

ZONING BYLAWS
FOR THE
VILLAGE OF HYDE PARK, LAMOILLE COUNTY, VERMONT

ADOPTED
FEBRUARY 1, 2000

Prepared with the assistance of the:

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Referenced as:

Located at LCPC's office.

ZONING BYLAWS FOR THE VILLAGE OF HYDE PARK, VERMONT

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ZONING BYLAWS

FOR THE

VILLAGE OF HYDE PARK, LAMOILLE COUNTY, VERMONT

ARTICLE I. GENERAL PROVISIONS

Section 100. Authority

101. Establishment. In accordance with the Vermont Municipal and Regional Development Act (hereinafter referred to as the “Act”), Chapter 117 of Title 24, Vermont Statutes Annotated, there are hereby established Zoning Bylaws for the Village of Hyde Park.

102. Intent. It is the intent of these Bylaws to provide for orderly community growth, to provide for public health, safety and welfare, and to achieve the purposes set forth in the Act, and to further the principles of the Municipal Development Plan.

103. Effective Date. This Bylaw shall take effect in accordance with the procedures contained in Section 4404 of the Act.

104. Amendments. The Bylaws may be amended in accordance with Section 4403 and 4404 of the Act.

Section 110. Interpretation

111. Conflicting Regulations. If any provision of these Bylaws is stricter than required by State law, these Bylaws shall govern. If any provision of State law is stricter than these Bylaws, the State law shall govern.

Section 120. Severability

121. Invalid Sections. If any section or provision of these Bylaws is adjudged to be unconstitutional or otherwise invalid, such decision shall not affect the validity of these regulations as a whole, or any part thereof other than the part so adjudicated.

ARTICLE II. ESTABLISHMENT OF DISTRICTS AND DISTRICT REGULATIONS

Section 200. Zoning Districts and Areas Created and Zoning Map

201. Districts Created. For the purposes of these Bylaws, the Village of Hyde Park is divided into the following districts, to be designated by the abbreviations below:

- | | | |
|----|---------------------------------------|-----|
| a) | Commercial – Residential | CRD |
| b) | Low Density Residential – Agriculture | LRA |
| c) | Residential | RSD |
| d) | Small Industry – Residential | SIR |

202. Special Protection Areas. For the purposes of these Bylaws, the Village of Hyde Park is divided into the following Special Protection Areas, which shall be construed to overlay and be part of any of the districts established in Section 201. Development within these Special Protection Areas is subject to the additional special requirements described in Sections 300 through 339 of these Bylaws.

- | | | |
|----|--------------------|-----|
| a) | Flood Hazard Areas | FHA |
|----|--------------------|-----|

203. Zoning Maps. The zoning map officially entitled “The Village of Hyde Park Zoning Map,” located in the Office of the Village Clerk, is hereby adopted as part of these Bylaws. An unofficial reproduction of this map is included at the end of these Bylaws for reference purposes only.

203.1 The official maps for the Special Protection Areas established in Section 202, and described in Sections 300 through 339 shall be kept on file at the Office of the Village Clerk and are hereby adopted as part of these Bylaws. Unofficial reproductions of these maps are included at the end of these Bylaws for reference purposes only.

204. Boundary Interpretation.

204.1. Boundaries Following Features. District boundaries shown approximately within the lines of any roads, rivers, streams, or transportation and utility rights-of-way shall be deemed to follow centerlines.

204.2. Boundaries Following Lot Lines. Where district boundaries approximately follow lot lines, such lot lines shall be construed to be the said boundaries.

204.3 Boundaries Dividing Lots. Where a district boundary line divides a lot in single ownership at the time of passage of these Bylaws or amendment thereto, the Development Review Board may permit as a conditional use, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

204.4 Unusual Situations. Where circumstances regarding district boundary line interpretation are not covered in Sections 204.1 through 204.3, the Development Review Board shall interpret the district boundaries.

Section 210. Commercial – Residential District (CRD)

211. Objectives. To allow for commercial, business, government offices and residential uses in a manner compatible with each other and the character of the Village.

212. Permitted Uses. The following uses shall be considered “permitted uses” in this district:

- a) Retail delivery of goods and services in which the area used in conducting business with the public does not exceed thirty-five hundred (3500) square feet on each floor of the building.
- b) Banks and Financial Institutions.
- c) Business and Professional Offices.
- d) Home Occupations (see Section 423 of these Bylaws).
- e) Those uses required to be permitted according to Sections 4409(d) and 4409(f) of the Act. (See Section 424 of these Bylaws regarding Care and Group Homes & Day Care Facilities).
- f) One or Two Family Residential Dwelling Units in one structure on the lot, or in two structures, if the second is an accessory structure.
- g) Accessory uses.

213. Conditional Uses. The following uses shall be considered “conditional uses” in this district:

- a) Retail delivery of goods and services in which the area used in conducting business with the public exceeds thirty-five hundred (3500) square feet on each floor of the building.
- b) Churches, Synagogues, Temples, Convents and Parish Houses.
- c) Educational Facilities.
- d) Federal, State, County or Municipality owned and occupied offices and facilities.
- e) Home Industry or Business (see Section 460 of these Bylaws)
- f) Motor Vehicle Service and/or Fuel Stations.
- g) Multi-Family Residential Dwellings with 3 or More Units, whether in one or more structures on the lot.
- h) Parks and Recreation Facilities.
- i) Public Service and Utilities Facilities (see Section 483 of these Bylaws).
- j) Signs (see Section 470 of these Bylaws).
- k) Swimming pools.
- l) Transient Lodging Facilities (hotel, motels, inns, etc.).
- m) Parking Facilities.

Commercial – Residential District (CRD) Conditional Uses (Cont.)

- n) Planned Residential Developments (see Section 510 of these Bylaws).
- o) Other commercial uses which, upon finding by the Development Review Board, are determined to be of the same general character as other uses in the district, and will not be detrimental to the other land uses within the district or adjoining districts, and which meet all other applicable requirements.

