

TOWN OF MORGAN, VERMONT

ZONING BYLAW

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TOWN OF MORGAN, VERMONT
ZONING BYLAW

ART 1: ENACTMENT AND INTENT

§101: Enactment

In accordance with 24 VSA, §4401 there is hereby established a zoning bylaw for the Town of Morgan which is set forth in the text and map that constitutes this bylaw. This bylaw shall be known and cited as the "Town of Morgan Zoning Bylaw".

§102: Intent

It is the intent of this zoning bylaw to provide for orderly community growth and to further the purposes established in 24 VSA, §4302.

ART 2: ESTABLISHMENT OF DISTRICTS AND REGULATIONS

§201: Zoning Map and Districts

The zoning map, officially titled "Town of Morgan Zoning Map", is hereby adopted as part of this bylaw. The Town of Morgan Zoning Map shows a division of the town into the following districts:

"LS" Lakeshore
"R-C" Residential-Commercial
"RL-1" Rural Lands One
"RL-2" Rural Lands Two
"RL-3" Rural Lands Three
"IND/RES" Industrial/Residential

§202: Copies of Zoning Map

Regardless of the existence of other printed copies of the zoning map, which from time to time may be made or published, the official zoning map, which shall be located in the office of the Town Clerk, shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the town.

§203: District Boundaries

District boundaries shown within the lines of roads, streams and transportation rights-of-ways shall be deemed to follow the center-lines. The abandonment of roads shall not affect the location of district boundaries. When the Zoning Administrator cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Planning

Commission shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this bylaw.

§204: District Objectives and Land Use Controls

The following tables establish the objectives of each of the districts hereby established and the provisions of this bylaw that apply respectively in each district. Any use designated as a "Permitted Use" in the table relating to a particular district may be commenced in such district pursuant to §205 of this bylaw. Any use designated as a "Conditional Use" in the table relating to a particular district may be commenced in such district pursuant to §206 of this bylaw.

§204.01: "LS" Lakeshore

Objective

Lakeshore is an area adjacent to Lakes Seymour and Salem. It is an area which is suited to scenic residential use and for primary or secondary homes.

Permitted Uses

1. Accessory use
2. Agriculture¹
3. Dwelling, one family
4. Forestry¹
5. Home occupation
6. Dwelling, accessory²

Conditional Uses

1. Dwelling, two family
2. Essential service
3. Municipal facility¹

Minimum Area and Dimensional Requirements

Lot area (sqft):	10,000
Area per family (sqft):	10,000
Lot width (ft):	100
Front yard setback (ft) ^{3, 4, and 5} :	30
Side yard setbacks (ft) ⁴ :	25
Rear yard setback (ft) ^{4 and 5} :	15

¹The regulation of these uses may be limited by 24 VSA, §4413. See §209 of this bylaw.

² See §301 of this bylaw.

³For lots in the Lake Shore district, the front yard shall be measured from that property line closest and most parallel to Lakes Seymour and Salem to that part of the structure that is or will be closest to said property line.

⁴ Nonconforming properties that do not meet the setback requirements of this district may apply for a waiver of dimensional requirements. The issuance of a waiver requires conditional use review and approval.

5. Pre-existing lots (developed or undeveloped) with 100' or less of lake frontage in the Lakeshore district shall have the option of observing the current statutory setbacks or the previous Lakeshore district setbacks (i.e. 20' from the front/lake side and 25' to the rear). Pre-existing lots 100' wide or less, not directly on the lake but in the Lakeshore district shall have the same option.

§204.02: "R-C" Residential-Commercial

Objective

This district provides for a village-type development in the two existing settlements of Morgan and Morgan Center – e.g. compact and mixed-use development typically found in Vermont village centers.

Permitted Uses

1. Accessory use
2. Agriculture¹
3. Church¹
4. Dwelling, one family
5. Dwelling, two family
6. Forestry¹
7. Home occupation
8. Lodging house
9. Dwelling, accessory²

Conditional Uses

1. Auto service station
2. Clinic
2. Club, private
3. Dwelling, multi-family
4. Educational facility¹
5. Essential service
6. Funeral home
9. Motel
10. Municipal facility¹
11. Neighborhood store
12. Recreational facility

Minimum Area and Dimensional Requirements

Lot area (sqft):	40,000
Area per family (sqft):	20,000
Lot width (ft):	100
Front yard setback (ft):	25
Side yard setbacks (ft):	15
Rear yard setback (ft):	25

¹The regulation of these uses may be limited by 24 VSA, §4413. See §209 of this bylaw.

² See §301 of this bylaw.

§204.03: "RL-1" Rural Lands One

Objective

Rural Lands One covers that land starting 250 feet back from the lakeshore and the scenic area up away from the lake which is desirable for primarily residential development and will not substantially interfere with agricultural or silvicultural operations.

Permitted Uses

1. Accessory use
2. Agriculture¹
3. Dwelling, one family
4. Dwelling, two family
5. Forestry¹
6. Home occupation
7. Lodging house
8. Dwelling, accessory²

Conditional Uses

1. Church¹
2. Earth resource removal
3. Educational facility¹
4. Municipal facility¹
5. Recreational facility

Minimum Area and Dimensional Requirements

Lot area (sqft):	40,000
Area per family (sqft):	20,000
Lot width (ft):	150
Front yard setback (ft):	25
Side yard setbacks (ft):	25
Rear yard setback (ft):	25

¹The regulation of these uses may be limited by 24 VSA, §4413. See §209 of this bylaw.

² See §301 of this bylaw.

§204.04: "RL-2" Rural Lands Two

Objective

Rural Lands Two are areas that are rural in character with forestry and agricultural uses as their present and future primary use. These areas are generally served by adequate town roads and generally the soils and slopes are suitable for some rural residential development. In the RL-2 district, residential development should not be allowed to expand so as to be a hindrance to active farming operations.

Permitted Uses

1. Accessory use
2. Agriculture¹
3. Dwelling, one family
4. Dwelling, two family
5. Forestry¹
6. Home occupation
7. Lodging house
8. Dwelling, accessory²

Conditional Uses

1. Animal hospital/kennel
2. Campground
3. Cemetery
4. Earth resource removal
5. Essential service
6. Municipal facility¹
7. Recreational facility

Minimum Area and Dimensional Requirements

Lot area (sqft):	80,000
Area per family (sqft):	40,000
Lot width (ft):	200
Front yard setback (ft):	25
Side yard setbacks (ft):	25
Rear yard setback (ft):	50

¹The regulation of these uses may be limited by 24 VSA, §4413. See §209 of this bylaw.

² See §301 of this bylaw.

§204.05: "RL-3" Rural Lands Three

Objective

This is the area of the community that should have the least intensity of development as it is generally hilly, swampy, has poor access, or has shallow soils. With any intensity of development, much permanent damage will be done to the area.

Permitted Uses

1. Accessory use
2. Agriculture¹
3. Dwelling, one family
4. Dwelling, two family
5. Forestry¹
6. Home occupation
7. Lodging house
9. Recreational facility
10. Dwelling, accessory²

Conditional Uses

1. Animal hospital/kennel
2. Campground
3. Cemetery
4. Earth resource removal
5. Educational facility¹
6. Essential service
7. Municipal facility¹

Minimum Area and Dimensional Requirements

Lot area (acres) ³ :	10
Lot width (ft):	500
Front yard setback (ft):	50
Side yard setbacks (ft):	50
Rear yard setback (ft):	50

¹The regulation of these uses may be limited by 24 VSA, §4413. See §209 of this bylaw.

² See §301 of this bylaw.

³ 1 acre equals 43,560 square feet.

