TOWN OF WESTMORE, VERMONT
ZONING BYLAW

TABLE OF CONTENTS

ART 1: ENACTMENT AND INTENT 3
Sec. 101: Enactment 3
Sec. 102: Intent 3
ART 2: ESTABLISHMENT OF REGULATIONS 3
Sec. 201: Application of Regulations 3
Sec. 202: Permitted Uses 3
Sec. 203: Conditional Uses 3
Sec. 204: Minimum Area, Distance & Dimensional Requirements 4
Table 201: Use, Area, Distance, & Dimensional Requirements 5
ART 3: GENERAL PROVISIONS 5
Sec. 301: Existing Small Lots 6
Sec. 302: Frontage on, or Access to Public Roads or Waters 6
Sec. 303: Protection of Home Occupations 7
Sec. 304: Height Regulations 7
Sec. 305: Minimum Lot Size Requirements Per Use 7
Sec. 306: Reduction of Lot Size 7
Sec. 307: Required Setbacks 7
Sec. 308: Projections Into Required Setbacks 7
Sec. 309: Excavations 7
Sec. 310: Demolished, Burned or Collapsed Structures 7
Sec. 311: Travel Trailers/Recreational Vehicles (R.V.) 7
Sec. 312: Mobile Home, Modular or Prefabricated Housing 8
Sec. 313: Flood Hazard Area Regulations 8
Sec. 314: Yard Sales 11
Sec. 315: Docks and Boathouses 11
Sec. 316: Water Quality Protection 12
Sec. 317: Residential Care Home or Group Home 14
Sec. 318: Family Child Care Home or Facility 14
Sec. 319: Accessory Dwelling Unit 15
Sec. 320: Public Facilities 15
Sec. 321: Agriculture and Forestry 15
Sec. 322: Outdoor Wood Furnaces 16
Sec. 323: Inoperable or Unregistered Vehicles, Storage Containers, Other Items 17
Sec. 324: Fences 17
ART 4: DEFINITIONS 17
Sec. 401: Word Definitions 17
Sec. 402: Term Definitions 18
ART 5: NONCONFORMITIES 24
Sec. 501: Permits Issued Prior to Adoption or Amendment 24

Sec. 502: Nonconforming Uses 24
Sec. 503: Nonconforming Structures 25
ART 6: ADMINISTRATION AND ENFORCEMENT 25
Sec. 601: Administrative Officer 25
Sec. 602: Zoning Permits 26
Sec. 603: Penalties 26
Sec. 604: Board of Adjustment 27
Sec 605: Planning Commission 27
Sec. 606: Referral to State Agency 28
Sec. 607: Public Notice 28
Sec. 608: Hearings 29
Sec. 609: Decisions 30
Sec. 610: Appeals 30
ART 7: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE 31
Sec. 701: Amendments 31
Sec. 702: Interpretation 32
Sec. 703: Effective Date 32
Sec. 704: Separability 32
Sec. 705: Repeal of Former Zoning Bylaw 32

ART 1: ENACTMENT AND INTENT

Sec. 101: Enactment

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

Sec. 102: Intent

It is the intent of this zoning bylaw to further the purposes established in 24 V.S.A., Chapter 117, Section 4302. To carry out the desires of the community, it is the intent of this bylaw to adopt minimum regulations, in accordance with enabling legislation provided in 24 V.S.A., Chapter 117, to protect the safety and welfare of the inhabitants of Westmore.

ART 2: ESTABLISHMENT OF REGULATIONS

Sec. 201: Application of Regulations

No subdivision or development of land may commence without a zoning permit issued by the Administrative Officer. A subdivision or development of land shall conform to the regulations herein specified as well as 24 V.S.A., Section 4449.

Sec. 202: Permitted Uses

Permitted uses (as listed in Table 201) are those uses which are allowed upon issuance of a zoning permit by the Administrative Officer provided the standards established by this bylaw are met and no other special action by the Planning Commission or Zoning Board of Adjustment is required. Zoning permits shall become effective 15 days after the date of issuance in accordance with 24 V.S.A., Section 4449(a).

Sec. 203: Conditional Uses

203.1 Conditional uses (as listed in Table 201) are those uses for which a permit may be issued by the Administrative Officer only after the Zoning Board of Adjustment, as provided for in 24 V.S.A., Section 4414 (3) determines after public notice and public hearing that the proposed use shall not result in an undue adverse effect on any of the following:

A. The capacity of existing or planned community facilities;

B. The character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan
C. Traffic on roads and highways in the vicinity;
D. Bylaws and ordinances then in effect, and;
E. The utilization of renewable energy resources.

203.2 In approving a conditional use the Board of Adjustment may impose such conditions and safeguards, as it may deem necessary to implement the purposes of this bylaw. The conditions may include the following:

A. Increasing the required lot size or setback dimensions in order to protect the adjacent properties.
B. Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent properties.
C. Controlling the location and number of vehicular access points to the property.
D. Increasing the street width adjacent to the property.
E. Increasing the number of on-site off-street parking or loading spaces.
F. Limiting the number, location, size and type of on-site signs.
G. Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.
H. Specifying a time limit for construction, alteration, or enlargement.
I. Providing for special layout of facilities on the property such as location of the building, parking areas, access to the building so as to minimize adverse effects on adjoining property.
J. Specifying standards for operation of the conditional use so that it will be no more objectionable to the neighborhood by reasons of noise, odors, vibrations, flashing lights, or hours of operation than would be the operation of a permitted use at that site.
K. Requiring such additional, reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this bylaw and to protect the best interests of the surrounding property and the neighborhood.
L. All buildings, new or alterations, open to the public must comply with the Americans with Disabilities Act Accessibility's Guidelines (ADAAG) as printed July 26, 1991, in the Federal Register, Volume 56, Number 144, Vermont Public Law 187 (S117), with amendments per the current release of "The Vermont Access Board and the Department of Labor and Industry".

Sec. 204: Minimum Area, Distance & Dimensional Requirements

Minimum area, distance, and dimensional requirements are as set forth in Table 201.

Table 201: Use, Area, Distance & Dimensional Requirements

Purpose: The purpose of this bylaw and its requirements is to encourage the orderly development of the Town in a fashion that will become an asset, not a liability, to the Town. Under Vermont law, unless a use is specifically listed as a permitted use or conditional use, it is prohibited.