214. Area, Dimensions and Setbacks. The following table shall establish the minimum lot size; minimum lot width; minimum front, rear and side lot line setbacks; and minimum setbacks from the Lamoille River as applicable:

Class of Dev.	Minimum Lot Size @ (Sq.Ft.)	Minimum Lot Width	Minimum Road Center Setback	Minimum Rear Setback	Minimum Side Setback	Minimum Lake/River Setback
off-lot water/sewer	15,000	None	35 Ft.	25 Ft.	20 Ft.*	n/a
on-lot water/sewer	65,340	None	35 Ft.	25 Ft.	20 Ft.*	n/a
onlot water & sewer	65,340	None	35 Ft.	25 Ft.	20 Ft.*	n/a

Note: 65,340 sq.ft. = 1.5 acres

214.1 Waivers. The Development Review Board may reduce or waive the minimum setback requirements, provided there are no adverse environmental or aesthetic impacts.

*214.2 A ten-foot (10') side setback will be permitted following the destruction of an existing building if the construction is completed within two (2) years; this applies to both sides of Main Street between Prospect Street and Depot Street.

215. Special Requirements. The following special requirements and regulations shall be effective if applicable:

215.1 Site Development Plan Approval as established in Section 500.

215.2 Off-Street Parking Regulations as established in Section 450.

215.3 Special Protection Areas established in Section 202 and Sections 300 –399 of these Bylaws.

215.4 Structure height shall not exceed thirty-five (35) feet.

215.5 All “General Regulations” established in Sects. 400-499.

Section 220. Low Density Residential – Agriculture (LRA)

221. Objectives: To promote agriculture and associated residential uses in the periphery of the village. This will also protect the rural approach to the village.

222. Permitted Uses. The following uses shall be considered “permitted uses” in this district:

- a) Agricultural Buildings and Uses.
- b) Single Family Residential Dwelling Unit on the lot.
- c) Two Family Residential Dwelling Units in one structure on the lot, or in two structures if the second is an accessory structure.
- d) Accessory Use.
- e) Home Occupations (see Section 423 of these Bylaws).
- f) Those uses required to be permitted according to Sections 4409(d) and 4409(f) of the Act. (See Section 424 of these Bylaws regarding Care and Group Homes and Day Care Facilities).

223. Conditional Uses. The following uses shall be considered “conditional uses” in this district.

- a) Cemeteries
- b) Churches, Synagogues, Temples, Convents and Parish Houses.
- c) Educational Facilities.
- d) Federal, State, County or Municipally owned and occupied offices and facilities, including schools.
- e) Home Industry or Business, (see Section 460 of these Bylaws).
- f) Public Service and Utilities Facilities (see Section 483 of these Bylaws).
- g) Signs (see Section 470 of these Bylaws).
- h) Swimming pools.
- i) Transient Lodging Facilities serving four (4) or fewer guests. (Lodges, Inns, and Boarding Houses).
- j) Planned Residential Developments (see Section 510 of these Bylaws).
- k) Other commercial uses which, upon finding by the Development Review Board, is determined to be of the same general character as other uses in the district, and will not be detrimental to the other land uses within the district, or adjoining districts, and which meet all other applicable requirements.

Low Density Residential – Agriculture (LRA) continued

224. Area, Dimensions and Setbacks. The following table shall establish the minimum lot size; minimum lot width; minimum front, rear and side lot line setbacks; and minimum setbacks from the Lamoille River if applicable.

Class of Dev.	Minimum Lot Size @ (Sq.Ft.)	Minimum Lot Width	Minimum Road Center Setback	Minimum Rear Setback	Minimum Side Setback	Minimum Lake/River Setback
off-lot water/sewer	0.5	90 Ft.	65 Ft.	25 Ft.	25 Ft.	n/a
on-lot water/sewer	1.5	90 Ft.	65 Ft.	25 Ft.	25 Ft.	n/a
onlot water & sewer	1.5	90 Ft.	65 Ft.	25 Ft.	25 Ft.	n/a

224.1 Waivers: The Development Review Board may reduce or waive the minimum setback requirements, provided there are no adverse environmental or aesthetic impacts.

224.2 An additional lot area will be required for each residential dwelling unit in excess of two in a multi-family development according to the following guidelines: three-quarters (3/4) of an acre for units with on-lot sewer, and one (1) acre for units with on-lot water and sewer.

225. Special Requirements. The following special requirements and regulations shall be effective if applicable:

- 225.1 Site Development Plan Approval as established in Section 500.
- 225.2 Off-Street Parking Regulations as established in Section 450.
- 225.3 Special Protection Areas established in Section 202 and Sections 300 through 399 of these Bylaws.
- 225.4 Structure height shall not exceed thirty-five (35) feet.
- 225.5 All “General Regulations” established in Sections 400-499.

Section 230. Residential District (RSD)

231. Objectives: This encourages residential development close to the existing village center. This area is within walking distance from the village and can utilize the existing infrastructure, such as sewer, water, electrical, etc.

232. Permitted Uses. The following uses shall be considered “permitted uses” in this district:

- a) Single Family Residential Dwelling Unit on the lot.
- b) Two Family Residential Dwelling Units in one structure on the lot, or in two structures if the second is an accessory structure.
- c) Home Occupations, (see Section 423 of these Bylaws).
- d) Those uses required to be permitted according to Sections 4409(d) and 4409(f) of the Act. (See Section 424 of these Bylaws regarding Care and Group Homes and Day Care Facilities).
- e) Accessory Uses.

233. Conditional Uses. The following uses shall be considered “conditional uses” in this district.

- a) Cemeteries.
- b) Churches, Synagogues, Temples, Convents and Parish Houses.
- c) Federal, State, County or Municipally owned and occupied offices and facilities, including schools.
- d) Educational Facilities.
- e) Home Industry or Business, (see Section 460 of these Bylaws).
- f) Public Service and Utilities Facilities (see Section 483 of these Bylaws).
- g) Signs (see Section 470 of these Bylaws).
- h) Swimming pools.
- i) Transient Lodging Facilities serving four (4) or fewer guests. (Lodges, Inns and Boarding Houses).
- j) Planned Residential Developments (see Section 510 of these Bylaws).

234. Area, Dimensions and Setbacks. The following table shall establish the Minimum lot size; minimum lot width; minimum front, rear and side lotline setbacks; and minimum setbacks from Lake Lamoille and the Lamoille River if applicable.

