The standards adopted in Chapters 27-30 combine with the standards for the ARZD, MDRZD, and other zoning districts to promote land conservation and protect environmental quality.

--- Zoning Districts & Specific Standards ---

--- Impact Fees ---

--- Definitions ---

--- Appendices ---

2.2.3.2 For Uses and Structures. Uses and structures that are completed in reliance on a vested right may be occupied, even if they become nonconforming. See WDB 2.5 and 2.6 regarding nonconforming uses and structures.

2.2.4 Can vested rights expire? Yes. Both this bylaw and the previous bylaws provide for the expiration of permits or approvals. Vested rights expire with the permit or approval.

2.2.5 Can a plan with vested rights be revised? Any substantial change in the approved final plans for a development voids its vested rights. Minor changes may be allowed, with the approval of the Administrator, as provided at WDB 5.6.

2.3 Specific Authority. The provisions of WDB 2.4, 2.5, and 2.6 are specifically authorized by 24 V.S.A § 4412(7), which requires all bylaws to "define how nonconformities will addressed, including standards for nonconforming uses, nonconforming structures, and nonconforming lots." These provisions are also consistent with 24 V.S.A § 4412(2), which limits municipal regulation of "existing small lots."

2.4 Nonconforming Lots

2.4.1 What is a nonconforming lot? Per 24 V.S.A. § 4303 ~~4293~~(13), nonconforming "lots or parcels 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." Usually a lot is nonconforming because it is too small to accommodate any use that is permitted in its zoning district. Lots may also be nonconforming for other reasons, including the lack of legal or safe access.

2.4.2 Must nonconforming lots be merged? Contiguous, nonconforming lots that are under the same ownership are considered merged, except as provided below.

2.4.2.1 Exception to Merger. Contiguous, nonconforming lots may be conveyed in their pre-existing, nonconforming configuration where, on the effective date of this bylaw, each lot:

- was connected to central water and sewer systems or developed with a water supply and wastewater disposal system that is functioning in an acceptable manner, as verified in the field by a licensed designer, or
- had an allocation for a dwelling unit approved under any of the previous versions of the growth management system that is embodied in Chapter 11 of this bylaw.

2.4.2.2 Easements Required. The instruments of conveyance for contiguous, nonconforming lots that are not merged must create easements sufficient for the replacement and maintenance of water and wastewater systems on all lots involved.

What does it mean to "merge" lots? Lots are merged for the purposes of this bylaw only. They may still appear as separate in the land records or be subject to separate property tax bills. Merger means only that the lots are treated as one for the purposes of determining compliance with the standards of this bylaw.

2.4.3 How can a nonconforming lot be used? A nonconforming lot that is not subject to merger as required by WDB 2.4.2; is in individual, separate, and nonaffiliated ownership from surrounding properties; and was in existence on the effective date of this bylaw, may be used as provided here.

2.4.3.1 Boundary Adjustment. Nonconforming lots may be divided and added to adjoining lots using the boundary adjustment procedure established by Chapter 10 of this bylaw.

2.4.3.2 Development. A nonconforming lot may be developed for any of the uses permitted in the zoning district in which it is located, provided that the proposed development complies with all other requirements of this bylaw. If full compliance is not possible, a variance may be approved using the nonconformity as a basis for the findings required by WDB 8.1.3.

2.5 Nonconforming Uses

2.5.1 What is a nonconforming use? Per 24 V.S.A. § 4303 ~~4293~~(15), a nonconforming use is "a 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."

2.5.2 Can nonconforming uses continue? Yes, but only with the limitations described in WDB 2.5.3 and 2.5.4.

2.5.3 Can a nonconforming use be changed? No. Any change in use, or in the nature or extent of use, is subject to the requirements of this bylaw.

2.5.4 What happens if a nonconforming use ceases to operate? If a nonconforming use ceases operation for more than one year (twelve months) it may be replaced only with a conforming use.

2.6 Nonconforming Structures

2.6.1 What is a nonconforming structure? Per 24 V.S.A. § 4303 ~~4293~~(14), a nonconforming structure is "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."

2.6.2 Can a nonconforming structure continue? Yes. Nonconforming structures can continue indefinitely in their present form, unless they are determined to be dangerous buildings, in accord with WDB 18.2. Routine maintenance and repair of nonconforming structures is permitted.

2.6.3 Can a nonconforming structure be replaced? Yes, with some limitations. A nonconforming structure may be replaced with a new one as long as there is no change in the nature or extent of ~~a~~ any nonconforming use if present, and the ~~structure's~~ degree of the structure's nonconformity is not increased. A nonconforming structure that is demolished or destroyed may only be replaced if a permit to replace the nonconforming structure is obtained no later than one year (12 months) from the date when the nonconforming structure was destroyed.

2.6.4 Can a nonconforming structure be enlarged? Yes, with some limitations. Nonconforming structures may be enlarged as long there is no change in the nature or extent of a nonconforming use, and the structure's degree of nonconformity is not increased.

Chapter 3

Actors in the Administration of this Bylaw

This chapter lists the actors in the administration of this bylaw and explains their roles. It also addresses conflicts of interest and ex parte contacts.

3.1 Administrator. The Administrator is the town employee or contractor charged with the administration of this bylaw. As required by 24 V.S.A. App. § 156-16h(3)(J) ~~4448(a)~~, (Section 16h(3)(J) of the Williston Town Charter), he or she is ~~nominated for a term of three years by the Planning Commission and~~ appointed by the ~~Selectboard~~ Town Manager based on merit and fitness without a definite term. He or she may be removed for cause by the ~~Selectboard~~ Town Manager, at any time~~, but only after consultation with the Planning Commission~~. The ~~Selectboard~~ Town Manager may also appoint Deputy Administrators.

3.2 Conservation Commission. The Conservation Commission is created by § 15(2)(C) of the *Town Charter*, which describes its composition and the appointment of its members, and in accord with 24 V.S.A. § 4501, et seq. Its role in the administration of this bylaw is to review developments for which a discretionary permit is required and advise the DRB regarding their compliance with this bylaw. The Conservation Commission reviews all developments that implement open space, including all neighborhood parks and watershed protection buffers, and/or recreation paths or trails. The Administrator may also refer other developments to the Conservation Commission.

Town Charter? Williston's charter may be found at the Town's website or in Title 24, Appendix Chapter 156 of the Vermont Statutes Annotated.

3.3 Development Review Board. The Development Review Board (DRB) is created by § 15(b)(2)(B) of the *Town Charter*, which describes its composition and the appointment of its members, and in accord with 24 V.S.A. § 4460 and 4461 (in Williston, the DRB is the AMP, appropriate municipal panel referred to in those statutes). The powers of the DRB are established by this bylaw. The DRB hears appeals from decisions of the Administrator, as provided by WDB 5.4 and reviews and acts on applications for discretionary permits, as described in Chapter 6 of this bylaw. The DRB's rules of procedure are generally established in this bylaw. See WDB 3.10 and 3.11, below, and Chapters 4-12. Rules for the organization of the DRB, including the election of officers, are established in Appendix A of this bylaw.

3.4 Director of Public Works. The Director of Public Works (DPW) is the town employee or contractor charged with the overall supervision of the town's infrastructure. The DPW promulgates the *Public Works Standards* that are referred to in ~~at~~ many places in this bylaw and assists the Administrator and DRB in the review of proposed developments.

3.5 Historic and Architectural Advisory Committee (HAAC). The Historic and Architectural Advisory Committee is a seven-member advisory committee, appointed by the Selectboard under the authority of 24 V.S.A § 4433. Its role in the administration of this bylaw is:

3.5.1 … to review proposed developments, including major additions, in the design review districts established in Chapter 22 of this bylaw and advise the DRB regarding their compliance with the design review standards adopted in that and other chapters of this bylaw;

4.2 Exemptions from the Requirements of this Bylaw

4.2.1 Are there exemptions from this bylaw? There are a few, which are listed below. There are also some partial exemptions, which are listed in WDB 4.2.2

4.2.1.1 State-Regulated Utilities**.** As provided by 24 V.S.A § 4413(b), this bylaw does not apply to public utility power generating plants and transmission facilities.

4.2.1.2 Agricultural and Silvicultural Practices. As provided by 24 V.S.A § 4413(d), this bylaw does not apply to specific Accepted Agricultural Practices and Accepted Management Practices in forestry defined by the secretary of agriculture, food, and markets or the commissioner of parks, forests, and recreation, respectively. Farmers must notify the Administrator in writing of the proposed construction activity. This notification must include a sketch of the proposed structure including how it meets local setbacks from adjoining property lines and road rights-of-way.

What are Accepted Agricultural Practices? Agricultural practices that are governed by these regulations [regulations promulgated by the Vermont Agency of Agriculture Food and Markets] include, but are not limited to, the following: (a) the confinement, feeding, fencing, and watering of livestock; (b) the handling of livestock wastes and by-products; (c)the collection of maple sap and production of maple syrup; (d) the preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops; (e) the ditching and subsurface drainage of farm fields and the construction of farm ponds; (f) the stabilization of farm field streambanks constructed in accordance with the USDA-Natural Resources Conservation Service standards and specifications or other standards approved by the Commissioner; (g) the construction and maintenance of farm structures in accordance with Federal Flood Insurance Management Program standards, the construction and maintenance of farm ponds, farm roads, walls, fences, structures to control the grade and head cutting in natural or artificial channels, and an irrigation, drainage or other water management system that conveys water, controls the direction or rate of flow, or maintains a desired water surface elevation; (h) the on-site production of fuel or power from agricultural products produced on the farm; (i) the on-site storage, preparation and sale of agricultural products principally produced on the farm; and (j) the on-site storage of agricultural inputs including, but not limited to, lime, fertilizer and pesticides. **Farm Structure** means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(23) of Title 10, but excludes a dwelling for human habitation.

4.2.2 Are there partial exemptions from this bylaw? As provided by 24 V.S.A § 4413(e), this bylaw applies to the following developments only to the extent that it does not have the effect of interfering with their intended functional use:

4.2.2.1 … institutions and facilities owned and operated by the state or a municipality;

4.2.2.2 … public and private schools and other educational institutions certified by the state department of education;

4.2.2.3 … churches and other places of worship, convents, and parish houses;

4.2.2.4 … public and private hospitals;

4.2.2.5 … regional solid waste management facilities certified under 10 V.S.A. Chapter 159; and

4.2.2.6 … hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A § 6606a.

4.2.2.7 Permit Requirement for Partially Exempted Developments. Permits are required for the uses listed above. The town is specifically authorized to regulate the "location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening" of these developments. However, the statute then states that the town may not interfere with the intended functional use. In order to clarify the local application of this language, the town adopts the policy stated in WDB 4.2.2.8.

4.2.2.8 Policy on the Regulation of Partially Exempted Developments. The town strongly discourages partially exempted development on sites that are not zoned for the proposed use. In compliance with the statute cited above, however, the town will accept an application for a discretionary permit for a partially exempted development in any zoning district. The DRB will then apply all standards of this bylaw to the proposed development and impose any conditions it finds necessary to maximize compliance. The burden of demonstrating that a condition imposed on a partially exempted development interferes with the intended functional use rests with the applicant.

4.2.3. Are there exemptions from the requirement for a permit, but not from the requirements of this bylaw? Yes. As explained below, permits are not required for some minor development activity that is still subject to all requirements of this bylaw.

4.2.3.1 Accessory Structures on Residential Properties. No permit is required for residential accessory structures, including decks, patios, play structures, and portable structures that are

Existing? Approved? For the purposes of the exemption established by WDB 4.3.3.2, an existing lot is one that is: a) zoned for residential use, b) is presently unoccupied by a dwelling, c) is separate from all adjoining parcels because it is in separate ownership and control or is a split parcel, as defined by WDB 12.1.3.1; and d) was not made separate from adjoining parcels that are in the same ownership by a violation of the town's subdivision regulations. In determining whether a parcel is 'existing,' please refer to the requirements of WDB 2.4. An approved lot is part of a residential subdivision for which a final plan has been recorded, as provided by this or previous bylaws.

