

Town of Washington

Zoning Ordinance

Voted May 26, 1992

and as Amended December 4, 2007

**TOWN OF WASHINGTON
ZONING ORDINANCE**

ARTICLE I. GENERAL PROVISIONS

Section A. Enactment

In accordance with the Vermont Planning and Development Act, 24 VSA Chapter 117, hereafter referred to as the Act, there are hereby established zoning bylaws for Washington. These bylaws shall be known as the "**Town of Washington Zoning Ordinance.**"

Section B. Purpose

It is the intent of these bylaws to provide for orderly community growth, to protect public health, safety and welfare, and to implement the **Town Plan of Washington.**

Section C. Application of Regulations

The application of these bylaws is subject to Sections 4411, 4412, and 4413 of the Act.

No land development shall be commenced except with a validly issued zoning permit and in compliance with these bylaws. Any use not permitted by these bylaws shall be deemed prohibited.

Section D. Interpretation

The adoption of these bylaws shall not repeal or limit any permit previously issued. Where these bylaws impose a greater restraint or restriction than is provided under any other statute, bylaw, ordinance, rule or regulation, then the bylaws shall govern.

Section E. Amendment or Repeal

These bylaws may be amended or repealed as provided in Section 4441 and 4442 of the Act.

Section F. Separability

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

Section G. Effective Date

These bylaws shall take effect on the date of the adoption by the Selectboard of Washington, in accordance with Section 4442 of the Act. Any zoning bylaws in effect on the date these bylaws are validly adopted are repealed.

ARTICLE II. GENERAL PROVISIONS

Section A. Administrative Officer

The Administrative Officer must be nominated by the Planning Commission and appointed to administer the Zoning Ordinance by the Selectboard as provided for in the Section 4448 of the Act.

Section B. Penalties

Violations of these bylaws shall be regulated as prescribed in Sections 4451 and 4452 of the Act.

Section C. Board of Adjustment

The Board of Adjustment existing on the date of adoption of these bylaws shall continue as the Board of Adjustment and the terms of its respective members shall be the same as they were on the date of adoption of these bylaws. Members of the Board of Adjustment shall be elected at the Annual Town Meeting by Australian ballot.

The Board of Adjustment shall have the following powers and duties:

1. To hear and decide appeals from any decision, act or failure to act by the Administrative Officer.
2. To hear and decide requests for variances.
3. To hear and decide requests for conditional uses.

ARTICLE III. ESTABLISHMENT OF ZONING DISTRICTS

Section A. Establishment of Zoning Districts

Washington is hereby divided into the following zoning districts:

1. Village District
2. Rural Residential District

Section B. Interpretation of Boundaries

The location and boundaries of zoning districts are hereby established as part of these bylaws. If uncertainty exists with respect to the boundary of any zoning district, the Zoning Administrator shall determine the location. Where the interpretation of the Zoning Administrator is appealed, the Board of Adjustment shall make the necessary determination. The person contesting the location of the boundary shall be given a reasonable opportunity to present his/her case to the Board of Adjustment and to submit technical evidence.

ARTICLE IV. ZONING DISTRICT REGULATIONS

Section A. Village District

The purpose of the Washington Village District is to preserve the existing character of the area, while allowing continued residential and public uses. Residential use of existing buildings will be encouraged. The Village District includes only that land which is served by the Fire District. In the event that a parcel extends into but does not lie completely within the Fire District, only that portion of land within the Fire District shall be subject to the provisions of the Village District.