Permitted uses:

1. Accessory use
2. Agriculture and Forestry *See Sec 321*
3. Residential Care Home {24 V.S.A. 4412(G)} *See Sec 317*
4. Group Home {24 V.S.A. 4412(G)} *See Sec 317*
5. FamilyChild Care Home or Facility {24 V.S.A. 4412(5)} *See Sec 318*
6. Dwelling, single family
7. Dwelling, two family
8. Dwelling unit, accessory
9. Home occupation *See Sec303*
10. Subdivision

Conditional uses:

1. Cottage/Camp seasonal rental
2. Essential services*
3. Commercial lodging establishments
4. Outdoor recreation
5. Personal service
6. Private club/lodge
7. Public assembly use*
8. Public facility*
9. Eating establishments
10. Retail store
11. School*
12. Dwelling, multi-family

** See Sec. 320: Public Facilities*

Minimum Area, Distance, and Dimensional Requirements:

For shoreline lots of Lake Willoughby, Bald Hill Pond, Long Pond, Job's Pond and all other ponds, lakes, rivers, and year-round streams.

Lot frontage in feet	100
Front yard setback in feet	25
Side yard setback in feet	25
Rear yard setback in feet	25
Setback from the normal mean water mark in feet	50 or 100 as set forth in Sec. 316.1A
Vegetative Buffer Zone in feet	15 or top of bank whichever is greater
Maximum building height in feet	35
Setback from legal right of way in feet	25

For all other areas:

Lot frontage in feet:	150
Front yard setback in feet:	25
Side yard setback in feet:	25
Rear yard setback in feet:	25
Maximum building height in feet:	35
Setback from legal right of way in feet:	25

Lot area in square feet (for shoreline lots of Lake Willoughby, Bald Hill Pond, Long Pond, and Job's Pond): 20,000

Lot area in square feet (for all other areas): 40,00

GENERAL PROVISIONS

This bylaw shall not have the effect of excluding low and moderate income housing.

Sec. 301: Existing Small Lots

301.1 Any lot that is legally subdivided, is in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this zoning bylaw, 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, and with a minimum width and a minimum depth dimension of forty feet in accordance with 24 V.S.A., Section 4412 (2).

301.2 If a lot not conforming to the minimum lot size requirements in the district in which it is located subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

A. The lots are conveyed in the preexisting, nonconforming configuration; and
B. On the effective date of any zoning regulations, each lot had been developed with a water supply and wastewater disposal system; and
C. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
D. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails which means the system functions in a manner:

1. That allows wastewater to be exposed to the open air, pool on the surface of the ground, discharge directly to surface water, or back up into a building or structure unless the approved design of the system specifically requires the system to function in such a manner;
2. So that a potable water supply is contaminated or rendered not potable;
3. That presents a threat to human health; or
4. That presents a serious threat to the environment.

301.3 If subsequent to separate conveyance, as authorized under Sec. 301.2, a wastewater system fails, the owner shall be required to obtain from the Secretary of Natural Resources a waste water permit as required under the State of Vermont subdivision regulations or a certification that the waste water system has been modified or replaced, with the result that it no longer constitutes a failed system.

Sec. 302: Frontage on, or Access to Public Roads or Waters

302.1 No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or right-of-way of record at least 20 feet in width.

302.2 All access driveways connecting to public roads are to be located at least 100 feet from the center point of the nearest intersection. Applications for driveways (i.e. curb cuts)

must be approved by the Selectboard. The Selectboard may, at their discretion, deviate from the provisions of this paragraph if they deem it necessary for road safety or if a drive located closer to an intersection does not present a safety hazard.

Sec. 303: Protection of Home Occupations
No regulation may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation, which is customary in residential areas and does not change the character thereof.

Sec. 304 Height Regulations
Except for agricultural purposes, all structures shall not exceed a height of 35 feet above ground level.

Sec. 305: Minimum Lot Size Requirements Per Use
If more than one use is proposed for a parcel of land, such parcel of land shall be of sufficient size so that each use individually conforms with the minimum lot size, width, and setback requirements set forth in Table 201.

Sec. 306: Reduction of Lot Size
No lot shall be so reduced in area such that the area, setbacks, lot width, frontage or other requirements of this bylaw shall be less than herein prescribed. The provisions of this section shall not apply when part of a lot is taken for a public purpose.

Sec. 307: Required Setbacks
Space required under this bylaw to satisfy setback requirements in relation to one building shall not be counted as part of a required setback for any other building.

Sec. 308: Projections Into Required Setbacks
All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any required setback. Setbacks shall not apply to fences.

Sec. 309: Excavations
If an excavation for a building has not been structurally covered over within 18 months after work on the excavation began, the owner shall fill it to normal grade.

Sec. 310: Demolished, Burned or Collapsed Structures
Within 12 months after any structure has been demolished, damaged by fire, or has collapsed, the owner shall repair, rebuild or replace the structure or shall remove all structural materials and fill any excavation remaining, to normal grade.

Sec. 311: Travel Trailers/Recreational Vehicles (R.V.)
It shall be unlawful for any person to park a camping trailer, travel trailer, R.V., pickup coach, and/or motor home on any public or private property, except in accordance with this bylaw as follows:

A. In an approved travel trailer/RV camp.
B. A person may park or store his own travel trailer, or park that of a bonafide visitor, on the property on which such person's legal or summer residence is situated,

provided it is parked no closer than 15 feet to any property line.

C. The owner of an undeveloped lot may park his own travel trailer/RV on such lot for a period of time not to exceed 21 days in any calendar year unless a permitted sewage disposal system is installed. Such individual shall obtain from the Administrative Officer a travel trailer/RV permit on an annual basis prior to the placement of travel trailer/RV on such lot. All such permits shall become effective 15 days after the issuance in conformance with 24 V.S.A. Section 4449(a). The annual permit requirement shall not apply if a permitted sewage disposal system is installed.

D. No more than two travel trailers shall be situated on any lot, developed or undeveloped, unless such lot is an approved travel trailer/RV campground.

Sec. 312: Mobile Home, Modular or Prefabricated Housing

Pursuant to 24 V.S.A., Section 4412(1)(B), a mobile home, modular housing or prefabricated housing must be considered a single-family dwelling and must meet the same zoning requirements applicable to single-family dwellings. This does not include recreational vehicles or travel trailers.

313.1 These regulations shall apply for development in all areas in the Town of Westmore identified as areas of special flood hazard on the official National Flood Insurance program maps, which are hereby adopted by reference and declared to be part of these regulations.

313.2 Definitions used in this section are as applicable to the National Flood Insurance Program and as contained in 44 CFR 59.1.

313.3 Conditional use approval by the Westmore Zoning Board of Adjustment is required for construction of new structures, the substantial improvement of existing structures or floodplain development, after which approval a permit shall be issued by the Administrative Officer.