4.3.3.3 ... accessory dwellings that comply with WDB 17.1;

4.3.3.4 ... accessory structures, decks, patios, pools, and certain other improvements on residential properties, as provided in WDB 4.2.3.1 and Chapter 17 of this bylaw;

4.3.3.5 ... minor accessory structures, additions, exterior remodels, and site work on multi-family residential, commercial, institutional, and industrial properties, as explained in WDB 4.3.5:

4.3.3.6 ... certain boundary adjustments, as provided by Chapter 10 of this bylaw;

4.3.3.7 ... certain signs, as provided by WDB 4.2.3.4;

4.3.3.8 ... demolition, except in the VZD, where a discretionary permit is required; and

4.3.3.9 ... clearing, grading, or excavation that disturbs less than one-quarter (1/4) acre of land and is not undertaken in anticipation of a development for which a discretionary permit will be required. For more on the requirements for clearing, grading, or excavation see Chapter 29 of this bylaw.

4.3.4 To ask a different way: what types of development need a discretionary permit? A discretionary permit is required for all other development, which includes:

4.3.4.1 ... the subdivision of land, except the administrative boundary adjustments that are permitted by Chapter 10 of this bylaw;

4.3.4.2 ... clearing, grading, or excavation that disturbs one-quarter (¼) or more acres of land, excluding agricultural and forestry practices exempted by WDB 4.2.1.2; and

4.3.4.3 ... all multi-family residential, commercial, institutional, and industrial development, including both site improvements and structures, and including both new structures and additions, except 'minor work,' which is defined by WDB 4.3.5.

4.3.5. What "minor" work is exempt from the requirement for a discretionary permit? The construction or installation of small accessory structures, additions, exterior remodels, and minor site work on commercial, industrial, institutional, and multi-family residential properties may require only an administrative permit. The exemptions listed in WDB 4.3.5.1-5 do not apply in the VZD.

4.3.5.1 Accessory Structures. To be 'minor,' accessory structures must be less than 10 feet in height and have a footprint of less than 120 square feet

5.2.5 Must I keep a copy of the approved permit on the site while construction is underway? Yes. A legible copy of the approved administrative permit and the approved final plans must be maintained on the site and readily accessible to Town staff or contractors who are conducting inspections at all times until a certificate of compliance is issued or, where no certificate of compliance is required, until work is complete.

5.3 When Permits Take Effect. As explained in WDB 5.4, any decision of the Administrator may be appealed to the DRB. This means that an appeal period must run before permit approval takes effect.

5.3.1 How long is the appeal period? The appeal period begins on the day after the application for a permit is approved or rejected and runs for 15 days.

5.3.2 What must I do during the appeal period? Upon submitting your application, you should post the notice provided by the town in a location on your property that is prominently visible from the nearest public road. You must leave that notice in place for 15 days after receiving your approved permit (24 V.S.A. 4449(b).

5.3.3 When can I begin work? Work on the development should not begin during the appeal period. **ANY WORK DONE DURING AN APPEAL PERIOD IS A VIOLATION OF THIS BYLAW SUBJECT TO ENFORCEMENT AS PROVIDED IN CHAPTER 7 AND IS UNDERTAKEN ENTIRELY AT THE OWNER'S RISK.** You could be required to remove the work done and restore the site to its original condition.

5.3.4 What happens if an appeal of my permit approval is filed? If an appeal is filed, the permit is suspended until the DRB has heard and made a final decision on that appeal, as provided in WDB 5.4. and the time for taking an appeal of the DRB's decision to the Environmental Court has passed.

5.4 Appeals. 24 V.S.A §4465, et seq. provide that any decision of the Administrator may be appealed to the DRB.

5.4.1 Who may file an appeal? Any interested party. This term is defined at WDB 6.5.5.

5.4.2 How long do interested parties have to file an appeal? 15 days, starting on the day after the permit is approved. A notice of appeal must be filed with the Administrator within 15 days of the day after the decision that is being appealed was made.

5.4.3 What contents are required for a notice of appeal? A notice of appeal must be submitted on the form provided by the town and accompanied by all materials required by the *Appeal Checklist*.

5.4.4 When will the appeal be heard? Upon receiving a notice of appeal, the Administrator will set a date and time for the hearing of the appeal at the next regular meeting of the DRB for which the notice requirements for DRB hearings can be met.

5.4.5 How will the appeal be heard? Appeals hearings will follow the master hearing procedure established at WDB 6.5.6, except that no hearing will be held in the case of successive appeals where the DRB, acting under the authority of 24 V.S.A. § 4470(a), determines that the issues raised and/or facts presented have been decided in an earlier appeal. In such cases, the DRB may reject the appeal and give notice of its action as provided by WDB 6.6.6.

6.6.3 What options does the DRB have after the hearing?

6.6.3.1 Recess. The DRB may recess any hearing to a date certain pending the submission of further information. This is a recess for the purpose of obtaining information only. The 45 days permitted for a decision by WDB 6.6.4 does not begin until the DRB has received the requested information, closed the hearing, and commenced its deliberations.

6.6.3.2 Approve. The DRB may find that the proposed development complies with the requirements of this bylaw and approve the application for a permit. Conditions may be imposed on the approval of a permit, as provided by WDB 6.6.5.

6.6.3.3 Deny. The DRB may find that the proposed development fails to comply with the requirements of this bylaw and reject the application for a permit.

6.6.4 How long does the DRB have to make a decision? No hearing may be recessed for more than 45 days, except at the request of the applicant, and all decisions must be made and reported within 45 days after the close of a hearing. If a decision is not made within 45 days after a hearing, the proposed development will be deemed approved.

6.6.5 May conditions be imposed on the approval of a discretionary permit? Yes. Conditions designed to ensure compliance with the requirements of this bylaw may be imposed on any approval, as specifically authorized by 24 V.S.A. § 4464(b)(2).

6.6.6 How will the DRB's decision be reported? Within 45 days after the DRB's decision, the administrator shall prepare a record of decision that conveys the DRB's findings of fact and conclusions of law. Copies of the record of decision shall be sent to all agencies or persons who submitted testimony, verbally or in writing, at the hearing. A copy shall also be filed with the Town Clerk. The applicant's copy shall be sent by certified mail.

6.7 Expiration

6.7.1 Do approvals of discretionary permits expire? Yes. Final plans or, where phased development has been approved, final plans for the first phase must be submitted for review within one year of the day the record of decision was issued. If final plans are not filed within the specified time frame set forth in this bylaw, the approval of the discretionary permit shall become null and void.

6.7.2 Is it possible to extend the deadline for filing final plans? Yes. One extension of six months will automatically be granted upon written application to the Administrator.

6.7.3 Are there any additional extensions to the deadline for filing final plans? Yes. The DRB may grant one additional six month extension for the filing of final plans.

6.7.4 Do approvals of discretionary permits expire after final plans are signed? In some case, yes. Discretionary permits approved for non-residential development shall have one year from the date the final plans are signed to obtain administrative permits in accordance with the provisions of WDB Chapter 5, or the discretionary permit approval shall expire.

6.8 Appeals. Appeals from decisions of the DRB may be taken to Environmental Court, as provided by 24 V.S.A. § 4471.

Chapter 8

Variances and Amendments

This chapter establishes a variance procedure that provides for relief from the strict application of this bylaw when certain findings can be made. It also explains how this bylaw can be amended.

8.1 Variances

8.1.1 Is it possible to obtain a variance from the requirements of this bylaw? Yes, but not easily. A variance may be granted only where the DRB can make the findings required by WDB 8.1.3 or, if applicable, WDB 8.1.4.

8.1.2. How would I apply for a variance? An application for a variance is treated as an application for a discretionary permit. It will be combined with such an application where the variance would permit development for which a discretionary permit is required. Where only an administrative permit would ordinarily be required, a development for which a variance is needed will be treated as if a discretionary permit was required.

8.1.3 What findings Aare required for the DRB to approve a variance? The DRB must, as required by 24 V.S.A. §4469, make the following findings:

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

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

The "Bottom Line" on Variances. If the property has been, or can be, developed for a conforming use, the town cannot allow a variance. See WDB 8.1.4 for a narrow exception to this rule for renewable energy resource structures.

8.1.3.3. ... the unnecessary hardship has not been created by the appellant or his/her predecessors in interest.

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

8.1.3.5. ... the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and the *Town Plan*.

Chapter 9

Specific Plans

This chapter provides for the creative evolution of development in Williston, consistent with the vision and objectives of the *Town Plan*, and as specifically called for by 3.3.6 of that plan. To do this, it sets up a procedure by which landowners work cooperatively with the Planning Commission and public to draft and propose amendments to the *Town Plan* and this bylaw.

9.1 Purpose – Definition - Authority

9.1.1 What is the purpose of the specific plan option? The 2006 *Town Plan* called for the use of the specific plan as a tool that replaces the PUD/PRD provisions of the bylaws as they then existed. The availability of this tool will encourage and permit the creative redesign and redevelopment of commercial areas. The specific plan option may also be used in other areas where it would help realize the objectives of the *Town Plan*. The two principal advantages of the specific plan option are explained below.

9.1.1.1 A Specific Commitment. Conventional zoning makes it impossible for a community to change zoning for a specific use that provides substantial public benefits without the risk that the desirable use will not materialize and the zoning change will permit less desirable ones. A 'specific' plan remedies this by providing detailed performance standards for development in the area it includes. Its adoption permits only the **specific** types of changes proposed by the applicant/s. If the specific changes proposed by the applicants are not made, the standards will continue to apply until changed by another specific plan or an amendment proposed by the Planning Commission and adopted as provided in Chapter 8 of this bylaw.

9.1.1.2 But Not Spot Zoning. The specific plan avoids claims of "spot" zoning because it is not a "deal" between a community and an individual landowner. A specific plan must go through the same process required for adoption of the *Town Plan* and bylaws. This ensures that, while it will (as all land use changes do) serve private interests, it will also provide substantial public benefits. The specific plan process cannot begin without a finding, by the Planning Commission, that substantial public benefits could result.

> ***Excerpt from the 2006 Town Plan***
>
> **3.3.6 Revise the PUD/PRD Regulations.** The current planned unit (PUD) and planned residential (PRD) development sections of the town's bylaws will be revised to reflect Williston's actual practice in reviewing major projects. While the procedure has never been written into code, the town has attracted citizen involvement early in the review of major development proposals and worked with developers to create specific plans for particular parcels. The most recent example was the process that resulted in 2004 approval of a concept plan for the Pecor-Gianarelli property. The existing PUD/PRD regulations will be replaced with a participatory, performance-driven specific plan process that facilitates commercial and mixed-use development and redevelopment that advances the goals of this plan. This process will also be available wherever it would help realize the objectives of this plan, including the expanded Village Zoning District (see 3.4.1) and the ARZD (see 3.6.2).

9.1.2 What is a specific plan? A specific plan is a set of amendments to the ~~Town's~~ *Comprehensive Plan* and this bylaw that has been developed by one or more landowners working with the Planning Commission and the public, at the landowners' expense. The contents of a specific plan will vary with the type and complexity of the development or redevelopment it would permit: see WDB 9.3.5

11.2.2.2 Minor Subdivisions. The DRB may, after having evaluated and ranked all proposed residential subdivisions as provided in this chapter, allocate as many as four dwelling units each fiscal year to proposed minor residential subdivisions, regardless of their score on the evaluation standards established in WDB 11.6, 11.7, or 11.8.

Why is there a Minor Subdivision Exception? This exception is needed to allow the town to adopt evaluation standards that are stringent enough to encourage positive performance by larger subdivisions without penalizing landowners who wish to create only one or two lots from a relatively small parcel.

11.2.3 ***What about lots approved under previous versions of growth management?*** Lots created by approved subdivisions under previous versions of the town's growth management system will continue to be subject to the allocation rules applied at the time that the subdivision was approved.

11.3 Residential Growth Target

11.3.1 What is the town's annual residential growth target? Section 5.1.2 of the *Town Plan* sets a residential growth target of 80 dwelling units per fiscal year, each year through FY 2015.

What Happens After 2015? It is assumed that the town will have acquired additional sewage treatment capacity and other new infrastructure and that this chapter will have been revised accordingly.

11.3.2 Is there a geographic component to the growth target? Yes. Section 5.1.3 of the *Town Plan* provides that the 80 dwelling units will be distributed as follows:

11.3.2.1 ... in the sewer service area, in the designated growth center, 56 dwelling units;

11.3.2.2 ... in the sewer service area, outside the designated growth center, 12 dwelling units, and

11.3.2.3 ... outside the sewer service area, 12 dwelling units.

11.3.2.4 Shift to the Growth Center. The DRB may shift available units from areas outside the growth center to proposed residential and mixed-use developments within the designated growth center.

11.3.2.5 Shift to Certain Developments in the ARZD. The DRB may shift available units from other areas to proposed residential subdivisions that qualify under WDB ~~31.9~~ 31.11.

