions.....	49
ARTICLE VIII – TELECOMMUNICATIONS FACILITIES.....	52
Section 800 - Title	52
Section 805 - Statement of Purpose.....	52
Section 810 - Authority	53
Section 811 – Consistency with Federal Law.....	53
Section 815 – Telecommunications Facilities Definitions	53
Section 816 – Administration, Enforcement and Appeals.....	53
Section 820 – Permitted and Prohibited Locations	55
Section 825 – Small Scale Facilities.....	55
Section 830 – Application Requirements for Wireless Telecommunications Facilities not Covered Under Section 825	56
Section 835 – Site Plan Requirements for Wireless Telecommunications Facilities not Covered Under Section 825	58
Section 840 – Collocation Requirements	59
Section 845 – Access Roads and Above Ground Facilities	60
Section 850 – Tower and Antenna Design Requirements	60
Section 855 – Amendments to Existing Wireless Telecommunications Facility Permit	62
Section 860 – Tower Lighting and Signage; Noise Generated by Facility	63
Section 865 – Temporary Wireless Communications Facilities	63
Section 870 – Continuing Obligations	63
Section 875 – Facility Removal.....	63
Section 880 – Maintenance Requirements	64
Section 885 – Insurance Requirements	64
Section 890 – Fees	64
Section 895 – Enforcing Agent	65
Section 896 – Severability.....	65
Section 897 – Glossary of Telecommunications Terms.....	65
ARTICLE IX - DEFINITIONS	71

ARTICLE I - GENERAL PROVISIONS

Section 100 - Enactment

In accordance with the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, hereinafter referred to as the "Act," there are hereby established Zoning Regulations for the Town of Marlboro which are set forth in the text and maps that constitute these Regulations. These Regulations shall be known as the "Town of Marlboro Zoning Regulations."

Section 110 - Intent

It is the intent of these Regulations to provide for orderly community growth and to further the purposes and goals established the Act.

Section 115 – Affordable housing

It is the intent of the Town of Marlboro to facilitate the creation of affordable housing. For this purpose these regulations provide for multi-unit or multi-family housing as Conditional Uses in certain districts to facilitate construction of affordable housing, especially as starter homes for families. These regulations also provide for density bonuses for Planned Unit Development projects that include affordable residential units (see Article V). The affordable housing provisions of these Regulations are intended to:

- 1) Provide for residential development that meets the needs of Marlboro's population, including housing for low and moderate income individuals and families, in accordance with the Act;
- 2) Increase opportunities for homeownership and rental units;
- 3) Allow for development of a variety of affordable housing types including single and two family dwellings and multi-family units;
- 4) Ensure that affordable housing units will remain affordable and available into the future; and
- 5) Encourage mixed income development

Section 120 - Application of Regulations

The application of these Regulations is subject to the requirements and limitations of the Act. Except as hereinafter provided, no "Land Development" or "Development" as such terms are defined by these Regulations may be commenced in the Town of Marlboro unless in conformity with the Regulations herein specified for the district in which it is located. Any use not permitted by these Regulations shall be deemed prohibited.

Section 130 - Interpretation

Except as provided for in the Act, and where these Regulations specifically provide to the contrary, it is not intended to repeal, annul or in any way to impair any regulations or permits previously adopted or issued, provided however that where these Regulations impose a greater restriction upon use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of these Regulations shall control.

Section 140 - Amendments

These Regulations may be amended according to the requirements and procedures established in the Act.

Section 150 - Separability

The invalidity of any provision of these Regulations shall not invalidate any other part.

Section 160 - Effective Date

These Regulations shall take effect in accordance with the voting and other procedures contained in the Act.

Section 161 – Prohibited Uses or Structures

Unless a use or structure is expressly permitted by these Regulations or is a nonconforming, pre-existing use or structure, it is prohibited.

ARTICLE II - ADMINISTRATION AND ENFORCEMENT

Section 201 - Administrative Officer

The Administrative Officer is hereby appointed to administer the Zoning Regulation, as provided for in the Act. Said Officer shall enforce literally the provisions of these Regulations, and in so doing shall inspect land developments, maintain records of his or her actions, report periodically to the public and the governing body, and perform all other necessary tasks to carry out the provisions of these Regulations and the duties of the office.

1. Application for all permits shall be made to the Administrative Officer.

Section 202 - Zoning Permits

After the effective date of these Regulations, no land or building developments as herein defined

may commence, nor shall any land or structure be used, be extended in any way, or be occupied, unless a Zoning Permit has been duly issued by the Administrative Officer, as provided for in the Act.

1. The Administrative Officer shall issue a Zoning Permit only if all of the following requirements are met:
 - a. Zoning Permit and/or Division of Land application form, as established by the Appropriate Municipal Panel, has been properly completed and submitted;
 - b. The Zoning Permit fee, as established by the Board of Selectmen in accordance with the Act, has been paid;
 - c. All state and town health requirements have been complied with and proof thereof submitted;
 - d. All applicable local reviews and approvals have been secured, including but not limited to Site Plan Approval, Conditional Use Approval, variances, rights of way and PUD review, where required under the provisions of these regulations;
 - e. The stipulations of any state agencies have been satisfied.
2. The Administrative Officer shall within 30 days of submission of all necessary application data and approvals, either issue or deny a Zoning Permit. If denied, the Administrative Officer shall notify the applicant in writing, stating the reasons therefor. A decision by the Administrative Officer may be appealed to the Appropriate Municipal Panel by any interested person as described in Section 204 (1) of these regulations.
3. Permit expiration: Permits expire one year from effective date if the project has not been started and two years from the effective date if the project has not been substantially completed, unless longer times are stated in the permit. Substantially completed means the project can be fully utilized for its permitted purpose. Permits may be renewed, but such renewal takes into account amendments to these regulations subsequently adopted.

Section 203 - Site Plan Review by the Appropriate Municipal Panel

The Appropriate Municipal Panel shall review and approve or disapprove Site Plans for all development (see definition) other than camps or one- and two-family dwellings and their accessory uses in accordance with the Act. In the case of Subdivision development, see Town of Marlboro Subdivision regulations. In reviewing Site Plans for all other development, the Appropriate Municipal Panel may impose appropriate conditions and safeguards with respect to the adequacy of parking, traffic access, and circulation for pedestrians and vehicles; landscaping and screening, the protection of the utilization of renewable energy resources; exterior lighting; the size, location, and design of signs; and other matters specified in the Zoning Regulations.

The Appropriate Municipal Panel shall hold a public hearing to review the application and shall act to approve or disapprove any such site plan within forty five (45) days after the adjournment of the hearing; failure to so act within such period shall be deemed approval.

1. *Application For Site Plan Approval.* The applicant shall submit two (2) sets of site plan

maps drawn to scale, and supporting data to the Appropriate Municipal Panel, which shall include the following information presented in drawn form and written text:

- a. name and address of property owner, or applicant, if different than owner; owners of record of adjoining lands; name and address of person or firm preparing map;
- b. property lines, acreage figures, scale of map, north point and date;
- c. existing contours and features, including structures, easements and rights-of-way;
- d. proposed site grading and location of structures, sewage disposal facilities, water supply and land use areas;
- e. proposed layout of roads, driveways, walkways, traffic circulation and parking spaces;
- f. existing trees, shrubs and other vegetation to be preserved on the site;
- g. proposed landscaping and screening.

Section 204 - Zoning Board of Adjustment

The Board of Adjustment is established as provided for in the Act. The rules of procedure, nature of appeal, public notice and all other matters, shall be established as provided in the Act.

1. *Appeals.* An interested person, as defined the Act may appeal any act or decision within fifteen (15) days of such act or decision, in accordance with the provisions of the Act. An application for an appeal shall be submitted to the Board of Adjustment and a copy filed with the Administrative Officer. In accordance with the Act, the Board shall render its decision, which shall include findings of fact, within 45 days after completing the hearing, and shall within that period send to the appellant, by certified mail, a copy of the decision. Appeals of decisions by the Appropriate Municipal Panel or the Board of Adjustment are to be made to the Vermont Environmental Court, as provided for in the Act.
2. *Variances.* On a request for a variance, the Board of Adjustment shall grant such variance only if all criteria under the Act are met.
3. *Conditional Use approval.* No zoning permit may be issued by the Administrative Officer for any use or structure which requires Conditional Use Approval in these regulations until the Board of Adjustment grants such approval. In considering its action, the Board of Adjustment shall make findings on general and specific standards, hold hearings, and attach conditions if any, as provided for in the Act.
4. *Application.* Site Plans in accordance with Section 203 (1) shall accompany the Zoning Permit application for all proposed conditional uses.
5. *General Standards.* The proposed Conditional Use shall not adversely affect:
 - a. the capacity of existing or planned community facilities;
 - b. the character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the town plan ;

- c. traffic on the roads and highways to the vicinity
 - d. any by-laws then in effect;
 - e. utilization of renewable energy resources.
6. *Specific Standards.* The Board of Adjustment may impose conditions in order to safeguard the interests of surrounding properties, the neighborhood, or the town as a whole including but not limited to:
- a. Article VII, Flood Hazard Regulations, Article VI, Shore Land Area Regulations, and Article IV, General Regulations of this bylaw;
 - b. the area, dimensional and coverage standards for the applicable district;
 - c. maximum safety of traffic circulation between the site and the street;
 - d. adequacy of circulation, parking, and loading facilities;
 - e. adequacy of landscaping, screening and setbacks with regard to achieving maximum compatibility with and protection of adjacent properties;
 - f. size, location and design of signs;
 - g. design and location of structures and service areas;

Section 205 - Conditional Use Permit

To obtain a Conditional Use Permit, a Site Plan must be approved by the Appropriate Municipal Panel, and an Application for Conditional Use must be approved by the Appropriate Municipal Panel. It is advisable to submit a Site Plan to the Appropriate Municipal Panel and then the Application for Conditional Use to the Appropriate Municipal Panel. Both approvals may be processed during the same period of time. The Appropriate Municipal Panel shall hold a public hearing to review the application and shall act to approve or disapprove any such requested conditional use within forty five (45) days after the adjournment of the final public hearing, and failure to so act within such period shall be deemed approval. Once a decision has been rendered, notification of the decision will be sent to the Administrative Officer.

Section 206 - Penalties

Violations of these Regulations shall be handled as prescribed in the Act.

ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

Section 300 - Purpose of Zoning Districts

The purpose of establishing zoning districts in the Town of Marlboro is to further the public health, safety, and welfare of the Town. Specifically, the districts seek to provide an orderly, attractive, compatible and logical growth pattern by allocating various functional uses to land areas best suited for them.

Section 301 - Establishment of Zoning Districts

The Town of Marlboro is hereby divided into the following Zoning Districts as shown on the official Zoning Map:

Rural Residential	RUR
Recreational-Commercial	REC
Rural-Commercial	RUC
Resource Production	PRO
Resource Conservation	CON
Educational (Marlboro College)	EDU

Overlay Areas:

Shore Land	SHO
Surface Water Buffer	SWB
Flood Hazard Area	FHA

Section 305 - Rural Residential (RUR)

District Description and Purpose: The Rural Residential District includes all land in the Town except that which is zoned "Recreational-Commercial," "Rural-Commercial," "Resource Production," "Resource Conservation," or "Educational." Its purpose is to provide for agriculture, forestry, residential, and other compatible uses at densities appropriate to the physical capability of the land and the rural character of the Town. Within the Rural Residential District, Planned Unit Development may be allowed as an efficient alternative to the large-lot subdivision, provided that the required average densities set forth in Section 315 are not exceeded, except as provided for to facilitate creation of affordable housing.

Permitted Uses:

1. Accessory Use
2. Agriculture and Forestry
3. Camp
4. Single- or Two-Family Dwelling

- 5. Planned Unit Development (P.U.D.).
Permitted subject to the requirements of Article V
- 6. Family child care home or facility*
- 7. Residential Care and Group Homes*
* See Definitions for applicability

Conditional Uses: (Require Conditional Use Permits from the Appropriate Municipal Panel)

- 1. Boarding , Rooming House, Guest Farm, or Bed and Breakfast
- 2. Campground
- 3. Cemetery
- 4. Community Center
- 5. Conference/Retreat Facility
- 6. Dormitory/Hostel
- 7. Educational Facility
- 8. Home Enterprise
- 9. Health Care Facility
- 10. Membership Clubhouse
- 11. Multiunit Dwelling
- 12. Municipal or Fire Company Facility
- 13. Museum/Gallery
- 14. Parking
- 15. Private Club
- 16. Professional Residence-Office
- 17. Public Utility Substation
- 18. Religious Institution
- 19. Resource Industry
- 20. Sand, Gravel, or Soil Removal
- 21. State Facility
- 22. Storage - Enclosed
- 23. Telecommunications Facilities
- 24. Wildlife Refuge

Area, Dimensional, and Coverage Requirements

- Lot Area Minimum: 2 acres (for residential uses, Section 315 applies)
- Lot Frontage Minimum: 200 feet
- Front Yard Minimum: 50 feet (from highway right-of-way)
- Side and Rear Yard Minimums: 50 feet each
- Structure Height Maximum: Three stories or 35 feet, whichever is less.
Accessory building, 25 feet.
No height limit for agricultural uses.
- Building Coverage Maximum: 10 percent

Section 306 - Commercial Districts

Commercial Districts include certain lands with access to Route 9 which appear to be generally suitable for new and expanded commercial and related uses. The purpose of these districts is to provide for recreation, commercial, and other compatible uses which will have suitable access to the state highway and minimum impact on surrounding rural residential areas. These objectives are accommodated within two separate Districts. See Sections 307 and 308.