The following uses are permitted:

1. One single family dwelling on a single lot
2. Agricultural use
3. Forestry use
4. Home occupation
5. Child care center with 6 children or fewer
6. Church
7. Bed and breakfast
8. Institutional use of not more than 3,000 square feet
9. Light industrial use of not more than 3,000 square feet
10. Commercial use of not more than 3,000 square feet
11. Accessory use of any permitted use
12. Accessory dwelling
13. Single subdivision

The following uses are permitted after issuance of a Conditional Use Permit by the Board of Adjustment:

1. Multi-family dwelling
2. Gas station
3. Outdoor or indoor recreational facility
4. Mobile home park
5. Enclosed storage
6. Lodge
7. Public utility
8. Commercial use greater than 3,000 square feet
9. Light industrial use greater than 3,000 square feet
10. Institutional use greater than 3,000 square feet
11. Subdivision of land into 5 or more lots within a continuous period of 5 years and the subdivision of land into more than 2 lots within a continuous 12 month period.
12. Land development on slopes greater than 15%
13. Child care center with more than 6 children
14. State or community owned facilities
15. School
16. Hospital
17. Accessory use of any conditional use
18. Accessory dwelling

19. Other uses upon the finding of the Board of Adjustment that are of the same general character, intensity and compatibility as those listed in this zone. Such uses shall not be detrimental to the other uses in the district or to the adjoining land.

Section B. Rural Residential District

The purpose of the Rural Residential District is to provide for orderly community growth while protecting the rural character of the Town. The Rural Residential district includes all land in the Town of Washington except that which is served by the Fire District.

The following uses are permitted:

1. One single family dwelling on a single lot
2. Agricultural use
3. Forestry use
4. Home occupation
5. Child care center with 6 children or fewer
6. Church
7. Bed and breakfast
8. Accessory use of any permitted use
9. Accessory dwelling
10. Single subdivision

The following uses are permitted after issuance of a Conditional Use Permit by the Board of Adjustment:

1. Institutional use
2. Industrial use
3. Commercial use
4. Public utility
5. Multiple family dwelling
6. Outdoor or indoor recreational facility
7. Gravel, rock and sand extraction
8. Land development on slopes greater than 15%
9. Subdivision of land into 5 or more lots within a continuous period of 5 years and the subdivision of land into more than 2 lots within a continuous 12 month period
10. Child care center with more than 6 children
11. State or community owned facilities
12. School
13. Hospital
14. Accessory use of any conditional use
15. Accessory dwelling
16. Other uses upon the finding of the Board of Adjustment that are of the same general character, intensity and compatibility as those listed in this zone. Such uses shall not be detrimental to the other uses in the district or to the adjoining land.

Area, Yard and Height Regulations for All Districts

Lot Area Minimum:	1 acre
Minimum Lot Frontage:	150 feet
Minimum Lot Depth:	150 feet
Minimum Building Setback:	20 feet
Minimum Rear Yard Setback:	20 feet
Minimum Side Yard Setback:	20 feet
Maximum Building Height:	35 feet

ARTICLE V. PERMITS AND APPROVALS

Section A. Zoning Permit

No land development may commence unless a zoning permit has been duly issued by the Administrative Officer, as provided for in Section 4449 of the Act. The fee for such zoning permit shall be established by the Selectmen.

Section B. Conditional Uses

No zoning permit shall be issued by the Administrative Officer for any use or structure which requires Conditional Use approval in these bylaws until the Board of Adjustment grants its approval. In considering its action, the Board of Adjustment shall make findings on general and specific standards, hold hearing and attach conditions, if any, as provided for in Section 4407 (2) of the Act.

The general standards will be adhered to such that the use shall not have an undue adverse impact upon:

1. the capacity of existing or planned community facilities;
2. the character of the area affected, including such considerations as the health of the natural environment;
3. traffic on roads and highways in the vicinity;
4. bylaws then in effect; and
5. the utilization of the renewable energy resources.

The Board of Adjustment may require:

1. up to a triple minimum lot size and distance from adjacent or nearby uses;
2. off-street parking and loading facilities to accommodate the facility subject to the maximum of one car per person of maximum projected use capacity;
3. landscaping and fencing as may be desirable to maintain the district character;
4. size, design and location of sign, structure and service area restrictions to maintain the district character;
5. a minimum road frontage; and
6. the alteration of lot layout and street design for purposes of protecting natural resources, buffering incompatible land uses, and improving traffic flow.