11.3.2.6 Accessory Dwellings. Accessory dwellings permitted by WDB 23.1 are not dwelling units for the purposes of this chapter.

11.4 Growth Management Procedure

11.4.1 At what point in the development review process does growth management review occur? Growth management review follows pre-application review. All proposed

public agency, or via a conservation easement – 1-10 points depending on the extent and the importance of the open space protected

- the proposed development will not provide permanent open space protection – 0 points

11.9.6 Minimize Visual Impact. This criterion encourages "rural" developments that are sited so as to disappear into the landscape.

- the proposed project will not be visible from public roads, except any new road built to provide ~~directly serving~~ direct access to the site – 10 points

- the proposed project will be minimally visible from public roads, except any road directly serving the site – 5 points

- the proposed project will be visible from public roads – 0 points

Chapter 12

Subdivisions Final Plans

This chapter establishes definitions and additional application requirements that are specific to the division of land, including standards for the setting of survey monuments. Some of these standards also apply to final plans for other developments.

12.1 Authority – Definitions

12.1.1 Does the town have specific authority to regulate the division of land? Yes. 24 V.S.A § 4418 authorizes Vermont towns to regulate subdivisions.

12.1.2 What is a subdivision? The "division of a parcel into two or more parcels" is land development, as defined by 24 V.S.A § 4303(10). This definition is repeated in 24 V.S.A § 4418. WDB 12.1.3 and 12.1.4 clarify this definition.

12.1.3 What is a "parcel?" For the purposes of this bylaw, a 'parcel' is any contiguous area of land that is owned or effectively controlled by the same person, family, partners, or shareholders. The key to this definition is effective control. How the land is described on the town's tax map or in the land records, how the land was assembled from smaller parcels, or how the land is affected by rights-of-way or easements, is relevant only as provided by WDB 12.1.3.1-3.

12.1.3.1 Split Parcels. Where a parcel is split by a public road right-of-way or a railroad right-of-way it will be treated as two parcels for the purposes of this bylaw. Easements will not ordinarily be considered to split a parcel, but the Administrator may determine that an easement for a high-voltage power line or major pipeline has the same impact on the use of a parcel as a public road or railroad right-of-way and permit that parcel to be 'split' for the purposes of determining compliance with this bylaw. The Administrator may require that a survey defining the limit and extent of split parcel be prepared and recorded in the town's land records as part of an application for an administrative permit on split parcels. The Administrator's decision is subject to appeal, as provided by WDB 5.4.

12.1.3.2 Approved Lots. Where a parcel consists of more than one approved subdivision lot, the lots may be sold and/or used separately, consistent with all conditions of approval imposed on the subdivision and the requirements of this bylaw. An approved subdivision lot is one that is shown on a recorded plat approved as provided by this bylaw or the town's previous subdivision regulations.

12.1.3.3 Homesteads. The Administrator may permit a homestead site that is part of a larger parcel, that has a surveyed legal description, and that is occupied by an existing dwelling to be conveyed separately, without being reviewed as a subdivision, but only where that conveyance will not adversely affect the potential subdivision of the remainder of the property by impeding access (via road or trail, or for utilities).

12.1.3.4 Non-Conforming Lots. This bylaw includes specific provisions for the use of non-conforming lots. See WDB 2.4.

12.1.4 What is a "division?" A 'division' occurs whenever any part of a parcel that does not qualify for one of the exceptions established by WDB 12.1.3, is sold or otherwise conveyed (for example, by gift or court order), leased, or developed.

12.2 Permit Requirements. As provided by WDB 4.3.4.1, a discretionary permit is required for most subdivisions. The only exception to this requirement is for boundary adjustments. See Chapter 6 of this bylaw for the discretionary permit procedure. See Chapter 10 for the boundary adjustment procedure.

12.3 Final Plans and Plats

12.3.1 Are there standards for the accuracy and contents of subdivision plans? Yes. Final plans and plats must include everything on the *Final Plan Checklist* established by WDB 6.9.2. They must also comply with the requirements of state law, specifically including 26 V.S.A. § 2602 and 27 V.SA. § § ~~1701-1706~~ 1401-1406.

12.3.2 Are there examples of the certificates and signature blocks that must appear on the final plans? Yes.

12.3.1 Certificate of Dedication. All final plans and plats showing any improvements that will become public must include a Certificate of Dedication, as required by WDB 15.13.

12.3.2 Approval Signature Block. All final plans and plats must include an approval signature block.

SAMPLE APPROVAL SIGNATURE BLOCK

Upon finding that the final plans complied with all requirements of the *Williston Development Bylaw* and all conditions imposed on the approval of Discretionary Permit ___ - ____, the Williston Development Review Board/Administrator approved the final plans for the (name Subdivision) on the ____ day of (month), 20 __ .

(presiding member or Administrator's signature)

NOTE: This signature block should be prepared for the signature of Administrator on boundary adjustments and where the DRB has delegated final approval of a minor subdivision or final plans to the Administrator. Otherwise, it should be prepared for the signature of the presiding member of the DRB.

12.4 Survey Monuments

12.4.1 Where must survey monuments be placed? Survey monuments shall be set at the following locations:

12.4.1.1 … at each corner and angle point of all lots, blocks and parcels of land shown on the final plans.

12.4.1.2 … at every point where the outer boundary of a subdivision intersects with an existing or approved road right-of-way; and

~~sing~~ sign displaying the address number or numbers as required by Williston's *Road Name and Road Location Addressing Ordinance,* which is attached as Appendix D.

13.3 Bicycle and Pedestrian Access. WDB 13.2 sets standards for vehicular access. Developments must also be safely accessible to bicyclists and pedestrians.

13.3.1 Must all development have bicycle and pedestrian access? Yes. The plans submitted with applications for discretionary permits must show how bicyclists and pedestrians can safely reach at least one employee or customer entrance. See also Chapter 14 of this bylaw's requirements for bicycle parking. More specific standards for bicycle and pedestrian access may apply in some zoning districts.

13.3.2 What constitutes "safe" bicycle and pedestrian access? Potential conflicts between pedestrians, cyclists, and vehicles must be minimized by the use of sidewalks or paths, pavement markings and textures; signs; and similar techniques approved by the DRB. Certain uses must also provide safe pedestrian drop-offs, as required by WDB 13.3.3.

13.3.3 Where must a safe pedestrian drop-off be provided?

13.3.3.1 Required. Safe off-street pedestrian drop-offs must be provided for all child care uses, with the exception of family day care homes in residential zoning districts; for all places of public assembly; and for all schools. The DRB may permit an exception to this standard, but only where it finds that safe on-street pedestrian drop-off is possible.

13.3.3.2 At the DRB's Discretion. The DRB may also require safe pedestrian drop-offs for hotels and other lodging places, multi-family residences, neighborhood parks, and in shopping areas where considerable pedestrian traffic is anticipated.

13.4 Access for the Disabled. All development in Williston must be fully accessible, as required by the Americans with Disabilities Act. Parking for people with disabilities is addressed in Chapter 14 of this bylaw.

Accessibility? Because the town does not administer a building code its role in ensuring access for people with disabilities is quite limited. The principal responsibility for this function lies with the Vermont Division of Fire Safety, which enforces a state building code. The Division's web site is at: http://www.dps.state.vt.us/fire/

13.5 Multiple Points of Access. These standards limit the number of homes that may be served by a single point of road access.

13.5.1 How many dwellings may be served by a private driveway? Where a new private driveway is being established in compliance with WDB 13.2, the maximum number of dwellings it may serve is limited to five (5). There are two exceptions to this standard.

13.5.1.1 Existing Driveways. Where an existing private driveway serves more than five (5) parcels, and offers the only access to one or more undeveloped parcels, it may serve one dwelling per parcel, but must be upgraded to meet the standards of WDB 13.2.6 before a sixth dwelling is permitted.

13.5.1.2 Lower Density. The DRB may permit an exception to this standard where doing so will preserve landscape features and neighborhood character that would be adversely

impacted by requiring construction of a private or public road, where the existing driveway meets or will be improved to meet the standards of WDB 13.2.6, and where the average density of the development served will be one unit per 10 acres or less.

13.5.2 How many ~~units~~ dwellings may be served by a road that ends in a loop or cul-de-sac? No more than 40 ~~units~~ dwellings may be served by a single point of access. Where an existing dead-end road already serves 40 dwellings, further development served by that road will be limited to one dwelling for each lot or parcel that is currently vacant.

13.5.3 Is there a limit on the length of access drives or roads that end in a loop or cul-de-sac? Yes. See WDB 13.2.6.3 for ~~re~~ the length of private driveways. The length of a dead-end road, private or public, is limited to 2,640 feet. The DRB may permit an exception to this standard, but only where physical barriers, including property ownership or difficult terrain, make provision of a second point of access infeasible. Where such an exception is permitted, the density of the development served shall be limited to one dwelling per 10 acres.

13.5.4 Can access be provided by an emergency access road that does not meet the standards for a private or public road? Where two points of access are required, both must meet Williston's standards for a private or public road, whichever applies~~y~~. The DRB may permit an exception to this standard for an emergency access for a nonresidential development, like an industrial plant, where control of public access is an operational necessity. Any emergency access permitted by the DRB must be kept passable to ambulances and fire engines at all times. Failure to maintain an emergency access, including failure to promptly remove snow, will be a violation of this bylaw, subject to enforcement as provided in WDB 7.4-7.6.

13.6 Drive-Throughs. Consistent with the Town Plan vision of pedestrian-friendly development, Williston permits drive-through service only for bulky, heavy objects (feed, lumber) and financial institutions, where drive-through service preserves privacy and where a prohibition would result in several nonconforming uses.

13.7 Connectivity. Consistent with Policy 6.3 of the *Town Plan*, developments should have safe, functional connections with adjoining developments for vehicles, bicyclists, and pedestrians. Interconnected street and trail systems, shared points of access, and shared parking will be required wherever they are not precluded by physical barriers, including property ownership, historic land use patterns, and difficult terrain.

13.8 Traffic Studies. The town's review of proposed developments, including determinations about compliance with this and other chapters of this bylaw, will be based in part on traffic and transportation studies.

13.8.1 Is it possible to use existing information to evaluate transportation impacts? In many cases, yes. All proposed developments for which a discretionary permit is required must submit estimated traffic generation data based on the most current edition of the Institute of Transportation Engineers *Trip Generation*. Beyond that, a traffic study will be required only where the DRB, with the advice of the DPW, determines that existing studies do not provide sufficient information on which to base a decision. This determination will be made during pre-application review so that the traffic study can accompany the application for a discretionary permit.

Chapter 17

Non Residential
Accessory Uses and Structures
Temporary Uses and Structures

This chapter ~~clarifies the meaning of those terms by providing~~ provides standards for some common nonresidential accessory uses. Customary accessory structures and uses are permitted in all zoning districts. Residential accessory uses are addressed in Chapter 20. Temporary uses and structures are also addressed here because they are often accessory to another use. These standards apply to all temporary uses, however, whether they are appurtenant to another use or not. Remember that compliance with the standards of this chapter is in addition to all other requirements of this bylaw.

17.1 Accessory Dwellings

17.1.1 Are accessory dwellings permitted by state law? Yes. Accessory dwellings that are appurtenant to owner-occupied dwellings are permitted by 24 V.S.A. § 4412(1)(E). See WDB 20.1 for the standards governing accessory dwellings associated with an owner-occupied dwelling.

17.1.2 Are accessory dwellings permitted for any other uses? Yes. Residential uses are permitted in most of Williston's commercial zoning districts. In those commercial districts where dwellings are not permitted and in the industrial zoning districts, one accessory dwelling for the use of the owner or for use as housing by an employee will be permitted on each lot, provided that the following standards are met.

17.1.2.1 Owner or Employee Only. To ensure that occupants are aware of any nuisances or hazards associated with living on commercial or industrial premises, accessory dwellings in the districts (GZDN, IZDE, IZDW) where dwellings are not otherwise permitted may not be made available to the general public.

17.1.2.2 Maximum Size. Accessory dwellings may be attached or detached. They are limited to 1,500 SF in size.

17.1.2.3 Access/Parking. Accessory dwellings must have separate ingress/egress to the outside and two reserved parking spaces.

17.1.2.4 Fire Code. Accessory dwellings shall have the separations required by the National Fire Codes from commercial and industrial operations.