Section 307 - Recreational-Commercial (REC)

District Description and Purpose: The Recreational Commercial District includes lands on both

sides of Route 9 in the western portion of the Town. The purpose of this district is to accommodate commercial growth, particularly enterprises ancillary to the old Hogback ski facility and similar recreation-oriented businesses, and to avoid sprawl and minimize impacts on natural and cultural resources. (See Section 342 for Description of Zoning Boundaries)

Permitted Uses:

- | | |
|--|---|
| 1. Accessory Use | 7. Recreation, Passive |
| 2. Agriculture and Forestry | 8. Restaurant, Bar |
| 3. Boarding, Rooming House, Guest Farm, or Bed and Breakfast | 9. Single- or Two-Family Dwelling |
| 4. Home Enterprise | 10. Family Child Care Home or Facility* |
| 5. Museum/Gallery | 11. Residential Care and Group Homes* |
| 6. Professional Residence Office | * See Definitions for applicability |

Conditional Uses: (Require Conditional Use Permits from the Appropriate Municipal Panel)

- | | |
|------------------------------------|---|
| 1. Business Office | Permitted subject to the requirements of Article V. |
| 2. Campground | |
| 3. Community Center | 12. Private Club |
| 4. Conference Center/Retreat | 13. Recreation, Active |
| 5. Dormitory/Hostel | 14. Religious Institution |
| 6. Educational Facility | 15. Resource Industry |
| 7. Health Care Facility | 16. Retail Store |
| 8. Hotel/Motel | 17. State Facility |
| 9. Membership Clubhouse | 18. Telecommunications Facilities |
| 10. Multiunit Dwelling | 19. Wildlife Refuge |
| 11. Planned Unit Development (PUD) | |

Area, Dimensional, and Coverage Requirements:

- | | |
|------------------------------------|--|
| Lot Area Minimum: | 2 acres (for residential uses Section 315 applies) |
| Lot Frontage Minimum: | 100 feet |
| Front Yard Minimum: | 30 feet from highway right-of-way |
| Side and Rear Yard Minimums: | 30 feet, or 50 feet abutting Residential Districts |
| Structure Height Maximum: | 35 feet |
| Building Size - Maximum Footprint: | 10,000 square feet |
| Building Coverage Maximum: | 20 percent |

Additional Standards

- Building Design - Commercial Building design to be compatible with the architecture of the neighborhood.
- Building Materials - Siding to be wood, brick, stone, or aluminum or vinyl clapboard- style siding.

Exterior Lighting - Designed so as to illuminate structures and exterior areas only at levels necessary to ensure safety and security of persons and property; so that the light source (lamp) is not directly visible from public roads, adjacent residences, or distant vantage points; and so that the source light does not project above the lamp. All lighting fixtures serving parking areas shall be cut-off fixtures (shielded, with downlight only).

Parking - To be located in the side and rear yards when possible. Front yard parking shall be single-row only. Shared access drives and parking areas are encouraged. Side and rear setbacks may be waived for shared access and parking.

Site Design - PUDs with buildings grouped together in a village design with shared parking, open space, and integrated street, tree, and landscape design are encouraged. See Section 500.

Section 308 - Rural-Commercial (RUC)

District Description and Purpose: The Rural-Commercial District includes lands on both sides of Route 9 in the east-central portion of the Town. The purpose of this district is to accommodate most future commercial growth within an area having the best relationship to the existing State highway corridor, to minimize various impacts of such growth on Marlboro's rural character.

Permitted Uses:

- | | |
|--|--|
| 1. Accessory Use | 4. Home Enterprise |
| 2. Agriculture and Forestry | 5. Professional Residence Office |
| 3. Boarding, Rooming House, Guest Farm, or Bed and Breakfast | 6. Single- or Two-Family Dwelling |
| | 7. Family child care home or facility* |
| | 8. Residential Care and Group Homes* |
- * See Definitions for applicability

Conditional Uses: (Require Conditional Use Permits from the Appropriate Municipal Panel)

- | | |
|--|------------------|
| 1. Business Office | 12. Private Club |
| 2. Campground | |
| 3. Community Center | |
| 4. Conference Center/Retreat | |
| 5. Dormitory/Hostel | |
| 6. Educational Facility | |
| 7. Health Care Facility | |
| 8. Multiunit Dwelling | |
| 9. Municipal or Fire Company Facility | |
| 10. Museum/Gallery | |
| 11. Planned Unit Development (PUD)
Permitted subject to the requirements
of Article V. | |

- 13. Religious Institution
- 14. Resource Industry
- 15. Retail Store
- 16. Restaurant, Bar
- 17. State Facility
- 18. Telecommunications Facilities

Area, Dimensional, and Coverage Requirements:

Lot Area Minimum:	2 acres (for residential uses, Section 315 applies)
Lot Frontage Minimum:	100 feet
Lot Depth Minimum:	200 feet
Front Setback Minimum:	30 feet
Side and Rear setbacks Minimum:	30 feet
Structure height Maximum:	35 feet
Building Size - Maximum Footprint:	10,000 square feet
Building Coverage Maximum:	20 percent

Additional Standards:

Building Design - Commercial Building design to be compatible with the architecture of the neighborhood.

Building Materials - Siding to be wood, brick, stone, or aluminum or vinyl clapboard style siding.

Exterior Lighting - Designed so as to illuminate structures and exterior areas only at levels necessary to ensure safety and security of persons and property; so that the light source (lamp) is not directly visible from public roads, adjacent residences, or distant vantage points; and so that the source light does not project above the lamp. All lighting fixtures serving parking areas shall be cut-off fixtures (shielded, with downlight only).

Parking - All parking to be located in the side and rear yards when possible. Front yard parking shall be single-row only. Shared access drives and parking areas are encouraged. Side and rear setbacks may be waived for shared access and parking.

Site Design - PUDs with buildings grouped together in a village design with shared parking, open space, and integrated street, tree, and landscape design are encouraged. See Section 500.

Section 309 - Resource Production (PRO)

The Resource Production District includes those lands so designated on the official Zoning Map. The purpose of the Resource Production District is to minimize development and fragmentation of lands with natural resources, such as valuable agricultural and forestry soils and the crops or forests grown upon them, providing for significant economic value, or the potential thereof, when in productive use. Residential development in this district shall be sited to preserve the viability of land-based economic

activities, such as agriculture, forestry, and recreation, through protection of waters, soils, scenic values, and the rural character of the Town. These assets shall be protected from incompatible development to preserve the resources for future use. It is the intent of this district to regulate residential and commercial uses and not to infringe upon Acceptable Agricultural Practices and forestry Acceptable Management Practices.

Permitted Uses:

- | | |
|-------------------------------------|--|
| 1. Accessory Uses to Permitted Uses | 7. Forest Management |
| 2. Agriculture | 8. Recreation, Passive |
| 3. Camp | 9. Family child care home or facility* |
| 4. Child Care Facility (6 or less) | 10. Residential Care and Group Homes* |
| 5. Dwelling, Single or Two family | 11. Small Wind Energy System s |
| 6. Farmstand | * See Definitions for applicability |

Conditional Uses:

- | | |
|---|---|
| 1. Accessory Units | 10. Gallery |
| 2. Accessory Uses to Conditional Uses | 11. Garden, Farm, or Nursery Supply |
| 3. Bed and Breakfast | 12. Home Enterprise |
| 4. Cemetery | 13. Kennel |
| 5. Community Building | 14. Planned Residential Development |
| 6. Cultural Facility | 15. Retail Business or Service less than
2,500 square feet |
| 7. Dwelling, Multi-family | 16. Riding Stable |
| 8. Educational Facility | 17. Service Business |
| 9. Extraction of Earth
Resources/Quarrying | 18. Veterinary Clinic |

Area, Dimensional, and Coverage Requirements:

- | | |
|------------------------------|---|
| Lot Area Minimum: | 10 acres |
| Lot Frontage Minimum: | 200 feet |
| Front Yard Minimum: | 50 feet (from highway right-of-way) |
| Side and Rear Yard Minimums: | 50 feet each |
| Structure Height Maximum | Three stories or 35 feet, whichever is less |
| | Accessory Building, 25 feet |
| | No height limit for agricultural uses |

Building Size – Maximum Footprint 10,000 square feet

Building Coverage Maximum: 3 percent

Section 310 - Resource Conservation (CON)

The Resource Conservation District includes those lands so designated on the official Zoning Map. The purpose of the Resource Conservation District is to protect large or contiguous blocks of essentially undeveloped land areas that have high natural and scenic resource values, including sensitive resources such as upland watersheds, plant and wildlife habitat, streams and riparian corridors. Of particular interest are undeveloped large and/or connected areas that would allow perpetuation and enhancement of water resources, wildlife habitat and travel corridors, and provide other resource values, such as open space and trails for recreation. These lands shall be used principally for agriculture, forestry, and low-intensity recreational and open space uses. Residential development in this district shall be sited to protect the resource values of the land. The resources shall be preserved for their inherent values to the maximum extent feasible.

Permitted Uses:

1. Accessory Uses to Permitted Uses
2. Agriculture
3. Forest Management
4. Recreation, Passive
5. Small Wind Energy Systems Towers

Conditional Uses:

1. Accessory Units
2. Accessory Uses to Conditional Uses
3. Bed and Breakfast
4. Camp
5. Cemetery
6. Child Care Facility*
7. Community Building
8. Dwelling, Single or Two Family
9. Family child care home or facility
10. Extraction of Earth Resources/Quarrying
11. Home Enterprise
12. Kennel
13. Planned Residential Development
14. Residential Care and Group Homes
*Riding Stable
15. Service Business
16. Veterinary Clinic
* See Definitions for applicability

Area, Dimensional, and Coverage Requirements:

Lot Area Minimum:	27 acres
Lot Frontage Minimum:	200 feet
Front Yard Minimum:	50 feet (from highway right-of-way)
Side and Rear Yard Minimums:	50 feet each
Structure Height Maximum	Three stories or 35 feet, whichever is less
	Accessory Building, 25 feet
	No height limit for agricultural uses
Building Size – Maximum Footprint	10,000 square feet
Building Coverage Maximum:	1 percent

Section 315 - Density Requirements for Residential Development

The permitted number of Dwelling Units within any Planned Unit Development (P.U.D.) shall not exceed that which is permitted according to the following schedule, except as provided for in Article V - PUD -to encourage creation of affordable housing:

Number of Units	Required Average Acreage per Unit
1-2	2 acres
3-5	3 acres
6-10	4 acres
11-15	5 acres
16-20	6 acres
21-25	7 acres
26-30	8 acres
31 or more	9 acres

1. The above schedule shall not apply to the sale of one (1) lot of (2) or more acres every (3) or more years
2. If a person submits site plans or subdivision plats for two or more planned unit developments involving land within a radius of one mile of any point of any involved land, the Appropriate Municipal Panel shall consider the two or more plans or plats as combined into one plan or plat for the purpose of determining the permitted number of dwelling units under the schedule in Section (315) above.
3. If 2 or more persons submit site plans or subdivision plats for planned unit developments, involving land within a radius of one mile of any point on adjacent parcels of land and if there is evidence of affiliation among adjacent landowners the Appropriate Municipal Panel shall consider the plans or plats combined into one plan or plat for the purpose of determining the permitted number of dwelling units under the schedule in Section (315) above.
For the purpose of determining whether such affiliation among adjacent landowners exists, the Appropriate Municipal Panel may direct its Attorney to examine the relationship of the parties and any knowledge or information about any contracts or agreements between the parties, and any facts revealed by the plans themselves that tend to show an interdependence of physical characteristics or design of the separate plans.
4. For the purpose of this Section, the word "person" shall mean an individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture of affiliated ownership.

Section 320 – Educational (EDU)

District Description and Purpose: The Educational District includes the Marlboro College Campus. Its purpose is to provide adequate lands for the reasonable location and expansion of institutional facilities in relation to the present campus. District regulations provide for site plan review of zoning applications within the Educational District, and for conditional use review of all facilities exceeding specified size or bulk.

Only land which is in fact owned by Marlboro College shall be included within the Educational District, but not all such land will be necessarily so zoned. Should land in the Educational District be subsequently transferred to non-institutional ownership or management, said land shall thereafter be considered to be in the Rural Residential District.