§204.06: "IND/RES" Industrial/Residential

Objective

This district has been established for several reasons: (1) to allow light, non-polluting industries to locate in Morgan; (2) to broaden Morgan's tax base so that the Town can provide those services required by Morgan's residents; and (3) to provide employment opportunities for Morgan's residents within the Town.

Permitted Uses

1. Accessory use
2. Agriculture¹
3. Dwelling, one family
4. Dwelling, two family
5. Equipment sale/rental
6. Forestry¹
7. Home occupation
8. Lodging house
9. Dwelling, accessory²

Conditional Uses

1. Agricultural processing
2. Dwelling, multifamily
3. Earth resource removal
4. Essential service
5. Forestry processing
6. Municipal facility¹
7. Trucking terminal
8. Warehouse
9. Mobile Home Parks
10. Light industry

Minimum Area and Dimensional Requirements

Lot area (acres) ³ :	3
Lot width (ft):	300
Front yard setback (ft):	40
Side yard setbacks (ft):	30
Rear yard setback (ft):	40

¹The regulation of these uses may be limited by 24 VSA, §4413. See §209 of this bylaw.

² See §301 of this bylaw.

³ 1 acre equals 43,560 square feet.

§205: Permitted Uses

Permitted uses are those uses that may be established upon issuance of a permit by the Zoning Administrator. Such permit may be issued when and only when the applicant has shown that the proposed use and/or structure conform with the requirements set forth in this bylaw. If the proposed use and/or structure require approval of the Board of Adjustment and/or Planning Commission, the Zoning Administrator shall not issue a permit until such approvals have been granted.

§206: Conditional Uses

- 206.01 Permitted upon issuance of a conditional use permit are those uses that may be allowed by the Board of Adjustment as provided for in 24 VSA, §4414(3) after public notice and hearing. In order for the permit to be granted the proposed conditional use shall not result in an undue adverse effect on any of the following:
- A. The capacity of existing or planned community facilities;
 - B. The character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan;
 - C. Traffic on roads and highways in the vicinity;
 - D. Bylaws and ordinances in effect with special reference to this zoning bylaw, and;
 - E. The utilization of renewable energy resources.
- 206.02 In permitting a conditional use, the Board of Adjustment may impose, in addition to the regulations and standards expressly specified by this bylaw, other conditions found necessary to protect the best interests of the surrounding property, the neighborhood, or the municipality as a whole. These conditions may include the following:
- A. Increasing the required lot size or yard dimensions in order to protect adjacent properties.
 - B. Limiting the coverage or height of buildings because of obstruction of a view corridor or reduction of light or air to nearby property.
 - C. Controlling the location and number of vehicular access points to the property.
 - D. Increasing the street width.
 - E. Increasing the number of off-street parking or loading spaces required.
 - F. Limiting the number, location and size of signs.
 - G. Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
 - H. Specifying a specific time limit for construction, alteration, or enlargement of a structure to house a conditional use.
 - I. Requiring that any future enlargement or alteration of the use be reviewed by the Board of Adjustment to permit the specifying of new conditions.
 - J. As a condition of the grant of a conditional use, the Board of Adjustment may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of 24 VSA, Chapter 117 and this zoning bylaw.
- 206.03 A change in use, expansion or contraction of land, area, or alteration of structures or uses which are designated as conditional uses within the district in which they are located and are existing therein, prior to the effective date of this bylaw, shall conform to all regulations herein pertaining to conditional uses.

§207: Application of District Regulations

- 207.01 Any "non-conforming use" or "non-conforming structure", as such terms are defined in 24 VSA, §4412(7), existing on the effective date of this bylaw may be continued indefinitely to the extent set forth in ART 4 of this bylaw. Otherwise, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- 207.02 No building shall hereafter be erected or altered:
- A. To accommodate or house a greater number of families than permitted in the district in which the building is located; and/or
 - B. To have narrower or smaller front, side, or rear yards than is specified herein for the district in which such building is located unless a waiver from dimensional requirements is granted by the Board of Adjustment.
- 207.03 **Lots in Two Zoning Districts.** Where a district boundary line divides a lot of record at the time such line is adopted, the regulations of the less restricted district shall extend not more than 100 feet into that part of such lot which lies in the more restricted district.
- 207.04 **Required Area or Yards.** No part of a yard or other open space about any building required for the purpose of complying with the provisions of this bylaw shall be included as a yard or other open space similarly required for another building.
- 207.05 **Reduction of Lot Area.** No lot shall be so reduced in area that the area, lot width, frontage, coverage or other requirements of this bylaw shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when part of a lot is condemned or conveyed for a public purpose.
- 207.06 **Application of Front Yard Requirements.** Any yard adjoining a public right-of-way or Lakes Seymour and Salem shall be considered a front yard for the purposes of this bylaw.
- 207.07 **Projections into Required Yards.** All structures, whether attached to the principal structure or not, and, whether open or enclosed, including, but not limited to, porches, carports, balconies, platforms or signs above normal grade level, shall not project into any minimum front, side, or rear yard unless a waiver from dimensional requirements is granted by the Board of Adjustment..

§208: Limitations on Municipal Bylaws

In accordance with 24 V.S.A. § 4413:

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

facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- (1) State- or community-owned and operated institutions and facilities.
- (2) Public and private schools and other educational institutions certified by the state Department of Education.
- (3) Churches and other places of worship, convents, and parish houses.
- (4) Public and private hospitals.
- (5) Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

209.02 This bylaw shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

208.03 Except as otherwise provided by 24 V.S.A. § 4413 and by 10 V.S.A. § 1976, any bylaw enacted with respect to any land development that is subject to regulation under state statutes, the more stringent or restrictive regulation applicable shall apply.

208.04 This bylaw shall be subject to the restrictions created under section 2295 of this title, with respect to the limits on municipal power to regulate hunting, fishing, trapping, and other activities specified under that section.

§209: Agriculture and Forestry

- 209.01 Nothing contained herein shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the Commissioner of agriculture, food and markets or the Commissioner of forests, parks and recreation, respectively, under 10 VSA, §§1021(f) and 1259(f) and 6 VSA, §4810.
- 209.02 Zoning permits need not be obtained for farm structures. However, any landowner proposing to erect a farm structure shall notify the Zoning Administrator of such intent prior to the erection of such structure.
- 209.03 Farm structures shall comply with setbacks approved by the Commissioner of agriculture, food and markets.

§210: Other Land Use and Relevant Regulations

State and federal government may regulate certain aspects of land use; compliance with this zoning bylaw in no way implies compliance with such state or federal regulations. Such regulations include, but are not limited to: on-site septic and potable water supply systems and outdoor furnaces, regulated by the Agency of Natural Resources; underground storage tanks, regulated by the Department of Environmental Conservation; and setback of farm structures, regulated by the Secretary of Agriculture, Food and Markets.

ART 3: GENERAL PROVISIONS

§301: Equal Treatment of Housing

301.01 Mobile homes, modular homes, and prefabricated homes shall be considered single-unit dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under this bylaw and in accordance with 24 V.S.A. §4412(1)(B).

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

- A. The property has sufficient wastewater capacity.
- B. The unit does not exceed 50 percent of the total habitable floor area of the single-family dwelling.
- C. Applicable setback, coverage, and parking requirements specified in the bylaws are met.

301.03 **Mobile home parks** are a conditional use in the IND/RES (Industrial/Residential) district.

§302: Frontage on, or Access to, Public Roads

No land development is permitted on lots that do not have either frontage on a public road or a permanent easement or right of way of record approved by the Planning Commission through site plan review in accordance with section 605 of this bylaw. Minimum frontage is established for each district under ART 2. Frontage applies to all property lines bordering public or private roadways but not driveway easements. Permits may be granted for land that does not have frontage on a public road provided access is available by a permanent easement or right-of-way. The required easement or right-of-way shall be at least 50 feet in width for any such landlocked parcels.