313.4 Conditional Use Review Procedures

A. Upon receiving an application for a conditional use permit under these regulations, the Board of Adjustment shall, prior to rendering a decision thereon:

1. Obtain from the Vermont Department of Water Resources or other state or federal agencies any available base flood elevation data.
2. Obtain from the applicant who must submit to the Board of Adjustment:
   a. The elevation (in relation to mean sea level) of the lowest floor, including basement, of new buildings or buildings to be substantially improved;
   b. Where flood proofing is proposed, the elevation (in relation to mean sea level) to which the building will be floodproofed;
   c. Plans drawn to scale showing the existing and proposed land contours, building, structures, streams, roads and other pertinent physical features;
   d. Base flood elevation data for subdivisions and other proposed development, which contain at least 50 lots or 5 acres (whichever is the smaller).
   e. Such other information deemed necessary by the Board of Adjustment

for determining the suitability of the site for the proposed development.

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

1. The evaluation of the Vermont Department of Water Resources.
2. The availability of alternative locations not subject to flooding for the proposed use.
3. The susceptibility of the proposed improvement to flood damages.
4. The safety of access to the property in times of flood of ordinary and emergency vehicles.
5. The potential for damage to the property caused by erosion.
6. The danger those materials may be swept onto other lands and cause damage to others.
7. Such other factors as are relevant to the purposes of this bylaw.

C. The Board of Adjustment may grant a conditional use permit for development provided:

1. All necessary permits are obtained from those governmental agencies from which federal or state law requires approval.
2. The development standards of 313.7 are met or exceeded.

313.5 Procedures

A. Prior to issuing a permit a copy of the application shall be submitted by the Administrative Officer to the Floodplain Management Section of the Vermont Department of Environmental Conservation in accordance with 24 V.S.A., Section 4424(D). A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.

B. Adjacent communities and the Vermont Department of Environmental Conservation shall be notified at least 15 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.

C. Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal, state, or municipal law.

313.6 Base Flood Elevations and Floodway Limits

A. Where available (i.e., Zones A1-A30, AE, and AH) the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

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

313.7 Development Standards Within Areas of Special Flood Hazard

A. Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in

flood levels during the occurrence of the base flood.

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

C. All development and structures shall be:

1. All development shall be designed to (i) minimize flood damage to the proposed development and to the public facilities and utilities, and (ii) to provide adequate drainage to reduce exposure to flood hazards.

2. Structures shall be (i) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of flood, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damage, and (iv) be with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

4. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters.

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

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

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

8. Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection 7.

9. Existing buildings to be substantially improved for non-residential purposes shall either (1) meet the requirements of subsection 8, 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.

10. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A 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.

313.8 Duties and Responsibilities of the Administrative Officer
The Administrative Officer shall maintain a record of:

(1) all permits issued for development in areas of special flood hazard.

(2) the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings.

(3) the elevation, in relation to mean sea level, to which buildings have been floodproofed.

(4) all floodproofing certifications required under this regulation.

(5) all variance actions, including justification for their issuance.

313.9 Variances to the Development Standards
Variances shall be granted by the Westmore Zoning Board of Adjustment only:

(1) in accordance with 24 V.S.A. Section 4469.

(2) upon a determination that during base flood discharge the variance will not result in increased flood levels.

(3) upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Sec. 314: Yard Sales

Yard Sales, which term shall include garage sales and flea markets, are those sales to the general public of new and used items of personal property conducted upon a lot as an accessory use for not more than 14 days in any one calendar year. Sales carried on for more than 14 days in any calendar year shall be considered a retail store or neighborhood commercial facility.

Sec. 315: Docks and Boathouses

The required shoreline setback established in Table 201 shall not apply to docks and boathouses. Such structures, however, must comply with applicable state regulations.

EXEMPTIONS:
The Vermont Legislature has determined that the size and type of some encroachments are such that – although the encroachment may be used for exclusively private purposes – construction of the project would neither violate the state's fiduciary duties under the Public Trust Doctrine nor adversely impact the public good under most conditions. As stated by the Legislature, these particular encroachments do not require a Public Trust review unless the Department of Environmental Conservation determines that navigation or boating would be unreasonably impeded.

These conditionally exempt encroachments are:

1. Wooden or metal docks for non-commercial use mounted on piles or floats provided that:

a. the combined horizontal distance of the proposed encroachment and any existing encroachment within 100 feet owned or controlled by the applicant does not exceed 50 feet, and their aggregate surface area does not exceed 500

square feet; and

b. concrete, masonry, earth or rock fill, sheet piling, bulkheading, cribwork or similar construction does not form part of the encroachment;

2. A water intake pipe not exceeding two inches in diameter;

3. Temporary extensions of existing structures added for a period not to exceed six months, if required by low water;

4. Ordinary repairs and maintenance to existing commercial and non-commercial structures;

5. Duck blinds, ice shacks, floats, rafts, and buoys;

6. Filtering devices not exceeding nine square feet of disturbed area on the end of water intake pipes less than two inches in diameter for the purpose of zebra mussel control.

PUBLIC TRUST DETERMINATION:
To determine whether a proposed non-exempt encroachment should be permitted, the Department of Environmental Conservation must first determine whether the project meets the requirements of the Public Trust Doctrine. Under this doctrine, the state cannot approve construction of a nonexempt encroachment exclusively for private purposes.

Sec. 316 Water Quality Protection

The quality of life and the continued success of the Town of Westmore's seasonal/recreational activities are both intimately tied to the quality of water in the town's lakes, ponds, rivers, and streams. It is the purpose of this section to protect water quality from pollution and sedimentation resulting from land-based development or activities.

316.1 Shoreline Protection
A shoreline protection area shall be established, as a buffer, along the shoreline of lakes, ponds, rivers, and year-round streams.

A. Depth of the Shoreline Protection Area: The depth of the Shoreline Protection Area (i.e. the horizontal distance from the mean water line to the outer edge of the Shoreline Protection Area) shall be based on slope and soil characteristics.

a. If the slope is greater than 15 (fifteen) percent, and/or if the depth to ledge or bedrock is less than 2 (two) feet, and/or if the depth to seasonal high ground water table is less than 2 (two) feet, the depth of the Shoreline Protection Area shall be 100 feet.

b. Otherwise, the depth of the Shoreline Protection Area shall be 50 feet.

B. Uses within the Shoreline Protection Area: With the exception of retail facilities, eating establishments and commercial lodging establishments, all uses listed in Table 201 are allowed within Shoreline Protection Area, subject to the requirements of this bylaw.