Permitted Uses:

1. Educational Facilities [see also Section 403 - Special Public Use Exceptions]

Area, Bulk, Dimensional, and Coverage Requirements for Permitted Uses:

Building Size: Not more than 6,000 square feet above the foundation. For this purpose, buildings connected

	by an enclosed passageway shall be considered separate buildings. In the event that a basement area shall be used for the same purposes as the above-foundation areas, and if such basement area shall, with the above foundation areas, aggregate more than 6,000 square feet, a conditional use permit shall be required for such use.
Building Bulk:	Not more than 48,000 cubic feet above foundation level excluding attic space.
Structure Height Maximum:	35 feet
Building Coverage Maximum:	Up to 10 per cent of Educational District Lands
Building Setbacks:	Not less than 50 feet from property lines or public rights-of-way.
Yard & Courts:	Not less than 50 feet between structures. For this purpose, buildings connected by an enclosed passageway shall be considered separate buildings, and the distance shall be measured from the main structure in each case.

Conditional Uses:

Educational Facilities which deviate from the Area, Bulk, Dimensional, and Coverage Requirements for Permitted Uses may be allowed subject to Conditional Use review and approval by the Appropriate Municipal Panel.

Section 325 - Zoning Map

The location and boundaries of Zoning Districts are established as shown on the attached Official Zoning Map. The Official Zoning Map is hereby made a part of these regulations together with all future amendments. No amendment to these regulations which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map, signed by the legislative body and attested to by the clerk of the municipality. Regardless of the existence of copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the clerk of the municipality shall be the final authority as to the current zoning status of land and water areas.

Section 330 - Interpretation of District Boundaries

The locations of zoning district boundaries are established as shown on the official Zoning Map. Where due to scale, lack of detail or illegibility by the zoning map there is any uncertainty, contradiction or conflict as to the intended location of any zoning district boundary shown thereon, the Appropriate Municipal Panel shall make an interpretation, upon request, by any

aggrieved party. Any additional expense such as surveying shall be borne by the applicant.

ARTICLE IV - GENERAL REGULATIONS

Section 400 - Requirements of the Act

In accordance with the Act, the following requirements shall apply:

Section 401 - Existing Small Lots

Any lot in individual and separate and nonaffiliated ownership from surrounding properties in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.

Section 402 - Required Frontage On, or Access To, Public Roads or Waters

No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with Site Plan Review approval of the Appropriate Municipal Panel, access to such a road or waters by a permanent easement or right-of-way at least fifty feet in width.

Section 403 – Special Public Use Exceptions

The Act lists certain public and private use exceptions to the general rules of zoning, including special rules for schools hospitals, churches, regional solid waste facilities, state facilities, day care centers and other uses. The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- (1) State- or community-owned and operated institutions and facilities.
- (2) Public and private schools and other educational institutions certified by the state department of education.
- (3) Churches and other places of worship, convents, and parish houses.

(4) Public and private hospitals.

(5) Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.

(6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

Section 404 - Equal Treatment of Housing

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of the Act.

(B) Except as provided in subdivisions 4414(1)(E) and (F) of the Act, no bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. A municipality may establish specific site standards in the bylaws to regulate individual sites within preexisting mobile home parks with regard to distances between structures and other standards as necessary to ensure public health, safety, and welfare, provided the standards do not have the effect of prohibiting the replacement of mobile homes on existing lots.

(C) No bylaw shall have the effect of excluding mobile home parks, as defined in 10 V.S.A. Chapter 153, from the municipality.

(D) Bylaws shall designate appropriate districts and reasonable regulations for multiunit or multifamily dwellings. No bylaw shall have the effect of excluding these multiunit or multifamily dwellings from the municipality.

(E) No bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

(iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met.

Section 405 - Extraction of Soil, Sand, and Gravel

The removal of soil, sand or gravel for commercial purposes shall be allowed as follows:

Permitted Use: For up to 100 cubic yards. per year, not exceeding 500 yards total, per site, a zoning permit is required.

Conditional Use: The removal of more than 100 cubic yards per year or a total of 500 cubic yards total, per site, shall be permitted only after the Appropriate Municipal Panel finds, following conditional use review, that the proposed activity meets the standards below. A site plan in accordance with Section 203 shall accompany the conditional use permit application.

In addition, a plan for the rehabilitation of the site is required which will demonstrate that the site will be left safe, attractive, and in useful condition. This plan shall provide for the restoration of the area excavated, including but not limited to necessary grading, drainage, replacement of loam, or other suitable soil cover to support permanent vegetation and prevent soil erosion.

The Appropriate Municipal Panel may attach additional conditions which it deems necessary in accordance with the Act (including but not limited to guarantees of financial capability for the site rehabilitation, hours of operation, setbacks from Town roads, property lines or residences, or other factors) to protect the safety and general welfare of the public.

Standards: The extraction of soil, sand, and gravel may occur if:

1. The operation will not result in an embankment with a slope steeper than one (1) foot vertical to two (2) feet horizontal upon completion of an area of work.
2. No part of the operation shall be undertaken within 100 feet of a property line.
3. The operation does not cause undue noise, dust, or fumes. This can be accomplished through adequate vegetative buffers or screening to be maintained at all times between the operation (including excavation, blasting, crushing, and traffic access and circulation) and all roads and neighboring properties.
4. The operation does not cause unreasonable highway congestion, unsafe conditions, or excessive use with respect to gravel trucks on highways and bridges existing or proposed in the area.
5. The operation does not cause an unreasonable burden on the existing water supply if one is to be used, nor have an adverse impact on the quality or quantity of neighboring water supplies.
6. The operation does not interfere or threaten deeryards or other critical wildlife habitat, wetlands, streams, ponds, or lakes.
7. The operation does not have an undue adverse effect on the scenic or natural beauty of the area including such community resources as landmarks, historic sites, cemeteries or scenic areas.
8. The operation will not cause unreasonable soil erosion nor result in a reduction in the capacity of the land to hold water during and after the operation which could create a

dangerous or unhealthy situation for adjoining property owners or downstream areas due to stream bank erosion, surface water runoff, or flooding.

Section 410 - Calculation of Required Lot Area

Existing or planned rights-of-way shall not be included in calculating the required lot area, lot depth or setbacks for front yards and side yards.

Section 411 - Lots in Two Zoning Districts

When a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty feet into the more restricted part.

Section 412 - Buildings on Lots

1. There shall be only one principal residential building on a lot unless otherwise approved by the Appropriate Municipal Panel. To enhance conservation of resources and facilitate affordable housing, the Appropriate Municipal Panel may, after Site Plan Review, approve multiple principal residential buildings on a lot.
2. Any building standing on more than the minimum lot area required for the district within which it is located must retain the minimum required lot area if such building is sold.

Section 413 – Nonconformities

A. Nonconforming Uses

The following provisions shall apply to all uses existing on the effective date of these Regulations which do not conform to the use requirements of these Regulations. Any lawful use of a building or premises or part thereof existing at the time these Regulations are adopted may be continued, although such building or use does not conform to the provisions of the district in which it is located, and any such building or use may be altered or enlarged after approval by the Appropriate Municipal Panel. The Appropriate Municipal Panel may, on application, permit the change from a nonconforming use to another nonconforming use not substantially different in its purpose or manner of application, and not harmful or objectionable to the neighborhood. Buildings, the use of which is nonconforming, which are destroyed by fire or other disaster, may be reconstructed for such use provided such construction begins within a period of three (3) years from the date of destruction. Once a nonconforming use is changed to a use permitted in the district where it is located, then it may not be changed back to a nonconforming use.

B. Nonconforming Structures

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

C. Nonconforming Lots

As a condition for approval of a Division of Land whereby a nonconforming lot is created for the sole purpose of conveyance to an adjoining landowner, the Grantee shall be required to merge and incorporate the nonconforming lot with an existing adjacent lot by recorded conveyance. The remaining lands of Grantor must conform to all requirements of the Zoning Bylaw after the conveyance.

Section 414 - Front Yard Setback on Highways with less than 50-Foot Rights-of-Way

Notwithstanding provisions for front yards elsewhere in these Regulations, on highways with less than 50-foot rights-of-way, the building setback shall be established on the assumption of a 50-foot right-of-way.

Section 415 - Location of Driveways

All driveways are to be located at least one hundred feet from a street or highway line intersection for all uses except one- and two-family residential uses.

Section 420 - Erosion and Sediment Control

The smallest practical area of land should be exposed at any one time during development. Lands should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required to protect areas exposed during the development. Sediment basins shall be installed and maintained during development to remove sediment from run-off water and from land undergoing development, where appropriate and feasible.

Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. Grading and storm drainage plans shall maximize the amount of natural drainage which can be percolated into the soil and minimize direct runoff into adjoining streets, properties, and watercourses or water bodies. Areas of grading, cut or fill and ditches shall be designed, constructed, and kept in good repair to minimize erosion and sedimentation.

Section 425 - Landscaping Requirements

Landscaping, where required under these regulations, will be installed and maintained in front, side and rear yards and shall take the form of shade trees, deciduous, shrubs, evergreens, well-kept grassed areas or ground cover, the species of which shall be approved by the Appropriate Municipal Panel.

Following are the minimum landscaping requirements:

1. Where any nonresidential land use abuts a residential land use, a strip of land, at least twenty-five feet in width shall be maintained as a landscape and utility area in the front yard, side yards and rear yard, unless waived by the Appropriate Municipal Panel.
2. Commercial and industrial uses shall provide for a strip of land at least twenty feet in width which shall be maintained as a landscaped area in the front, side and rear yards, unless waived by the Appropriate Municipal Panel.
3. In any Planned Unit Development, as required by the Appropriate Municipal Panel.

Section 430 - Gasoline Stations

In all districts where permitted, gasoline or motor vehicle service stations shall comply with the following:

1. A gasoline station lot shall not be located within three hundred feet of any lot occupied by a school, hospital, library or religious institution or dwelling.
2. Lot size shall be at least two acres.
3. Lot frontage shall be at least 200 feet.
4. Lot depth shall be at least 200 feet.
5. Pumps, lubricating and other service devices shall be located at least fifty feet from the front lot line and side and rear lot lines.
6. All fuel and oil shall be stored at least thirty-five feet from any property line.
7. All automobile parts and dismantled vehicles are to be stored within a building, and no major repair work is to be performed customarily outside a building.
8. No signs shall extend beyond the pumps, nor exceed twenty feet in height.
9. There shall be no more than two access driveways from the street. The maximum width of each access driveway shall be forty feet.
10. A suitably curbed landscaped area shall be maintained at least five feet in depth along all street frontage not used as driveway.

Section 435 - Off-street Parking and Loading Space Requirements

Off-street parking spaces shall be provided at least as set forth below. A required driveway shall be at least twenty feet clear in width, except for one- and two-family dwelling uses. A parking space shall be at least nine feet by twenty-two feet.

1. Residential:
 - a. One-family and two-family dwelling units: one parking space for every unit.
 - b. Multiple-family dwelling units: four parking spaces for every three units.
 - c. Professional residence-office: one parking space, plus one additional parking space for every three hundred square feet of office space.
2. Hotel, Motel, Tourist Home, Boarding House: one space for every guest room.

3. Dormitory, Fraternity, Nurses' Home, Hospital: one space for every two beds.
4. Places of Public Assembly: one parking space for every five seats; where there are no seats, one parking space shall be provided for every two hundred square feet of floor area.
5. Business, Professional, and Medical Offices: one space for every two hundred square feet of office space.
6. Commercial, Business, and Unspecified Uses: one parking space for every motor vehicle used in the business, plus one parking space for every two hundred square feet of floor area.
7. Restaurant, Eating and Drinking Establishments: one parking space for every seventy-five square feet of floor space.
8. Other Uses: as required by the Appropriate Municipal Panel.

The Appropriate Municipal Panel may require additional off-street parking and loading spaces for any use if it finds that minimum spaces are not sufficient.

Section 440 - Camps

A camp shall not be used as a permanent dwelling. Persons may occupy camps only in accordance with the following regulations:

1. Camps are allowed as long as they conform to all applicable regulations for structures within the district in which they are located.
2. The owner of a trailer or motor home may park it on his/her own property for the purpose of storage in the rear or side yards and no closer than twenty-five feet to any lot line, provided that property has a permanent dwelling constructed on it and provided that dwelling is connected to water and septic systems in accordance with the town's zoning regulations and sewage ordinance.
3. The owner of a tent may erect it on his/her property provided that it is further than six (6) feet from any lot line and is not hooked up to any utilities.
4. A camp may be used as living quarters upon specific approval of the landowner or in an approved campground for less than or equal to ninety (90) days per year.
5. Any discharge of sewage or graywater must comply with applicable health regulations. A Conditional Use Permit and Sewage Disposal Permit are required if a camp is to be set up or used as living quarters for more than ninety (90) days per year.
6. Camps are subject to all applicable set back requirements for structures in the district in which they are located, including a 75-foot setback from the mean high water mark of any stream or body of water.
7. In order to convert a camp to any use that no longer meets the definition for a camp, the structure and use must conform to the requirements of use and occupancy of the district in which it is located.
8. All camps are subject to interior and exterior inspection by the Administrative Officer on an annual basis.