Class of Dev.	Minimum Lot Size @ (Sq.Ft.)	Minimum Lot Width	Minimum Road Center Setback	Minimum Rear Setback	Minimum Side Setback	Minimum Lake/River Setback
off-lot water/sewer	0.5	90 Ft.	65 Ft.	25 Ft.	25 Ft.	25 Ft.
on-lot water/sewer	1.5	90 Ft.	65 Ft.	25 Ft.	25 Ft.	25 Ft.
onlot water & sewer	1.5	90 Ft.	65 Ft.	25 Ft.	25 Ft.	25 Ft.

- 234.1 **Waivers.** The Development Review Board may reduce or waive the minimum setback requirements, provided there are no adverse environmental or aesthetic impacts.
- 234.2 An additional lot area will be required for each residential dwelling unit in excess of two in a multi-family development according to the following guidelines: one-quarter (1/4) acre for units with off-lot water and sewer, and one-half (1/2) acre for units with on-lot water or sewer, and three-quarters (3/4) of an acre for units with on-lot water and sewer.
235. **Special Requirements.** The following special requirements and regulations shall be effective if applicable:
- 235.1 Site Development Plan Approval as established in Section 500.
- 235.2 Off-Street Parking Regulations as established in Section 450.
- 235.3 Special Protection Areas established in Section 202 and Sections 300 through 399 of these Bylaws.
- 235.4 Structure height shall not exceed thirty-five (35) feet.
- 235.5 All “General Regulations” established in Sections 400-499.

Section 240. **Small Industry – Residential (SIR)**

241. **Objectives:** This allows for small-scale industries, which are compatible with the village area. This area is located near rail and highway transportation systems, and is close to commercial and industrial areas of a nearby community.

242. **Permitted Uses.** The following uses shall be considered “permitted uses” in this district:

- a) Single Family Residential Dwelling Unit on the lot.
- b) Two Family Residential Dwelling Units in one structure on the lot, or in two structures if the second is an accessory structure.
- c) Accessory Use.
- d) Home Occupations, (see Section 423 of these Bylaws).
- e) Those uses required to be permitted according to Sections 4409 (d) and 4409 (f) of the Act. (See Section 424 of these Bylaws regarding Care and Group Homes and Day Care Facilities).

243. **Conditional Uses.** The following uses shall be considered “conditional uses” in this district:

- a) Churches, Synagogues, Temples, Convents and Parish Houses.
- b) Day Care Facilities which are State registered or licensed and which serve seven (7) or more children.
- c) Educational Facilities.
- d) Federal, State, County or Municipally owned and operated offices and facilities, including schools.
- e) Home Industry, (see Section 460 of these Bylaws).

Small Industry – Residential (SIR) “conditional uses” (continued)

- f) Multi-Family Dwelling Units whether in one or more structures on the lot.
- g) Public Service and Utilities Facilities (see Section 483 of these Bylaws).
Small Industries with the following special conditions:
 - 1) no objectionable noise, vibrations, or odors shall be produced beyond the property limits on which it is located;
 - 2) outdoor garage shall be neat and orderly, or screened from view by plantings or fences.
- h) Signs (see Section 470 of these Bylaws).
- i) Swimming pools.
- j) Transient Lodging Facilities serving four (4) or fewer guests. (Lodges, Inns, and Boarding Houses).
- k) Planned Residential Developments (see Section 510 of these Bylaws).

244. Area, Dimensions and Setbacks. The following table shall establish the minimum lot size; minimum lot area per family; minimum lot width; minimum front, rear and side lot line setbacks; and minimum setbacks from the Lamoille River if applicable.

Class of Dev.	Minimum Lot Size @ (Sq.Ft.)	Minimum Lot Width	Minimum Road Center Setback	Minimum Rear Setback	Minimum Side Setback	Minimum Lake/River Setback
off-lot water/sewer	0.5	90 Ft.	65 Ft.	25 Ft.	25 Ft.	n/a
on-lot water/sewer	1.5*	90 Ft.	65 Ft.	25 Ft.	25 Ft.	n/a
onlot water & sewer	1.5*	90 Ft.	65 Ft.	25 Ft.	25 Ft.	n/a

244.1. Waivers. The Development Review Board may reduce or waive the minimum setback requirements provided there are no adverse environmental or aesthetic impacts.

244.2 An additional lot area will be required for each residential dwelling unit in excess of two in a multi-family development according to the following guidelines: one-half (1/2) acre for units with off-lot water and sewer, and three-quarter (3/4) acre for units with on-lot water or sewer, and one (1) acre for units with on-lot water and sewer.

244.3 A larger minimum lot size may be required if the planned industrial use involves a rate of on-site sewage discharge which would necessitate a larger minimum lot size.

Small Industry – Residential (continued)

245. Special Requirements. The following special requirements and regulations shall be effective if applicable:
- 245.1 Site Development Plan Approval as established in Section 500.
- 245.2 Off-Street Parking Regulations as established in Section 450.
- 245.3 Special Protection Areas established in Section 202 and Sections 300-399 of these Bylaws.
- 245.4 Structure height shall not exceed thirty-five (35) feet.
- 245.5 All “General Regulations” established in Sections 400-499.

ARTICLE III. SPECIAL PROTECTION AREAS

Section 300. Omitted in case of future use – Aquifer and Groundwater Protection Areas.

Section 310. Omitted – Future Use

Section 320. Flood Hazard Areas

321. Authorization and Purpose

321.1 This section of these Bylaws is adopted pursuant to and in accordance with Title 24, V.S.A. Sections 4401 and 4412.

321.2 The purpose of this section is:

321.2a to minimize and prevent the loss of life and property, the disruption of commerce, the impairment of tax base, and the extraordinary public expenditures and demands on public service that result from flooding;

321.2b to ensure that the design and construction of development in flood hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood damage;

321.2c to manage all flood hazard areas designated pursuant to Title 10 V.S.A., Section 753;

321.2d to make wise use of agricultural land in flood-prone areas; and

321.2e to make the municipality eligible for Federal Flood Insurance.

Flood Hazard Areas (continued)

322. Lands to Which These Regulations Apply. These regulations shall apply for development in all areas in the Village of Hyde Park, Lamoille County, Vermont, identified as areas of special flood hazard on the most recent Flood Insurance Rate Maps, or if these are not available, the most recent Flood Hazard Boundary Maps, which are hereby adopted by reference and declared to be part of these regulations.