§303: Home Occupations

No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling that is customary in residential areas, which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:

- The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal or accessory structures;
- The home occupation shall be carried on by members of the family residing in the dwelling unit. Two additional employees who are not members of the family are permitted;
- No traffic shall be generated which would be uncharacteristic of the neighborhood in which the home occupation is located;
- Exterior displays or signs other than those normally permitted in the district, exterior storage of materials, and exterior indications of the home occupation or variation from the residential character of the principal or accessory structures shall be prohibited.
- Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbances, odors, heat or glare shall not be produced.
- All parking shall be provided off-street.

§304: Home Child Care Facility

A home child care facility serving six or fewer children shall be considered to constitute a permitted use of a single-unit dwelling. A home child care facility serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but requires site plan approval (section 605) from the Morgan Planning Commission. A home child care facility serving more than six full-time and four part-time children shall be treated as a conditional use.

§305: Residential Care and Group Homes

A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. §4501, shall be reviewed as a multi family dwelling and shall be subject to conditional use review by the Board of Adjustment and site plan review by the Planning Commission. The Planning Commission and Board of Adjustment shall use a Combined Review process.

§306: Location of Driveways

All driveways are to be located at least seventy-five feet from a street line intersection for all uses.

§307: Temporary Uses and Structures

307.01 Temporary permits may be issued by the Zoning Administrator for a period not exceeding one year, for uses and/or structures incidental to construction projects, or for temporary housing of agricultural employees, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

307.02 Garage/Yard Sales and similar events: The sale or offering for sale to the general public of items of personal property by the residence owner or tenant of an improved lot in a district classified as residential (including RC), whether within or outside any building. To decrease traffic congestion, danger to the public, preserve the quiet nature of the neighborhoods, and to allow residence owners or tenants to sell personal property through casual sale, the following requirements must be met:

- A. A casual sale is defined as the occasional sale of personal property by a person not regularly engaged in retail.
- B. Such activity may occur no more than four (4) times a year at the same residence or location and may last no more than three (3) consecutive days in each instance, and they are limited to daylight hours.
- C. The items offered for sale must be displayed in such a way that they do not interfere with pedestrian or vehicular traffic, and they may not be placed in a public right-of-way.
- D. The items may be displayed only during the days of the sale.
- E. Only two (2) on-premise signs may be permitted and said signs may be displayed only two (2) days prior to the sale and removed at the end of the sale. Any off-premise signs must be approved by the Zoning Administrator and may be displayed no longer than on-premise signs. All signs must meet the requirements of the signage bylaw.
- F. All parking must be conducted in compliance with applicable laws and ordinances.

§308: Abandonment of Structures or Burned Buildings

308.01 Within 12 months after work on an excavation for a building has begun or 12 months after any building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and the excavation remaining shall be covered over or filled to its normal grade by the owner.

308.02 No owner or occupant of land in any district shall permit fire-damaged or other ruined structures to be left, but within one year shall remove or refill the same to clear ground level or shall repair, rebuild or replace the structure.

§309: Obstruction of Vision

On a corner lot, regardless of the district, within the triangular area formed by the intersection of two street property lines and a third line joining them at points 25 feet away from their intersection, there shall be no obstruction of vision between the height of three feet and ten feet above the average grade of each street.

§310: Height Regulations

Except for agricultural purposes, and structures exempted by 24 VSA, §4412(6), in all districts structures shall not exceed a height of 40 feet above average ground level.

§311: Off Street Parking

Off-street parking shall be provided as follows: 2 spaces per single dwelling unit; 1 space per accessory dwelling unit; and 1.5 spaces per unit of a multi-unit dwelling. Off-street parking for all other permitted uses must be approved by the Planning Commission under Site Plan Review; and off-street parking for all other conditionally permitted uses under Conditional Use Review by the Board of Adjustment.

§312: Earth Resource Removal

In accordance with 24 VSA, §4411, in any district the removal of soil, sand or gravel for sale, except when incidental to construction of a building on the same premises, shall be permitted only upon Conditional Use approval, by the Board of Adjustment after a public hearing, of a plan for the rehabilitation of the site. In any district, the following provisions shall apply:

- 312.01 Before approval of any new or extension to a sand or gravel operation, a performance bond may be secured from the applicant sufficient to ensure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end. The bond shall be sufficient to cover the cost of redevelopment of the site as a park, lake recreation area or other usable open space.
- 312.02 The removal of all material shall be conducted so as to result in the improvement of the land, giving due regard to the contours in the vicinity, such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such a pit.
- 312.03 The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. Under the supervision and to the satisfaction of the Board of Adjustment, the operation site shall be fertilized, mulched, and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion.
- 312.04 All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the Board of Adjustment.
- 312.05 No excavation or blasting shall take place within two hundred feet of any street or other property line, unless the property owner takes action to avoid damage to neighboring properties.
- 312.06 All excavation slopes shall be adequately fenced as determined by the Board of Adjustment.
- 312.07 Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited if damaging to neighboring property.
- 312.08 The Board of Adjustment may attach any additional conditions as it may find necessary for the safety and general welfare of the public.

§313: Landscaping Requirements

Landscaping may be required under site plan review or conditional use review for screening and/or storm water management purposes only. When required, landscaping shall be installed and maintained and shall take the form of shade trees, deciduous shrubs, evergreens, grassed areas and ground cover. All such landscaping shall be maintained in a healthy, growing condition, with ground cover or grassed area.

Following are the minimum landscaping requirements:

- 313.01 Where any land use in non-residential districts abuts land in any residential district, a strip of land, at least twenty-five feet in width shall be maintained as a landscape and utility area in the front yard, side yards and rear yard which adjoin these other districts, unless waived by the Board of Adjustment in the Conditional Use review process or the Planning Commission in the Site Plan review process.
- 313.02 Where any non-residential land use in a residential district abuts residential land use, a strip of land at least fifteen feet in width shall be maintained as a landscape and utility area in the front yard, side yards and rear yard which adjoin these uses, unless waived by the Board of Adjustment or the Planning Commission.
- 313.03 In the Residential Districts a strip of land at least five feet in width shall be maintained as a landscape and utility area in the front, side and rear yards, unless waived by the Board of Adjustment or the Planning Commission.
- 313.04 In any planned unit development as required by the Planning Commission.

§314: Screened Service Area Requirements

In any district, any area designated, used or intended to be used as a service area for any building or land use; other than one family and two family dwellings; shall be screened from view with either a wall, a solid fence or a fence of evergreens at a height of at least five feet above grade level on all sides where the adjacent land is in a residential district or residential use.

§315: Signs

No signs or billboards shall be permitted in any district except as specifically permitted herein as follows. See also the Conditional Use limitations of Section 206.02:

- 315.01 Signs in residential districts. The following signs are permitted when located on the immediate property:
 - A. One professional or home occupation sign, not exceeding six square feet.
 - B. One Temporary real estate sign, not exceeding six square feet.
 - C. Directional or informational signs, not exceeding four square feet.
 - D. Signs necessary for public safety or welfare.

315.02 Signs in commercial and industrial districts. The following signs are permitted when located on the immediate property:

- A. One business sign which may be either a one sided or two sided sign. The maximum area for a one sided sign shall not exceed twenty (20) square feet. The maximum area of a two-sided sign shall not exceed forty (40) square feet. The area of a two-sided sign shall be the sum of the areas of each side.
- B. One directory sign not exceeding ten square feet in area.

315.03 Wall and roof signs.

A. Signs that are painted or mounted on the wall of a building shall not:

- 1. Extend above any part of the eaves or gables of the building upon which such sign has been placed.
- 2. Exceed twenty (20) square feet in area. If the sign is painted on the building the area of the sign shall be the smallest rectangle that will completely surround the sign. If the sign is mounted on the building the area of the sign shall be the area of the materials upon which the sign is painted.