Section C. Non-Conforming Uses and Non-Complying Structures

The following provisions shall apply to all structures and uses lawfully existing on the effective date of these bylaws which do not conform to the requirements of these bylaws:

Any non-conforming use of structures or land or any non-complying structure may be continued indefinitely, but:

1. Shall not be changed to another non-conforming use or non-complying structure without approval of the Board of Adjustment, and then only to a use or structure which, in the opinion of the Board, is of the same or of a more restricted nature.
2. Shall not be moved, enlarged, altered, extended, reconstructed, or restored, nor shall such use be increased by any means whatsoever, except with the approval of the Board of Adjustment, and provided that the requirements of Article V, Section B are met.
3. Shall not be re-established if such use or structure has been changed to, or replaced by a conforming use or structure, or if such use has been substantially discontinued for a period of twelve (12) continuous months, except with the approval of the Board of Adjustment and provided that the requirements of Article V, Section B are met.
4. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-complying structure provided that such action does not increase the degree of non-compliance.

ARTICLE VI. GENERAL REGULATIONS

Section A. Limitations of the Regulations

Limitations set forth in Section 4413 of the Act shall apply to these bylaws. Also, in accordance with Section 4412 of the Act, the following shall apply:

1. Existing Small Lots
 - a. Any lot in separate and non-affiliated ownership from surrounding properties in existence of the effective date of these bylaws may be developed for the purposes permitted in the district in which it is located, even though not conforming to the

minimum lot size requirements, provided that such lot is not less than one-eighth (1/8) acre in area with a minimum width or depth dimension of forty (40) feet.

- b. Nonconforming lots will not be deemed merged under any circumstance.

2. Required Frontage

No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. Any future public road must have at least fifty (50) feet of right-of-way width.

3. Home Occupations

No regulation herein is intended to infringe upon the right of any resident to a minor portion of a dwelling for an occupation which is customary in residential areas and which does not have an undue adverse impact on the character thereof.

Home occupations must meet the following standards:

- a. The home occupation shall be carried on by a maximum of two employees who are not family members, in addition to family members.
- b. Obnoxious or excessive noise, smoke, vibration, dust, glare, odors, electrical interference, heat, or risk of fire must not result.
- c. Traffic shall be limited to those volumes which would normally be expected in the neighborhood.
- d. Parking shall be provided off the street.
- e. Any raw materials, equipment, or waste material used or produced by a home occupation shall be stored in an enclosed building or screened from view of any public way.

4. Child Care

A "family child care home or facility" as used herein means a home or facility where the owner or operator is to be licensed or registered with the state for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single family residential use. A family child care home serving more than six full-time children constitutes a permitted use and is subject to all applicable municipal bylaws.

5. Agriculture Exceptions

A person shall notify the Town, in writing, of their intent to build a farm structure and shall abide by setbacks approved by the secretary of agriculture, food and markets. No municipal permit for a farm structure shall be required.

6. Accessory Dwellings

Accessory Dwellings must comply with all of the following.

- a. The property has sufficient wastewater capacity.
- b. The unit does not exceed 30 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.

7. Signs, Fences and Small Shed Exemption

Signs, fences and small sheds are exempt from this ordinance.

8. Equal Treatment of Housing

- a. No bylaw shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under Section 4382 (a)(10) of this title.
- b. Except as provided in Section 4414 (1)(E) and (F) of this title, no bylaw shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.
- c. No bylaw shall have the effect of excluding mobile home parks, as defined in 10 V.S.A. Chapter 153, from the municipality.

Section B. Protection of Wetlands

A naturally vegetated buffer strip of at least 50 feet in width shall be maintained around all wetlands as identified by the National Wetland Inventory Maps. No land development will be allowed within the buffer strip except as permitted by the Board of Adjustment.

Section C. Protection of Rivers, Streams, and Bodies of Water

An undisturbed, vegetated buffer strip of at least 50 feet shall be maintained from each bank of streams and rivers and from the shores of naturally occurring lakes and ponds. The width of the buffer strip shall be measured from the ordinary high water mark. No land development shall occur within the buffer strips except as approved by the Board of Adjustment. Streams and rivers and lakes and ponds shall be defined as those watercourses identified on Geological Survey Maps.