> **National Fire Codes?** Williston has not adopted the National Fire Codes. However, those codes are occasionally referred to in this bylaw in order to establish a detailed standard for specific types of development. Compliance will generally come as a result of the plan reviews and inspections conducted by the Vermont Division of Fire Safety, but this bylaw adopts certain critical code requirements in order to have an independent basis for action. For information on the state's building inspection program see: http://www.dps.state.vt.us/fire/

17.1.2.5 Home Business. No home business shall be permitted in an accessory dwelling that is appurtenant to a commercial or industrial use.

17.1.2.6 Permit Required. Where a discretionary permit is required, proposed accessory dwellings must be included in the plans submitted with the application for that permit. A discretionary permit is also required for the addition of a new accessory dwelling to an existing commercial or industrial use.

Chapter 19

Density Transfer of Development Rights

This chapter provides background information for the zoning districts created in this bylaw by explaining how the density or intensity of development is defined, measured, and regulated. This chapter also establishes a voluntary transfer of development rights program.

19.1 Applicability – Definitions

19.1.1 Do the definitions and standards adopted here apply throughout the town? Yes.

19.1.2 What is "density? Density is the general term used to describe how intensively a parcel of land is, or may be, used. Density is measured differently for different uses and in different situations.

19.1.3 How is density measured? The density of residential development in Williston is measured in the number of dwelling units per acre. For example, the Chelsea Place development has 6.31 dwellings per acre (6.31 du/A). Acreage encompasses everything within the platted boundaries of the development. It includes buildings, streets, sidewalks, stormwater detention ponds, all other improvements, and most types of open space. There are some exceptions, which are explained in WDB 19.1.3.1 and 2.

What is a dwelling unit? A dwelling unit is a building (typically a single-family home) or a separate space within a larger building (typically an apartment, townhouse , or the like) that contains complete housekeeping facilities for one household.

19.1.3.1 Accessory Dwellings. Accessory dwellings permitted by WDB 20.1 are not counted as dwellings when calculating density.

19.1.3.2 Acreage Exceptions. There are ~~two~~ three exceptions from the acreage used as a basis for calculating density and one partial exception. These exceptions apply in all zoning districts.

- The acreage on a proposed development site that is included within the watershed protection buffers required by Chapter 29 of this bylaw will not be included in the gross acreage of that site for the purposes of calculating the permitted density.

- The acreage on a proposed development site that has a average slope of 30% or more will not be included in the gross acreage of that site for the purposes of calculating the permitted density.

- The acreage on a proposed development site that has an average slope of 15-30% will be included in the gross acreage of that site, but only at the rate established for development on slopes in the applicable zoning district. That rate is one dwelling unit for every 10 acres in the ARZD (see WDB 31.7.2.6) and one dwelling unit per acre in the RZD and VZD zoning districts (see WDB 39.4.2.2 and WDB 42.4.1).

19.1.3.3 Rounding. Residential density calculations often result in fractions. For example, a 17-acre parcel in the ARZD is permitted to have 7.62 dwellings. Does that mean it can have eight? No. Conventional mathematical rounding rules are not used for the density calculations required by this bylaw. A parcel must contain ALL of the acreage required for an additional unit. In the ARZD, a parcel has to contain at least 17.69 acres to be permitted eight dwellings.

19.1.4 How is density measured for nonresidential developments? There is no universally useful measure of the density or intensity of nonresidential developments. The density of nonresidential developments is limited and determined by the standards of this bylaw. There IS a practical minimum area for any given nonresidential development, but that area must be determined case-by-case, based on what is required to comply with the applicable standards. See WDB 19.3.

19.2 Residential Densities. Policies 3.5 and 3.6 of the *Town Plan* provide background materials that you might want to read before going on to the rest of this chapter.

19.2.1 What is the purpose of these residential density standards? The definitions and standards adopted in this chapter are intended to:

- … implement the open space policies adopted in the *Town Plan*, especially Policies 3.5 and 3.6 and Appendix C, the *Open Space Plan*;
- … help implement the affordable housing policies adopted in the *Town Plan* (see Chapter 5); and
- … give landowners and developers the flexibility needed to protect open space while creating compact and amenable neighborhoods.

To achieve these purposes, Williston requires open space residential development, which is defined in WDB 19.2.2. Because it can be difficult to design an open space development on smaller parcels, Williston also permits infill development, which is defined at WDB 19.2.3.

19.2.2 What is an open space development? An open space development is a residential subdivision in which a specified area of open space is protected as a condition of approval. How much open space is required varies with the zoning district. Open space development is required on parcels larger than 10.5 acres in the ARZD and ~~MD~~RZD. Parcels in the VZD and smaller parcels in the ARZD and ~~MD~~RZD may also be developed using an open space pattern, but where this is proposed, it must be approved by the DRB during pre-application review.

19.2.3 What is an infill development? Some parcels of land are too small to effectively use for open space development. Specifically, all residential developments that include 10.5 or fewer acres and all residential developments within the VZD will be treated as infill developments for the purposes of this bylaw, except where an exception is permitted by the DRB, as provided in WDB 19.2.2. All other residential developments must be open space developments.

19.2.4 So, how do I know how many homes I can build on my land? Each residential zoning district has both a permitted average density and a minimum area per dwelling unit. These standards are shown in Table 19.A.

19.2.4.1 ~~Average~~ Net Density. The average density column in Table 19.A tells you the maximum number of homes that can be built. It applies to both open space and infill developments. Applicants may make choices that reduce the average density permitted (see, for example, WDB 15.2.3.1), but the standards of Table 19.A. are the starting point.

> **For example**, if you have a 40-acre parcel in the ARZD that includes no watershed protection buffers and no slopes of 15% of more, Table 19.A shows that you can build 22 dwelling units. See WDB 19.1.3.2 for an explanation of how having watershed protection buffers or slopes on your property affects the permitted density.

19.2.4.2 Minimum Area. The minimum area per dwelling unit may be different for open space and infill developments and is applied in different ways to different types of development. See WDB 19.2.5

Table 19.A - Permitted Residential Densities

zoning district	~~Average~~ Net* density	minimum area per dwelling in an open space development	minimum area per dwelling in an infill development
ARZD	1 dwelling per 80,000 SF (.55 DU/A)	15,000 SF (.344 A)	80,000 SF (1.84 A)
RZD	open space developments: 3.00 DU/A	5,445 SF (0.125 A)	14,520 (.33 A)
VZD	2.00 du/A	6,534 SF (0.15 A)	6,534 SF (0.15 A)

*The ~~average~~ net density given here is for development on slopes of less than 15%. Development on slopes of 15-29% is permitted only at the lower average densities established in WDB 19.1.3.2. Slopes of 30% of more are not included in the acreage base for development.

19.2.5 But how can I build that many homes if I am required to protect buffers along streams, conservation areas, slopes, wetlands, and other resources? This is where the minimum area per dwelling unit comes in. The combination of an average density with a minimum area per dwelling unit gives landowners and developers the flexibility to protect open space while meeting the demand for housing. It will also help make new residential neighborhoods more compact, and thus more affordable and pedestrian-friendly.

> **Is this "cluster" development?** Yes. The approach the town is taking toward most residential development has been called "cluster" development. 'Open space development' is used in the *Town Plan* and this bylaw because it emphasizes the goal of open space protection.

19.4 Mixed-Use Densities. Williston's *Town Plan* emphasizes the desirability of mixed-use development in the growth center, and mixed-use development is permitted, or even required, in the BPZD, GZDS, MUCZD, MURZD, and TCZD. Each zoning district has its own standards for which uses may be mixed and how. Those standards are summarized in Table 19.B. Mixed-uses are also permitted in the VZD, in compliance with the standards established in Chapter 42 of this bylaw.

19.4.1. Is the mix of uses regulated? The mix of residential and nonresidential space may be limited. See the first column in Table 19.B for a summary of the standards adopted in the chapters establishing each zoning district.

19.4.2 How many dwelling units are permitted in a mixed-use development? The ~~average~~ net permitted density of the residential component of a mixed-use development is shown in Table 19.B. That table also imposes a minimum density of five dwelling units per acre on residential development in most of the mixed-use zoning districts and shows that the ~~average~~ net permitted density may rise to 10 or 15 DU/A with the transfer of development rights. The transfer of development rights is explained in WDB 19.5.

19.4.3 How much nonresidential development is permitted in a mixed-use development? The density of the nonresidential component of a mixed-use development will be a function of the limit, if any, on the mix of uses in the zoning district, the space that remains after the residential component is established, and the standards of this bylaw.

Table 19.B - Mixed Use Residential Densities

All numbers are DU/A

zoning district	residential/commercial mix	~~Average~~ net density	density with TDR	minimum density*
BPZD	Residential uses are permitted, but not required.	5	not allowed	--
GZDS	Residential uses are permitted, but not required.	7.5	10	5
MUCZD	Residential uses are encouraged but not required.	7.5	15	5
MURZD	Must be predominantly** residential.	7.5	15	5
TCZD	Residential uses may be required.	7.5	15	5

* Where provided. This does not mean that residential uses have to be built where they are not required. ** 'Predominantly residential' is defined at WDB 38.1.3.1.

19.5 Transfer of Development Rights

19.5.1 What is the transfer of development rights? A transfer of development rights occurs when the right to develop on one parcel of land is used on a noncontiguous parcel. The parcels involved may be in the same or different ownerships.

19.5.2 Is the transfer of development rights permitted in Williston? Yes. Residential development rights may be voluntarily transferred from lands in the ARZD or from conservation areas shown in the *Open Space Plan* in other zoning districts to lands within the growth center. Development

Chapter 20

Residential Improvements

This chapter consolidates the definitions and standards ~~needed to answer the questions commonly asked by homeowners who are~~ for minor improvements ~~planning to improve their~~ to residentially developed property. The standards adopted here apply to all dwellings in all zoning districts. Requirements that may or may not apply, depending on a dwelling's location, are cross-referenced.

20.1 Accessory Dwellings. 24 V.S.A. § 4412(1)(E) states that "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." Policy 5.2.5 of Williston's *Town Plan* states that the town will "continue to provide for accessory dwellings."

20.1.1 What is an accessory dwelling? For the purposes of this chapter, an 'accessory dwelling' is an independent efficiency or one or two bedroom dwelling that is located within or on the same lot as an owner-occupied single-family dwelling, and that complies with the standards established below.

20.1.2 Is a permit needed for an accessory dwelling? Yes. An administrative permit is required for any accessory dwelling.

20.1.3 What standards apply to accessory dwellings? An administrative permit for a proposed accessory dwelling shall be approved if the Administrator finds that it complies with the following standards.

20.1.3.1 Owner-Occupied. The single-family dwelling to which the proposed accessory dwelling would be accessory must be owner-occupied.

> ***What Does 'Owner-Occupied' Mean?*** The dwelling must be the principal residence of at least one of the owners named on the grand list.

20.1.3.2 Floor Area. The proposed accessory dwelling must occupy no more than 30% of the total floor area of the dwelling to which it is accessory, or where the parcel is larger than one-half acre, but too small to subdivide in the zoning district in which it is located, no more than 50% of the total floor area of the dwelling to which it is accessory, with a maximum size for any accessory dwelling of 1,500 square feet. Applicants must provide a floor and/or site plan drawn to scale and in sufficient detail to demonstrate compliance with this standard.

20.1.3.3 Using an Existing Dwelling as an Accessory to a New Dwelling. These standards present the possibility that an existing two-bedroom dwelling of 1,500 SF or less could be used as an accessory dwelling by an owner who proposes to build a new home of up to 3,000 SF. This is not prohibited, but will require a discretionary permit.

20.1.3.4 Shared Driveway. Approval of an accessory dwelling must not result in a new point of access to a public road. The Administrator may, with the advice of the DPW, waive this requirement where the terrain or other physical characteristics of the site make it safer for an accessory dwelling to have a separate point of access.

What is a Garage? A garage is a building, or a part of a building, that houses, or at least is designed to house, one or more motor vehicles, watercraft, snow machines, farm implements, or other vehicles. ***What is Play Structure?*** A play structure is designed for children's play. Play equipment that does not have a footing or foundation is not a structure. ***What is a Shed?*** This term includes all roofed structures, including tool sheds, greenhouses, etc., that are accessory to a dwelling, except detached garages and accessory dwellings, which are separately defined.

20.2.2 What standards apply to accessory structures? An administrative permit for a proposed accessory structure shall be approved where the Administrator finds that it complies with the following standards.