B. Signs that are painted or mounted on the roof of a building shall not be permitted.

315.04 Computation of permissible sign area. When computing the total sign area for any use:

- A. Existing signs shall be included.
- B. The total area of all signs shall not exceed the requirements set forth in this bylaw.
- C. Signs consisting of freestanding letters, numerals or other devices shall include any intervening spaces between them.
- D. Both sides of a double-faced or v-type sign shall be used.
- E. Back to back signs may be counted as one sign.

315.05 Traffic hazard, safety and obstruction. Every sign shall be designed and located in such a manner as to:

- A. Not impair public safety.
- B. Not restrict clear vision between a sidewalk and street.
- C. Not be confused with any traffic sign or signal.
- D. Not prevent free access to any door, window or fire escape.

315.06 Illuminated and flashing signs.

- A. Signs may be illuminated by a steady light provided that such lighting will not illuminate or reflect onto other properties.

- B. Flashing, oscillating and revolving signs shall not be permitted, unless necessary for public safety or welfare.
- 315.07 Special signs. Special signs in regards to civic functions may be permitted upon approval of the Planning Commission.
- 315.08 Setbacks and numbers of signs per lot:
 - A. No sign shall be erected in such a manner as to create a traffic hazard. No sign shall be erected closer than 5 feet from any public or private right-of-way.
 - B. No more than two (2) of the permitted signs shall be erected on any one lot.

§316: Lodging Houses

Lodging house are permitted in all districts, except the Lakeshore district, upon issuance of a zoning permit. Such permit will be issued only if parking is provided on the same lot as the lodging house as set forth in §311.

§317: Planned Unit Development (PUD)

With the approval of a site plan (Section 605) or subdivision (Section 606), the Planning Commission is hereby empowered to permit flexibility in the application of zoning regulations under the criteria and procedures established in 24 VSA, §4417.

- 317.01 The purpose of planned unit development shall be to encourage a development which will result in:
 - A. A choice in the type of environment and living units available to the public, and quality in residential land uses so that development will be a permanent and long term asset to the town.
 - B. Open space and recreation areas.
 - C. A pattern of development which preserves trees, outstanding natural topographic and geologic features and prevents soil erosion.
 - D. An efficient use of land resulting in smaller networks of utilities and streets.
 - E. An environment in harmony with surrounding development.
 - F. A more desirable environment than would be possible through the strict application of other sections of this bylaw.
- 317.02 Proposals for planned unit developments shall be submitted to the Planning Commission. The material accompanying the proposal shall contain the following:

Required site plan shall depict all buildings, parking areas, and landscaping at a scale sufficient to permit the study of all elements of the plan. All utilities shall also be shown and described. Typical elevations and floor plans may also be required. In addition, the

site plans shall show the adjacent building outlines and other outstanding features within 200 feet of the proposed PUD. Any change in grading shall be shown.

- 317.03 Density may vary within the development but the total permitted number of dwelling units shall not exceed 25% more than the number which could be permitted in the Planning Commission's judgment if the land were subdivided into lots in conformance with the zoning regulations for the district in which the land is situated.
- 317.04 The predominant use of the land shall not differ substantially from the uses permitted in the district in which the plan is located. In a planned unit development, dwelling units may be multi-family. In a planned unit development for residential district, commercial, educational, and public facilities may be allowed which are designed to serve the development and the area around the development.
- 317.05 Lot size, width, front yard depth, and side yard requirements may be waived; however, these will be evaluated by the Planning Commission on their individual merit.
- 317.06 A planned unit development shall comply with the following standards:
- A. Shall be at least ten contiguous acres except in "RL-3" which shall be at least 50 contiguous acres.
 - B. The developer of a planned unit development with 6 or more units may be required to install common water and/or sewer systems to serve such development.
 - C. At least 50 percent of the development shall be open space for public and/or common usage. The regulations for control and maintenance of this open space shall be approved by the Planning Commission. This may be waived by the Planning Commission for commercial and industrial planned unit developments providing adequate screening and landscaping is provided.
- 317.07 A proposed planned unit development may be completed in reasonably scheduled phases, in accordance with the municipal plan and any capital budget and program. The Planning Commission shall review and approve the phasing schedule using the Conditional Use Review process.
- 317.08 The Planning Commission shall coordinate the planned unit development review with other applicable zoning or subdivision review processes, specifying the sequence in which the various review standards will be considered.
- 317.09 The Planning Commission may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in this zoning bylaw for planned unit development, provided the rules and regulations are not inconsistent with the zoning bylaw. The Planning Commission shall hold a public hearing after public notice as required by 24 VSA, §4464, prior to the establishment of any supplementary rules and regulations for planned unit development.

§318: Travel Trailers

It shall be unlawful for any person to park a camping trailer, travel trailer, pick-up coach and/or motor home on any public or private property, except in accordance with the following regulations:

- 318.01 In an approved campground.
- 318.02 The owner of a travel trailer may park it on his own property, in the rear or side yards, providing that the trailer is parked behind the front face of the principal building and no closer than six feet to any lot line. If there is no principal building on the property, the travel trailer must comply with applicable setbacks to the degree possible. A trailer so parked shall not be used as permanent living quarters and shall not be hooked up to any utilities except for periods of not more than 180 cumulative days in any calendar year.
- 318.03 Visitors may park their travel trailers on their host's land, providing they are parked in conformance with §318.02. No more than two travel trailers (no more than one on lakeshore lots), including the land owner's travel trailer, shall be parked on any lot, developed or undeveloped, which is not an approved campground. Any visitor's travel trailer parked on land described herein shall not remain for longer than 180 days out of any given calendar year.
- 318.04 Any travel trailer parked in excess of 180 days in any calendar year shall be considered a permanent structure and, as such, must be approved through the provisions of § 602 Zoning Permits (as well as any applicable state regulations).

§319: Campgrounds

- 319.01 Permit Required. It shall be unlawful for any person to construct, maintain or operate any campground within the limits of the Town of Morgan unless the owner and operator has a valid permit. Upon receiving all necessary board approvals, the Zoning Administrator shall issue a permit which shall be contingent upon compliance with this local regulation.
- 319.02 Permit - Method of Application and Requirements. Applications for permits shall be made in writing, signed by the applicant who shall file with the application proof of ownership of the premises or of a lease or written permission from the owner thereof together with a complete set of plans drawn to scale, showing the location of the proposed campground, and which shall include:
 - A. The areas and dimensions of the tract of land.
 - B. The maximum number, location and size of all camping spaces.
 - C. The location of any existing buildings and any proposed structures.
 - D. The location and width of access driveways, roadways, parking areas, walkways, and turnarounds.
 - E. The location of electrical, water, storm drainage and sewer lines and the sewage disposal systems.
 - F. A contour map showing the proposed grading of the campground.

- 319.03 Construction or Enlargement of Campgrounds. No person shall construct or enlarge a campground without first obtaining site plan approval (Section 605) from the Planning Commission *and* conditional use approval (Section 206) from the Board of Adjustment through a Combined Review process (Section 607). The Commission and Board of Adjustment shall submit the application and the plan to the Zoning Administrator together with their respective actions regarding the permit.
- 319.04 Campground Standards. The following regulations shall apply in respect to all campgrounds:
- A. A campground shall have an area of not less than 10 acres.
 - B. Campgrounds shall provide for individual trailer spaces, access driveways and parking.
 - C. Each campsite shall be at least 2,500 square feet in area, and at least thirty feet in width and have a compacted gravel surface at least ten feet in width and forty two feet in length.
 - D. A strip of land at least twenty-five feet in width shall be maintained as a landscaped area abutting all campground property lines except when the campground boundary is adjacent to residential uses, and then the landscaped area shall be at least fifty feet in width.