323. Review Procedures

323.1 Prior to issuing a permit for the construction of new buildings, the substantial improvement of existing buildings or for development in the floodway, a copy of the application shall be submitted to the Vermont Agency of Natural Resources, Department of Environmental Conservation in accordance with 24 V.S.A. Section 4409. A permit may be issued only following receipt of comments from the Department or the expiration of thirty (30) days from the date the application was mailed to the Department, whichever is sooner.

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

323.3 Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.

324. Base Flood Elevations and Floodway Limits

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

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

Flood Hazard Areas (continued)

325. Development Standards In Floodway Areas. The following standards shall govern development within the “floodway areas.”

325.1 Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.

325.2 Junkyards: storage areas; or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

326. Development Standards In Fringe Areas. The following standards shall govern development in the “fringe areas.”

326.1 All development shall be designed to:

- (a) minimize flood damage to the proposed development and to public facilities and utilities, and
- (b) provide adequate drainage to reduce exposure to flood hazards.

326.2 Structures shall be:

- (a) designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure during the occurrence of the base flood;
- (b) be constructed with materials resistant to flood damage;
- (c) be constructed by methods and practices that minimize flood damage;
- (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
- (d) designed so that the lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.

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

326.4 New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into floodwaters; furthermore

326.4a On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Flood Hazard Areas (continued)

- 326.5 New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.
- 326.6 Existing buildings to be substantially improved for:
- 326.6a residential purposes shall be modified or elevated to meet the requirements of the preceding subsection 326.2(e).
- 326.6b non-residential purposes shall either:
- (a) meet the requirements of the preceding section 326.6a, or;
 - (b) be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood-proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- 326.7 All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either:
- (a) be certified by a registered professional engineer or architect; or
 - (b) meet or exceed the following minimum criteria:
A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- 326.8 Junkyards; or facilities to be used for the storage of floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials are prohibited in the Fringe Areas.
- 326.9 Areas to be used for the storage of non-floatable and non-hazardous and non-toxic materials, shall be filled and graded to at least one foot (1') above the base flood elevation.

327. Duties and Responsibilities of the Administrative Officer

327.1 The Administrative Officer shall maintain a record of:

- (a) all permits issued for development in areas of special flood hazard;
- (b) the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- (c) the elevation, in relation to mean sea level, to which buildings have been flood-proofed;
- (d) all flood-proofing certifications required under this regulation and;
- (e) all variance actions, including justification for their issuance.

328. Variance to the Development Standards in Flood Hazard Areas

328.1 Variances shall be granted by the Development Review Board only:

- (a) in accordance with the provision of 24 V.S.A. Section 4468 and Section 4412(h) and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations;
- (b) upon a determination that during the base flood discharge the variance will not result in increased flood levels; and
- (c) upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood, and create no additional threats to public safety.

329. Definitions for Flood Hazard Section. The definitions applicable to Sections 320 through 329 of these Bylaws are found with other definitions in Sections 700 through 710 of these Bylaws.

ARTICLE IV. GENERAL REGULATIONS

Section 410. Permits

411. Permit Required. No building may be erected, enlarged, relocated, or changed in use, nor shall any land development (as defined in Article VIII of these Bylaws) commence, unless a zoning permit has been issued by the Administrative Officer in accordance with Section 4443 of the Act and with these Bylaws. Upon request, the Administrative Officer shall furnish any person who expresses intent to apply for a permit a copy of Section 4443 of the Act. No certificate of occupancy is required.
- 411.2 Exemptions: No permit will be required for:
- 411.2a Buildings less than eighty (80) square feet and sixteen (16) feet in height, provided all setback requirements are met.
- 411.2b Fences provided they meet the requirements of Section 488 of these Bylaws.
412. Permit Application. The Administrative Officer may not issue a permit unless an application, accompanied by a drawing showing all dimensions necessary to assure compliance with these Bylaws has been submitted to the Office of the Village Clerk or to the Administrative Officer. Said Officer shall, within thirty (30) days of receipt of all necessary information, either issue or deny the permit. The Administrative Officer shall determine within thirty (30) days of receipt of all necessary information, if an application requires review and approval by the Development Review Board. Upon determination that an application requires review by the Development Review Board, the Administrative Officer shall promptly schedule a public hearing before said Board.
- 412.1 Approved Permits. If the zoning permit is approved, all activities authorized by its issuance shall be completed within two years of its date of issue, or the zoning permit shall become null and void and reapplication to complete any activities shall be required.
- 412.2 Denial of Permit If the permit is denied, the Administrative Officer shall so notify the applicant in writing, stating the reasons for denial and informing the applicant of his/her rights of appeal (See Section 640).
- 412.3 Time Limitation In conformance with Section 4464(a) of the Act, if the Administrative Officer fails to act (approve or deny) with regard to an application for a permit, over which he or she has jurisdiction, within thirty (30) days, a permit shall be deemed issued on the thirty-first (31st) day.

ARTICLE IV. GENERAL REGULATIONS (continued)

413. Issuance of Permits: The Administrative Officer, upon receipt of all necessary information, will issue a permit for a development listed as a Permitted Use upon assurance that the proposed development will conform to the dimensions and specifications listed in the District Regulations. Said Officer will issue a permit for development listed as a Conditional Use or Variance upon being instructed to do so by the Development Review Board, following a public hearing by that body. In determining whether to allow such a proposed development, and what conditions to place upon its design, the Development Review Board shall follow the procedures established in Section 630 of these Bylaws, and Section 4407(2) of the Act.

413.1 Effective Date of Permit. In conformance with Section 4443(a)(3) of the Act, no zoning permit issued pursuant to these Bylaws shall take effect until the time for appeal in Section 4464(a) of the Act [fifteen (15) days] has passed, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.

413.2 Each zoning permit issued under these Bylaws shall contain a statement of the period of time within which an appeal may be taken.

413.3 The Administrative Officer shall complete the zoning permit process by conforming to his/her responsibilities stated in Section 4443 of the Act.