20.2.2.1 Location. Accessory structures must be placed in a side or rear yard, except in the ARZD, where they may be placed in a front yard, if that front yard is at least twice as deep as the required setback.

20.2.2.2 Dimensional Standards. Accessory structures must comply with the applicable dimensional standards of this bylaw. Applicants must provide a site plan drawn to scale and in sufficient detail to demonstrate compliance with this standard.

20.2.3.3 In the Village. Accessory structures in the VZD must comply with the *Williston Village Historic District Design Review Guide* and may be subject to review by the HAAC and DRB. Applicants who wish to place an accessory structure in the VZD must provide architectural drawings, including elevations, drawn to scale and in sufficient detail to demonstrate compliance with that standard.

20.3 Additions. An addition is any expansion of an existing structure in any dimension, including height, width, depth, or length.

20.3.1 Is a permit required for an addition? Yes. An administrative permit is required for all residential additions.

20.3.2 What standards apply to additions? An administrative permit for a proposed addition shall be approved where the Administrator finds that it complies with the following standards.

20.3.2.1 Dimensional Standards. Additions must comply with the dimensional standards of this bylaw. Applicants must provide a site plan drawn to scale and in sufficient detail to demonstrate compliance with this standard.

20.3.2.2 Adding Bedrooms. The addition of a bedroom requires additional wastewater treatment capacity, either as part of an existing or new allocation of sewage treatment plant capacity, or as part of the existing or proposed capacity of an on-site wastewater treatment system.

- Where the proposed bedroom/s would be served by the town sewerage system, the applicant must submit an allocation form approved by the DPW.

- Where the proposed bedroom/s would be served by an on-site wastewater treatment system the applicant must submit: i) approved final plans showing

- Where the proposed bedroom/s would be served by an on-site wastewater treatment system the applicant must submit: i) approved final plans showing that an existing system has sufficient capacity, ii) plans for a new system prepared by a licensed designer, or iii) a licensed designer's certification, based on a field investigation, that an existing system for which approved final plans are not available, has sufficient capacity.

20.3.2.3 In the Village. Additions in the VZD must comply with the *Williston Village Historic District Design Review Guide* and may be subject to review by the HAAC and DRB. Applicants who wish to build an addition in the VZD must provide architectural drawings, including elevations, drawn to scale and in sufficient detail to demonstrate compliance with this standard.

20.4 Businesses. 24 V.S.A. § 4412(4) states that "No bylaw may infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an adverse effect upon the character of the residential area in which the dwelling is located."

20.4.1 What is a home business? A home business is any commercial activity conducted in a one or two family dwelling by the resident/s of that dwelling, whether for profit or not, and that meets the standards established here. Conducting any other business in a dwelling is a violation of this bylaw, subject to enforcement, as provided by WDB 7.4-7.6.

20.4.2 Can I park a commercial vehicle at my home? The overnight parking of commercial vehicles of ~~6,000~~ 10,000 pounds gross vehicle weight or more is a commercial activity, and will be regulated as such in the ~~MDRZD~~, MURZD, RZD, and VZD.

20.4.3 Is a permit required to establish a home business? Yes. The type of permit required varies with the type of business proposed. A discretionary permit is needed for any home business proposed in a two-family dwelling and for all home businesses that propose to have more than one non-resident employee on site or generate more than one P.M. peak hour trip. An administrative permit is required for all other home businesses.

20.4.4 What standards apply to home businesses? The Administrator or the DRB, as appropriate, shall approve a permit for a home business that complies with the standards of Appendix ~~F~~ G. See also WDB 20.7 re family child care homes.

20.5 Decks and Patios. A deck is an above-grade outdoor living space that is open to the sky, although it may be temporarily covered by an awning or partially covered by a ramada. A patio is an at-grade outdoor living space that is open to the sky. If one of these spaces is covered by a roof, it becomes an addition or, if detached from the dwelling, an accessory structure.

20.5.1 Is a permit required for a deck or patio? Yes. An administrative permit is required for any deck or for any patio that covers more than 120 square feet. Smaller patios are NOT exempt from the requirements of this bylaw. Placing a 100 square foot patio within a side yard setback would be a violation, subject to enforcement, as provided by WDB 7.4-7.6, but would not require a permit.

20.5.2 What standards apply to decks and patios. An administrative permit for a proposed deck or patio shall be approved where the Administrator finds that it complies with the following standards.

20.5.2.1 Dimensional Standards. Decks and patios must comply with the dimensional standards of this bylaw. Applicants must provide a site plan drawn to scale and in sufficient detail to demonstrate compliance with this standard.

20.5.2.2 In the Village. Decks in the VZD must comply with the *Williston Village Historic District Design Review Guide* and may be subject to review by the HAAC and DRB. Applicants who wish to build a deck in the VZD must provide architectural drawings, including elevations drawn to scale and in sufficient detail to demonstrate compliance with this standard.

20.6 Driveways. A permit is required for new driveways, or for any change in a driveway's width or location. For access to town roads, this permit is obtained from the town. For access to state roads, permits must be obtained from both the town and the Vermont Agency of Transportation. For more on access to public roads, see Chapter 13 of this bylaw.

20.7 Family Child Care Homes. 24 V.S.A. § 4412(5) makes family child care homes serving six or fewer children permitted uses of single-family dwellings. A family child care home that serves six or more children full-time and four or more part-time is also permitted, but a discretionary permit will be required.

20.7.1 What is a family child care home? A family child care home is a home or facility where the owner or operator is registered or licensed for child care as required by 33 V.S.A. § 3502(a).

~~***20.7.2 Is a permit needed to establish a family child care home?*** No permit is needed from the town. Be sure to check state registration and licensing requirements.~~

20.8 Residential Care Homes or Group Homes. 24 V.S.A. § 4412(G) specifies that a residential care home or group home operated under state licensing or registration, and 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.

20.8 Fences. A fence is a structure that serves as an enclosure, physical or visual barrier, and/or to mark a boundary. Freestanding walls serving these purposes are fences. Living shrubs, trees, or other vegetation, including hedges, are not fences.

20.8.1 Is a permit required to erect a fence? Yes, an administrative permit is required to erect a fence. Before applying for a permit, the town strongly recommends that you talk to neighboring property owner/s.

Planting a Hedge? If you plan to plant a hedge as a property boundary, the town strongly encourages you to communicate with your neighbors before planting.

20.8.2 Are there standards for fences? An administrative permit for a proposed fence shall be approved where the Administrator finds that it complies with the following standards.

20.8.2.1 Height. No fence on a residential property may exceed six (6) feet in height above grade, except as provided in WDB 20.8.2.3 and 20.8.2.4. Front yard fences are limited to 42 inches in height. See WDB 13.2.4 for additional height restrictions at intersections.

20.8.2.2 At Intersections. Fences within clear vision triangles must not obstruct drivers' vision. Solid or opaque fences must not exceed 29 inches in height above the grade of the adjoining road.

20.8.2.3 Privacy Enclosures and Kennels. Privacy enclosures (for example, around an outdoor spa) and the fencing of kennels may exceed the height limit established in WDB 20.8.2.1, above, but only within areas outside of the required setbacks for structures. The portion of the enclosure or fence that is over six (6) feet in height must not be solid. It may be a lattice or similar decorative work, screen, or wire.

20.8.2.4 Screening and Sound Barriers along Major Roads and Trails. Fences erected as screens and/or sound barriers along the right-of-way of an arterial or major collector may exceed six (6) feet in height. The Administrator shall, however, refer all such fences to the HAAC for review before acting on the application for an administrative permit.

20.8.2.5 Location. No fence shall extend into a public right-of-way or an easement held or used by the town without the written permission of the DPW, who may prohibit any such fence, or permit it with conditions that provide for its easy removal and replacement at the owner's expense. The DPW's written approval must be presented with the application for an administrative permit to erect the fence.

20.8.2.6 Materials/Color. The Administrator may require the submission of material samples for any proposed fence.

- No fence shall be made of scrap metal.
- No plain galvanized or slatted chain link fencing is permitted on residential properties. Vinyl-coated black or green chain link fencing is permitted.
- The structural elements of fences must be on the inward side (the side facing the dwelling to which the fence is accessory), if the adjoining property is in, or is platted for, residential use.
- Front yard fencing on residential properties must be at least 40% open. Traditional stone walls are exempt.
- Fencing should be a traditional white or a neutral color that is consistent with the color of the dwelling to which it is accessory.

20.8.2.7 In the Village. Fences in the VZD must comply with the *Williston Village Historic District Design Review Gu*ide and may be subject to review by the HAAC and DRB. Applicants who wish to erect a fence in the VZD must provide architectural drawings, including elevations, drawn to scale and in sufficient detail to demonstrate compliance with this standard.

20.9 Kennels. A kennel is any space used to confine dogs.

20.13 Pools. A pool is any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above-ground, and at-grade swimming pools, hot tubs, and spas.

20.13.1 Is a permit required for a pool? Yes. An administrative permit is required to install a pool.

> ***Pool and Spa Safety.*** The Consumer Products Safety Commission offers information on pool and spa safety at: http://www.cpsc.gov/cpscpub/pubs/chdrown.html. ~~See also Appendix G~~

20.13.1.1 Barrier. Outdoor pools, whether in-ground, above-ground, or at grade, hot tubs, and spas in which water can be more than two (2) feet in depth must be completely surrounded by a fence or barrier at least 48 inches in height above the finished ground level measured on the side of the barrier away from the pool.

- The wall of an above-ground pool may form the required barrier provided that access to the pool, whether from a deck or via a ladder is gated in compliance with this standard.

- Gates and doors in such barriers shall always be closed. Release mechanisms shall be located on the pool side of the gate.

- Self-closing and self-latching gates shall be maintained so that the gate will positively close and latch when released from an open position of six (6) inches from the gatepost.

20.14. Portable Structures. Portable structures enclose space, but are designed to be easily moved. They do not have footings or a foundation. Common examples include "pop-up" carports or canopies and play structures that are not tied to footings or some other foundation.

20.14.1 Is a Permit Required for a Portable Structure? No permit is required for portable structures, but they must comply with the standards of WDB 20.14.2, below.

20.14.2 Are there Standards for Portable Structures? While no permit is required, the following standards will be enforced on a complaint basis.

20.14.2.1 Dimensional Standards. Portable structures are subject to same dimensional standards as other structures.

20.14.2.2 Portable Toilets. Portable toilets are permitted on residential properties only during construction/remodeling projects. They must be removed upon completion of the work.

20.15. Recreational Vehicles as Living Quarters. A recreational vehicle is a motor home or a trailer coach, as defined by state law.

20.15.1 Is a permit required to park an RV on my property? No. Recreational vehicles may be stored on residential premises without a permit, but see WDB 20.15.2, below.

20.15.2 Is there a limitation on the use of RV's parked on residential properties? Yes. A recreational vehicle may be used as guest quarters on a residential property for no more than 17

can address this diversity. 'Should' provides some flexibility for the DRB to accept practical solutions that are in the spirit of the *Town Plan* and these standards.

22.3 Architectural Design: Form, Color and Materials. The form (shape), colors, and materials used in the surrounding buildings are, after signs, the most noticeable feature of a streetscape. How well they are designed will be a major determinant of the success – both commercially and as a part of the community – of a development.

22.3.1 Respect the Context. The choice of building form, colors, and materials should be compatible with the surrounding landscape and built environment. It is especially important that the bulk and proportions (height, width, depth) not be a radical departure from the context, except in redeveloping areas where larger buildings are consistent with the *Town Plan* or an applicable specific plan.

22.3.2 Form Should Follow Function. Building facades should reflect true building form or to say it another way, the building's functions. False fronts are generally inappropriate.

22.3.3 Provide Enclosure. Streets and outdoor spaces like urban parks (greens, plazas, squares, whatever you call them) function best if the surrounding buildings are tall enough to provide a sense of enclosure. Construction of multiple story buildings is strongly encouraged in some zoning districts (BPZD, MUCZD, MURZD, TCZD), but this principle applies everywhere.

22.3.4 Size Outdoor Spaces Properly. Urban parks (the generic term for greens, plazas, squares, and similar outdoor spaces) are not comfortable for users if they are too large. These spaces should be sized appropriately so that a sense of enclosure is provided by the surrounding buildings and landscaping.

> ***How Big is Too Big?*** A rule-of thumb is that the width of an urban park (the distance between the surrounding buildings, including sidewalks and streets, if any are present, as well as the urban park should be no more than about twice (2X) the height of the surrounding buildings. So, the maximum width of an urban park where there is a 36-foot height limit should not be much more than 72 feet. The performance standard adopted above provides designers and the DRB with some flexibility by not stating a number.