Section 441 - Campgrounds

A person or persons shall construct or operate a campground only after obtaining Conditional Use Approval [Section 204 (3)] from the Appropriate Municipal Panel.

Campgrounds must meet requirements and standards contained in the State Department of Health Trailer Camp and Tent Site Regulations, and the following specific standards must be satisfied.

1. An individual access driveway and parking area, suitably surfaced and graded, shall be provided for each site. If the driveway opens onto a state or town highway, the requirements of 19 V.S.A. § 1111 must also be met.
2. Each site shall be at least 2,500 square feet in area. Each camping trailer site shall have a compacted gravel surface at least twenty (20) feet in width.
3. There shall be an undeveloped area of not less than one hundred (100) feet in depth between all camping trailer and tent sites and the travel portion of any adjacent highway and other boundaries of the campground. These areas shall be landscaped with existing or planted trees or other plant materials.
4. Each site shall be located in a dry and well-drained area.
5. All roads within the campground shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. The design of roads shall be adequate to provide for the utilization of police, fire, ambulance, and other emergency vehicles. Proper traffic control signs shall be established.

Section 442 - Park Standards for Camping Trailers and Tent Sites

The following regulations shall apply in respect to all camping trailers and tent sites:

1. An individual access driveway and parking area, suitably surfaced and graded, shall be provided for each site.
2. Each site shall be at least 2,500 square feet in area. Each camping trailer site shall have a compacted gravel surface at least twenty feet in width.
3. There shall be an undeveloped area of not less than 100 feet in depth between all camping trailer and tent sites and the traveled portion of any adjacent highway and other boundaries of the camp which areas shall be landscaped with existing or planted trees or other plant materials.
4. Each site shall be located in a dry and well-drained area.
5. All roads within the site shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. The design of roads shall be adequate to provide for the utilization of police, fire, ambulance, and other emergency vehicles. Proper traffic control signs shall be established.

Section 450 - Home Enterprises

Home Enterprises in a rural residential zone may be allowed if such use complies with the requirements of this subsection:

1. In accordance the Act the use of a minor portion of a dwelling for an enterprise which is customarily conducted in residential areas and does not have an undue adverse effect upon the character thereof shall not require a permit.
2. A conditional use permit shall be required for:
 - a. Use requiring two or more full-time employees or the equivalent who are not members of the family living on the premises.
 - b. Activity which generates traffic and parking in consistently larger amounts than would normally be expected in a residential neighborhood.
 - c. An enterprise which uses a substantial portion of the residence or accessory building(s).
3. Prohibited use:
 - a. Large commercial or industrial operations.
 - b. Operations which violate Section 460 as to noise, traffic, dust, odors, etc.

Home Enterprises in a commercial zone may be allowed so long as they do not violate Section 460.

Section 455 - Signs

Signs are allowed with regulations, restrictions, and prohibitions as detailed in Sections 456 and 457. Only On-Premise signs are allowed, with certain exceptions as given in Section 458.

Section 456 - Permitted Signs

The following On-Premise signs are allowed without a zoning permit:

1. In all districts
 - a. One (1) professional or home enterprise sign, not exceeding four (4) square feet in total area.
 - b. Two temporary real estate signs offering sale or rental of the premises, entire or in part, and not exceeding six (6) square feet in total area (both signs). "Temporary," in this usage, shall mean until sale or rental is effected, or for six (6) months, whichever comes first.
2. In commercial districts
 - a. Interior window signs, with the following provisions: Such sign shall present a face that can be contained in a rectangular area no greater than four (4) square feet, whether or not the elements of the sign completely fill such a rectangle. Signs employing gas-discharge tube ("neon") displays are allowed, provided that they conform with the size limits given above, and that no more than six (6) such signs are displayed by any establishment.

- b. Fluorescent signs not exceeding two (2) square feet in area.

The following On-Premise signs require a zoning permit from the Administrative Officer:

1. In residential districts, signs identifying any allowed nonresidential use (see Section 205, Conditional Uses), not to exceed twenty (20) square feet in total area.
2. In commercial districts:
 - a. No more than three (3) business signs, not larger than thirty-two (32) square feet each; no more than two (2) of these signs are to be located within twenty-five (25) feet of the edge of the traveled portion of the highway.
 - b. Signs included in (a) may be internally illuminated, provided that the translucent material of the sign diffuses the internal light to eliminate any glare or "bright spots;" or they may be externally illuminated, provided that the source of illumination is carefully shielded to prevent traffic hazards.

Section 457 - Prohibited Signs

The following signs shall not be allowed in any district:

1. Advertising billboards.
2. Flashing, oscillating, or revolving signs.
3. Neon signs in any exterior application.
4. Fluorescent signs larger than two (2) square feet in area.
5. Reflective signs.
6. Signs attached to buildings when such signs are more than twenty-five (25) feet in height, or extend above the eaves of that part and side of the building to which the sign is attached.
7. Freestanding signs in excess of twenty (20) feet in height.
8. Signs that impair public safety.
9. Portable signs.

Section 458 – Sign Exceptions

The following On- and Off-Premise signs are allowed without a zoning permit:

1. Signs erected, maintained, or administered by the municipality or by the State of Vermont under Title 10, Chapter 21. Reflective signs are allowed within this category.
2. Signs without advertising displayed for the direction, instruction, or convenience of the public, including signs that identify rest rooms, freight entrances, posted areas or the like, not exceeding two (2) square feet in area. Included in this category are off-premise signs giving directions to a home industry or other rural-residential use as defined in Section 305. Three (3) such signs are allowed, with areas not to exceed one-half (1/2) square foot each.
3. Signs displayed for not more than two (2) weeks, announcing events such as fairs or expositions, auctions, campaign drives, or events sponsored by a civic, political,

religious, or philanthropic service organization, etc. Such signs may not exceed four (4) square feet in area, and must be removed by the owners, sponsors, or proprietors promptly after the announced event.

4. Signs in or on the rolling stock of a common carrier while in use as such, and signs painted on or attached to registered and inspected vehicles so as not to change the exterior dimensions of such vehicle, provided that any such vehicle is in use as a vehicle. This exemption does not extend to rolling stock or vehicles when one of the principal uses has become that of advertising by its having advertising matter painted or posted thereon.
5. Portable signs of no more than eight (8) square feet that are placed and removed daily.

Section 460 - General Performance Standards

In accordance with the Act, the following Performance Standards together with all applicable State standards shall be met by all uses in all districts on a continuing basis. The Administrative Officer shall decide whether a proposed or existing use meets the standards. A use which exceeds these standards may be permitted upon receipt of Conditional Use Approval to do so.

1. Agricultural operations shall at minimum observe Accepted Agricultural Practices (AAPs) as defined and administered by the Vermont Department of Agriculture.
2. Forestry operations shall at minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation.
3. The following standards apply to all uses, with the exception of AAPs and AMPs. No existing or proposed use, under normal conditions, shall cause, create, or result in:
 - a. Persistent, repetitive, or recurring noise which represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the reasonable use of the surrounding lots;
 - b. Noticeable, clearly apparent vibration beyond the property on which the use is located during normal operations of a use so as to be incompatible with the reasonable use of the surrounding area.
 - c. Persistent smoke, dust, odors, noxious gases or other forms of air pollution, which constitute a nuisance or recognized health hazard beyond the property which the use is located so as to be incompatible with the reasonable use of the surrounding area.
 - d. Releases of heat, cold, moisture, mist, fog, precipitation, or condensation likely to be detrimental to public safety, health or welfare beyond the property on which the use is located so as to be incompatible with the reasonable use of the surrounding area.
 - e. Electronic emissions or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals beyond the lines of the property on which the use is located.

- f. Glare, lights or reflections which are a nuisance to traffic or neighboring properties or which are detrimental to the public safety, health or welfare.
- g. Liquid or solid wastes or refuse which cannot be disposed of by available or existing methods, or which place an unreasonable burden on municipal facilities, or which if buried or allowed to seep into the ground will in any way endanger the health, comfort, safety, or welfare of any person, or which have a tendency to cause injury or damage to property, plants, or animals.
- h. Undue fire, safety, explosive or other hazards which significantly endanger any property, including the applicant's or lot owner's, or which result in a significantly increased burden on municipal facilities, such as the Fire Department.
- i. Soil erosion and/or the discharge of sediment into a brook, stream, river, culvert, or catch basin. The smallest practical area of land should be exposed at any one time during development. Lands should not be left exposed during the winter months. Where necessary, temporarily vegetation and/or mulching and structural measures may be required to protect areas exposed during development. Sediment basins shall be installed and maintained during development to remove sediment from run-off water and from land undergoing development, where appropriate and feasible. Development shall be accomplished so as to minimize adverse affects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. Grading and storm drainage plans shall maximize the amount of natural drainage which can infiltrate into the soil and minimize direct run-off onto adjoining streets, properties, and watercourses or water bodies. Areas of grading, cut or fill and ditches shall be designed, constructed, and kept in good repair to minimize erosion and sedimentation. All changes in grade shall be controlled so as not to cause a nuisance or damage to other properties or erosion of soil.
- j. A significant increase in any storm water flow levels beyond the property on which the development is located. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters. the exception of this rule is discharge into an approved storm drainage system. The Appropriate Municipal Panel may require that the drainage system be designed and installed under the direction of a certified engineer. Any changes in grading shall be made so that runoff is directed to established drainage courses and will not cause ponding or flooding of other properties, or exceed the capacity of downstream drainage facilities.

Section 465 - Surface Water Protection Standards

A. Purpose.

It is the purpose of this Section to provide standards for the protection and improvement of the

surface waters and streams within the town of Marlboro and the watersheds contained wholly or partially within the town. These regulations and standards are established to protect natural areas along the town's surface waters for protection of water quality and to maintain open-space areas and wildlife habitat in riparian corridors. These regulations apply to new land use activities and to expansions of pre-existing activities commenced after the effective date of these regulations. Pre-existing uses are not affected.

B. Surface Water Buffer Standards

(1) Applicability. The requirements of this Section shall apply to all lands described as follows: All land within twenty five (25) feet horizontal distance of the top of bank of streams and associated waterbodies within the town as shown on the official Zoning Map, including but not limited to the Green River, Marlboro Branch (Rock River), and Whetstone Brook, and the following waterbodies: Hidden Lake, Sunset Lake, South Pond, and the Marlboro Millpond. The distance of the surface water buffer shall be measured from the top of bank of the stream or water body. The top of bank is the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high-water stage. In areas where there are ponds contiguous to a stream or river the starting point for the buffer shall be the top of bank of the water body.

(2) Exemptions. These regulations shall not apply to accepted agricultural or farming practices, as defined by the Commissioner of Agriculture, Food, and Markets, following Acceptable Agricultural Practices or to accepted silvicultural practices, as defined by the Commissioner of Forests, Parks, and Recreation, following Acceptable Management Practices.

(3) General standards. It is the objective of these standards to promote the maintenance of undisturbed areas of native vegetation and trees to reduce the impact of stormwater runoff, reduce sedimentation, and increase infiltration and base flows in the town's streams and ponds. Therefore, except as specifically permitted by the Appropriate Municipal Panel (AMP) pursuant to the standards in Section 205 (Conditional Use Permit), all lands within a required surface water buffer defined above shall be left in an undisturbed, naturally vegetated condition. Supplemental planting and landscaping with appropriate native species of vegetation to achieve these objectives shall be permitted. The specific standards for the vegetation and maintenance of surface water buffers are as follows:

(a) The clearing of trees that are not dead, heavily damaged by ice storms or other natural events, or diseased, and the clearing of any other vegetation other than invasive species, is permitted only in conjunction with AMP approval pursuant to (4) or (5) below.

(b) Any areas within a required surface water buffer that are not vegetated or that are disturbed during construction shall be seeded with a naturalized mix of grasses rather than standard lawn grass, and shall not be mowed more than one (1) time per calendar year after establishment.

(c) The creation of new lawn areas within surface water buffers is not permitted after the effective date of these regulations.

(d) Snow storage areas designated pursuant to site plan or Planned Unit Development (PUD) review shall not be located within surface water buffers unless the applicant can demonstrate that:

- i. There is no reasonable alternative location for snow storage on the same property.
- ii. Measures such as infiltration areas have been incorporated into the site plan and/or stormwater treatment system to reduce the potential for erosion and contaminated runoff entering the associated stream as a result of snow melt.

(4) Expansion of pre-existing structures within surface water buffers. The expansion of pre-existing structures within surface water buffers, except as provided for on named water bodies in Section C, below, shall be permitted only in accordance with the standards for nonconforming structures and nonconforming uses in Article IV, Section 413 of these Regulations.

(5) New uses and encroachments within surface water buffers. The encroachment of new land development activities into the town's surface water buffers is discouraged. The Appropriate Municipal Panel (AMP) may grant approvals pursuant to this section as part of PUD review without a separate conditional use review. The AMP may authorize the following as conditional uses within surface water buffers, subject to the standards and conditions enumerated, below, for each use.