§320: Accessory Structures and Uses

Except for fences and signs, accessory structures and uses shall comply with required setbacks.

§321: Junk Yards

Junk yards shall not be permitted within the boundaries of the Town of Morgan.

§322: Setbacks from Private Rights-of-Way

322.01 When an individual's property abuts a private right-of-way not owned by said individual, any and all structures erected on said individual's property shall be set back from the private right-of-way in conformance with the applicable setback for the district in which the property is located.

322.02 If the property also abuts a public right-of-way, the front yard setback shall be from such public right-of-way.

§323: Location and Size of Culverts

Curb cuts shall not be created without culverts. Prior to the creation of any curb cut, the individual seeking to establish such curb cut shall obtain the road commissioner's approval of the location and size of the culvert to be installed at the curb cut.

§324: Lakefront Decks and Access Stairs

Within the Lakeshore and Residential/Commercial Districts, property owners located directly adjacent to the lake may retain existing freestanding decks that do not comply with setback requirements of that district until said structures deteriorate and are deemed to be unsafe by the Zoning Administrator. Immediately following that determination, the structures must be demolished and cannot be replaced.

§325 Wireless Telecommunications Facilities

- 325.01 Authority: Pursuant to 24 VSA §4401 et seq. the Town of Morgan shall have the power to regulate the construction, alteration, development, decommissioning or dismantling of wireless telecommunications facilities and ancillary improvements.
- 325.02 The Planning Commission through the Site Plan review process (Section 605) and Zoning Board of Adjustment through the Conditional Use review process (Section 206) are authorized to review, approve, conditionally approve or deny applications for wireless communication facilities including sketch, preliminary and final plans and installation. A Combined Review (Section 607) will be coordinated for the application if necessary.
- 325.03 Pursuant to 24 VSA §4461(C) the Planning Commission may hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.
- 325.04 The Town of Morgan may require that a bond be posted or that other acceptable security be provided in order to finance future decommissioning or dismantling activities.
- 325.05 Consistency with Federal Law: In addition to other findings required by this bylaw, the Board shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. This bylaw does not:
- A. Prohibit or have the effect of prohibiting the provision of personal wireless services;
 - B. Unreasonably discriminate among providers of functionally equivalent services; or
 - C. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.
- 325.06 Limitations: In accordance with 24 V.S.A. §4412(8), no permit shall be required for the placement of communication antennae and facilities used to transmit, receive, or transmit and receive communications signals on a property owner's premises if the

aggregate area of the largest faces of the antennae is not more than eight square feet, and if the antennae and any mast support does not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

The regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. §248a, shall be exempt from municipal bylaw review when jurisdiction is assumed by the Public Service Board according to the provisions of that section.

325.07 De Minimis Impacts: In accordance with 24 V.S.A. §4412(9), the Zoning Administrator shall review telecommunications facilities applications, and upon determining that a particular application will impose no impact or de minimis impact upon any criteria established in this bylaw, shall approve the application.

325.08 Permitting Priority: Wireless telecommunication facilities are permitted in the Town of Morgan according to the following priority:

- A. Co-located with an existing Wireless Communication Facility
- B. Concealed within existing structures
- C. Located within, or located on an existing structure such as, but not limited to an existing electric transmission tower, or an existing radio antenna, a water tower, or building and of compatible design
- D. On land owned by the Town of Morgan which complies with other requirements of this section, and where visual impact can be minimized and mitigated
- E. If demonstrated to the Zoning Board of Adjustment that each of the above 4 types of locations is not feasible, but complies with the other requirements of this section and where visual impact can be minimized.

§326: Wind Energy Conversion Systems (WECS); Electrical Generation

326.01: WECS On-Grid: Upon notification of the Public Service Board's consideration of an application for a Certificate of Public Good under 30 V.S.A. §248 for the erection of a Wind Energy Conversion System, the Planning Commission shall undertake an examination of the proposal based upon the recommendations and policy statements contained in the Morgan Town Plan and submit a recommendation to the Board of Selectmen on the issue of intervention as an interested party. Such report shall include, but not necessarily be limited to, consideration of the affect of such proposals on the Town Plan, the orderly development of the Town of Morgan, any existing, proposed or future conservation or preservation overlay districts, and the protection of irreplaceable or environmentally sensitive natural areas.

326.02 WECS Off-Grid: Wind Energy Conversion Systems for off-grid applications are a conditional accessory use and shall be subject to a conditional use proceeding before the Zoning Board of Adjustment and meet conditional use criteria as established in Section 206 of this Bylaw. In addition such proposals shall meet these minimum requirements:

- A. Applicants shall submit such tower plans and specifications as are required for the Zoning Board of Adjustment to determine that such

- towers meet sound engineering design for safe operation;
- B. Towers shall be setback a minimum of 1-1/2 times the height of the structure from all property lines for every foot of vertical height; Towers at or above a height that would require lighting to comply with FAA regulations are not permitted in Morgan.
 - C. Guy cables and any other supplementary supporting structures shall meet the minimum setback requirements for accessory structures in the zoning district in which the tower is located;
 - D. Noise levels produced by wind turbines and associated blades under normal operating conditions shall not exceed 60 dbl as measured at all property lines. (note – 60 decibels is equivalent to an air conditioner at twenty feet, conversation [at one meter], sewing machine, large transformer, ordinary or average street traffic.
 - E. Where such off-grid wind turbine applications are accessory to a commercial or industrial use the Zoning Board of Adjustment may refer the application for site plan review before the Planning Commission as provided under Section 323 of this Bylaw.
- 326.03 Bond: The owner of a Wind Energy Conversion System may be required to post a bond with the Town of Morgan in an amount sufficient to cover the reasonably estimated costs and expense of dismantling the Wind Energy Conversion System in the event the same is abandoned and the owner fails to dismantle and/or remove the same within two years. The amount of the bond shall be established by the Planning Commission and may be adjusted by it on a five year basis to reflect increased costs of dismantling and removal due to inflation.
- 326.04 Facility Removal: If any on-grid or off-grid WECS remains non-functional or inoperative for a continuous period of one year, the permittee shall remove said system at their expense within two (2) years of cessation of operations or use, or when the tower structure becomes structurally unsound. Removal of the WECS includes the entire structure including foundations, transmission equipment, and fencing from the property. In the event that the system is not removed or dismantled within the two (2) years of the cessation of operations at the site, the municipality shall notify the owner and may remove the facility. Cost of removal shall be assessed against the property or WECS owner.

ART 4: NON-CONFORMITIES

§401: Existing Small Lots

Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located,

provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet. If a lot not conforming to the minimum lot size requirements in the district in which it is located is or subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot(s) shall not be deemed merged and shall be considered separate lots.

§402: Permits Issued Prior to Bylaw Amendment

Permits issued under the October 25, 2004 Morgan Zoning Bylaw that are valid on the effective date of this Bylaw may be utilized even if such permits result in structures and/or uses considered non-conforming under the requirements of this Bylaw. In addition, nothing contained herein shall require any changes to the plans or construction of previously permitted structures and/or uses. However, such structures and/or uses shall be established within the permit's effective period of three years. Applications to renew expired permits issued under the October 25, 2004 Morgan Zoning Bylaw will not be approved unless the structure and/or use for which the original permit was issued conforms to the requirements of this Bylaw.

§403: Non-Conforming Uses

The following provisions shall apply to all uses existing on the effective date of this bylaw which do not conform to the requirements set forth in this bylaw and to all uses which in the future do not conform by reason of any subsequent amendment to this bylaw or improper authorization as a result of error by the Administrative Officer.