22.3.5 Use a Variety of Colors and Materials, but With Restraint. A variety of colors and materials with different textures should be used to create visual interest in buildings, but the variation in color and materials should not be simply for variety's sake. It should reflect the functions that must be served. For example, the sign band on a building or group of buildings could be used to introduce a different color and material. Likewise, different materials could be used to mark entrances, as required by WDB 22.4.1.

22.3.6 Avoid Dead Walls. Dead walls are prohibited in the most pedestrian-oriented zoning districts (MUCZD, MURZD, TCZD), but should be avoided in many other situations. At the least architectural features, including doors, windows, and detailing should offer some horizontal and/or vertical relief from monotonous walls.

22.3.7 Do Not Use Reflective Materials. Designers should choose building materials that do not generate glare. The DRB may require that roof, wall, or other materials be non-reflective. The DRB may also limit the glass area presented by a building to minimize glare. WDB 31.9.8.3 provides additional authority to limit the use of reflective materials in the ARZD and GZDS.

- well-adapted (hardy) for the site;
- suitable for the functions the landscaping must perform; and
- that provide color throughout the growing season and into winter.
- Salt-tolerant species must be used near roads, parking areas, and pedestrian ways.

Which tree should I use? A useful guide to the selection of trees that appropriate for different functions and sites is ~~*Recommended Trees for Vermont Communities*~~ *Vermont Tree Selection Guide*, a copy of which is available for review at Williston Planning.

23.7.2 Are the plants that may be used limited? Yes. The species listed in Table 23.B must not be used.

Table 23.B – Prohibited Species

Common Name(s)	Scientific Name
TREES	
Norway Maple	*Acer platanoides*
Amur Maple	*Acer ginnala*
Tree of Heaven	*Ailanthus altissima*
Black Locust	*Robinia pseudoacacia*
SHRUBS	
Japanese barberry	*Berberis thunbergii*
Common Barberry	*Berberis vulgaris*
Bush Honeysuckles (many varieties)	*Lonicera, spp.*
Russian Olive	*Elaeagnus angustifolia*
Autumn Olive	*Elaeagnus umbellate*
Multiflora Rose	*Rosa multiflora*
Common Buckthorn	*Rhamnus cathartica*
Glossy Buckthorn	*Rhamnus frangula*
Burning Bush	*Euonymous alata*
HERBACEOUS	
Celandine	*Chelidonium majus*
Oriental Bittersweet	*Celastrus orbiculatus*
Flowering Rush	*Butomus umbellatus*
Common Reed	*Phragmites australis*
Goutweed	*Aegopodium podagraria*
Garlic Mustard	*Allaria petiolata*
Purple Loosestrife	*Lythrum salicaria*
Pale Swallow-wort	*Vincetoxicum hirundinaria*
Japanese knotweed	*Polygonum cuspidatum*
Wild Chervil	*Anthriscus sylvestris*
Yellow-flag iris	*Iris pseudacorus*

25.9 Abandoned and Nonconforming Signs

25.9.1 What is an abandoned sign? A sign is 'abandoned' when the use with which it was associated ceases to exist.

25.9.2 Must abandoned signs be removed? Yes. An abandoned sign must be removed within 90 days after the use with which it was associated ceases to exist.

25.9.3 What is a nonconforming sign? A nonconforming sign is an existing sign that would not be permitted if submitted for approval under this bylaw.

25.9.4 May nonconforming signs be maintained and repaired? Yes. Routine maintenance and repair of nonconforming signs is permitted.

25.9.5 When must nonconforming signs be replaced with conforming signs? A nonconforming sign may be used indefinitely, but must be removed, as required here, when circumstances change.

25.9.5.1 When Abandoned. As provided by WDB 25.9.1, any sign, conforming or not, must be removed within 90 days of when the use it identified ceases. New signs must comply with this bylaw.

25.9.5.2 Before a New Sign. No permit may be issued for a new permanent sign on a lot where there is a nonconforming sign.

25.9.5.3 When Damaged. A nonconforming sign must be removed or brought into compliance with this bylaw if it is damaged or destroyed and the cost of replacement or repair is 51% or more of the sign's value at the time it was damaged or destroyed.

25.9.5.4 Change in Use. A nonconforming sign must be removed and, if replaced, replaced with a conforming sign when the use of the lot on which it is located changes.

25.9.6 Can a nonconforming sign be relocated? Yes, but only if the move is involuntary. Involuntary relocation may be caused by street widening or another town, state, federal, or utility action that is beyond the control of the sign's owner.

25.9.7 Can a nonconforming sign be altered? Yes, but only if the change brings the sign into, or at least closer to, compliance with this bylaw. A nonconforming sign that will not be brought into full compliance may be altered only if its degree of nonconformity is reduced by at least 25%.

What does that mean? The degree of nonconformity is the extent to which a use is nonconforming. So, a sign that is 20 feet high instead of the permitted 12 feet, would have to be lowered by at least two feet (25% of 8 feet) for an alteration to be permitted.

25.10 Community Information Centers

25.10.1 What is a community information center? Permanent community information centers that allow the posting of information may be placed at municipal buildings and schools or on privately owned properties such as a green, park, or plaza, or other publicly visible locations. They do not

26.5 Street Tree Installation and Maintenance

26.5.1 Are there requirements for the installation of street trees? Yes. Street trees shall be planted in accordance with the ANSI A300 *Best Management Practices for Tree Planting*. Planting specifications are also provided in the *Public Works Standards.*

26.5.1.1 Supervision. If more than 10 street trees are required in a development, installation must be supervised by a Certified Arborist. The Certified Arborist will provide a report, including a completed *Street Tree Post-Construction Checklist*, to Williston Planning verifying that trees have been installed correctly and as specified on the approved landscaping plan.

26.51.2 Inspection. Installed street trees are subject to the inspection requirements of 7.1.7.

26.5.2 Are there landscaping maintenance requirements? Yes. Street trees are a 'required improvement,' as defined in Chapter 7 of this bylaw, subject to all requirements that chapter imposes. Street trees must be maintained (including irrigation) by the developer for a period of ~~two~~ three years following their installation. During this three-year period, any trees determined by the DPW to be dead, dying, or in poor health shall be replaced by the applicant/owner at his/her expense.

26.6 Protection of Existing Street Trees

26.6.1 Must I retain existing street trees? Yes. Existing street trees shall be retained wherever possible.

26.6.1.1 Protection during Construction. Existing street trees must be protected from damage during construction, as required by the *Public Works Standards*. The landscaping plan required by WDB 23.1.3 must show all proposed tree protection measures and include a schedule showing that these measures will be put into place before other construction activities begin. This information must also be shown on a runoff and erosion control plan, where one is required by WDB 29.4.1.

26.6.1.2 Documentation. The condition of existing street trees shall be documented with photographs before an administrative permit is approved and construction begins. The number of photographs the applicant must provide will be determined by the Administrator.

26.6.2 Can I transplant an existing street tree to a new location? Existing street trees may be transplanted to new locations if they cannot be retained in their current location(s). Transplantation of existing street trees shall be carried out when the trees are dormant (early spring or fall) and must be supervised by a Certified Arborist. Transplanted street trees are subject to the same two-year maintenance period described for new street trees in WDB 26.5.2.

- while the town has actively worked on watershed health through its investments in stream restoration and the application of its regulations, restoring the health of the Allen Brook, preventing the addition of other local streams to the list of impaired waters, and complying with the requirements imposed by the MS4 permit make it necessary to adopt these standards.

29.1.2 Under what authority does the town adopt these standards? These standards are adopted under the authority of 24 V.S.A. § 4417(9). As noted in WDB 29.1.1, above, their adoption is also specifically required by 4.2.3 and 4.2.5 of General Permit 3-9017 (as amended February 19, 2004), as issued by Vermont Agency of Natural Resources, Department of Environmental Conservation.

29.2 Applicability

29.2.1 What activities are subject to these standards? These standards apply to any development for which a permit is required by this bylaw.

29.2.2 Are there any exceptions from these standards? As provided by WDB 4.2.1.2., accepted agricultural and forestry practices are exempt from the standards adopted in this chapter. Developments in which the total cumulative land disturbance including all clearing, grading, and excavation, is less than ¼ (one-quarter) acre are exempt from the runoff and erosion control standards provided in sections WDB 29.3 – 29.6 in this chapter, but are encouraged to monitor and minimize runoff and erosion, taking whatever measures are needed to protect neighboring properties and water quality.

29.2.3 What about small projects? These standards recognize that the level of runoff and erosion control required to protect water quality varies with the size and location of the proposed development.

29.2.3.1 Low Risk Development. WDB 29.3 sets relatively simple runoff and erosion control standards for smaller developments that pose a relatively low risk of accelerated runoff, erosion, and sedimentation.

29.2.3.2 All Other Development. WDB 29.4 establishes runoff and erosion control standards for larger developments and development in vulnerable areas.

29.2.4 What about routine maintenance? What about emergencies? These standards do not apply to the routine maintenance of public and private roads or utilities, including stormwater management works, nor do they apply to emergency repairs required by flooding, slope failures, or other natural hazards or civil emergencies, like a bridge failure. It is understood, however, that runoff and erosion control measures will be incorporated into maintenance activities where necessary, as part of the "good housekeeping" practices required by the town's MS4 permit.

29.3 Low Risk Development

29.3.1 What is a Low Risk Development? A low risk development is one in which the cumulative land disturbance is greater than ¼ (one-quarter) acre, but less than two (2) acres, in which all land that will be disturbed is outside the watershed protection buffers established by this chapter, and in which all land that will be disturbed has a slope of less than eight percent (8%).

and restoration of an historic barn. Accessory dwellings and home businesses are also permitted in the ARZD.

31.1.3.4 Right to Farm. Agricultural and forestry activities in the ARZD are protected by Vermont's right-to-farm law. See 12 V.S.A. § 5751, et seq. Beyond the state right-to-farm law, nonagricultural uses proposed in this zoning district must show that they will have no direct adverse impact on continuing agriculture on adjoining or nearby lands.

31.1.3.5 Outdoor Recreation. Outdoor education and recreation includes for-fee trails for biking, hiking, horseback riding, or skiing, and similar activities. Accessory structures - like an office, shop, or storage building - that support these activities are also permitted. Indoor educational or recreational facilities may be permitted only where a specific plan for the property has been adopted following the procedure established in Chapter 9 of this bylaw.

31.1.3.6 Accessory Uses and Structures. Customary accessory uses and structures are permitted in all zoning districts, as provided by Chapter 17 of this bylaw.

31.2 Permit Requirements. Permit requirements are explained in Chapters 4-6. With the minor exceptions noted there, all development in this zoning district must have a permit.

31.3 Dimensional Standards

31.3.1 Is there a maximum building height? Yes. Building height in the ARZD is limited to 36 feet, but be aware that WDB 31.9.8.1 permits the DRB to impose a lower height limit where doing so is necessary to help maintain the visual character of rural Williston.

31.3.2 Must development in the ARZD be set back from property lines? Yes. Setbacks from rear and side property lines may be controlled by the landscaped buffer requirements of Chapter 23 of this bylaw. Where the requirements of Chapter 23 do not apply, the minimum setback from both side and rear property lines in the ARZD is 15 feet.

31.3.3 Must development in the ARZD be set back from roads? Yes. The minimum setbacks from roads in the ARZD shall be:

31.3.3.1 … from the right-of-way of I-89, 150 feet;

31.3.3.2 … from the right-of-way of any other road, except a private road serving a residential development, 50 feet; and

31.3.3.3 … from a private road serving a residential development, 25 feet.

31.3.3.4 Average Setback Exception. The DRB may allow the setback required along a local road to be reduced to the average existing setback as part of a request for a discretionary permit. The average existing setback will be determined by the Administrator by averaging the existing setback on all properties that are along the same street and within 300 feet of the lot where a reduction is proposed. A reduction shall be permitted only where the reduced setback is sufficient to permit for the

construction of a sidewalk or, where one is called for in the *Town Plan*, a multi-use path.

31.3.3.5 Average Setback Exception – Williston Woods and Porterwood development. Williston Woods and Porterwood are two existing mobile home developments, served by private streets, developed with setbacks vastly different from the standards of this bylaw. Within these two developments, the Administrator may allow the setback required along a local road to be reduced to the average existing setback. The average existing setback will be determined by the Administrator by averaging the existing setback on all properties that are along the same street and within 300 feet of the lot where a reduction is proposed.