(a) Clearing of vegetation and filling or excavating of earth materials, only to the extent directly necessitated for the construction or safe operation of a permitted or conditional use on the same property and where the AMP finds that:

- i. There is no practicable alternative to the clearing, filling, or excavating within the surface water buffer; and
- ii. The purposes of this Section will be protected through erosion controls, plantings, protection of existing vegetation, and/or other measures.

(b) Encroachments necessary to rectify a natural catastrophe for the protection of the public health, safety, and welfare.

(d) Encroachments necessary for providing for or improving public facilities.

(e) Unpaved public recreation paths, located at least ten (10) feet from the top of bank of the surface water.

(f) Stormwater treatment facilities meeting the Vermont Agency of Natural Resources (VANR) stormwater treatment standards, and routine maintenance thereof, including necessary clearing of vegetation and dredging. Evidence of a complete application to the VANR for coverage under the applicable permitting requirements shall be required to meet this criterion for encroachment into a surface water buffer.

(g) Roadways or access drives for purposes of crossing a surface water buffer area to gain access to land on the opposite side of the buffer, or for purposes of providing safe access to an approved use, in cases where there is no feasible alternative for providing safe access and the roadway or access drive is located at least ten (10) feet from the normal high water mark of the surface water.

(h) Roadways or access drives for purposes of crossing a stream to gain access to land on the opposite side of the stream, or for purposes of providing safe access to an approved use, in cases where there is no feasible alternative to the crossing for providing safe access.

(i) Utility lines, including power, telephone, cable, sewer and water, to the extent necessary to cross the stream or encroach into the surface water buffer where there is no feasible alternative for providing or extending utility services.

(j) Outdoor recreation, provided any building or structure (including parking and driveways) appurtenant to such use is located outside the surface water buffer.

(k) Research and educational activities, provided any building or structure (including parking and driveways) appurtenant to such use is located outside the surface water buffer.

(l) Hydro-electric power generation

(m) Water dependent uses, such as boat launching facilities and docks.

(6) Review and Comment by the Marlboro Conservation Commission.

The Marlboro Conservation Commission shall in a timely manner review applications made pursuant to sections (4) and (5) above and provide specific comments to the AMP, as appropriate, as to the proposed project's compliance with the general purposes and standards enumerated in section (3) above.

C. Pre-Existing Structures along named water bodies

(1) Applicability. The provisions of this section shall apply to preexisting structures within the areas defined as follows:

All lands within one hundred (100) feet horizontal distance of the top of bank of South Pond, Hidden Lake, Sunset Lake, and Marlboro Millpond.

Where the provisions of this section and the Shoreland Overlay regulations are both involved, the more stringent (protective) shall apply.

(2) Expansion and reconstruction of pre-existing structures. Within the areas defined in Section (C)(1) above, the expansion and reconstruction of pre-existing structures may be approved by the AMP as a conditional use provided the requirements of the underlying zoning district and the following standards are met:

(a) The structure to be expanded or reconstructed was originally constructed on or before March 1, 2005. For purposes of these Regulations, expansion may include the construction of detached accessory structures including garages and utility sheds.

(b) The expanded or reconstructed structure does not extend any closer, measured in terms of horizontal distance, to the applicable high water elevation than the closest point of the existing structure.

(c) The total building footprint area of the expanded or reconstructed structure shall not be more than twenty percent (20%) larger than the footprint of the structure lawfully existing on (*the date of adoption*). For purposes of these regulations, reconstruction may include razing the existing structure and/or foundation and constructing a new structure in accordance with the provisions of the underlying zoning district regulations and this section.

(d) An erosion control plan for construction is submitted by a licensed engineer detailing controls that will be put in place during construction or expansion to protect the associated surface water.

(e) A landscaping plan showing plans to preserve, maintain, and supplement existing trees and ground cover vegetation is submitted and the AMP finds that the overall plan will provide a visual and vegetative buffer for the lake and/or stream.

Section 470 - Permitted Use Regulation for Small Wind Energy Systems

1. Purpose

It is the purpose of this regulation to promote the safe, effective, and efficient use of small wind energy systems installed to reduce or replace the on-site consumption of utility-supplied electricity.

2. Findings

The Town of Marlboro finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on

nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio. Small wind energy systems also make the electricity supply market more competitive by promoting customer choice.

The State of Vermont has enacted programs to encourage the use of small-scale renewable energy systems, including net metering. Existing zoning ordinances, however, may contain restrictions, which, while not intended to discourage the installation of small wind turbines, can substantially increase the time and costs required to obtain necessary permits. Therefore, we find that it is necessary to standardize and streamline the proper issuance of zoning permits for small wind energy systems so that this clean, renewable energy resource can be utilized in a cost-effective and timely manner. To accomplish this, small wind energy systems, as defined herein, shall be permitted uses; proposed systems exceeding the standards contained in this section may be permitted as Conditional Uses by the Appropriate Municipal Panel.

3. Definitions

Small Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 50 kW and which is intended to primarily reduce on-site consumption of utility power.

Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

4. Permitted Use

Small wind energy systems shall be a permitted use in all zoning districts, subject to certain requirements as set forth below:

4.1. Tower Height: There is a maximum limit of one hundred twenty feet (120) on tower height.

4.2. Setback: The minimum setback for the tower shall be the total height of the tower plus the rotor radius (blade length) plus ten (10) feet. No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries.

4.3. Noise: Small wind energy systems shall not exceed 60 dBA, as measured at the property line, except during short-term events such as utility outages and severe windstorms.

4.4 Lighting: No lighting of small wind turbine towers or generators is permitted.

4.5 Signage: Signage shall be limited to that required by federal or state regulations. No commercial signage or lettering shall be placed on a tower or generator.

4.6. Approved Wind Turbines: Small wind energy system turbines must have been approved under the Emerging Technologies program of the California Energy Commission or other small wind certification program recognized by the American Wind Energy Association.

4.7. Compliance with FAA Regulations: Small wind energy systems must comply with applicable FAA regulations.

4.8. Utility Notification: No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

Section 475 Steep Slopes Standards

1. Purpose

The purpose of this regulation is to limit the intensity of use in areas of steeply sloping terrain in order to limit soil loss, erosion, sedimentation, excessive stormwater runoff, the degradation of surface water and to maintain the natural topography and drainage patterns of land.

2. Applicability

This regulation shall be applicable to any Subdivision, Planned Unit Development, Site Plan Review, Conditional Use or other land disturbance application located in the town as defined in these regulations. Land disturbance for the purpose of this ordinance shall mean any activity involving the clearing, cutting, excavation, grading, filling, storing, transporting of land or any other activity which causes land to be exposed to the danger of erosion and sedimentation.

3. Requirements

- a) On slopes of greater than 25% (twenty five percent), no development, regrading or stripping of vegetation shall be permitted. Any disturbance for roadways or utility construction in areas of slopes greater than 25% are considered variance conditions and the applicant must affirmatively demonstrate that the roadway or utility improvements are necessary in the sloped area. The sloped area to be developed, regraded or stripped of vegetation shall be clearly indicated on the development plans for each individual lot.

- b) Site design and grading on slopes 15% (fifteen percent) or greater shall provide the minimum disruption of view corridors and scenic vistas and shall preserve significant natural topographic features to the greatest extent possible.

c) An erosion control plan shall be submitted with each application involving land disturbance, regardless of the affected area, when the ground slope equals or exceeds 15%. The plan shall address site stability in the area of the land disturbance before, during, and after construction. The plan shall include specifications for construction, surface water diversions if needed, and re-vegetation to prevent soil erosion.

4. Site Plan Requirements

For all land disturbances of one acre or less on slopes of 15% or greater, the Applicant shall submit a site plan prepared by a Professional Engineer. The site plan submitted shall be reviewed by the Administrative Officer. The Administrative Officer shall determine if the site plan as submitted is complete and in conformance with the ordinance requirements. The Administrative Officer shall recommend acceptance or rejection of the plan or may require that specific conditions be complied with in order for the plan to merit acceptance. The Applicant's site plan as prepared by a Professional Engineer will include at a minimum the following:

- A. Location of all surface waters, including but not limited to streams, lakes and wetlands.
- B. Existing natural and topographic features including existing vegetation by category (i.e. meadow, hardwood forest, softwood forest, etc.)
- C. Location of all proposed and existing buildings and streets.
- D. Location of those areas of vegetation to be removed as well as vegetation to be preserved.
- E. A planting plan including herbaceous and woody plants and seed mixes to be used.
- F. Specific methods which will be utilized to control soil erosion and sedimentation, soil loss and excessive stormwater runoff both during and after construction.
- G. A statement and description of the stability of the soils on site and the appropriateness of the construction method proposed.
- H. Calculations of the area of proposed disturbance of each slope class (0-14%, 15-25%, and greater than 25%) on each proposed lot as well as within any proposed road right-of-way.
- I. Grading plan and Erosion Prevention and Sediment Control Plan for the construction site and all access routes.

No building permit shall be issued and no grading or site clearing shall occur until a site plan including all of the above items has been reviewed and approved by the municipality.

5. *Steep Slope Conservation Measures*

- A. Lands to be preserved in 100% open space due to the presence of steep slopes may be offered for dedication to the municipality, a private land trust or a non-profit agency in order to preserve and maintain the area in its natural state.
- B. The use of conservation easements on steep slopes shall be encouraged to preserve the area in perpetuity.

6. *Exemptions*

Land development plans which were approved prior to the adoption date of this ordinance shall be exempt from these requirements.

7. *Compatibility With Other Permit And Ordinance Requirements*

Development approvals issued pursuant to this regulation are to be considered an integral part of development approvals under the subdivision, conditional use and site plan review processes and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by other applicable codes, rules, acts or ordinances. In their interpretation and application, the provisions of this regulation shall be held to be the minimum requirements for the promotion of the public health, safety, general welfare and the protection of water quality.

ARTICLE V – PLANNED UNIT DEVELOPMENT AND DESIGN CONTROL DISTRICTS

Section 500 - Planned Unit Development (PUD)

In accordance with the Act, and where permitted by the zoning district, the modification of Zoning district regulations by the Appropriate Municipal Panel is permitted simultaneously with Subdivision Regulation plat approval, or, in the absence of the application of Subdivision Regulations, Site Plan Review under the following procedures.

Section 501 - Purpose

The purpose of the PUD provision is to encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to encourage planned communities or community centers for residential, commercial or industrial uses or any

combination thereof; to encourage innovation in design and layout and more efficient use of land; to facilitate the adequate and economic provision of streets and utilities; to preserve the natural and scenic qualities of open land; to provide for a mixture of compatible uses at different intensities to facilitate affordable housing through providing for increases of density or intensity; and to provide for the development of lands which because of physical, topographical or geological conditions could not otherwise be developed.

Section 502 - Definition

A PUD means an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, and commercial and industrial uses, if any; the plan for which does not correspond in lot size, bulk or type of dwelling, commercial or industrial use, density, lot coverage and required open space to the regulations of the district within which it is located.

Section 504 - Permitted Uses

Uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.

Section 505 - Application and Review Procedures

1. A site plan shall be submitted to the Appropriate Municipal Panel showing the location, height and spacing of buildings, open spaces and landscaping, streets, driveways and off-street parking spaces, water and sewage facilities, proposed grading and drainage, fire protection, unique natural or manmade features, physical conditions of the site, and other information that may be required under the Town's Subdivision Regulations. The application shall be accompanied by a statement setting forth the nature of all proposed modifications to the zoning regulations.
2. Prior to official submission to the Appropriate Municipal Panel, any application for PUD, involving uses that are Conditional for the district within which the project is located, shall be submitted to the Appropriate Municipal Panel. The Appropriate Municipal Panel shall consider the uses which are Conditional Uses subject to the procedures and standards contained in Sections 204 and 205 of these Regulations. Any Conditional Use approvals shall be conditioned upon Appropriate Municipal Panel PUD review and approval.
3. The required review procedures under Section 203 of these Regulations for Site Plan Review shall be waived for any PUD but the standards for Site Plan Review shall be met as a condition to application approval.

Section 506 General and Specific Standards

The following general and specific standards shall be met in order for the Appropriate Municipal

Panel to approve the application.

1. The PUD shall be consistent with the Town Plan.
2. Mixed uses shall be arranged so as to be compatible and assure visual and aural privacy for residents of the project.
3. The development plan is proposed over a satisfactory period of time in order that adequate municipal facilities and services may be assured in a timely manner.
4. The overall density of the project shall not exceed the number of dwelling units and commercial and industrial uses which could be constructed, in the Appropriate Municipal Panel's judgment, if the land were subdivided into lots in accordance with district lot area requirements, except when eligible for density bonuses for creation of affordable housing.
5. The PUD is an effective and unified treatment of the development possibilities on the project site, and the development plan makes appropriate provision for preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, and unique natural and manmade features.
6. All other zoning requirements of the district, except for those that specifically may be waived or varied under the provisions of this Article shall be met. Said requirements shall include the General and Specific Standards for Conditional Uses contained in Section 204 and 205 of these Regulations.
7. Conditional uses allowed within the district for which the PUD is planned shall complement the permitted uses in numbers of principal buildings or in total land area required.