414. Other Permits and Regulations. The Administrative Officer shall not issue a zoning permit until the applicant shows proof that all other applicable permits have been issued, which may include but are not limited to:

414.1 Town of Hyde Park Health Regulations (relating to the permissible means of individual on-site sewage disposal systems),

414.2 Village of Hyde Park Subdivision Regulations if applicable and in force (relating to the requirements of constructing subdivisions),

414.3 Vermont Master Land Use Permit (Act 250 Permit),

414.4 Vermont Subdivision Permit, and

414.5 Other Requirements of these Bylaws and other regulations.

415. General Lot Requirements. The following standards shall apply to all lots as applicable.

415.1 Lots On Two Streets. Lots, which abut on, more than one street shall provide the required frontage along every street.

415.2 Lot Line Setbacks. All structures, whether attached to the principal structure or not, and whether open or enclosed, (i.e. porches, carports, balconies, platforms, etc.) shall not project into any minimum setback area established for the front, side, or rear yards.

ARTICLE IV. GENERAL REGULATIONS (continued)

- 415.3 Adjacent, Non-conforming and Affiliated Lots. If two or more adjacent lots are in single or affiliated ownership at the time of passage of these Bylaws, and if all or part of the lots do not meet the requirements for either lot width or area, as established by these Bylaws, then the lands involved shall be considered to be an individual parcel for the purpose of these Bylaws. No portion of such parcel(s) shall be used or sold which does not meet lot width and area requirements established by these Bylaws, nor shall any division of the parcel(s) be made which leaves remaining any lot width or area below the requirements stated by these Bylaws, however, this does not apply when part of a lot is taken for a public purpose.
416. Variations and Waivers. Variations for the lot size, frontage, setbacks, and other miscellaneous requirements of these Bylaws and of Section 4468 of the Act, may be granted by the Development Review Board after public hearing pursuant to Sections 4464 through 4468 of the Act and Sections 640-643, and 644 of these Bylaws. However, a variance may not be granted to allow a use, which is not included as a permitted or conditional use. Waivers of minimum setback requirements may be granted by the Development Review Board provided there are not adverse environmental and aesthetic impacts after a public hearing pursuant to Sections 4464 through 4468 of the Act and Sections 640-643, and 644 of these Bylaws.
417. Referral to State Agencies. In accordance with Section 4409(C) of the Act, no zoning permit for the development of land of the following types or located within the following designated areas may be granted by the municipality prior to the expiration of thirty (30) days following submission of a report to the State agency designated in each case, describing the proposed use, the location requested and an evaluation of the effect of such proposed use on the plan of the municipality and on the regional plan, if any:
- 417.1 Forest, Parks and Recreation Department: any use within 1000 feet of any state owned or leased property.
- 417.2 Department of Environmental Conservation:
- 417.2a uses in a flood hazard area or wetland;
- 417.2b the damming of streams which impounds 5 acres or more;
- 417.2c drilling of wells deeper than 50 feet or with potential yield greater than 25,000 gallons per day, except a well for a residence or farm.
- 417.3 Fish and Wildlife Department: uses on game lands or stream bank areas owned or leased by the state.
- 417.4 Vermont Agency of Transportation: airports.

Referral to State Agencies (continued)

- 417.5 Forest, Parks and Recreation Department: The following recreational areas:
- 417.5a Ski areas with lifts or other equipment other than tows, with a total capacity of more than five hundred (500) persons per hour.
- 417.5b Camps with accommodations for more than fifty (50) persons.
- 417.5c Marinas with accommodations for twenty (20) or more boats with lengths in excess of twenty feet.
- 417.5d Public beaches, or lands within 1000 feet thereof.
- 417.5e Natural areas as defined in Section 2010 of Title 10.
- 417.6 Vermont Agency of Transportation: any use within five hundred (500) feet of the intersection of any entrance or exit ramp providing access to any limited access highway.

Section 420. Requirements of the Act

- 420.1 The following provisions are required by the Act and govern land development:
421. Existing Small Lots. Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on 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 minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth of forty feet (40').
- (A) If such lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for purposes of this chapter. However, such lot shall not be deemed merged and may be separately conveyed, if:
- (i) the lots are conveyed in their preexisting, nonconforming configuration; and
 - (ii) on the effective date of any zoning regulations, each lot had been developed with a water supply and wastewater disposal system; and
 - (iii) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
 - (iv) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails, which means the system functions in a manner:
 - (I) that allows wastewater to be exposed to the open air; pool on the surface of the ground, discharge directly to surface water, or back up into a building or structure unless the approved design of the

system specifically requires the system to function in such a manner;

- (II) so that a potable water supply is contaminated or rendered not potable;
 - (III) that presents a threat to human health; or
 - (IV) that presents a serious threat to the environment.
- (B) If, subsequent to separate conveyance, as authorized under subdivision (1)(A) of this section, a wastewater system fails, the owner shall be required to obtain from the secretary of natural resources a wastewater permit as required under the subdivision regulations or a certification that the wastewater system has been modified or replaced, with the result that it no longer constitutes a failed system.

In addition, lots which do not meet the required minimum lot size, but which have obtained all applicable State approvals prior to October 27, 1977 shall be allowed to be developed.

422. Required Frontage/Access. No land development may be permitted on lots which do not have either frontage on a public road or frontage on public waters, or with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right of way at least fifty feet (50') in width.
423. Home Occupations. No regulation is intended to infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the area.
424. Limitations Established in the Act. All limitations imposed upon this municipality by Section 4409 of the Act shall be adhered to, these may include but are not limited to the following:
- 424.1 Care and Group Homes. A state licensed or registered residential care home or group home, serving not more than six (6) persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another such home. [Section 4409(d) of the Act].
- 424.2 Day Care Facilities. A state registered or licensed day care facility serving six (6) or fewer children shall be considered by right to constitute a permitted single-family residential use of property. [Section 4409(f) of the Act.]
- 424.3 Height Regulation Limitations. Unless a zoning regulation specifically provides to the contrary, limitations on permissible heights of structures shall not apply to antenna structures, to wind-mills with blades less than twenty (20) feet in diameter, or to roof-top solar collectors less than ten (10) feet high which are mounted on complying structures.