31.3.4 What uses are permitted in required setbacks? Required setbacks must be landscaped as a Type I, III, or IV buffer, as required by Chapter 23 of this bylaw. Access drives, roads, pedestrian ways, underground utility lines, and where such lines are permitted, overhead utility lines, may cross required setbacks at a right angle (±10°). Pedestrian ways may also run parallel to and within a required setback. Parking and loading areas may not be placed within required setbacks.

31.3.5 Are there minimum lot dimensions? Just one. Lots must have a frontage of at least 40 feet on an existing or proposed public or private road or drive.

31.4 Density Standards. See Chapter 19 for a summary of the density standards of this bylaw.

31.4.1 Is there a minimum lot size in the ARZD? Only for development on lots created before Williston adopted interim open space development regulations on September 20, 2004 and for new lots created from existing parcels of less than 10.5 acres after that date. For those lots, the minimum lot size is 80,000 square feet.

31.4.2 What density is permitted on other lots? The density of all other development in the ARZD is controlled by the specific standards adopted in this chapter, beginning with WDB 31.7.

31.5 General Standards Development in this zoning district must, unless specifically exempted, comply with all standards established in Chapters 13-29.

31.6 Specific Standards are presented in WDB 31.7 through WDB 31.13.

31.7 Open Space Development. An open space development is a residential subdivision in which a specified area of open space is protected as a condition of approval.

31.7.1 How much open space must be conserved? All developments that involve more than 10.5 acres in this zoning district must protect at least 75% of their total area as open space. The proposed protected open space must be clearly delineated on the concept plan submitted with the pre-application, on all plans submitted with the application for a discretionary permit, and on the approved final plan.

31.7.2 Must certain lands be included in the open space? Yes. Protected open space must meet the following requirements, as applicable.

Table 31.A – Agricultural/Rural Residential Zoning District	NAICS	Notes
Uses that are not specifically listed in this table are prohibited. Listed uses are permitted only in compliance with all applicable requirements of this bylaw and with the purpose statement for this zoning district.		
Residential (dwellings)		As described in WDB 31.1.3.3 and WDB 31.4.
Agriculture. Forestry, Fishing & Hunting	11	Including the processing, distribution, and sale of products primarily from the farm or woodlot.
Support Activities	115	Specifically includes the maintenance and repair of farm and forestry equipment.
Nonmetallic Mineral Mining & Quarrying	2120	
Support Activities for Mining	213	But only as an accessory to 2120.
Utilities	20	Regulation of utilities is generally at the state level in VT.
Electric Power Generation	2491	Specifically includes power generation from farm wastes
Manufacturing, but only as listed below		In compliance with WDB 31.13 only.
Food Manufacturing	291	Made primarily with local products only.
Wineries	29213	Using primarily local grapes only.
Textiles	293-17	Made primarily with local products only.
Apparel, Leather Products	295-16	As a home business only.
Sawmills	3111	Using primarily local timber only
Furniture manufacturing	337	As a home business only
Wholesale Trade	42	Permitted only as an accessory to other uses
Retail Trade, as per the note	43-44	Sale of local farm and forest products is permitted, otherwise retail trade is permitted as a home business only.
Transportation and Warehousing	48-49	As an accessory use only.
Professional, Scientific, and Technical Services		As a home business only, except as below.
Veterinary Services	541940	
Accomodations and Food Services, but only as listed		
Bed and Breakfast Inns	721191	Requires approval of a Discretionary Permit
Other Services	81	As a home business only, except as below.
Auto Repair and Maintenance	81111	As a home business or incidentally as part of the repair and maintenance of farm and forest equipment and in compliance with WDB 31.13
Outdoor Recreation		Public parks are permitted in all zoning districts. Private outdoor recreation is permitted as described in WDB 31.1.3.5
Public Administration	92	

32.3.2 Must development in the BPZD be set back from property lines? Setbacks from rear and side property lines in this zoning district are controlled by the landscaped buffer requirements of Chapter 23.

32.3.3 Must development in the BPZD be set back from roads? The minimum setback from any road in this zoning district is ~~50~~ 25 feet.

32.3.4 What use may be made of the required setbacks? The setbacks must be landscaped as a Type I, III, or IV buffer in compliance with Chapter 23 of this bylaw. Access drives, roads, pedestrian ways, underground utility lines, and where they are permitted, overhead utility lines may cross required setbacks. Pedestrian ways may also run parallel to and within a required setback. Access drives and roads, and parking and loading areas may not be placed within the required setbacks.

32.4 Density Standards. See Chapter 19 for an explanation of how density is calculated and a summary of the density standards of this bylaw.

32.4.1 What density of residential development is permitted in the BPZD? The average density of residential development, including mixed use development, permitted in this zoning district is 5.0 DU/A.

32.4.2 What density of nonresidential development in permitted in the BPZD? See WDB 19.3 for an explanation of how the standards of this bylaw regulate nonresidential densities.

32.5 General Standards Development in this zoning district must, unless specifically exempted, comply with all standards established in Chapters 13-29 of this bylaw.

32.6 Specific Standards. Specific standards for development in the BPZD are presented in WDB 32.4 and 5.

32.7 Outdoor Sales and Storage

32.7.1 Are outdoor sales permitted in the BPZD? No.

32.7.2 Is outdoor storage permitted in the BPZD? No. An exception for the temporary storage of construction equipment and materials is provided in Chapter 17 of this bylaw.

32.8 Pedestrian-Orientation

32.8.1 Must sidewalks be provided in the BPZD? Where they do not exist, yes. See WDB 15.2.4.

32.8.2 What else is required to make the BPZD more pedestrian-friendly? Buildings must invite pedestrians in, rather than being isolated from the street and sidewalk.

32.8.2.1 Pedestrian Connections. There must be a direct pedestrian connection between the principal building entrance/s and the sidewalk/s or path/s along the

Table 35.A - Industrial Zoning District East	NAICS	Notes
Uses that are not specifically permitted are prohibited. Listed uses are permitted only in compliance with all applicable requirements of this bylaw and with the purpose statement for this zoning district.		
Mining, but only as listed below		
Nonmetallic Mineral Mining & Quarrying	2120	Accessory to solid waste management and disposal only.
Manufacturing, but only as listed below		
Computer and Electronic Product Manufacturing	334	
Telecommunication Facilities	517	In compliance with Chapter 21.
Professional, Scientific, and Technical Services, but only as listed below		
Computer Systems	5415	Computer System Design and Related Services
Waste Management & Remediation Services	562	
Utilities	22	See WDB 35.1.3.2.
Public Administration	92	Public parks are permitted in all zoning districts.

36.7.2.2 Screening. Screening fences or walls, which shall be located on the interior side of the buffer required by WDB 36.3.4, above, may be required by the DRB. Where such a requirement is imposed, the screening shall be an architectural extension of the building, with similar colors and detailing.

36.7.2.3 Temporary Storage. Temporary storage of construction equipment and materials is permitted in compliance with Chapter 17 of this bylaw.

36.8 Specific Plans. Specific plans (see Chapter 9 of this bylaw) may be used to refine the requirements of this zoning district. The DRB may, when reviewing a pre-application, require that the applicant submit a specific plan before a discretionary permit for a new use, new structure, or major addition will be approved.

Table 36.A - Industrial Zoning District – West	**NAICS**	**Notes**
Uses that are not specifically permitted are prohibited. Listed uses are permitted only in compliance with all applicable requirements of this bylaw and with the purpose statement for this zoning district.		
Mining, but only as listed below		
Nonmetallic Mineral Mining & Quarrying	2120	
Support Activities for Mining	213	But only as an accessory to the above.
Construction	20	
Manufacturing	31-33	
Wholesale Trade	42	
Retail Trade, but only as listed below		
Motor Vehicle & Parts Dealers	441	
Home Furnishings Stores	4424	
Building Material & Garden Equipment & Supplies Dealers	444	
Manufactured Home Dealers	45393	
Nonstore Retailers	454	
Transportation & Warehousing	48-49	
But retail outlets for Postal Service	491	Permitted only as accessory uses.
and Couriers & Messengers	492	Permitted only as accessory uses.
Information	51	
but specifically not 51213, Theaters	51213	Should be in the TC Zoning District
and specifically not 51911, News Syndicates	51911	These uses belong in the growth center or village center.
or 51912, Libraries PUBLIC ONLY!	51912	
Telecommunications Facilities	517	In compliance with Chapter 21.
Rental & Leasing Services	532	
Professional, Scientific, and Technical Services	54	
Admin & Support & Waste Management & Remediation, but only as listed below		
Investigation & Security Services	5616	
Services to Buildings & Dwellings	5617	
Waste Management & Remediation Services	562	
Educational Services, but only as listed below		
Technical & Trade Schools	6115	
Child Day Care Services	6244	

Arts, Entertainment, and Recreation, but only as listed below		
Fitness and Recreational Sports Centers	71394	
Accommodation & Food Services, only as listed below		
Limited Service Eating Places (cafeterias, snack bars)	724221	As an accessory to other permitted uses.
Food Service Contractors	7240221	
Caterers	7240232	
Mobile Food Services (vendors, kiosks)	7240233	
Other Services, but only as listed below		
Repair & Maintenance	811	
Death Care Services	8124	
Drycleaning & Laundry Services, except coin-operated	81202	
Linen & Uniform Supply	81203	
Pet Care	81291	
Public Administration	92	Public parks are permitted in all zoning districts.

37.7.2 What standards apply to wholesale trade, warehousing, and distribution uses in the MUCZD?

37.7.2.1 Outdoor Sales and Storage are strictly limited. See WDB 37.4.

37.7.2.2 Suitability of Buildings. Warehousing, wholesale trade, and distribution uses shall only be allowed in existing and approved buildings that have already been designed for and are suitable for warehousing, wholesale trade and distribution. Suitable buildings would have such design features as loading docks and site configurations that can accommodate truck traffic and truck turning movements.

37.7.2.3 Compatibility with Permitted Uses. Warehousing and distribution uses may be permitted in existing and approved buildings in the MUCZD only where their impacts on the environment, the town's infrastructure, and neighboring land uses are determined to be compatible with each other.

37.8 Specific Plans. Specific plans (see Chapter 9 of this bylaw) may be used to refine the requirements of this zoning district. The DRB may, when reviewing a pre-application, require that the applicant submit a specific plan before a discretionary permit for a new use, or a new structure or major addition will be approved.

Table 37.A - Mixed Use Commercial Zoning District	**NAICS**	**Notes**
Uses that are not specifically permitted are prohibited. Listed uses are permitted only in compliance with all applicable requirements of this bylaw and with the purpose statement for this zoning district.		
Residential, (multi-family dwellings)		
Retail Trade, but only as listed below		
Motor Vehicle & Parts Dealers	441	
Furniture and Home Furnishings Stores	442	
Building Material & Garden Equipment & Supplies Dealers	444	
Convenience Stores	44512	But only as an accessory to other permitted uses,
Sporting Goods Stores	45111	
Hobby, Toy, and Game Stores	45112	
Gift, Novelty, and Souvenir Stores	45313	But only as an accessory to other permitted uses
Information, but specifically not 51213, Theaters	51	Theaters should be in the TCZD.
Finance & Insurance	52	
Real Estate	529	
Professional, Scientific, and Technical Services, but specifically not 54194, Veterinary Services as noted	54	Vets with outdoor treatment and/or boarding facilities must be located in the ARZD
Management of Companies & Enterprises	55	
Administrative Support Services	561	
Educational Services	61	

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Hobby, Toy, and Game Stores	45112	
Gift, Novelty, and Souvenir Stores	45313	But only as an accessory to other permitted uses
Information, but specifically not 51213, Theaters	51	Theaters should be in the TCZD.
Finance & Insurance	52	
Real Estate	529	
Professional, Scientific, and Technical Services, but specifically not 54194, Veterinary Services as noted	5451 ~~54~~	Vets with outdoor treatment and/or boarding facilities must be located in the ARZD
Management of Companies & Enterprises	55	
Administrative Support Services	561	
Educational Services	61	

Chapter 39

Residential Zoning District

This chapter establishes the Residential Zoning District (RZD) and the standards that are specifically applicable within that district.

39.1 Boundaries – Purpose – Uses Permitted

39.1.1 What are the boundaries of the RZD? The boundaries of the Residential Zoning District are shown on the official zoning map that accompanies this bylaw.