Area, Dimensional, & Coverage Requirements

Average Acreage Minimum: As set forth in Section 315, except for density bonuses provided for projects creating affordable housing pursuant to Section 507, below.

Lot Area Minimum (for each)

One-family dwelling: 10,000 square feet/unit when land is not commonly owned.

Two-family dwelling: 15,000 square feet.

Multiple-family dwelling: average at least 6,000 square feet per dwelling unit.

Yards Required: Front yards, rear yards and side yards shall be designed so that no residential building is closer than 50 feet to any other residential building, and no building is closer than 50 feet to any boundary line of the district or any street.

Coverage Maximum: 20% of the lot

Section 507 Density Bonus for Affordable Housing

General Standards

- 1) Housing proposed under this section shall meet the definition of “affordable housing” in Article IX – Definitions

- 2) Affordable dwelling units shall be maintained as affordable units in perpetuity (see Article IX) through deed restrictions, covenants, or other accepted legal mechanisms.

Specific Standards

- 1) Notwithstanding the provisions of Section 315, a density bonus of 25% of the permitted overall underlying density may be permitted in instances in which not less than 20% of the total number of dwelling units created are affordable housing units, as defined in Article IX;
- 2) Notwithstanding the provisions of Section 315, a density bonus of up to 50% of the permitted overall underlying density may be permitted in instances in which not less than 50% of the total number of dwelling units created are affordable housing, as defined in Article IX, AND the PUD is located in the Rural Residential District.

Section 508 - District Regulations' Waivers

Upon the approval of a Subdivision Plan or Site Plan, as the case may be, the lot area, dimensional and coverage requirements in the Zoning Regulations may be waived or varied. Any such waiver or variation shall be specifically set forth in terms of conditions. Such conditions may include but are not limited to the design, location and spacing of buildings, the size of lots and open spaces. Any conditions shall be noted or appended to the plat.

Section 509 - Open Space

If the PUD results in lands available for parks, recreation, open space or other municipal-type facilities, the Appropriate Municipal Panel, as a condition of its approval, may establish such conditions on the ownership, use, and maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purposes.

Section 530 - Design Review District

As provided for in the Act, provision is hereby made for establishment of design review districts, subject to an affirmative vote by Town Meeting. Within any design review district no structure may be erected, reconstructed, substantially altered, restored, moved, demolished, or changed in use or type of occupancy without design approval of plans by the Appropriate Municipal Panel.

ARTICLE VI - SHORE LAND AREA OVERLAY REGULATIONS

Section 600 - Statutory Authorization

As provided for in the Act and to effect the purpose of Chapter 49 of Title 10 and to promote the public health, safety and general welfare in accord with criteria set forth in Sections 1423 and 1425 thereof, there are hereby established shore land zoning regulations for the Town of Marlboro.

Section 605 - Classification of Shore Lands: General Description

Marlboro's shore lands are classified as Natural Shore lands and include lands around Sunset Lake, South Pond, Hidden Lake, and Marlboro Millpond. Natural Shore lands are those that border waters with high scenic, resource, and recreational value. The purpose of Natural Shore land control is to preserve and enhance high quality waters, and, therefore, to require adequate development standards to achieve the purpose.

Section 610 - Shore Land Regulations

For the purpose of these Regulations, shore land areas shall be defined as those lands lying between the normal mean high watermark of the water bodies identified under Section 605 and a line as shown on the Zoning Map.

Use, Area, Setbacks and Vegetation Buffer Requirements:

Use and Lot Size:	as specified in underlying zoning district
Setback from Normal Mean High Water Mark:	
On-site Sewage:	100 feet
Principal Structures*:	75 feet
Vegetative Buffer:	50 feet

*Docks and landings shall be exempt from the setback requirement for structures.
Accessory uses shall be set back at least 50 feet.

Prohibited Uses:

Within shore land districts, garbage and solid waste disposal, including expansion of existing garbage and solid waste facilities is prohibited.

Vegetation Buffer:

Within the required area a buffer of healthy trees, shrubs and ground cover shall be preserved, maintained, and enhanced by appropriate methods as prescribed by the Appropriate Municipal Panel under site plan review. The extent of any planting and/or seeding shall be sufficient to minimize soil erosion and to screen selectively the land use from the shoreline.

ARTICLE VII - FLOOD HAZARD AREA REGULATIONS

Section 700 - Statutory Authorization

To effect the purpose of 10 V.S.A. Chapter 32, and in accord with the Act, there are hereby established Flood Hazard Area Regulations for those areas subject to flooding in the Town of Marlboro.

Section 705 - Statement of Purpose

It is the purpose of these Regulations to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in flood hazard areas and to minimize losses due to flooding.

Section 710 - Flood Hazard Zoning Map

These regulations shall apply to all areas in the Town of Marlboro within 100 feet of the boundaries of the areas identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. §753, which are hereby adopted by reference and declared to be part of these regulations.

Section 711 - Interpretation of Flood Hazard Area Boundaries

The Administrative Officer shall determine the location of boundaries of the flood hazard areas by scaling distances on the Flood Hazard Zoning Map. Upon appeal from the decision of the Administrative Officer as to boundary location, the Appropriate Municipal Panel shall make the necessary interpretation.

Section 715 - Application Submission Requirements

Application submission requirements shall include:

1. Two (2) copies of plans drawn to scale showing the nature, location, dimensions and elevations of the lot.
2. Existing and proposed structures including the elevation of the lowest habitable floor including basement and confirmation as to whether such structures contain a basement.
3. Proposed fill and/or storage of materials.

4. Proposed flood proofing measures and the level to which any structure will be floodproofed.
5. The relationship of the proposal to the location of the channel.
6. The extent of the flood hazard area and the base flood elevation utilizing the best information available.
7. For all subdivision and development which requires a permit under Article V of these Regulations and which involves more than 50 lots or 5 acres, the base flood elevation for that portion that lies within Zone A.

Section 720 - Procedures

1. Land Development including the construction, reconstruction, conversion, relocation or substantial improvement in any building or other structure, or of any mining, excavation or land fill, or extension of use of land in the flood hazard area may be permitted only by approval of the Appropriate Municipal Panel as a conditional use in accordance with the standards and requirements of these Regulations.
2. Upon receipt of an application and plans, the Appropriate Municipal Panel shall transmit one copy to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with Section 4424 of the Act. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The Appropriate Municipal Panel shall consider all comments received from the Agency which comments shall be made part of the record of the hearing.
3. In riverine situations, the Appropriate Municipal Panel shall notify adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section at least 30 days prior to issuing any permit for the alteration or relocation of a water course and submit copies of such notifications to the Administrator of the National Flood Insurance Program.
4. Proposed development shall be reviewed by the administrative officer or the appropriate municipal panel to assure that all necessary permits have been received from those government agencies from which approval is required by Federal, State or Municipal law.

Section 725 - Standards

1. In reviewing an application, the Appropriate Municipal Panel shall require:
 - a. That all development will be reasonably safe from flooding;
 - b. That the development is located, designed and anchored to prevent flotation, collapse or lateral movement;

- c. That the development is constructed of materials and utility equipment that are resistant to flood damage;
 - d. That the development is constructed using methods and practices that will minimize flood damage;
 - e. That the development shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - f. That the development is designed so that adequate drainage is provided so as to reduce exposure to flood hazards;
 - g. That new or replacement water supply systems and/or sanitary sewage systems are designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and that on-site disposal systems are located so as to avoid impairment of them or contamination from them during flooding.
 - h. That the flood carrying capacity within any portion of an altered or relocated watercourse is maintained;
 - i. New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.
 - j. Subdivisions (including manufactured home parks) shall be designed to assure:
 - (i) such proposals minimize flood damage within the flood-prone area,
 - (ii) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
 - (iii) adequate drainage is provided to reduce exposure to flood hazards.
2. If any base flood elevation and floodway data is available from a federal, state, or other source, the Appropriate Municipal Panel shall obtain review and reasonably utilize this data until such other data has been provided by the Flood Insurance Administrator as criteria for requiring that:
- a. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
 - b. Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of 725 (2)(a).
 - c. Existing buildings to be substantially improved for nonresidential purposes shall either (1) meet the requirements of 725 (2)(a), or (2) be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect

has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

- d. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
3. Development within the regulatory floodway, as determined by Section 725.B, is prohibited unless it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.

Section 730 - Special Requirements for Setback from Minor Streams

1. The following standard shall apply to all streams which are identified on the Flood Hazard District Map, as "Minor Streams with drainage area of more than one square mile."
2. No permanent structure or fill shall be erected within 75 feet from the normal mean high water mark.
3. A permit for land development may be granted by the Appropriate Municipal Panel where, because of existing topography, compliance with Section 730 (2) would be impractical or unreasonable. The Appropriate Municipal Panel shall find that the structure or fill will not be subject to flood damage and will not cause increased flood damage to others in the event of a 100-year flood. The application requirements and procedures in Section 715 shall apply.

Section 735 - Administration

1. Except as provided for below, these regulations shall be administered and enforced according to the provisions of Article II.
2. Application for a permit for land development in a flood hazard area shall be made to the Administrative Officer, who shall transmit such application to the Appropriate

- Municipal Panel for review and consideration as provided by these Regulations.
3. The Administrative Officer shall maintain a record of:
 - a. All permits issued for development in areas of specific flood hazard.
 - b. The elevation, consistent with the datum of the elevation on the NFIP maps for the community, of the lowest floor, including basement, of all new or substantially improved buildings.
 - c. The elevation, consistent with the datum of the elevation on the NFIP maps for the community, to which buildings have been floodproofed.
 - d. All flood proofing certifications required under this regulation.
 - e. All variance actions, including justification for their issuance.
 4. Variances shall be granted by the Appropriate Municipal Panel only:
 - a. In accordance with the provisions of 24 V.S.A. Section 4469;
 - b. In accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.
 5. It shall be the duty of the Administrative Officer to enforce the provisions of this ordinance. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

If the structure is still noncompliant after the opportunity to cure has passed, the Administrator Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Section 740 - Warning of Disclaimer of Liability

These regulations do not imply that areas outside the flood hazard area or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of any town official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

Section 750 – Precedence of Regulations

The provisions of this ordinance shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall take precedence.

Section 755 – Flood Hazard Area Definitions

Administrator: The Federal Insurance Administrator when used in ARTICLE 7 Flood Hazard Regulations.

Area of Special Flood Hazard: The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Base Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A is usually refined into Zones A, -AO, AH, A1-30, AE, or A99.

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

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

Basement: Any area of the building having its floor sub grade (below ground level) on all sides.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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

Expansion to an existing manufactured home park or subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Administrator

has delineated both the special hazard areas and the risk premium zones applicable to the community.

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

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

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

Historic Structure: Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs. **Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable 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 725 (1).

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 flood plain management purposes the term "manufactured home" does not include a "recreational vehicle."

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

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

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

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

Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Structure, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

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

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continue designation as a “historic

structure.”

Violation: The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

ARTICLE VIII – TELECOMMUNICATIONS FACILITIES

Section 800 - Title

This bylaw shall be known as the Wireless Telecommunications Facilities Bylaw of the Town of Marlboro. Wireless telecommunication facilities shall include all wireless telecommunication providers, licensed and/or regulated by the Federal Communications Commission, and associated equipment and buildings.

Section 805 - Statement of Purpose

The purpose of this bylaw is to protect the public health, safety and general welfare of the Town of Marlboro while accommodating the communication needs of residents and businesses. This bylaw shall:

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

- G. Encourage, through performance standards and incentives, the location of towers and antennas in non-residential areas and away from other sensitive areas such as schools, hospitals and childcare facilities.

Section 810 - Authority

Pursuant to the Act, the Appropriate Municipal Panel of the Town of Marlboro is authorized to review, approve, conditionally approve, and deny applications for wireless telecommunications facilities, including sketch, preliminary and final plans, and installation. Pursuant to the Act, the Appropriate Municipal Panel 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.

Section 811 – Consistency with Federal Law

In addition to other findings required by this bylaw, the Appropriate Municipal Panel shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. The bylaw does not:

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

Section 815 – Telecommunications Facilities Definitions

See glossary at the end of this Article.

Section 816 – Administration, Enforcement and Appeals

This bylaw shall be administered by the Administrative Officer pursuant to the terms of the Act.

The Administrative Officer shall provide appropriate forms for, and general assistance in completing, applications required for permits under this bylaw. The Administrative Officer may act to approve or deny a complete application submitted for a Small Scale Facility as set out in

Section 825 of this bylaw, and shall forward all complete applications for Large Scale Facilities to the Marlboro Appropriate Municipal Panel for its consideration as a Conditional Use as provided in this bylaw.

The Administrative Officer shall act on a complete application within thirty days or a permit shall be deemed approved on the 31st day.

The Appropriate Municipal Panel shall, pursuant to the Act hold a duly warned hearing on the application before it and, within sixty days of the date of the final hearing, issue its decision. Failure to so act within such period shall be deemed approval.