Section D. Temporary Uses and Structures

Temporary permits may be issued by the Administrative Officer for a period not to exceed twelve (12) months, subject to renewal or removal. These permits, and their renewals, are contingent upon the review and approval by the Planning Commission. Temporary permits are available for:

1. Structures located on a construction site;

2. Roadside stands used for the sale of home crafts, agricultural products, and other similar items;
3. Bus stop shelters; and
4. Other uses allowed in the respective zoning districts.

Temporary uses and/or structures may be exempt from the area, yard, and general regulations if their placement is not found to be hazardous to pedestrian and traffic movement. Where applicable, adequate off street parking is required.

Section E Variances

1. On an appeal under Section 4465 or 4471 of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is not primarily a renewable energy resource structure, the Board of Adjustment or the development review board or the environmental court created under 4 V.S.A. Chapter 27 shall grant variances and render a decision in favor of the appellant, if all the following facts are found, and the finding is specified in its decision:
 - a. 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 the bylaw in the neighborhood or district in which the property is located.
 - b. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of property.
 - c. Unnecessary hardship has not been created by the appellant.
 - d. 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.
 - e. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.
2. On an appeal under Section 4465 or 4471 of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is primarily a renewable energy resource structure, the Board of Adjustment or development review board or the environmental court may grant that variance and render a decision in favor of the appellant if all the following facts are found, and the finding is specified in its decision:

- a. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.
 - b. The hardship was not created by the appellant.
 - c. 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.
 - d. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaws and from the plan.
3. In rendering a decision in favor of an appellant under this section, a Board of Adjustment or development review board or the environmental court may attach such conditions to variances as it may consider necessary and appropriate under the circumstances to implement the purposes of this chapter and the plan of the municipality then in effect.

ARTICLE VII. DEFINITIONS

Doubt as to the precise meaning of any word used in these regulations shall be clarified by the Board of Adjustment.

ACCESSORY BUILDING OR ACCESSORY USE: A building or use customarily incidental and subordinate to the principal building or use located on the same lot.

ACCESSORY DWELLING: An efficiency or one-bedroom apartment that is clearly subordinate to a single family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

AGRICULTURAL USE: Land which is used for raising livestock, or agricultural or forest products, including farm structures and the storage of agricultural products raised on the property. Human sludge is not an agricultural use. Customary farm structures accessory to agricultural uses and on the same lot or parcel as the use shall be included in this definition.

ALTERATION: Structural change that increases the exterior height, width or length of the building, including a change of location, or addition to a building or structure, but excluding ordinary repairs to a building, or modification of building equipment.

BED AND BREAKFAST: An establishment in a private dwelling supplying furnished sleeping and eating accommodations of a transient nature. This definition shall not include a lodge.

BOUNDARY CHANGE: A change in boundaries for the purpose of simplifying or clarifying boundaries between adjoining, existing, parcels where no additional lots are created shall be deemed a boundary change and not a subdivision.

BUILDING: A structure having a roof, supported by columns or walls, and intended for shelter or enclosure of persons, animals or chattel.

BUILDING PERMIT: The permit issued by the Zoning Administrator, which authorizes development when such development has been determined to be in accord with this Ordinance and the applicable fee paid.

CHANGE OF USE: The transfer of use of land or building from one category of use, as listed in the zoning district regulations or defined in this section, to another category of use.

CHILD DAY CARE CENTER: A place operated as a business or a service on a regular basis, whose primary function is protection, care and supervision of children outside their homes for periods less than twenty-four (24) hours a day by a person other than a child's own parent or guardian.

COMMUNITY CENTER: A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or nonprofit group or agency.

CONDITIONAL USE: A use of land which is not permitted as a right under these regulations, but which can be allowed by the Board of Adjustment, after public notice and a determination of whether the use complies with standards contained in this Ordinance, and upon which the Board of Adjustment may attach reasonable conditions.