C. Construction within the Shoreline Protection Area: All existing structures, lawns, yards, paths, and landings are exempt from this subsection until they are altered or changed. Major earth moving within the Shoreline Protection Area to create a level (or more level) site is prohibited. The following construction activities are allowed in the Shoreline Protection Area:

1. Renovation of existing structures with no change in footprint;

2. Additions to existing structures provided that the addition is as far away from the edge of the water as possible, with no additional construction closer than the existing structure;

3. Clearing for lawns and yards, shall be allowed outside the Vegetative Buffer Zone;

4. Paths to the water's edge (no more than one path per lot) may be created, provided that they are no more than 6 (six) feet wide. Long paths shall have water bars to direct runoff onto vegetated areas every 75 feet if the is less than fifteen percent, and every 50 (fifty) feet if the slope is fifteen percent or greater. Small structures (boardwalks, railings or small wooden bridges, etc...), that are incidental to the path are allowed.

5. Parking areas shall not be paved and shall not be located closer to the water than the principal structure.

6. Landings (no more than one per lot) may be constructed adjacent to access paths, but may not extend closer than fifteen (15) feet from the mean water line.

7. Docks which extend into the water may be installed in accordance with Section 315 of these Regulations, provided that there are no permanent foundation, mounting, or attachment structures.

8. Fences with opacity of less than 50% consisting of natural materials and no greater than 6 feet in height shall be allowed outside the vegetative buffer zone.

D. The Vegetative Buffer Zone: The purpose of this zone is to stabilize the banks against erosion and increase filtration of sediments from run-off. All land within the Vegetative Buffer Zone shall be kept in a permanently vegetated state, preferably with native species

1. Natural sand beaches may remain but shall not be enhanced with imported sand.

2. Existing banks which are currently stabilized with vegetation shall not be disturbed except for paths in accordance with sub-paragraph 316.1(C)(4). If disturbance is desired for any reason, including removal of dead or damaged vegetation, or trimming and/or pruning of existing vegetation, a Vegetative Buffer Disturbance Permit must be obtained before any disturbance takes place. Compliance with any other permits required or issued shall be the property owners responsibility.

A. Application for Vegetative Buffer Disturbance Permits shall be made to the Zoning Administrator.

B. A permit for routine trimming and removal of blowdowns or dead trees may be granted by the Zoning Administrator.

C. Any other disturbance or appeal of zoning administrator decisions requires a waiver after a hearing before the Zoning Board of Adjustment.

3. Unstable banks or banks where existing sea walls are to be removed shall be stabilized as follows:

a) At the water line, angular stone rip-rap shall extend to approximately six (6) inches above the mean water level;

b) Grade shall not exceed fifty (50) percent;

c) Plants shall include a mixture of groundcover, shrubs and trees, and should be allowed to naturalize. Native species are encouraged.

E.Wetlands: As required by 10 V.S.A. Section 6086, no zoning permit may be issued for development in a designated wetland, or for development in a designated flood hazard area, without at least thirty (30) days prior notification to the Water Quality Division of the Department of Environmental Conservation.

F. Erosion Control: All construction within the Shoreline Protection Area that involves excavating, grading, filling, or otherwise disturbing the soil, shall be done in accordance with Section 316.2 of these Regulations.

G. Zoning Board of Adjustment Waivers: The Zoning Board of Adjustment may waive, with or without conditions, any or all of the provisions of Section 316.1 if it reviews evidence and concludes that the purposes of the Shoreline Protection Area or Vegetative Buffer Zone will still be met after the waivers are granted, (under conditional use situations).

316.2 Surface Water Protection.

These provisions are intended to minimize the pollution of surface waters from erosion, sedimentation and/ or agricultural runoff.

A. Erosion Control – Construction: All construction which involves excavating, grading, filling, or otherwise disturbing the soil, shall be done in accordance with the guidelines in Chapter 4 of the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites, Special Publication No. 3.

1. Only the smallest area necessary for the construction shall be disturbed at any one time, and completed areas shall be permanently stabilized when another area is opened.

B. Erosion Control – Logging Operations: All logging operations (including planting, harvesting, and removal of trees) shall follow the Acceptable Management Practices (AMPs) set forth in the publication "Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont", published by the Vermont Department of Forests, Parks, and Recreation, effective date August 15, 1987. All definitions associated with the AMPs shall be applicable in this Section.

C. Erosion and Pollution Control – Agricultural Operations: All agricultural activities shall follow the Acceptable Agricultural Activities (AAPs) set forth in the publication "Vermont Agriculture Nonpoint Source Pollution Reduction Program Law and Regulations", published by the Vermont Department of Agriculture, Food, and Markets, effective date June 29, 1995. All definitions associated with the AAPs shall be applicable in this Section.

Sec. 317: Residential Care Home or Group Home

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

Sec. 318: Family Child Care Home or Facility

A family child care home or facility, to be operated under state licensing or registration, serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property.

Sec. 319: Accessory Dwelling Unit

319.1 An accessory dwelling unit that is located within or appurtenant to an owner occupied single family dwelling shall be a permitted use. An accessory dwelling unit shall be defined as efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

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

319.2 Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when one or more of the following is involved:

1. A new accessory structure, constructed after the enactment of these bylaws,
2. An increase in the height or floor area of the existing dwelling, or
3. An increase in the dimensions of the parking areas.
4. Conversion of an existing structure which does not meet the setback requirements of these bylaws.

Sec. 320 Public Facilities

The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, 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:

A. State- or community-owned and operated institutions and facilities.
B. Public and private schools and other educational institutions certified by the State Department of Education.
C. Churches and other places of worship, convents, and parish houses.
D. Public and private hospitals.
E. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
F. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. Section 6606(a).

Sec. 321: Agriculture and Forestry

321.1 Nothing contained herein shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such

practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under 10V.S.A., Sections 1021(f) and 1259(f) and 6 V.S.A., Section 4810.

321.2 Zoning permits need not be obtained for farm structures. However, any landowner proposing to erect a farm structure shall notify the Administrative Officer of such intent prior to the erection of such structure. The notification shall be in writing and shall contain a sketch of the proposed structure including the setbacks from adjoining property lines and road right-of-ways. Non-commercial farmers need a permit but are exempt from permit fees.

321.3 Farm structures shall comply with setbacks approved by the Secretary of Agriculture, Food and Markets. The approved setbacks are those setbacks contained in Table 201 of this bylaw.

321.4 New structures that are not additions to existing farm structures associated with farm operations shall be constructed so that a minimum distance of fifty (50) feet is maintained between the top of the bank of the adjoining waters and the farm structures. Such structures do not include those for irrigation, drainage or fencing. (As stated in the Vermont Accepted Agricultural Practice Rule 4.07)

321.5 A person proposing to construct a farm structure with setbacks less restrictive than those contained herein shall submit, in writing, a request for a variance to the Secretary of Agriculture, Food and Markets. Such request must include the following information:

A. A statement of the reason or reasons less restrictive setbacks are necessary;
B. A copy of this zoning bylaw;
C. A sketch plan of the proposed structure(s) showing the distance from all property lines, and;
D.A description of the adjoining land uses.