The Administrative Officer shall be the enforcement officer for this bylaw, and shall act with respect to violations of this under this bylaw in accordance with the terms of the Act. Any violation of this bylaw shall be subject to a fine of not more than \$100.00 for each offense. Each day that a violation is continued shall constitute a separate offense.

Costs incurred by the Town regarding any such enforcement action, including but not limited to attorney fees, court costs, expert and consultant fees, and costs of removal of all or part of a Facility and site remediation shall be assessed against the property owner, and/or Facility owner at the election of the Town.

Appeal of an act or decision of the Administrative Officer shall be taken to the Marlboro Appropriate Municipal Panel as provided in the Act.

Appeals of a decision of the Marlboro Appropriate Municipal Panel shall be taken to the Vermont Environmental Court as provided in the Act.

Section 820 – Permitted and Prohibited Locations

Wireless telecommunications towers or facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in the following zoning districts:

Rural Residential
Recreational – Commercial
Rural Commercial

Additionally, freestanding telecommunications towers or antennas over 20 feet in elevation may not be located in any of the following locations:

- A. Within 300 ft. horizontally of a State or Federally designated wetland.
- B. Within 300ft horizontally or twice the tower elevation, whichever is greater, of the boundary of the habitat of any State listed Rare or Endangered Species.
 - A. Closer than 300 ft. horizontally or twice the tower elevation, whichever is greater, to the boundary of the property on which the tower is located.
 - B. Closer than 500ft. horizontally or twice the tower elevation, whichever is greater, to any structure existing at the time of the application which is used as either a primary or secondary residence, to the property of any school, or to any other building.
- C. Within 300 ft. horizontally or twice the tower elevation, whichever is greater, of any river or perennial stream.
- D. Within 300 ft. horizontally or twice the tower elevation, whichever is greater, of any known archeological site.

Section 825 – Small Scale Facilities

The placement of wireless telecommunications antennas, repeaters or microcells on existing buildings, structures, roofs, or walls, and not extending more than 10 feet from the same, or the installation of ground facilities less than 20 feet in height, may be approved by the Appropriate Municipal Panel, provided the antennas, repeaters, or microcells meet the applicable requirements of this bylaw, upon submission of:

- A. A final site and building plan.
- B. A report prepared by a qualified engineer [A mechanical or structural engineer will be qualified by virtue of licensing in the State of Vermont; RF engineers,

however, are not licensed by most states, including Vermont.] indicating the structure's suitability for the telecommunications facility, and that the proposed method of affixing the antenna or other device to the structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point(s) of attachment shall be indicated.

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

However no such device may be located closer than 50' to an existing residence.

Section 830 – Application Requirements for Wireless Telecommunications Facilities not Covered Under Section 825

An applicant for a permit must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity, to the Administrative Officer at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

No construction, alteration, modification (including the installation of antennas for new uses) or installation of any wireless telecommunications tower or facility shall commence without a conditional use permit first being obtained from the Appropriate Municipal Panel, and a Site Plan Review by the Appropriate Municipal Panel.

In addition to information otherwise required in the Town of Marlboro's Zoning Bylaws/Subdivision Regulations, applicants for wireless telecommunications towers or facilities shall include the following supplemental information:

- A. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.
- B. The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.
- C. The names and addresses of the record owners of all abutting property.
- D. A report from qualified engineers that:

- i. Describes the facility height, design and elevation. (Licensed Structural Engineer)
- ii. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas. (Radio Frequency Engineer)
- iii. Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the applicant expects the tower to accommodate. (Licensed Structural Engineer)
- iv. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures, or other structures proposed by the applicant within 5 miles of the proposed site cannot reasonably provide adequate coverage and adequate capacity to the Town of Marlboro. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow the independent reviewer to verify that other locations will not be suitable.
- v. Demonstrates that the applicant has analyzed the feasibility of using "repeaters" or micro-cells in conjunction with all facility sites listed in compliance with Section 830.D.iv (above) to provide coverage to the intended service area.
- vi. Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage.
- vii. Describes the output frequency, number of channels, sector orientation and power output per channel, as appropriate for each proposed antenna.
- viii. Includes a written explanation for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town.
- ix. Demonstrates the tower's compliance with the municipality's structural standards and setbacks for towers and support structures.
- x. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio-frequency exposure. The Appropriate Municipal Panel

may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.

- xii. Includes an engineer's stamp and registration number, where appropriate.
 - xiii. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.
- E. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Administrative Officer at the time an application is submitted).
 - F. To the extent required by the National Environmental Policy Act (NEPA) as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
 - G. A copy of the application or draft application for an Act 250 permit, if applicable.

The permit application shall be signed under the pains and penalties of perjury.

Section 835 – Site Plan Requirements for Wireless Telecommunications Facilities not Covered Under Section 825

In addition to site plan requirements found elsewhere in the Town of Marlboro's Zoning Bylaws/Subdivision Regulations, site plans for wireless telecommunications facilities shall include the following supplemental information:

- A. Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed facility site.
- B. Vicinity Map showing the entire vicinity within a 2500-foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed facility site parcel and all easements or rights of way needed for access from a public way to the facility.

- C. Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.
- D. Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.
- E. Computer generated photo simulations of the proposed facility showing the facility from all public rights-of-way and any adjacent property from which it may be visible. Each photo must be labeled with the line of sight, elevation and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
- F. In the case of a proposed site that is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.
- G. Construction sequence and time schedule for completion of each phase of the entire project.

Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.

Section 840 – Collocation Requirements

An application for a new wireless telecommunications facility shall not be approved unless the applicant demonstrates to the Appropriate Municipal Panel(s) that the facilities planned for the proposed structure cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

- A. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
- B. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer and such interference cannot be mitigated at a reasonable cost.
- C. The proposed antennas and equipment; either alone or together with existing facilities, equipment or antennas, would create excessive radio frequency exposure.

- D. Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer.
- E. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
- F. There is no existing or approved tower in the area in which coverage is sought.
- G. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

Towers must be designed to allow for future placement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally and in all other respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

Section 845 – Access Roads and Above Ground Facilities

Where the construction of new wireless telecommunications towers and facilities requires construction of or improvement to access roads, to the extent practicable, roads shall follow the contour of the land, and be constructed or improved within forest or forest fringe areas, and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area. The Town may require closure of access roads to vehicles following facility construction where it is determined that site conditions warrant the same and where maintenance personnel can reasonably access the facility site on foot.

Section 850 – Tower and Antenna Design Requirements

Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor. Height and mass of facilities shall not exceed that which is essential for the intended use and public safety.

- A. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have dictated color. Use of stealth design, including those, which imitate natural features, may be required in visually sensitive locations.

- B. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be not more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the Appropriate Municipal Panel that the additional height is necessary in order to provide adequate coverage in the Town of Marlboro or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.
- C. Towers, antennas and any necessary support structures shall be designed to avoid having an undue adverse impact aesthetic impact on prominent ridgelines and hilltops. In determining whether a tower's aesthetic impact would be undue and adverse, the Appropriate Municipal Panel will consider:
- i. the period of time during which the proposed tower would be viewed by the traveling public on a public highway;
 - ii. the frequency of the view experienced by the traveling public;
 - iii. the degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
 - iv. background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
 - v. the distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline;
 - vi. the sensitivity or unique value of a particular view affected by the proposed tower;
 - vii. significant disruption of a viewshed that provides context to a historic or scenic resource.

The Appropriate Municipal Panel shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility. Furthermore, the Appropriate Municipal Panel may designate an alternative location for the tower to be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic impacts. In consideration of this, the applicant may revise its application to include such a

site, assuming it is available to the applicant and reasonably technically feasible to meet the applicant's communication objectives.

- D. All buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the Appropriate Municipal Panel) shall meet the minimum setback requirements of the underlying zoning district and be not closer than 500 ft. horizontally to any structure existing at the time of the application which is used as either a primary or secondary residence, to the property of any school, or to any other building not related to the facility. 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 shall be no less than the height of the tower, including antennas and other vertical appurtenances.
- E. Ground mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

Section 855 – Amendments to Existing Wireless Telecommunications Facility Permit

An alteration or addition to a previously approved wireless telecommunications facility shall require a permit amendment when any of the following are proposed:

- A. Change in the number and/or size of buildings or facilities permitted on the site;
- B. Addition or change of any equipment resulting in greater visibility or structural windloading, or additional height of the tower, including profile of additional antennas, not specified in the original application.
- C. Any addition or change that would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility.

Section 860 – Tower Lighting and Signage; Noise Generated by Facility

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

No commercial signs or lettering shall be placed on a tower or facility. Signage shall be limited to that required by federal or state regulation.

The Appropriate Municipal Panel may impose conditions to minimize the effect of noise from the operation of machinery or equipment upon adjacent properties.

Section 865 – Temporary Wireless Communications Facilities

Any wireless telecommunications facility designed for temporary use is subject to the following:

- A. Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Town of Marlboro.
- B. Temporary facilities are permitted for no longer than five days use during a special event.
- C. The maximum height of a temporary facility is 50 feet from grade.
- D. Temporary facilities must comply with all applicable portions of these regulations.

Section 870 – Continuing Obligations

Upon receiving a permit, the permittee shall annually demonstrate that he or she is in compliance with all FCC standards and requirements regarding radiofrequency exposure by retaining an independent party chosen by the town at the permittee’s expense to file a report with the town health officer.

Section 875 – Facility Removal

Abandoned, unused, obsolete, or noncompliant towers or facilities governed under this bylaw shall be removed as follows:

- A. The owner of a facility/tower shall annually, on January 15, file a declaration with

the Town of Marlboro's Administrative Officer certifying the continuing safe operation of every facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and considered abandoned.

- B. Abandoned or unused towers or facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the Appropriate Municipal Panel. In the event the tower or facility is not removed within 180 days of the cessation of operations at a site, the municipality shall notify the owner and may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.
- C. Towers and facilities which are constructed in violation of permit conditions or application representations shall be removed within 180 days of cessation of operations at the site unless a time extension or negotiated solution is approved by the Appropriate Municipal Panel. In the event the tower or facility is not removed within 180 days of notification of such a violation, the municipality may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.
- D. An owner who has failed to file an annual declaration with the Administrative Officer by January 15 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.
- E. The Applicant shall, as a condition of the conditional use permit, provide a financial surety bond payable to the Town of Marlboro and acceptable to the Appropriate Municipal Panel to cover the cost of removal of the facility and remediation of the landscape, should the above clauses be invoked.

Section 880 – Maintenance Requirements

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

Section 885 – Insurance Requirements

The facility owner shall maintain adequate insurance on all facilities.

Section 890 – Fees

Fees for filing an application to build or alter a wireless telecommunications facility shall be

established by the Marlboro Appropriate Municipal Panel. Additional fees may include the reasonable costs of an independent technical assessment of the application that may be incurred during the review and permitting process.

Section 895 – Enforcing Agent

The Administrative Officer shall be the agent to enforce the provisions of this bylaw.

Section 896 – Severability

If any portion of this bylaw is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this bylaw shall not be affected.

Section 897 – Glossary of Telecommunications Terms

Adequate Capacity: Capacity for wireless telephony is considered to be “adequate” if the grade of service ("GOS") is p.02 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, Adequate Capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, Adequate Capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area. Some definitions or terminology may evolve with technical advances, regulatory revision, and court decisions; and may not be appropriate for all applicants or types or service. The applicant may submit evidence to justify its use of alternate language or to demonstrate why a particular definition does not apply.

Adequate Coverage: Coverage for wireless telephony is “adequate” within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that most of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least –90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

Affiliate: When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator’s principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

Alternative Design Tower Structure: Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also *Stealth Facility*).

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

Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna Support Structure: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

Applicant: A person who applies for a telecommunications facility siting. An applicant can be the telecommunications service provider with the owner's written permission (or other legally designated representative) or the owner of the property.

Available Space: The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

Base Station: The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

Bulletin 65: Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radiofrequency radiation levels and methods to determine compliance.

Cell Site: A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include others uses associated with and ancillary to cellular communications transmission.

Cellular Service: A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

Cellular Telecommunications: A commercial Low Power Mobile Radio Service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

Cellular Telecommunications Facility: Consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Channel: The segment of the radiation spectrum to or from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

Collocation: Locating wireless communications equipment from more than one provider on a single site.

Common Carrier: An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated rates.

Communication Equipment Shelter: A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.

Communication Tower: A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

Communications Facility: A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communications facilities may include structures, towers or accessory buildings.

dBm: Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

Directional Antenna: An antenna or array of antennas designed to concentrate a radio signal in a particular area.

Dish Antenna: A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

Facility Site: A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

FCC: Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

Frequency: The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

GHz: Gigahertz. One billion hertz

Hertz: (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

Location: References to site location shall be the exact longitude and latitude, to the nearest second. Bearing or orientation should be referenced to true North.

MHz: Megahertz, or one million hertz.

Micro-Cell: A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

Microwave Antenna: A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

Monitoring: The measurement, by the use of instruments in the field, of radiofrequency exposure from telecommunications facilities, towers, antennas or repeaters.