Any non-conforming use of structures or land, except those specified below, may be continued indefinitely, but:

- 403.01 Shall not be moved, enlarged, altered, extended, reconstructed, or restored (except as provided below), nor shall any external evidence of such use be increased by any means whatsoever.
- 403.02 Shall not be changed to another non-conforming use without approval of the Planning Commission, and then only to a use which, in the opinion of the Planning Commission is of the same or of a more restricted nature.
- 403.03 Shall not be re-established if such use has been discontinued for any reason for a period of one year, or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.

§404: Non-Conforming Structures

The following provisions shall apply to all structures existing on the effective date of this bylaw which do not conform to the lot area, setback and other requirements set forth in this bylaw and all structures which in the future do not conform by reason of any subsequent amendment to this bylaw or improper authorization as a result of error by the Administrative Officer..

All non-conforming structures may be continued indefinitely and shall comply with the following:

- 404.01 May be moved if such action does not increase the non-conforming structure's degree of non-conformance.
- 404.02 May be enlarged or extended if such enlargement or extension complies with the requirements of this bylaw and does not increase the non-conforming structure's degree of non-conformance.
- 404.03 May be razed and subsequently replaced on the original footprint (or smaller) if the replacement complies with the requirements of this bylaw and does not increase the non-conforming structure's degree of non-conformance.
- 404.04 May receive normal maintenance and repair provided that such action does not increase the degree of non-conformance.

ART 5: DEFINITIONS

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

§501: Word Definitions

- (1) The word '*person*' includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- (2) The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.
- (3) The word '*shall*' is mandatory. The word '*may*' is permissive.
- (4) The words '*used*' or '*occupied*' include the words '*intended*', '*designed*', or '*arranged*' to be used or occupied.
- (5) The word '*lot*' includes the words '*plot*' or '*parcel*'.

§502: Term Definitions

ABANDONMENT: In law, the relinquishment or renunciation of an interest, claim, privilege, possession or right, especially with the intent of never again resuming or reasserting it. Such intentional action may take the form of a discontinuance or a waiver.

ACCESSORY USE or STRUCTURE: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

AGRICULTURAL PROCESSING: Any use involved in the processing, canning, freezing, and/or packaging of any raw agricultural product listed in the definition of agriculture for retail or wholesale sale.

AGRICULTURE: The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or the raising, feeding or management of livestock, poultry, equines, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation and sale of agricultural products principally produced on the farm; or the on-site production of fuel or power from agricultural products or waste produced on the farm.

ANIMAL HOSPITAL/KENNEL: Any structure or premises in which animals or pets are given medical or surgical treatment or are kept, boarded, bred or trained for commercial gain.

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

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

APPURTENANT: attached to or associated with a property in a manner that benefits or burdens the use or enjoyment of the property by its owner and continues to do so when title passes to another.

APPLICANT: A person or party (submitting an application for development) that has legal title to and control of the disposition of the property in question, or an owner in equity acting with the consent of the holder of legal title. Joint owners of property must provide evidence of mutual agreement to or co-sign an application for a Zoning permit.

AUTO SERVICE STATION: Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing of sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

BUILDING: Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

BUILDING HEIGHT: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for all other types of roofs.

CAMPER: Any individual who occupies a campsite or otherwise assumes charge of, or is placed in charge of, a campsite.

CAMPGROUND: A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, educational or vacation purposes.

CAMPING UNIT: Any tent, recreational vehicle, cabin, lean-to or similar structure established or maintained in a campground as temporary living quarters for recreation, education or vacation purposes.

CAMPSITE: Any plot of ground within a campground intended for the exclusive occupancy by camping unit or units under the control of a camper.

CEMETERY: Property used for the interring of the dead.

CHILD CARE FACILITY, HOME: A home child care facility is a day care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis.

CHURCH: A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CLUB, PRIVATE: Building or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.

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

COVERAGE: That percentage of the lot area covered by those structures located on said lot.

DWELLING, ACCESSORY: An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The property has sufficient wastewater capacity.
- The unit does not exceed 50 percent of the total habitable floor area of the single-family dwelling.
- Applicable setback, coverage, and parking requirements specified in the bylaws are met. 24 V.S.A. § 4412(1)(E).

DWELLING, MULTI-FAMILY: A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, ONE FAMILY: A detached residential dwelling unit designed for and/or occupied by one family only.

DWELLING, TWO-FAMILY: A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

DWELLING UNIT: A room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. It shall include prefabricated and modular units which shall meet the standards of recognized building codes, but shall not include hotels, motels or similar structures.

EARTH RESOURCE REMOVAL: An area of open land where sand, gravel, and rock fragments are mined or excavated for sale or off-tract use.

EDUCATIONAL FACILITY: Any building or part thereof which is designed, constructed or used for primary or secondary education. Such use must comply with state standards.

EQUIPMENT SALE/RENTAL: An establishment whose purpose it is to sell or rent tools, tractors, vehicles and/or construction equipment.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs and similar equipment and accessories in connection therewith, and including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies for the public health, safety or general welfare.

FAMILY: One or more persons occupying a single dwelling unit, provided that unless all members are legally related no such family shall contain over 5 persons, but further provided that domestic servants and farm workers employed on the premises may be housed on the premises without being counted as a family or families.

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(22) of Title 10, but excludes a dwelling for human habitation.

FORESTRY: Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services.

FORESTRY PROCESSING: Any establishment involved in the production of lumber, plywood, particle board, chip board and other materials produced from harvested trees.

FUNERAL HOME: A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

HOME OCCUPATION: An occupation, carried on within a principal or accessory residential structure, which is customarily incidental and secondary to the use of the premises for dwelling purposes, and which does not substantially alter the character thereof.

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

HOSPITAL: Includes sanitarium, clinic, rest home, convalescent home, home for the aged, and any other place for the diagnosis and treatment of human ailments.

HOUSING, AFFORDABLE: means either of the following:

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

2) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. 24 V.S.A. § 4303(1)(A).

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

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

INTERESTED PERSON: Section 4465 of 24 V.S.A. defines an interested person as any of the following:

(1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.

(2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.

(3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.

(4) Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.

(5) Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

JUNK YARD: Land or building used for the collection, storage or sale of waste paper, rags, scrap metal or discarded material; or for the collection, wrecking, dismantling, storage, salvaging, and/or sale of machinery, machinery parts or vehicles which are not in operating condition.

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

LIGHT INDUSTRY: Any facility for the assembly, manufacture, compounding, processing, packing, treatment or testing of materials, goods or products provided these activities are conducted in such a manner so as not to generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the property.

LOADING SPACE, TRUCK: Off-street space used for the temporary location of one licensed motor vehicle, which is at least twelve feet wide and 55 feet long and fourteen feet high, not including access driveway, and having direct access to street or alley.

LODGING HOUSE: A building in which the rooms are rented with or without meals to three (3) or more persons. A boarding house or a rooming house or a furnished room shall be deemed a lodging house.

LOT: A lot is a parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incident to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or other means of access approved by the Planning Commission and may consist of:

- A. A single lot of record;
- B. A portion of a lot of record;
- C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record;
- D. A parcel of land described by metes and bounds;

Provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this bylaw.

LOT DEPTH: Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

LOT LINE, FRONT: Any lot line separating a parcel from either a public right-of-way or public waters. On lots in the lakeshore district the front yard setback shall be measured from that property line closest and most parallel to Lake Seymour.

LOT LINE, REAR: The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE: A lot line which is neither a front lot line nor a rear lot line.

LOT WIDTH: Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, however, that width between the lot lines at their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the 80% requirement shall not apply.

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the Town Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MACHINE SHOP: Any facility involved in the production of metal and/or non-metal parts.

MOBILE HOME: A structure, transportable in 1 or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

MOBILE HOME PARK: Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201(2).

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

MOTEL: Building containing rooms which are rented as a series of sleeping units for automobile transients, each sleeping unit consisting of at least a bedroom and bathroom.