321.6 A Farm Structure is defined in the VT Accepted Agricultural Practices as a structure that is used by a person for agricultural production that meets one or more of the following:

a) is used in connection with the sale of $1000 or more of agricultural products in a normal year; or

b) is used in connection with the raising feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer or red deer; fifty turkeys; fifty geese, one-hundred laying hens; two-hundred-fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids, four ratites; thirty rabbits; one hundred ducks; or one-thousand pounds or cultured trout; or

c) is used by a farmer filing with the Internal Revenue Service a 1040(F) income tax statement in at least one of the past two years; or

d) is on a farm with a business and farm management plan approved by the Secretary.

Sec. 322: Outdoor Wood Furnaces

Outdoor wood furnaces are permited in Westmore as follows:

322.1 No outdoor wood furnace shall be permitted within 200 feet of a seasonal or year round residence, other than the building being heated. Outdoor wood furnaces located more than 200 feet but less than 500 feet of a seasonal or year round residence, shall have a chimney greater in height than the roof line of the residence, and shall be anchored sufficiently to assure stability.

322.2 In accordance with state air pollution control regulation, outdoor wood furnaces shall not be used to burn any material other than untreated wood.

322.3 All outdoor wood furnaces shall be equipped with a catalytic converter that meets EPA standards, as well as Vermont state standards.

Sec. 323: Inoperable or Unregistered Vehicles, Storage Containers, and Other Items

Inoperable vehicles, storage containers, household appliances, scrap metal, vehicle parts, tires, scrap lumber and similar items shall not be stored on any property unless shielded from view of any public highways. In emergency situations, a storage container may be placed within view of a public roadway as long as it is not in the road right-of-way and no other suitable location is available. A storage container may remain in said location for up to 6 months provided a waiver is obtained from the Zoning Administrator.

The Zoning Administrator shall grant a waiver if the following guidelines are met:

a. An emergency situation exists such as a fire, flood or other natural disaster;
b. No other suitable location is available.

No more than two unregistered yet operable vehicles shall be parked in any yard of any property for more than 30 days in any calendar year.

Sec. 324: Fences

No fence shall exceed 6 feet in height and shall be installed with the finished side facing outward.

ART 4: DEFINITIONS

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

Sec. 401: Word Definitions

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

The word DISTANCE shall refer to horizontal measurements.

The word LOT includes the words PLOT or PARCEL.

The word PERSON includes a FIRM, ASSOCIATION, ORGANIZATION, PARTNERSHIP, TRUST, COMPANY, or CORPORATION as well as an INDIVIDUAL.

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

Sec. 402: Term Definitions

ACCESSORY USE: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.
ACRE: A measure of land area containing 43,560 sq. ft.
AFFORDABLE HOUSING: means either of the following:
• 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 and insurance, is not more than 30 percent of the household's gross annual income, or
• 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. [24 V.S.A. § 4303(1)(A)].
AGRICULTURE or FARMING: The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or the raising, feeding or management of livestock, poultry, equines, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation and sale of agricultural products principally produced on the farm; or the on-site production of fuel or power from agricultural products or waste produced on the farm.
AREA OF SHALLOW FLOODING: A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
AREA OF SPECIAL FLOOD HAZARD: The land in the flood plain within a community subject to a one- percent or greater chance of flooding in a given year. The area may be designated as a FIRM, Zone A usually is refined into Zones A, AO, AH, A10A30, AE, or A99.
BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.
BASEMENT: A space having one-half or more of its floor-to-ceiling height below the average level of the adjoining ground and with a floor to ceiling height of not less than six and one-half feet.
BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animals, process, equipment, goods or materials of any kind, including a gas or liquid storage tank.
BUILDING FRONT LINE: Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or

unenclosed exceeding 25 square feet in area, but does not include steps. (See LOT FRONTAGE)
CAMPGROUND: A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.
COMMERCIAL LODGING ESTABLISHMENTS: Building containing rooms which are rented as a series of sleeping units for transients, each sleeping unit consisting of at least a bedroom which may include one bathroom. This shall include hotels, motels, inns, and beds and breakfast.
COTTAGE/CAMP SEASONAL RENTAL: An establishment consisting of one or more camps or cottages that are rented on a temporary or seasonal basis with no primary residence permitted.
DECK: A platform area open to the outside air having no walls that are attached to the building.
DEVELOPMENT: See Land Development.
DOCK: A narrow platform built on the shore or out from the shore for the purpose of receiving boats.
DWELLING, MULTI-FAMILY: A building designed for occupancy by three or more families living independently of each other in individual dwelling units.
DWELLING, SINGLE FAMILY: A building containing one dwelling unit.
DWELLING, TWO FAMILY: A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both 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 dwelling unit for the exclusive use of a single family maintaining a household.
DWELLING UNIT, ACCESSORY: An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a singlefamily dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:
• The property has sufficient wastewater capacity.
• The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
• Applicable setback, coverage, and parking requirements specified in the bylaws are met. [24 V.S.A. § 4412(1)(E)].
• Conversion of an existing structure which does not meet the setback requirements of these bylaws.
EASEMENT: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.
EATING ESTABLISHMENT: Retail establishments selling food and drink for consumption on premises, including lunch counters and refreshment stands selling prepared foods and drinks for on or off site consumption.
ESSENTIAL SERVICE: The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories therewith, and including buildings reasonably necessary for the furnishing of adequate service by such public utilities, or municipal or other governmental agencies or for the public health, safety or general welfare.
FAMILY: One or more individuals occupying a dwelling unit and living as a single household unit.