DWELLING, ONE FAMILY: A building containing one dwelling unit.

DWELLING, TWO FAMILY: A building containing two dwelling units.

DWELLING, MULTI-FAMILY: A building containing three or more dwelling units.

FAMILY: One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

FARM STRUCTURE: A building or enclosure for housing livestock, raising horticulture 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: The growing and harvesting of trees or timber under proper forest management for purposes other than fruit.

HOME OCCUPATION: An accessory use conducted within a dwelling or accessory building by the residents thereof, which is clearly secondary to the dwelling's use for living purposes and does not change the residential character thereof.

INDUSTRIAL USES: Uses or activities pertaining to research or to producing, processing or assembling goods and materials for trade.

INSTITUTIONAL USES: A nonprofit or quasi-public use or institution such as a church, library, public or private school, cemetery, community center, cultural center, nursing home, hospital, or municipally owned or operated building, structure or land used for public purpose.

LAND DEVELOPMENT: 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. Land development also includes the subdivision of land into 5 or more lots within a continuous period of 5 years and the subdivision of land into more than two lots within a continuous 12-month period.

LIGHT INDUSTRY: Any clean industrial use having no excessive noise, odor, glare, smoke, dust or vibration discernible at its property boundary, and does not infringe on its neighbors' rights or the health, safety, and welfare of the community, or the traffic to and from thereof.

LODGE: A facility containing accommodation units serving persons of a transient nature on a short term basis of not more than one month which may offer central dining facilities with a seating capacity sufficient to serve its accommodation units.

LOT: Land used or occupied or to be used or occupied by a building and its accessory buildings, having not less than a minimum area and dimensions required for a lot in the district in which such land is situated.

MOBILE HOME PARK: A site with required improvements and utilities for the long-term parking of mobile homes which may include facilities and services for the residents.

NON-COMPLYING STRUCTURE: A structure or part thereof not in conformance with the zoning regulations covering bulk, dimensions, height, area, yards, density of off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of such zoning regulations.

NON-CONFORMING USE: A use of land or a structure which does not comply with all zoning regulations where such use conformed to all applicable laws, ordinances, and regulations prior to the enactment of such regulations.

OUTDOOR OR INDOOR RECREATION FACILITY: Any facility used for recreation, including but not limited to tennis courts, golf courses, riding stables, trap, skeet and archery range, camping facility, campground, ski areas, athletic fields, bowling alleys, spas, swimming pools, and similar facilities, except those facilities which are accessory to dwelling units.

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

PERMITTED USE: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PUBLIC UTILITY: A closely regulated private enterprise with an exclusive franchise for providing a public service.

ROAD FRONTAGE: Lot lines which abut a public road.

SETBACK, FRONT: The distance from the traveled portion of a public road, private road or right of way to the property to the nearest part of the building or structure.

SETBACK, REAR: The distance from the rear lot line to the nearest part of any building or structure.

SETBACK, SIDE: The distance from either side lot line to the nearest part of any building or structure.

SIGNS: A structure, or device used for visual communication, which is used for the purpose of bringing the subject thereof to the attention of the public or to display, identify and publicize the name, product, or service of any person.

SINGLE SUBDIVISION: The division of a single piece of property resulting in two lots with each lot having a separate deed.

SMALL SHED: A building used solely for storage, no larger than 8 feet by 12 feet by 10 feet in height, with no utilities to it. Small sheds which are to be altered or expanded beyond these limits become Structures which are governed by the ordinance as is any other structure.

STRUCTURE: An assembly of materials for the occupancy or other use including, but not limited to, a building, mobile home or trailer, or swimming pool which are larger than 8 feet by 12 feet by 10 feet in height.

SUBDIVISION: The division of land into two or more parcels. With each of the resulting lots having separate deeds.

TEMPORARY STRUCTURE: A structure designed for limited use with no foundation and which is easily relocated.

USE: The purpose for which a building, structure or parcel of land is designed, occupied, or intended.

YARD: Space on a lot not occupied with 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.