Section 430. Non-Conforming and Temporary Uses

431. Pre-Approved Structures. Nothing in these regulations shall require any change in any structure, whose construction was begun in conformance with applicable laws and regulations in effect prior to the effective date of these Bylaws, and which is completed within two years from the effective date of these Bylaws.
432. Limitations. Any non-conforming use of structures or land may be continued indefinitely, but may not be:
- 432.1 moved, enlarged, altered so as to change evidence of the use on the outside of any structure or extended, except with the approval of the Development Review Board after public hearing, and provided that said Board shall have found that such extension will have no adverse affect upon the public health, safety, and upon property values in the vicinity.
- 432.2 changed to a different non-conforming use .
- 432.3 added to by the commencement of a different non-conforming use.
- 432.4 re-established, if the non-conforming use has been discontinued for a period of one (1) year or has been changed to or replaced by a conforming use.
- 432.5 restored after damage to or destruction of the nonconforming use, unless it is restored within two (2) years from the date of damage or destruction.
433. Work Allowed. Non-conforming structures and uses of land may be maintained and repaired, so long as the above restrictions are observed.
434. Temporary Uses and Structures. Temporary permits may be issued by the Administrative Officer for non-conforming uses incidental to construction projects, provided such permits are conditioned by the applicant(s) to remove the structure or use upon expiration of the permit in conformance with Section 440 of these Bylaws.
- 434.1 Such permits shall not exceed one (1) year in duration and may be renewed upon application for an additional period not to exceed one (1) year.

Section 440. Clean-up of Building Site.

441. Removal of Dangerous Conditions. Within three (3) months after work on an excavation for a building had begun, or after a permanent or temporary building or structure has been destroyed, demolished, severely damaged, or abandoned, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade by the owner, or the damaged structure shall be repaired or replaced. Upon approval of the Development Review Board, and if good cause has been demonstrated which prevents compliance with this regulation, an extension of the above dates may be granted.

Section 450. Parking, Driveway, and Roadway Vision Requirements.

451. Parking Requirements. Parking spaces shall be provided in accordance with the specifications of this section, in any district, whenever any new use is established or existing use enlarged. Public off-street parking in lieu of on-site parking may be utilized to fulfill parking requirements if located within a distance appropriate to the proposed use, but not exceeding eight hundred (800) feet, and upon approval of the Development Review Board.

452. Parking Spaces Required for Various Uses.

<u>Use</u>	<u>Parking Spaces Required</u>
a) Residential	1.5 per dwelling unit
b) Church, school, public assembly	1 per 3 seats in principal assembly room
c) Private club or lodge	1 per 4 members
d) Transient Lodging Facilities	1 per each room allocated for guest occupancy
e) Home Occupations and Businesses	1.5 per dwelling unit plus 1.0 per employee and sufficient spaces for customers as determined in Section 452.j below.
f) Retail business and personal service establishments	1 for every 180 square feet of gross leaseable area.
g) Eating and Drinking Establishments	1 for every 3 seats
h) Industrial	1 for every 1.2 employees, based on the highest expected average employee occupancy.
i) Funeral Homes	1 for each 75 square feet of public floor space.
j) Other uses	as determined by the Development Review Board.

453. Driveway Location. All driveways are to be located at least seventy-five feet (75') from the nearest corner of any street intersection. This shall apply to all uses except one and two family residential development.

453.1 All driveways shall be located so that the nearest outer edge of the driveway is at least five (5) feet from any side or rear property line.

453.1a The Development Review Board may waive this requirement when it is shown that the character, safety and appearance of all properties concerned are not adversely affected.

453.2 On Vermont Highway Routes 15 and 100, access points (or "curb cuts") for permitted and conditional uses shall not be closer than one thousand (1,000) feet from each other, except as necessary to provide access to

properties existing in separate and non-affiliated ownership on or before October 27, 1977.

454. Obstruction of Vision. Corner lots in all districts shall meet the following requirement: Within the triangular area formed by the street intersection, and within twenty-five (25) feet of said intersection, there shall be no obstruction to vision above the height of three (3) feet.

Section 460. Home Industry

461. Requirements. Any home industry shall be permitted as a conditional use in all districts if it complies with the requirements of this section.
- 461.1 The home industry shall be carried on by members of the family. Three on-premise employees who are not part of the family are permitted.
- 461.2 The home industry shall be carried on within the principal or accessory structures.
- 461.3 Exterior displays, exterior storage of materials, and exterior indication of the home industry or variation from the residential character of the principal structures shall be prohibited.
- 461.4 Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbances, odors, heat or glare shall not be produced.
- 461.5 No traffic shall be generated by such home industry in greater volumes than would normally be expected in the neighborhood.
- 461.6 Parking shall be provided off-street (in accordance with Section 450) and shall not be located in front yards.

Section 470. Signs

471. Signs – The erection of any sign shall constitute a conditional use.
- 471.1 No sign shall exceed twenty-five (25) feet in area.
- 471.2 The Development Review Board may impose setback requirements as a condition of a permit for any sign.

Signs (continued)

472. Signs in Disrepair. Any sign, which becomes in disrepair, may be removed upon order of the Development Review Board if not repaired after thirty (30) days notice.

472.1 A sign removed for repair or renovation may be re-installed at any time within a period of ninety (90) days without applying for a new permit.

Section 480. Uses Not Permitted and/or Specially Regulated

481. Prohibited Uses. In all districts the following uses are not permitted: junk yards, machinery wrecking yards, bulk storage for redistribution of fuel oil, butane, propane, gasoline, the manufacture, storage or processing of toxic or hazardous chemicals and/or materials, unenclosed manufacturing or processing of goods or materials except with the approval of the Development Review Board after public hearing in accordance with Section 620, and after determining that public health and safety will not be endangered, and the character of the Village will not be altered.

482. Storage of Flammable Liquids. The bulk storage of any highly flammable liquid is prohibited in all districts.

482.1 Normal residential use of gasoline, propane, kerosene, butane, diesel, etc. is allowed.

483. Public Utility Substations: Public utility substations and similar structures, where permitted, shall comply with the following:

483.1 The facility shall be surrounded by a fence set back from the property lines in conformance with the district regulations for front, side and rear yards.

483.2 A landscaped area at least twenty-five feet (25') wide shall be maintained in all front, rear and side yards.

484. Motor Vehicle Service and Fuel Stations. In all districts where permitted, motor vehicle service and fuel stations shall comply with the following:

484.1 The lot used for such a facility shall not be located within three hundred feet (300') of any lot occupied by a school, hospital, library, or religious institution.