FAMILY CHILD CARE HOME OR FACILITY: A family day care home is a day care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. For the purpose of this bylaw, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:
(A) these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and
(B) during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. [33 V.S.A. §4902(3)].
FENCES: An artificially constructed barrier of any material or combination of materials, including shrubbery, erected to enclose, to screen, or to separate areas.
FLOOD HAZARD BOUNDARY MAP (FHBM): An official map of a community issued by the Administrator, where the boundaries of the flood, mudslide (i.e.) mudflow, related erosion areas having special hazards have been designated as Zones A, M, and/or E.
FLOOD INSURANCE STUDY: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.
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 a designated height.
FORESTRY: Any use directly related to the growing and harvesting of forest products.
GROUP HOME: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.
HEIGHT: The vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure.
HOME OCCUPATION: The use of less than 25% of the total floor area of the dwelling unit for an occupation which is customary in residential areas and which does not change the character thereof.
KENNEL: If five or more adult dogs are housed on a property, it shall be considered a kennel.
LAND DEVELOPMENT: The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.
LANDING: A structure built for the purpose of anchoring or providing a pause in a stairway or path, not to exceed 25 square feet in area.
LIVESTOCK: Domestic animals, such as cattle, horses, sheep, llamas, hogs, goats or fowl.
LOT: A parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size to meet minimum

zoning requirements for use and area and to provide such yards and other open spaces as herein required. Such lot shall have frontage on an improved public street, or other means of access approved by the Planning Commission and shall consist of:
1) A single lot of record; or
2) A portion of a lot of record; or
3) A combination of complete lots of record, or complete lots of record and portions of lots of record; or
4) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel to be created which does not meet the requirements of this bylaw.
LOT AREA: The total area within the lot lines of a lot excluding any street rights-of-way.
LOT, CORNER: A lot or parcel of land abutting two or more streets at their intersection or two parts of the same street forming an interior angle of less than 135 degrees.
LOT FRONTAGE: The length of the front lot line measured at the street right-of-way line. On corner lots, each side abutting the street is considered the frontage.
LOT LINE: A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.
LOT LINE, FRONT: The lot line separating a lot from a street right-of-way.
LOT LINE, REAR: The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
LOT LINE, SIDE: Any lot line other than a front or rear lot line.
LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the Town clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
LOT WIDTH: The distance between the midpoints of straight lines connecting the front and rear lot lines at each side of the lot.
LOW INCOME HOUSING: Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy for households with a gross household income that does not exceed 50 percent of the median gross household income for households of the same size within the housing region in which the housing is located.
LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of Sec. 313.7.
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.
MANUFACTURING: Establishments engaged in the mechanical or chemical transformation of materials and/or substances into new products, including the assembling of components parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.
MEAN SEA LEVEL: Mean, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (VGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.
MOBILE HOME:
A structure or type of manufactured home that is built on a permanent chassis and is designed to

be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:
• transportable in one or more sections; and
• at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
• any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. [10 V.S.A. §6201(1)].

MOBILE HOME PARK: A site containing spaces with required improvements and utilities that are leased for the long-term placement of manufactured houses that may include services and facilities for the residences.

MODERATE INCOME HOUSING: Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

MODULAR (OR PREFABRICATED) HOUSING: A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

NEW CONSTRUCTION: Structures commenced on or after the effective date of this bylaw.

NONCONFORMING LOTS OR PARCELS: Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Administrative Officer. [24 V.S.A. §4303(13)].

NONCONFORMING STRUCTURE: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Administrative Officer. [24 V.S.A. §4303(14)].

NONCONFORMING USE: Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Administrative Officer. [24 V.S.A. §4303(15)].

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

OUTDOOR RECREATION: Includes a playground, park, golf course, swimming area, skating rink, tennis court or similar place of outdoor recreation.

OUTDOOR WOOD FURNACE: Any equipment, device or apparatus, or any part thereof, which is installed, affixed, or situated outside a principal or accessory building, except an accessory building for the furnace, for the purpose of burning untreated wood to produce heat or energy used as a component of a heating system providing heat for any principal or accessory building or water source.

PERSONAL SERVICE: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. This shall include barber or beauty parlors, shoe repair, laundry, laundromats, photographic studio, pet grooming and businesses providing similar services of a personal nature.

PRIVATE CLUB: Building or use catering exclusively to club members and their guests for social and recreational purposes. This shall include lodges.

PROPERTY: A lot, parcel, or tract of land together with the building and structures located

thereon.
PUBLIC ASSEMBLY USE: Includes auditorium, theatre, and public hall, school hall, meeting hall, church or temple.
PUBLIC FACILITY: Usage by agencies and departments of local, county, state, and federal government.
RESIDENTIAL CARE HOME: A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator. [33 V.S.A. §7102(1)].
RETAIL STORE: Any area of land, including structures thereon, that is used or designed to be used for the display and sale of goods and merchandise.
ROAD, PUBLIC: Publicly owned and maintained right-of-way for vehicular traffic, which affords the principal means of access to abutting properties.
SCHOOL: Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.
SETBACK: The minimum required distance from a property line to a building or other structure. Setbacks shall not apply to fences.
SETBACK LINE: That line that is the required minimum distance from any lot line that establishes the area within which any structure must be erected.
SHORE FRONTAGE: That side of lot abutting a lake, pond, or stream bank.
SHORELANDS: Shorelands are the lands being between the normal mean water mark of a lake, pond, or impoundment exceeding twenty acres and a line not less than five hundred feet nor more than one thousand feet from such mean water mark. [10 V.S.A., §1422].
SHORELINE PROTECTION AREA: The shoreline protection area shall be a strip of land along the designated waterbodies, as described in Sec. 316.1, extending from the mean water line inland a distance (depth) established as follows:
1) If the slope is greater than 15 (fifteen) percent, and/or if the depth to ledge or bedrock is less than 2 (two) feet, and/or if the depth to seasonal high ground water table is less than 2 (two) feet, the depth of the Shoreline Protection Area shall be 100 feet.
2) Otherwise, the depth of the Shoreline Protection Area shall be 50 feet.
SLOPE: The slope of the land is defined as the ratio of the vertical rise divided by the horizontal distance. If the land rises fifteen feet over a horizontal distance of 100 feet, the slope is 15 percent. If the land rises fifteen feet over a horizontal distance of 80 feet, the slope is 18.75 percent.
STORAGE CONTAINER: A structure larger than 32 square feet used for holding objects or debris.
STRUCTURE: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water, with the exception of structures less than 32 square feet in size which do not encroach upon setbacks or the shoreline protection area.
SUBDIVISION: The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development, or lease.
SUBSTANTIAL IMPROVEMENT: An extension, repair, reconstruction, or other improvement of a property, the cost of which equals or exceeds 50 percent of the fair market value of a property either before the improvement is started, or if the property has been damaged and is being restored, before the damage occurred. The term does not, however include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.