MUNICIPAL FACILITY: Any municipal facility used for office space, meeting space, public safety and/or maintenance of municipal equipment.

NEIGHBORHOOD STORE: Any commercial facility such as a grocery, general, newspaper or drug store or retail service establishment intended principally to serve the area in which it is located.

NON-CONFORMING LOT: Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303(13).

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

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

NON-RESIDENTIAL USE: All uses of buildings, structures or land except 1 family, 2 family, and multi-family dwellings.

OFF-LOT WATER AND SEWER: The providing of water from a source, and the disposal of sewage, by means of systems not located on the lot on which is located the building for which these utilities are provided.

ON-LOT WATER AND SEWER: The providing of water from a source such as a drilled well or spring and the disposal of sewage by such means as a septic system and drainage field located on the same lot or adjacent lot as the building for which these utilities are provided.

PARKING SPACE, OFF-STREET: For the purposes of this bylaw, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering space.

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

PERSONAL SERVICE: Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, Laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

PLANNED UNIT DEVELOPMENT: An area of at least ten contiguous acres in size to be planned developed, operated, and maintained as a single entity and containing one or more residential or mixed use clusters, which may include appropriate public or quasi-public uses primarily for the benefit of the residential development.

PRE-EXISTING TOWERS AND ANTENNAS: Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

PRINCIPAL BUILDING: Any building or structure whose use, actual or intended, is not subordinate to any other use which is located in another building on the same lot.

PRINTING SHOP: Any facility involved in the printing or publishing of forms, stationary, envelopes, books and other materials.

PROFESSIONAL OFFICE: Place where the business of a commercial, industrial, service or professional organization is transacted. Includes a clinic.

RECREATIONAL FACILITY: A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

RENEWABLE ENERGY RESOURCES: Means energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat, and geothermal sources.

RECREATIONAL VEHICLE: A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreation, camping and travel use and including but not limited to travel trailers, fifth wheelers, truck campers, camping trailers and self-propelled motor homes.

RESIDENTIAL USE: Includes single family dwelling, mobile home dwelling, two family dwelling and multi-family dwelling.

ROOF AND/OR BUILDING MOUNT FACILITY: A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

SERVICE AREA: An area of land used for the storage of trash receptacles or equipment.

SETBACK, FRONT: Distance between the street line and front line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building. For lots in the Lake Shore district, the front yard shall be measured from that property line closest and most parallel to Lake Seymour to that part of the structure that is or will be closest to said property line.

SETBACK, REAR: Distance between the rear lot line and rear line of the building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

SETBACK, SIDE: Distance between the principal building or accessory building and a side lot line, and extending through from the front yard to the rear yard.

SIGN: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided however, that the following shall not be included in the application of the regulation herein:

- A. Flags and insignia of any government except when displayed in connection with commercial promotion.
- B. Legal notices, identification, informational, or directional signs erected as required by governmental bodies.
- C. Integral decorative or architectural features of building, except letters, trademarks, moving parts or moving lights.
- D. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

SIGNS, NUMBERS AND SURFACE AREA: For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. The surface of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

SIGN, ON-SITE: A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

STREET: Public way for vehicular traffic which affords the principal means of access to abutting properties.

STREET LINE: Right-of-way of line of a street as dedicated by a deed of record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the center line of the travel portion. Lots abutting a private right-of-way the street line shall be considered to be that property line separating the lot from the right-of-way.

STRUCTURE: Anything constructed or erected with the intent of being permanently located on a lot. Among other things, structures include buildings, swimming pools and mobile homes.

TRUCKING TERMINAL: An area and building where cargo is stored and where trucks load and unload cargo on a regular basis.

USE, PERMITTED: Use specifically allowed in the district, excluding illegal uses and non-conforming uses.

USE, CONDITIONAL: A use that may be allowed by the Board of Adjustment as provided for in 24 V.S.A; §4414(3) after public notice and hearing.

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

WAREHOUSE: Includes warehouse, wholesale establishment, discount house, bulk storage and bulk sales outlet.

WATER BODIES: Any natural or artificial collection of water, whether permanent or temporary.

WIND ENERGY CONVERSION SYSTEM (WECS): An electric power turbine or generator mounted on a tower or rooftop and operated by the wind's rotation of propeller-like blades or vanes for the generation of electricity.

WIRELESS TELECOMMUNICATIONS FACILITY: A tower or support structure, including antennae, that will extend 20 or more feet vertically, and related equipment, and

base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

YARD: Space on a lot not occupied by a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

ART 6: ADMINISTRATION AND ENFORCEMENT

§601: Zoning Administrator

The Selectboard shall appoint an Administrative Officer from nominations submitted by the Planning Commission for a term of three (3) years in accordance with 24 V.S.A. §4448. The Selectboard may remove an Administrative Officer for cause at any time after consultation with the Planning Commission.

An acting Administrative Officer may be appointed by the Selectboard, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Zoning Administrator in the Zoning Administrator's absence. In the event an acting Administrative Officer is appointed, the Selectboard shall establish clear policies regarding the authority of the Zoning Administrator relative to the authority of the acting Administrative Officer.

The Zoning Administrator shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

§602: Planning Commission

The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Selectboard in accordance with 24 V.S.A. §§4321– 4323. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Selectboard.

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

- to prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition as required by 24 V.S.A. §4441 ;
- to prepare and approve written reports on any proposed amendment to these regulations as required by 24 V.S.A. §4441(c); and

- to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Legislative Body [§4441(d)].

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

- applications for rights-of-way or easements for development lacking frontage (Section 302),
- applications for site plan approval (Section 605),
- applications for subdivision approval (Section 606),
- applications for planned unit development (Section 317)

§603: Board of Adjustment

The Board of Adjustment shall consist of not less than three (3) nor more than nine (9) members appointed by the Selectboard for specified terms in accordance with the Act [§4460(b) and (c)]. The Selectboard also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Board of Adjustment may be removed for cause by the Selectboard upon written charges and after public hearing.

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

- appeals from any decision, act or failure to act by the Administrative Officer (Section 608), and any associated variance requests (Section 612),
- applications for conditional use approval (Section 206),
- requests for waivers from one or more dimensional standards (see Section 611)

§604: Administrative Review & Zoning Permits

604.01 **Applicability:** No land development as defined herein, which is subject to these regulations, shall be commenced in the Town of Morgan until a zoning permit has been issued by the Administrative Officer, as provided for in 24 V.S.A. §§4448, 4449].

604.02 **Applications.** Applications for zoning permits shall be made to the Zoning Administrator on forms provided by him for that purpose. **Permits are NOT required for buildings less than 64 square feet as calculated by outside dimensions. All**

structures (whether requiring a permit or not) must be in compliance with bylaws applicable to the Zoning District where the structure is located.

- 604.03 Fees. The fee for a zoning permit shall be established by the Select Board. It may be a sliding scale depending upon the cost of the land development. Said fee must accompany each application for a permit. If construction is initiated prior to the issuance of a permit, the application fee will be increased by \$100.00.
- 604.04 Issuance: A zoning permit shall be issued by the Zoning Administrator only in accordance with 24 V.S.A. §4449 and provisions 604.05 – 604.08.
- 604.05 Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the Planning Commission or Board of Adjustment or state agency for consideration. In accordance with 24 V.S.A. §§4448, 4449, if the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
- 604.06 No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires the approval of the Planning Commission or Board of Adjustment or Legislative Body until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
- 604.07 If public notice has been issued by the Legislative Body for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Zoning Administrator shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw [§4449(d)].
- 604.08 The Zoning Administrator, within three (3) days of the date of issuance, shall post a copy of the permit in the Town Clerk's office until the expiration of the appeal period. The Zoning Administrator must also post a permit notice, on a form prescribed by the Town of Morgan within view of the public right of way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found.
- 604.09 Effective Date: No zoning permit shall take effect until the time for appeal under Section has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

§605: Site Plan Review

No zoning permit shall be issued by the Zoning Administrator for any use or structure, except for one-family and two-family dwellings, agricultural and forestry uses, and accessory uses, until the Planning Commission grants site development plan approval.