484.1a The minimum lot size for such a use shall be twenty thousand (20,000) square feet.

484.1b The minimum lot frontage shall be one hundred fifty feet (150').

484.1c The minimum lot depth shall be one hundred twenty-five feet (125').

484.2 Pumps, lubricating, and other service devices shall be located at least fifty feet (50') from any property line.

Motor Vehicle Service and Fuel Stations (continued)

484.3 All fuel and oil shall be stored at least thirty-five feet (35') from any property line.

484.4 All motor vehicle parts and dismantled vehicles are to be stored within a building, and no major repair work is to be performed outside a building.

484.5 There shall be no more than two access driveways from any street.

484.5a The maximum width of each driveway shall be forty feet (40').

484.6 A suitably curbed, landscaped area shall be maintained at least five feet (5') in depth along all street frontage not used as a driveway.

485. Extraction of Soil, Sand or Gravel. In accordance with Section 4407(8) of the Act, 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 approval by the Development Review Board, of a plan for the rehabilitation of the site, and after a public hearing. In any district, the following provisions shall apply:

485.1 Performance Bond. Before approval of any new or proposed extension of a soil, sand, or gravel operation, a performance bond shall 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(s) 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.

485.2 The removal of all material shall be conducted so as to result in the improvement of the land, giving due regard to the contours of 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 pit.

485.3 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. The operation site shall be fertilized, mulched and re-seeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the Administrative Officer.

485.4 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 Administrative Officer.

485.5 No excavation, blasting or stock piling of materials shall be located within two-hundred (200) feet of any street or other property line.

Extraction of Soil, Sand or Gravel (continued)

- 485.6 No power-activated sorting machinery or equipment shall be located within three hundred (300) feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
- 485.7 All excavation slopes in excess of 1:2 shall be adequately fenced as determined by the Administrative Officer.
- 485.8 Extension of an existing non-conforming operations shall not be permitted.
- 485.9 Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited.
- 485.10 The Development Review Board may attach any additional conditions as it may find necessary for the safety and general welfare of the public.

486. Telecommunications Facilities.

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

- A. Preserve the character, appearance and property values of the Village of Hyde Park while allowing adequate telecommunications services to be developed.
- B. Protect the scenic, historic, environmental, and natural resources of the Village of Hyde Park.
- C. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of telecommunications facilities and towers.
- D. Minimize tower and antenna proliferation by requiring the sharing of existing communications facilities, towers and sites where possible and appropriate.
- E. Facilitate the provision of telecommunications services to the residences and businesses of the Village of Hyde Park.
- F. Minimize the adverse visual effects of towers through careful design and siting standards.
- G. Encourage the location of towers and antennas in nonresidential areas and away from other sensitive areas such as those with schools, hospitals or childcare facilities.

486.2 Pursuant to 24VSA § 4401 et seq. the Development Review Board of the Village of Hyde Park is authorized to review applications for telecommunication facilities, including sketch, preliminary and final plans and installation, and conditionally approve or deny these applications. Pursuant to 234 VSA § 4407, the board is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for reasonable and customary costs thereof.

Telecommunications Facilities (continued)

486.3 In addition to other findings required by this bylaw, the board shall find that it's decision regarding an application is intended to be in conformance with current federal laws and current FCC regulations. The bylaw does not:

- A. prohibit or have the effect of prohibiting the provision of personal wireless services.
- B. unreasonably discriminate among providers of functionally equivalent services; and
- 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 current FCC regulations concerning such emissions.

486.4 Definitions (See Glossary of Terms included with this bylaw.)

486.5 Telecommunications towers or facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in the Village of Hyde Park.

An applicant for a telecommunications tower or facility permit must be a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the administrative officer at the time that an application is submitted. A permit shall not be granted for a tower to be built on speculation.

No construction, alteration, modification (including the installation of antennas for new uses) or installation of any telecommunications tower or facility shall commence without a conditional use permit first being obtained from the Development Review Board.

If an existing tower was constructed before the enactment of these bylaws, a full review process as for a new tower must be undertaken before additional height can be approved. This includes balloon test as noted in Section 1.8, point E.

In addition to information otherwise required in the Village of Hyde Park's Zoning Bylaws, applicants for telecommunications towers or facilities shall include the following supplemental information.

- A. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.

Telecommunications Facilities (continued)

- B. The name, address and telephone number of the person to be contacted and authorized to act in the event of an emergency regarding the structure or safety of the facility. This should be someone available on a 24-hour basis, who is authorized by the applicant to act on behalf of the applicant regarding an emergency situation.
- C. The names and addresses of the record owners of all abutting property.
- D. A report from qualified and licensed professional engineers that:
 - 1) Describes the facility height, design and elevation.
 - 2) Documents the height above grade for all proposed mounting positions for antennas to be co-located on a telecommunications tower or facility and the minimum separation distances between antennas.
 - 3) Describes the tower's proposed capacity, including the number, height and type of antennas that the tower will accommodate.
 - 4) Documents steps the applicant will take to avoid interference with any established public safety telecommunications.
 - 5) In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures within the county cannot reasonably be modified to provide adequate coverage and adequate capacity to the area to be served.
 - 6) Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage.
 - 7) Describes the output frequency, number of channels and power output per channel for each proposed antenna.
 - 8) Includes written plan for use of the proposed telecommunications facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the area to be served.
 - 9) Demonstrates the tower's compliance with the municipality's structural standards and setbacks for towers and support structures.
 - 10) Provides proof that at the proposed site, the applicant will be in compliance with all FCC regulations, standards and requirements.
 - 11) Includes a structural engineer's stamp and registration number.

Telecommunications Facilities (continued)

- E. For all telecommunications towers or facilities, the applicant shall provide a letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this bylaw.
- F. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
- G. A copy of the application or draft application for an Act 250 permit, if applicable.
- H. Provide radiated signal propagation studies that demonstrate that the proposed site and tower height, are necessary to provide adequate coverage.
- I. The permit application shall be signed under the pains and penalties of perjury.