TRAVEL TRAILER OR TRAILER: Any Vehicle having a width of eight (8) feet or less and/or a length of thirty-five (35) feet or less which is used or so constructed as to permit its being used as a conveyance on the public roads and highways, whether licensed or not, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons. A trailer shall also mean tent trailers, motor homes, truck campers, recreational vehicles, and vehicles converted to sleeping facilities other than a mobile home and/or what normally constitutes a permanent dwelling unit. This definition includes uses to which trailers might be put.
UNATTACHED DECK: A platform area open to the outside air, having no walls, which is not attached to any principal structure on the site (but which may be connected to a pathway or stairway).
VEGETATIVE BUFFER ZONE: Within the Shoreline Protection Area, a strip of land extending from the mean water line inland as defined in Table 201, shall be designated as the Vegetative Buffer Zone.
YEAR ROUND VACATION PROPERTY: A property which is suitable for year round occupancy but which is not to be occupied on a permanent or full-time basis and which is not to be used as a primary residence.
USE, PERMITTED: Use specifically allowed, excluding illegal uses and non-conforming uses.
YARD: Space on a lot not occupied with a building or structure.
YARD, FRONT: Yard between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the edge of the street right-of-way to the front line of the building.
YARD, REAR: Yard between the rear lot line and rear line of a building extended to the side lot Lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.
YARD, SIDE: Yard between any structure and a side lot line, extending through from the front yard to the rear yard.

ART 5: NONCONFORMITIES

Sec. 501: Permits Issued Prior to Adoption or Amendment

Permits issued under the August 31, 2000 Westmore Zoning Bylaw that are valid on the effective date of this Bylaw may be utilized even if such permits result in structures and/or uses considered nonconforming under the requirements of this Bylaw. Nothing contained herein shall require any changes to the plans or construction of such previously permitted structures and/or uses. However, such structures and/or uses shall be completed or suitable for occupancy or uses within the permit's effective period of two years. Applications to renew expired permits issued under the August 31, 2000 Westmore Zoning Bylaw will not be approved unless the structure and/or use for which the original permit was issued complies with the requirements of this Bylaw.

Sec. 502: Nonconforming Uses

In accordance with 24 V.S.A., Section 4408 (b), the following provisions shall apply to all nonconforming uses existing on the effective date of this bylaw.

Any nonconforming use may be continued indefinitely, but:

502.1 Shall not be changed to another nonconforming use without approval by the Board of Adjustment, and then only to a use which, in the judgment of the board, is of the same or of a more restricted nature.

502.2 Shall not be re-established if such use has been discontinued for period of two years or more for any reason, or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.

502.3 May be expanded up to 20 percent greater than its existing size on the effective date of this bylaw, subject to approval by the Board of Adjustment after public notice and public hearing, provided the expansion conforms to any other applicable requirements of this bylaw.

Sec. 503: Non conforming Structures

The following provisions shall apply to all nonconforming structures existing on the effective date of this bylaw.

Any nonconforming structure:

503.1 May be continued indefinitely and may be expanded subject to approval by the Board of Adjustment after public notice and public hearing, provided the expansion is in accordance with any applicable requirements of this bylaw, does not increase the degree of nonconformity and meets the requirements of Sec. 502.3 if the expansion of a nonconforming use is involved.

503.2 Shall not be re-established if such structure has ceased to exist for a period of 24 months or more for any reason, or has been replaced by a conforming structure. Intent to resume a nonconforming structure shall not confer the right to do so.

503.3 Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformance.

ART 6: ADMINISTRATION AND ENFORCEMENT

Sec. 601: Administrative Officer

601.1 The Administrative Officer shall be appointed by the Selectboard from nominations submitted by the Planning Commission for a term of three (3) years in accordance with 24 V.S.A., Section 4448. Said officer shall literally enforce the provisions of this bylaw and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of this bylaw. Appeals of any decision or act taken by the Administrative Officer shall be made as provided for in 24 V.S.A., Section 4465. The Selectboard may remove an Administrative Officer for cause at any time after consultation with the Planning Commission.

601.2 An acting Administrative Officer may be appointed by the Selectboard pursuant to 24 V.S.A., Section 4448., from nominations submitted by the Planning Commission, who

shall have the same duties and responsibilities of the Administrative Officer in the Administrative Officer's absence. In the event an acting Administrative Officer is appointed, the Selectboard shall establish clear policies regarding the authority of the Administrative Officer relative to the authority of the acting Administrative Officer.

Sec. 602: Zoning Permits

602.1 No land development as defined herein and in 24 V.S.A., Section 4303 (3), may be commenced without a permit therefore issued by the Administrative Officer. No zoning permit may be issued by the Administrative Officer except in conformance with this bylaw.

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

602.3 The fee for zoning permits shall be established by the Selectboard. They may be on a sliding scale depending on the cost of the land development. Said fee shall accompany each application for a permit.

602.4 Prior to the issuance of any zoning permit the Administrative Officer shall first be satisfied that the subject of the application is in conformance with this bylaw. The
2 Administrative Officer may request from an applicant any information deemed necessary for this purpose. No such permit shall be issued unless an application, fee, plot plan and any other approvals of the Planning Commission or the Board of Adjustment required by this bylaw have been properly obtained and are submitted in connection with the application. The Administrative Officer, shall, within 30 days of submission of a complete application, data and approvals required by the Planning Commission or Board of Adjustment, either issue or deny a zoning permit. If denied, the Administrative Officer shall so notify the applicant in writing, stating the reasons therefore. If the zoning permit is approved, all activities authorized by its issuance shall be completed within two years of its date of issue, or the zoning permit shall become null and void and reapplication to complete any activities shall be required.

602.5 In the issuance of zoning permits, the Administrative Officer shall comply with all of the provisions of 24 V.S.A., Section 4449.

602.6 No zoning permit issued pursuant to 24 V.S.A., Section 4443 shall take effect until the time for appeal, which is 15 days, in 24 V.S.A., Sec 4464(a) has passed, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.

Section 603: Penalties

603.1 The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with 24 V.S.A., Sections 4451 and 4452. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of Westmore, any appropriate action, injunction or other proceeding to enforce the

provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

603.2 No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail or personal service by the Administrative Officer that a violation exists, as required under 24 V.S.A., Section 4451. The notice of violation also shall be recorded in the land records of the municipality. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

Sec. 604: Board of Adjustment

604.1 There is hereby established a Board of Adjustment whose members shall consist of the Planning Commission, until such time that the Selectboard appoints a separate Zoning Board of Adjustment as provided in 24 V.S.A., Section 4460(b) and (c). The Board of Adjustment shall be appointed by the Selectboard for specified terms. The Selectboard also may appoint alternates, for specified terms, to serve on the Board of Adjustment in situations when one or more members are disqualified or are otherwise unable to serve. Any member of the Board of Adjustment may be removed for cause by the Selectboard upon written changes and after a public hearing.

604.2 Rules of procedure and rules of ethics applicable to the Board of Adjustment, the nature of appeals to the Board from actions of the Administrative Officer, notice requirements, public notice, conditions for variance relief, and all other matters governing the action of said Board shall be as provided so as to meet the requirements of 24 V.S.A., Section 4461(a) and Vermont's Open Meeting Laws.