Monopole: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

Omnidirectional Antenna: An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed.

Permit: Embodies the rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its facility within the boundaries of the municipality.

Personal Communications Services or PCS: Digital wireless telephone technology using higher frequency spectrum than cellular.

Personal Wireless Services: Commercial mobile services, unlicensed wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

Preexisting Towers and Antennas: Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

Radiated-Signal Propagation Studies or Coverage Plots: Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to

create these simulations. They are the primary tools for determining a need and whether the telecommunications equipment will provide adequate coverage for that site.

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

Roof and/or Building Mount Facility: A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

Scenic View: A scenic view is a wide angle or panoramic field of sight and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or a nearby object.

Self-Supporting Tower: A communications tower that is constructed without guy wires.

Spectrum: Relating to any transmissions or reception of electromagnetic waves.

Stealth Facility: Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to look like light poles, and structures designed to resemble natural features such as trees or rock outcroppings. (See also Alternative Design Tower Structure.)

Structurally Able: The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

System: The communications transmission system operated by a telecommunications service provider in the municipality or region.

Telecommunications Facility: All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity.

Telecommunications Provider: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

Temporary Wireless Communication Facility: Any tower, pole, antenna, etc., designed for use

while a permanent wireless facility is under construction, or for a special event or conference.

Tower: A vertical structure for antenna(s) that provide telecommunications services.

View Corridor: A three dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

Whip Antenna: A vertical antenna that normally transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape, narrow (less than 6 inches in diameter) and long (often measure 18 inches in height or more).

ARTICLE IX - DEFINITIONS

Doubt as to the precise meaning of any word used in these Regulations shall be clarified by the Appropriate Municipal Panel.

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

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

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

Administrative Officer: That person recommended by the Appropriate Municipal Panel and appointed by the Board of Selectmen in accordance with section 4442 of the Act.

Affordable Housing: Housing is affordable when households with an income below the county median pay no more than thirty percent (30%) of their income on housing costs. Housing costs for renters include rent and utilities. Housing costs for homeowners include principal and interest, property insurance and property taxes. To qualify as affordable housing, the units must be affordable for at least forty (40) years. "Affordable housing" means either of the following:

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

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

(C) Perpetually affordable shall mean housing that meets the affordability requirements of these regulations for a minimum period of 99 years from the date of first sale or lease.

"Affordable Housing Development" means a housing development of which at least 20 percent of

the units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum period of 99 years from the date of first sale or lease.

Agriculture & Forestry: The growing, management, and harvesting of crops including but not limited to: the raising of livestock and/or poultry; dairying; the operation of orchards, including maple sugaring; forestry; trees, timber, and forest products; the sale of farm produce on the premises where produced; the use of farm structures and the storage of equipment incidental to the above.

Alteration: Structural change or rearrangement, change of location or addition to a building, other than repair and maintenance to the building and modification of equipment in the building.

Appropriate Municipal Panel: If a municipality establishes a development review board and appoints members to that board, the development review board in that municipality, until its existence is terminated by act of the legislative body, shall exercise all of the functions otherwise exercised under the Act by the board of adjustment. It also shall exercise the specified development review functions otherwise exercised under the Act by the planning commission. In municipalities that have created development review boards, the planning commission shall continue to exercise its planning and bylaw development functions and other duties established under the Act. In situations where the Act refers to functions that may be performed by a development review board or a planning commission or functions that may be performed by a development review board or a board of adjustment, it is intended that the function in question shall be performed by the development review board if one exists and by the other specified body if a development review board does not exist.

Boarding, Rooming House, Guest Farm, or Bed and Breakfast: A building designed to room and board not more than ten (10) people, on a nightly, weekly or seasonal basis, operating under license by the Department of Labor and Industry or the Department of Health as such. Central dining and food preparation may be provided sufficient to serve registered guests. Cooking facilities shall not be provided in individual guest rooms.

Building: A walled and roofed building including a gas or liquid storage tank that is principally above ground.

Building Area & Bulk: The floor area and the volume of the principal building including attic and basement, and attached accessory buildings, if used for the same general purposes as the principal building. Excluded are buildings connected by any enclosed passageways, porches, terraces, and steps.

Building Coverage: That area of a lot covered by buildings or structures.

Building Density: The total area of a group of buildings in relation to the open space around the buildings.

Building Permit: See Zoning Permit, Section 202

Business Office: A room or group of rooms wherein services are performed involving predominantly administrative, clerical, or professional operations.

Camp: A single structure including, but not limited to, a cabin, mobile home, travel trailer,

recreational vehicle, tent, shelter, houseboat, or other recreational accommodation for seasonal or temporary living. Camps will not have plumbing and shall have no running water at any time.

Campground: Any development on a single lot, parcel or water area of more than one camp structure used for more than ninety (90) days per year, including tent camping facilities.

Conference Center/Retreat: A structure or group of structures used as a public or private center for the purposes of holding meetings, conferences, and conventions, educational or professional seminars, which may include facilities for overnight accommodations.

Common Land: Land owned and used in common and restricted in purpose by covenant for residents or users of cluster buildings including Planned Unit Developments ("PUDs").

Community Building: A building used by nonprofit or public agencies for programs open to all members of the community for which there is no charge or nominal charge.

Conditional Use: A use allowed in a particular zoning district only upon a finding by the Appropriate Municipal Panel that such use in a specified location will comply with the conditions and standards for the location or operation of such use as specified in the Bylaw

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; any mining excavation or land fill; and any change in the use of any building or other structure, or land, or extension of use of land.). For the purposes of determining whether a zoning permit is required, land development shall not include the following:

- a. buildings or structures involving less than 100 square feet in area and less than 7 feet in height, provided that such buildings or structures otherwise comply with these regulations;
- b. interior repair or renovation which does not change the lawful use of the structure;
- c. exterior repair or renovation which does not involve Substantial Improvement as defined herein, and which does not alter the foundation plan, or violate setback provisions, or change the lawful use of a structure;
- d. landfill or excavation incidental and accessory to a use of land that is lawful under these regulations, provided that the landfill or excavation does not violate any provisions of these regulations or constitute a change in the use of land.

Notwithstanding these exceptions, permits shall be required for signs as provided in sections 455-458

Dormitory/Hostel: A dwelling in which lodging is provided by the owner or operator, distinguished from other lodging establishments by the sharing of bedrooms, bathrooms, living rooms, and/or kitchens.

Dump: Land used for the disposal by abandonment, dumping, burial, burning or by any other means and for whatever purposes, of garbage, sewage, sludge, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind other than tree stumps.

Dwelling, multiunit: A building containing three or more individual dwelling units.

Dwelling Unit: One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the living quarters. This shall not include motel, hotel, boarding house or similar structures.

Educational Facility: A public or private school or other certified institution or facility intended specifically for educational purposes.

Erect: Shall mean to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of wall signs and/or window signs.

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

FIA: Federal Insurance Administration.

Health Care Facility: A facility or institution, whether private or public, principally engaged in providing services for health maintenance, diagnosis, and treatment, which may have equipment, facilities, and staff to provide 24-hour care.

Home Enterprise: Any small craft or service type operation carried out on the premises, such as hand crafts, antique, pottery or woodworking shops, custom service or repair shops, or office which use is clearly secondary to the dwelling and does not change the character thereof.

Hotel/Motel: Building containing rooms which are rented as sleeping units for transients, each unit consisting of at least a bedroom, an available bathroom, and without individual cooking facilities.

Junkyard: Land or building used for the collection, storage or sale of waste paper, rags, scrap metal or discarded material, or for the collection, wrecking, dismantling, storage, salvaging and sale of machinery parts or vehicles.

Land Development: see Development

Land Disturbance: Any activity involving the clearing, cutting, excavation, grading, filling, storing, transporting of land or any activity which causes land to be exposed to the danger of erosion and sedimentation.

Light Industry: The manufacture, processing, fabrication or storage of products not employing more than twenty (20) employees and occupying not more than six (6) thousand square feet.

Lot: A parcel of land, with or without structures, that conforms to all the requirements for minimum area and depth for the particular zoned area in which such land is situated and having the required frontage on a street, or other permanent means of access.

Lot Frontage: Distance measured across that portion of a lot which is adjacent to and parallel to a public street; or if access to the lot is by right of way or private road the lot frontage shall be the distance measured across the width of the lot at the building front line or the proposed building front line.

Lot Depth: The mean distance measured perpendicularly from the property line nearest the road to its opposite rear line.

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 flood plain management purposes the term "manufactured home" does not include a "recreational vehicle."

Mobile Home: A prefabricated dwelling unit which

- a. is designed for long term and continuous residential occupancy; and
- b. is designed to be moved on wheels, as a whole or in sections.

The provisions hereof shall also be applicable to any motor vehicle or trailer which is designed or added to so as to permit its use and occupancy for human habitation.

Mobile Home Park: A Parcel of land under a single or common ownership or control which contains, or is designed, laid out or adapted to accommodate two (2) or more mobile homes.

Museum/Gallery: A room or group of rooms wherein objects of historical, cultural, scientific, or aesthetic interest are offered for exhibition and/or retail sale to the general public.

Multiunit Dwelling: see Dwelling, Multiunit

Non-complying Building: A building, the location, size, height, or construction of which does not conform to all the applicable provisions of these Regulations, but which legally exist at the effective date hereof, or of any pertinent amendment.

Non-conforming Use: A use of land, premises, or building which is not a use permitted by the provisions of these Regulations for the district in which such land, premises, or building is situated, but which was legally existing at the effective date hereof, or of any pertinent amendment.

Normal Mean High Water Mark: The average annual high water level of a surface water, discounting unusually high or low conditions.

Parking Space: Off-street space used for the temporary location of one licensed motor vehicle at least nine feet wide and twenty-two feet long, not including access driveway, and having direct access to a street.

Planned Unit Development (PUD): A PUD means an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, and commercial and industrial uses, if any; the plan for which does not correspond in lot size, bulk or type of dwelling, commercial or industrial use, density, lot coverage and required open space to the regulations of the district within which it is located.

Recreation, Active: Non-motorized leisure activity usually of an organized nature, often performed with others and often requiring equipment, taking place at prescribed places, sites, or fields.

Recreation, Passive: Non-motorized recreational activity that generally does not require a developed site. This includes (but is not limited to) such activities as hiking, cross country skiing, and picnicking.

Residential Care and Group Homes: residential care home or group home to be operated under

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

Restaurant: A place primarily designed for serving food or beverages for consumption on the premises.

Retail Store: Includes enclosed restaurant, cafe, shop or store for the sale of retail goods or personal service, excluding any drive-up service, produce or other open stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and services.

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

Sawmills On-premise: A temporary or portable sawmill which uses material harvested only from the premises.

Setback: The distance from a road or property line to the nearest part of the building or structure on the lot. In the case of a public highway, the distance shall be measured from the closest point of the structure to any part of the right-of-way. In the case of a private road, the distance shall be measured assuming a 50-foot right-of-way, from the edge of that assumed right-of way.

Shore lands: The lands between the normal mean water mark of lakes or ponds exceeding 20 acres and a line not less than 500 feet nor more than 1,000 feet from such mean high watermark. Shore lands include lands around Sunset Lake, South Pond, Hidden Lake, and Marlboro Millpond

Signs:

Externally Illuminated Sign: a sign with an external light source arranged to shine on the surface of the sign to render it visible in darkness.

Fluorescent Sign: any sign in which fluorescent (e.g., "Day-Glo") dyes or pigments are used, in ink, paint, or other medium.

Internally Illuminated Sign: Any sign presenting its message on a translucent surface, illuminated from behind that surface. Transparent surfaces are expressly excluded from this definition.

Neon Sign: shall include signs containing all forms of gas-discharge tubing, and all sources of fluorescent and phosphorescent light emission, when these light sources are directly visible to the public.

Reflective Sign: any sign in which the normal reflectiveness of a painted or printed surface is enhanced by reflective beads or chips, faceted reflectors, or other artificial reflective devices.

Sign, On-premise: a sign directing attention to a business, profession, commodity, service, or entertainment carried on, sold, or offered on the same premises as those on which the sign is erected.

Site Plan: See Section 203

Street: Public way for vehicular traffic which affords the principal means of access to abutting

properties.

Structure: Any construction, erection, assemblage or other combination of materials upon the land, including but not limited to, any building, mobile home or trailer, billboard, wall or fence (except on an operating farm), swimming pool, tennis court, tower, satellite dish antenna, sign, accessory building exceeding one hundred (100) square feet in floor area.

Structure Height: The vertical distance from the average finished grade surrounding the structure to the highest point of the structure.

Subdivision: Any division of land into two or more lots. It includes resubdivision and the division of a lot or parcel held in common ownership and subsequently divided into parts among the owners

Trailer: Includes any vehicle, used as sleeping or camping or living quarters, mounted on wheels, or a camper body designed to be mounted on a truck; and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, boats, or as an office.

Wildlife Refuge: An area set aside for the conservation of plants, animals, and their general habitat.

Yard: Space on a lot not occupied by a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building.