39.1.2 What is the purpose of the RZD? This zoning district includes Williston's suburban residential neighborhoods. Its purpose has long been to ensure that incompatible uses do not appear in those neighborhoods. These standards add another important goal: to encourage a somewhat more compact, diverse, and pedestrian-friendly pattern of residential development that also protects important open space resources. To help achieve this goal, the standards adopted here increase the density of development permitted in the RZD. This increase in density also recognizes the fact that some of Williston's most pleasant residential neighborhoods – Meadow Brook and Williston Hills, for example – were developed at higher densities and are now nonconforming. Permitting a somewhat higher density will also encourage the provision of more affordable housing.

39.1.3 What uses are permitted in the RZD? This is a residential zoning district. Very few other uses are permitted.

39.1.3.1 Residential Patterns: Development in the RZD must use a pattern that protects open space resources and results in a pedestrian-friendly neighborhood that is organized around one or more focal points wherever practicable. Focal points will usually take the form of a neighborhood green or park, but other focal points, like a community center, may be proposed.

39.1.3.2 Nonresidential. The only nonresidential uses permitted in this zoning district are child care centers, churches, elementary and middle schools, and parks. Home businesses are also permitted (see WDB 20.4), but they are, by definition a residential use.

39.1.3.3 Accessory Uses. Customary accessory uses and structures are permitted in all zoning districts, as provided by Chapter ~~14~~ 17 of this bylaw. See also Chapter 20 – Residential Improvements - for standards governing accessory structures and uses in the RZD.

Where's the use table? No use table is provided for this zoning district. The only uses allowed in the RZD are listed in WDB 39.1.3 above.

39.2 Permits. Permit requirements are explained in Chapters 4-6 of this bylaw. The creation of new residential lots and nonresidential uses in this zoning district always requires a discretionary permit.

41.1.3.5 Residential Uses. Residential uses encouraged. As provided in Chapter 19 of this bylaw, they must have a minimum density of 5 dwelling units per acre, an average density of 7.5 dwelling units per acre, and a maximum of density 15 dwelling units per acre with a transfer of development rights from the ARZD.

41.1.3.6 Accessory Uses. Customary accessory uses and structures are permitted in all zoning districts, as provided by Chapter 17 of this bylaw.

41.2 Permits. Permit requirements are explained in Chapters 4-6 of this bylaw. With the minor exceptions noted there, all development in this zoning district will require a discretionary permit before an administrative permit can be approved.

41.3 Dimensional Standards

41.3.1.1 Is there a maximum building height in this zoning district? Building height in the TCZD is limited to 36 feet, except where the incentives of WDB 41.5.4 apply.

41.3.1.2 Must development in this zone be set back from property lines? Setbacks from rear and side property lines in the TCZD controlled by the landscaped buffer requirements of Chapter 23 of this bylaw. Where landscaped buffers are not required, there are no setback requirements.

41.3.1.3 Must development in the TCZD be set back from roads? Yes. The minimum setbacks from roads in this zoning district shall be:

- from the right-of-way of I-89, 150 feet; and
- from the right-of-way of Route 2A, 25 feet.
- Along other roads, buildings will generally come to the sidewalk, with the exceptions provided by WDB 41.5.1.2.

These setbacks must be landscaped as a Type ~~II~~ III or IV buffer in compliance with Chapter ~~18~~ 23 of this bylaw.

41.3.1.4 What Use may be made of the Required Setbacks? The required setbacks must be landscaped as a Type II, or IV buffer in compliance with Chapter 23 of this bylaw. Access drives, roads, pedestrian ways, underground utility lines, and where such lines are permitted, overhead utility lines may cross required setbacks at a right angle (±10°). Pedestrian ways may also run parallel to and within a required setback. Parking and loading areas may not be placed within required setbacks.

41.3.1.5 Density Standards. Lot Size. There is no minimum lot size in this zoning district. See Chapter 19 of this bylaw for a summary of density standards in this district.

41.3.2 General Standards Development in this zoning district must, unless specifically exempted, comply with all standards established in this bylaw.

41.3.3 Specific Standards Specific Standards are presented in WDB 41.7

- a clearly-defined sign band or other set locations for signs.

41.5.2.3 Side and Rear Walls. The use of inferior materials for the sides or rear of a building is not permitted.

41.5.3 What other design elements are required? New development in the TCZD must offer at least five (5) of the elements listed below.

41.5.3.1 … multiple ~~retail~~ uses, containing a combination of one retail use and at least one of the following: retail, office or residential uses on the same property;

41.5.3.2 … a "wrap" of smaller shops around at least one side of any retail space of more than 20,000 square feet;

41.5.3.3 … lodging (a hotel) and/or residential uses, including affordable dwelling units;

41.5.3.4 … structured parking that provides 30% or greater of the required parking;

41.5.3.5 … multiple stories, not just the appearance of multiple stories;

41.5.3.6 … wide sidewalks that may be used for outdoor dining and/or with seating that encourages outdoor social interaction;

41.5.3.7 … public artwork, the nature of which must be approved by the DRB, with the advice of the HAAC;

41.5.3.8 … an ice rink or other spectator sports venue; and/or

41.5.3.9 … an urban park, as defined in the *Open Space Plan*. Credit for compliance will be provided only where a proposed park is visible and accessible so that it complements other proposed uses. A picnic table for employee lunch breaks is not an urban park.

41.5.3.10 Multiple Structures. These elements may be provided cumulatively, in or accessory to, multiple buildings that are part of a specific plan.

41.5.4 Is there an incentive for performance? Yes. The height limit will be increased from 36 to 52 feet where perpetually affordable housing and/or structured parking are provided. To qualify, the development must create more than three (3) dwelling units, of which 30% or greater are perpetually affordable, and/or provide 30% or greater of its parking requirement in a structure, resulting in a commensurate reduction in surface parking and loading areas.

41.5.5 Are there any limits on the use of the incentive offered by 38.5.4? Yes. It is not the intent of the building height incentive to permit the construction of four or five story buildings with flat roofs. This incentive is intended to make it possible to build three or, depending on the grade of the site, four story buildings that have diverse, attractive rooflines.

41.6 Specific Plans. Specific plans (see Chapter 9 of this bylaw) may be used to refine the requirements of this zoning district. The DRB may, when reviewing a pre-application, require that the applicant submit a specific plan before a discretionary permit for a new use, or a new structure or major addition will be approved.

41.7 Adirondack Views. Much of this zoning district has great westward views to the Adirondacks. Every specific plan and every application for a discretionary permit in the TCZD must show how views to the Adirondacks (where they exist) will be used as a feature of the proposed development. This does not mean that views must be left unimpeded. It does mean that developments must find a way to use this natural asset. Compliance with this standard could take a variety of forms, including, but not limited to, an urban park (see WDB 41.5.3.9) with westward views, windows from indoor "public" spaces facing west; an outdoor dining area with an Adirondack view, etc.

Table 41.A – Tafts Corner Zoning District	**NAICS**	**Notes**

Uses that are not specifically permitted are prohibited. Listed uses are permitted only in compliance with all applicable requirements of this bylaw and with the purpose statement for this zoning district.

Residential		At a density of at least 5 DU/A.
Retail Trade, but excluding 441-12, Automobile and Motor Vehicle Dealers; 447, Gasoline Stations, including convenience stores with gas; 45383, Manufactured Home Dealers; 4542, Vending Machine Operators; and 45431, Fuel Dealers	~~42~~ 44-45	
Parts Dealers	4413	Only where ALL sales and service are indoors
Building Material and Garden Equipment and Supplies	444	Only small specialty stores, where ALL sales and service are indoors - indoor lighting fixture sales - would be an example, may be permitted.
Information	51	
Finance & Insurance	52	
Real Estate	531	
Professional, Scientific, and Technical Services, but not 54194, Veterinary Services as noted	541	Vets with outdoor treatment and/or boarding facilities must be located in the ARZD
Management of Companies & Enterprises	55	
Administrative Support Services	561	
Educational Services	61	
Health Care and Social Assistance	62	
Arts, Entertainment, and Recreation	71	Indoors only
Accommodation & Food Services, but excluding 72319 - Food Service Contractors	72	No drive-through food service is permitted.
Caterers	72331	But only accessory to other permitted uses.
Mobile Food Services (vendors, kiosks)	72333	
Drinking Places	72341	But only accessory to other permitted uses
Other Services, but only as listed below		
Personal & Laundry Services	812	
excluding 81233 Linen & Uniform Supply	81233	
Public Administration	92	Public parks are permitted in all districts.

42.2.1 How are permit requirements different in the VZD? All exterior changes in the VZD are subject to design review. As explained below, some proposed exterior changes may be approved by the Administrator, who may seek the advice of the HAAC before making a decision, but some developments that would not require a discretionary permit outside the VZD must be reviewed by the DRB.

42.2.2 Which proposed developments in the VZD can be reviewed by the Administrator? The Administrator may review applications for permits for proposed developments that would only require an administrative permit outside the VZD on lots that are not in the Williston Village National Register Historic District and that are not in the additional review area established by Map 5 of the *Town Plan*. The Administrator may seek the advice of the HAAC before making a decision on any such application, and the HAAC may, upon finding that the proposed use could have a significant impact on the character of the village, require that the proposed application be submitted to the DRB.

42.2.3 Which proposed developments in the VZD must be reviewed by the DRB? The DRB must issue a Certificate of Appropriateness (COA) for any development in the Williston Village National Register Historic District, that is in the additional review area established by Map 5 of the *Town Plan* or that is referred to it by the HAAC.

42.2.3.1 With an Administrative Permit. Where the proposed work would otherwise require only an administrative permit, the DRB will review the proposed development for compliance with the requirements of this chapter. If the proposed development complies, the DRB will approve the application for a COA, imposing any conditions it finds necessary to ensure compliance. If the proposed development fails to comply, the DRB will reject the application for a COA.

42.2.3.2 With a Discretionary Permit. Where a discretionary permit is required for the proposed development, the COA will be combined with the discretionary permit.

42.3 Dimensional Standards

42.3.1 Is there a maximum building height in the VZD? Yes. Building height in this zoning district is limited to 36 feet.

42.3.2 Must development in the VZD be set back from property lines? Yes. Setbacks from rear and side property lines may be controlled by the landscaped buffer requirements of Chapter 23 of this bylaw. Where the requirements of Chapter 23 do not apply, the minimum setback from both side and rear property lines is ~~15~~ 10 feet.

Buffer Requirements? A buffer that complies with Chapter 23 must be provided where residential development adjoins other uses, including the nonresidential uses permitted in the VZD. 15-foot setbacks will be required between residential uses.

42.3.3 Must development in the VZD be set back from roads? Yes. Except where WDB 42.3.3.4 applies, the minimum setbacks from roads in the VZD shall be:

42.3.3.1 From the Right-of-Way of I-89: 150 feet;

46.5.3 Local. A 'local' product is one that is grown or crafted in Vermont or the adjoining portions of the Champlain Basin.

46.5.5 Lot Frontage is the length, given in feet, of that portion of a lot that is directly adjacent to a road (public or private).

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

46.6 Definitions: M-P

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

46.6.2 Marginally Suitable. This term refers to soils that have been designated as marginally suitable for on-site wastewater disposal by the Natural Resources Conservation Service in the *2003 Ancillary Ratings for Residential On-Site Waste Disposal in Vermont.*

46.6.3 Natural Function. This bylaw uses this term to indicate the state to which a disturbed area must be restored or reclaimed. The 'natural function' of a disturbed area is not its pre-existing condition, which may be difficult or even undesirable (if noxious weeds are present, for example) to restore. Requiring the site to be restored to its 'natural function,' requires that a wetland be restored as a functional wetland, that a woodland be restored as a functional woodland, a field or meadow be restored as a field or meadow, etc.

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

46.6.5 Nonconforming Lots or Parcels are lots or parcels that do not conform to ~~the density and~~ the dimensional standards of the current bylaws, but were in conformance with all applicable regulations prior to the enactment of this bylaw, including a lot or parcel improperly authorized as a result of error by the administrator.

46.6.6 Nonconforming Structures are structures or parts of structures that do not conform to the current bylaws, but were in conformance with all applicable regulations prior to the enactment of this bylaw, including a structure improperly authorized as a result of error by the administrator.

46.6.7 Nonconforming Uses are uses of land that do not conform to the current bylaws, but did conform to all applicable regulations prior to the enactment of the current bylaws, including a use improperly authorized as a result of error by the administrator.