604.3 The Board of Adjustment shall have all powers and duties as set forth in 24 V.S.A., Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

a. appeals from any decision, act or failure to act by the Administrative Officer, and any associated variance requests,

b. applications for conditional use approval.

Sec. 605: Planning Commission

605.1 The Planning Commission shall be appointed by the Selectboard in accordance with 24 V.S.A., Sections 4321– 4323. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Selectboard.

605.2 The Commission shall adopt rules of procedure deemed necessary and appropriate for the performance of its functions as required under 24 V.S.A., Section 4323(b) and Vermont's Open Meeting Laws. In accordance with 24 V.S.A., Chapter 117, the Commission shall have the following duties in association with these regulations:

a. to prepare a town plan and amendments thereof for consideration by the Selectboard and to review any amendments thereof initiated by others as set forth in 24 V.S.A., Chapter 117, Subchapter 5;

b. to prepare and approve written reports on any proposed amendments to the town plan as required by 24 V.S.A., Section 4384(c);

c. to hold one or more warned public hearings on proposed amendments to the town plan, prior to the submission of a proposed amendment and written report to the Selectboard in accordance with 24 V.S.A., Section 4384(d);

d. revise permit application forms as needed;

e. to prepare proposed amendments to these bylaws, and consider proposed amendments submitted by others, including amendments submitted by petition;

f. to prepare and approve written reports on any proposed amendment to these bylaws as required by 24 V.S.A., Section 4441(c);

g. to hold one or more warned public hearings on proposed amendments to these bylaws, prior to submission of a proposed amendment and written report to the Selectboard in accordance with 24 V.S.A., Section 4441(d); and

h. to perform any other necessary administrative duties.

605.3 The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A., 4461(a) and Vermont's Open Meeting Laws. The Commission shall have all powers and duties as set forth in 24 V.S.A., Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

a. applications for rights-of-way or easements for development lacking frontage (Section 302).

Sec. 606: Referral to State Agency

In accordance with 24 V.S.A., Section 4424(D), no zoning permit for the development of land in certain locations specified in said section shall be issued by the Administrative Officer without the Administrative Officer first submitting a report to the appropriate state agency, and compliance with the terms of 24 V.S.A., Section 4424(D).

Section 607: Public Notice

607.1 In accordance with 24 V.S.A., Section 4464, a warned public hearing shall be required for conditional use review, appeals of decisions of the Administrative Officer and variances. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

a. publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;

b. posting of the same information in three (3) or more public places within the municipality, including the posting of a permit notice – by the Administrative Officer - within view from the public right-of-way nearest to the property for which the application is being made; and

c. written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which

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

607.2 Public notice of all other types of development review hearings shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:
a. posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
b. written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.

607.3 The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

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

Sec. 608: Hearings

In accordance with 24 V.S.A., Section 4461, all meetings and hearings of the Planning Commission and Board of Adjustment, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members.
In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 608.1 are met. The Planning Commission and Board of Adjustment shall keep a record of the name, address, and participation of each of these persons.

608.1 The definition of an interested person under 24 V.S.A., Section 4465(b) includes the following:
a. a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
b. the Town of Westmore or any adjoining municipality;

c. a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
d. any ten (10) voters or property owners within the municipality who, by signed petition to the Zoning Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
e. any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Sec. 609 Decisions

609.1 In accordance with 24 V.S.A., Section 4464(b), all decisions of the Planning Commission or Board of Adjustment shall be issued in writing within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:

609.2 All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken.

609.3 In rendering a decision in favor of the applicant, the Planning Commission or Board of Adjustment may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of 24 V.S.A., Chapter 117, these regulations, and the municipal plan currently in effect.

609.4 All decisions shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and Town Clerk as part of the public record of the municipality.

Sec. 610: Appeals

Any interested person as defined under 24 V.S.A., Section 4465 and Sec. 608.1 of this bylaw may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the Clerk of the Board of Adjustment, or the Municipal Clerk if no Clerk of the Board of Adjustment has been elected, and by filing a copy of the notice with the Administrative Officer.

610.1 The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under 24 V.S.A., Section 4468. The Board shall give public notice of the

hearing under Sec. 607, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

610.2 The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant [24 V.S.A., Section 4470].

610.3 In accordance with 24 V.S.A., Section 4468, all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. Section 810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place adjourned hearing shall be announced at the hearing.

610.4 A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under 24 V.S.A., Section 4464(b). The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Municipal Clerk as part of the public records of the municipality, in accordance with Sec. 609. Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

610.5 A notice of appeal filed under this section shall be in writing and include the following information, in accordance with 24 V.S.A., Section 4466:
(1) the name and address of the appellant,
(2) a brief description of the property with respect to which the appeal is taken,
(3) a reference to applicable provisions of these regulations,
(4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
(5) the alleged grounds why such relief is believed proper under the circumstances.

610.6 In accordance with 24 V.S.A., Section 4471, an interested person as defined under 24 V.S.A., Section 4465 and Sec. 608.1 of this bylaw who has participated in a regulatory proceeding of the Board of Adjustment may appeal a decision rendered by the Board under Sec. 609, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall be filed in accordance with rules governing appeals of state agency decisions, as provided for in 3 V.S.A., Sections 801-816.

ART 7: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE

Sec. 701: Amendments

This bylaw may be amended according to the requirements and procedures established in 24 V.S.A., Section 4441 Preparation of bylaws and regulatory tools; amendment or repeal; 24

V.S.A., Section 4442 Adoption of bylaws and related regulatory tools; amendment or repeal; and 24 V.S.A., Section 4444 Public hearing notice for adoption, amendment, or repeal of bylaw and other regulatory tools.

Sec. 702: Interpretation

In their interpretation and application, the provisions of this bylaw shall be held to be minimum requirements adopted for the promotion of the public health, safety, convenience, comfort and general welfare. This bylaw intends to create "conformance with the plan" which makes progress toward attaining, or at least not interfering with the goals and policies contained in the municipal plan; provides for proposed future land uses, densities, and intensities of development contained in the municipal plan; and carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the municipal plan.
Except for 24 V.S.A., Section 4413, and where, in this bylaw specifically provided to the contrary, it is not intended by this bylaw to appeal, annul, or in any way impair any regulations or permits previously adopted or issued, provided however, that where this bylaw imposes a greater restriction upon use of a structure or land than is required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of this bylaw shall control.

Sec. 703: Effective Date

This bylaw shall take effect in accordance with the voting and other procedures contained in 24 V.S.A., Section 4442.

Sec. 704: Separability

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

Sec. 705: Repeal of Former Zoning Bylaw

The former Town of Westmore Zoning Bylaw, adopted June 6, 2006, is hereby repealed upon the date this Bylaw is adopted by the Town of Westmore Selectboard.