605.01 Submission of Site Development Plan Map and Supporting Data. The owner shall submit two sets of site plan maps and supporting data to the Planning Commission which shall include the following information presented in drawn form and accompanied by written text:

- A. Name and address of the owner of record of the land in question and of adjoining lands. Name and address of person or firm preparing the map. Scale of map, north point and date.
- B. Survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions.
- C. Site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walk; landscaping plans, including site grading, landscaping design, screening, snow removal, and dumpsters.
- D. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

605.02 Site Development Plan Review Procedure.

As a prerequisite to the approval of any use other than one- and two-family dwellings, the approval of site plans may be required. The Planning Commission shall consider and may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking, landscaping and screening, and to the protection of the utilization of renewable energy resources.

The Planning Commission shall review the site plan map and supporting data before approval or approval with stated conditions, or disapproval, is given, and taking into consideration the following objectives:

- A. Harmonious relationship between proposed uses and existing adjacent uses.
- B. Maximum safety and adequacy of circulation, parking, and loading facilities with particular attention to safety for pedestrians and vehicles.
- C. Adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility and protection to adjacent property.
- E. To prevent the shading of structures that utilize solar energy and the diversion of wind or water from structures which utilize wind or water to generate energy.

§606: Subdivision of Land

- 606.01 Applications for all subdivisions of land shall be subject to Site Plan Review by the Planning Commission after public notice and hearing. In accordance with 24 V.S.A. §4464(a)(1), the warning period for the public hearing shall not be less than 15 days.
- 606.02 Any application for subdivision of land shall be accompanied by a plat of sufficient scale and clarity to portray existing conditions and proposed development. The plat shall include all lot lines and boundary dimensions, names of roads abutting the property, location and size of existing improvements identified as “existing,” location and size of proposed improvements identified as “proposed,” setback dimensions of proposed and existing structures, location of existing and proposed driveways and culverts, location of existing and proposed wells and/or septic systems and location of waterways, wetlands, and flood plains. In addition, a topographic survey may be required.
- 606.03 All parcels created by any subdivision shall comply with all specific requirements of these bylaws and shall allow for the viable development of all land affected by the subdivision.
- 606.04 Parcels which do not comply with the district minimum lot size may be created provided these parcels are combined with adjacent property and a single property description with a new warranty or similar deed filed in the Town of Morgan land records.
- 606.05 The approved subdivision may not be officially filed in the Town of Morgan land records until all appeal periods have expired and/or all appeals are concluded.
- 606.06 A final plat on mylar must be submitted to the Administrative Officer for review before the subdivision is filed and recorded in the Town of Morgan land records.

§607: Combined Review

In accordance with 24 V.S.A. § 4462, in cases where a proposed project will require more than one type of development review, the planning commission and zoning board of adjustment may warn and hold a joint hearing or single hearing for the purpose of reviewing and acting on the proposal. The zoning administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.

Notice for a combined review hearing shall be made in accordance with 24 V.S.A. § 4464(a)(1). The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review processes that will be conducted at the hearing.

As applicable, the combined review process shall be conducted in the following order:

1. Site Plan (Section 605)
2. Access by right-of-way (Section 302)
3. Requests for Waivers or Variances (Section 611 *or* 612)
4. Subdivision Approval or PUD approval (Section 606 *or* 317)
5. Conditional Use Review (Section 206)

All hearing and decision requirements and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated where appropriate.

§608: Appeals of Zoning Administrator Decisions

608.01 Any interested person as defined under 24 V.S.A. §4465 may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Town Clerk, and by filing a copy of the notice with the Zoning Administrator. A notice of appeal filed under this section shall be in writing and include the following information:

- (1) the name and address of the appellant,
- (2) a brief description of the property with respect to which the appeal is taken,
- (3) a reference to applicable provisions of these regulations,
- (4) the relief requested by the appellant, including any request for a variance or waiver from one or more provisions of these regulations, and
- (5) the reasons why such relief is believed proper under the circumstances.

608.02 The Board of Adjustment shall hold a public hearing on a notice of appeal within 60 days of its filing, as required in 24 V.S.A. §4468. The Board of Adjustment shall give public notice of the hearing under §610 of this bylaw, and shall mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

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

608.04 All appeal hearings shall be open to the public and shall be conducted in accordance with rules of procedures, as required by 24 V.S.A. §4461. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date, time, and place of the continuation of the hearing are announced at the hearing.

608.05 A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing. The decision shall be sent by certified mail to the appellant within the 45 day

period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Municipal Clerk as part of the public records of the municipality. If the Board of Adjustment fails to issue a decision within this 45-day period, the appeal will be deemed approved and shall be effective on the 46th day.

§609: Appeals to Environmental Court

In accordance with 24 V.S.A. §4471, an interested person who has participated in a regulatory proceeding of the Board of Adjustment or Planning Commission may appeal a decision rendered by either of those bodies, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

609.01 “Participation” in a Board of Adjustment or Planning Commission proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

609.02 The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Municipal Clerk, or the Zoning Administrator if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

§610: Public Notice

Any requirement of public notice required by this bylaw, whether or not required by any provision of 24 VSA, Chapter 117, and whether applicable to the Board of Adjustment or the Planning Commission, shall be given by the publication and posting of a public hearing notice as required by 24 VSA, § 4464.

§611: Waivers

The Board of Adjustment may grant waivers to reduce dimensional requirements, in accordance with specific standards that shall be in conformance with the plan and the goals set forth in 24 V.S.A. §4302. Standards may:

- (1) Allow mitigation through design, screening, or other remedy;
- (2) Allow waivers for structures providing for disability accessibility, fire safety, and other requirements of law; and
- (3) Provide for energy conservation and renewable energy structures.

§612: Variance Criteria

The Board of Adjustment shall hear and decide requests for variances as required by 24 V.S.A. §4469(a) and appeal procedures under Section 608 of this bylaw. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board may grant a variance and render a decision in favor of the appellant only if *all* of the following facts are found, and the findings are specified in its written decision:

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

§613: Violations

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with 24 V.S.A. §§4451, 4452. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute, in the name of the Town of Morgan, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

- 613.01 Notice of Violation:** No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under 24 V.S.A. §4451. The notice of violation also shall be recorded in the land records of the municipality. The notice shall state that a violation exists; that the alleged offender has an opportunity to cure the violation within the seven-day notice period; and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.
- 613.02 Limitations on Enforcement:** An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if

the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with 24 V.S.A. §4454. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality.

ART 7: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE, REPEAL

§701: Amendments

This bylaw may be amended according to the requirements and procedures established in 24 VSA, §§4441 and 4442.

§702: Interpretation

- 702.01 In their interpretation and application, the provisions of this bylaw shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
- 702.02 Except for 24 VSA, §4413(c) and where, in this bylaw specifically provided to the contrary, it is not the intention of this bylaw to repeal, annul, or in any way to impair any regulations or permits previously adopted or issued; provided however, that where this bylaw imposes a greater restriction upon the use of a structure or land than is required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of this bylaw shall control.

§703: Effective Date

This bylaw shall take effect in accordance with the voting and other procedures contained in 24 VSA, §4442(c). This bylaw shall become effective 21 days after adoption.

§704: Separability

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

§705: Repeal of Former Zoning Bylaw

Upon the date of adoption of this bylaw, the former Town of Morgan Zoning Bylaw, adopted October 25, 2004 is hereby declared repealed and shall have no further force or effect.