486.6 Site Plan Requirements

In addition to site plan requirements found elsewhere in the Village of Hyde Park Zoning Bylaws, site plans for telecommunications facilities shall include the following supplemental information:

- A. Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two mile radius of the proposed tower site;
- B. Vicinity Map showing the entire vicinity within a 2500-foot radius of the tower site, including the telecommunications facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscaped features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights of way needed for access from a public way to the tower;
- C. Proposed Site Plans of entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.
- D. Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities, drawn at a scale of ¼ inch equals 1 foot.
- E. In the case of a proposed site that is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.
- F. Construction sequence and time schedule for completion of each phase of the entire project.
- G. Site plans shall be drawn at a minimum scale of one (1) inch equals 50 feet.

Telecommunications Facilities (continued)

486.7 Public Notice

- A. In addition to the normal public notice requirements for conditional use permit applications, the notifying officer shall notify all adjoining landowners in writing of the application, proposed construction, and site location as referenced in the public notice.
- B. Public notice must contain a site reference to the most recent USGS Quadrangle Map.
- C. Public notice must reference the parcel identification number from the Town of Hyde Park Assessment Maps.
- D. Public notice must reference the E911 locatable address of the site if applicable. If not applicable, then it must reference two nearby E911 locatable addresses.
- E. Balloon Test. Within 35 days of submitting an application, applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height of the tower and within fifty horizontal feet of the center of the proposed tower. The date, time, alternative weather date and location of this balloon test shall be advertised by the applicant, at one and two consecutive weeks in advance of the test date in the News & Citizen and the Transcript, or the equivalent thereof. The applicant shall inform the Hyde Park Development Review Board and abutting property owners in writing, of the dates and times of the test, at least two weeks in advance. The balloon shall be flown for at least six consecutive daylight hours sometime between 8 a.m. and 6 p.m. on the dates chosen. The Development Review Board shall witness the balloon flight.
- F. The applicant shall develop and submit a written analysis of the visual impact of the proposed tower. This analysis shall include photographs of the balloon test taken with a lens within the range of 105 – 135 millimeter, from at least 10 different perspectives within the Town/Village of Hyde Park. The Development Review Board will determine the photo locations.

486.8 Co-Location Requirements

An application for a new telecommunications tower shall not be approved unless the Development Review Board finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure, due to one of the following reasons:

- A. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.

Telecommunications Facilities (continued)

- B. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a reasonable cost.
- C. The proposed antennas and equipment, either alone or together with existing facilities, equipment, or antennas, would create RFI in violation of federal standards or requirements.
- D. The proposed antennas and equipment either alone or together with existing facilities, equipment or antennas would create RFR in violation of federal standards or requirements.
- E. Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified communications engineer licensed to practice in the State of Vermont.
- F. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
- G. There is no existing or approved tower in the area in which coverage is sought.
- H. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

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

486.9 Tower and Antenna Design Requirements

- A. Towers, antennas and any necessary support structures shall be designed to minimize the visual impact on the surrounding environment, except where the Federal Aviation Authority (FAA), state or federal authorities have dictated color.
- B. No repeater, microwave dishes or antennas shall be located less than 25' above the ground.

Telecommunications Facilities (continued)

- C. No telecommunications facility or tower, including guy-wire anchors shall be located:
- 1) Closer than one and one-half times (1 ½) the height of the tallest structure in the facility/tower horizontally to any boundary of the property on which the tower is located.
 - 2) Closer than 1000' horizontally to any structure existing at the time of application which is used as a primary or secondary residence, to the property of any school (public or private), or to any other public building. Primary or secondary residences are those dwelling units that include toilet facilities, and facilities for food preparation and sleeping.
 - 3) Within the habitat of any state-listed rare or endangered wildlife or plant species on the hosting property;
 - 4) Within 200' horizontally of any Vermont or federally regulated wetland;
 - 5) Within 200' horizontally of the outer riparian zone measured horizontally from any river or perennial stream;
 - 6) Within 500' horizontally of any known archaeological site.
- D. Towers, ground mounted equipment or antennas, as well as buildings and structures accessory to a tower, shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact of the facility on surrounding properties and other vantagepoints.
- E. All facility sites shall be fenced. The distance of the fence from the facility/tower will be at least one and one-half times (1 1/2) the height of the tallest structure in the facility/tower. The fence will conform to any and all setback requirements.
- F. Towers shall not exceed two (2) times the height of the tree line within four-hundred (400) feet.
- G. All facilities/towers shall be identified by signage that indicates presence of RFR, and any other appropriate warnings by permit conditions.

Telecommunications Facilities (continued)

486.10 Amendments To Existing Telecommunications Facility Permit

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

- A. Change in the number of buildings or facilities permitted on the site;
- B. A change in technology used by the telecommunications facility; or
- C. Addition or change of any equipment resulting in greater visibility or structural windloading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

486.11 Tower Lighting/Signage

No external lighting is permitted, except for manually operated emergency lights for use only when operating personnel are on site.

No advertising signs or lettering shall be placed on a tower, accessory building or communication equipment shelter.

Noise at the site perimeter from the operation of any machinery or equipment shall be minimized.

486.12 Antennas Mounted on Structures, Roofs, Walls, and Existing Towers Governed by 486.10

The placement of telecommunications antennas on existing buildings, structures, roofs or walls in conformance with section 1.2 of this bylaw may be approved by the Development Review Board as a conditional use, provided the antennas meet the requirements of this bylaw, upon submission of:

- A. A final site and building plan, and,
- B. Complete details of all fixtures and couplings and the exact point of attachment shall be indicated.

486.13 Temporary Wireless Communication Facilities

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

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

Telecommunications Facilities (continued)

486.14 Interference With Public Safety Telecommunications

No new telecommunications facility shall be placed or constructed in such a way as to interfere with public safety telecommunications. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing operating new service or changes in existing service, telecommunications providers shall notify the municipality at least ten calendar days in advance of such changes and allow the municipality to monitor interference levels during that testing process.

486.15 Continuing Obligations

- A. Upon receiving a permit, the permittee shall annually demonstrate that he or she is in compliance with all FCC standards and requirements regarding RFR, the basis for his or her representations and the most recent time he or she took actual readings of the RFR at the site. The permittee shall provide a list of the RFR readings, their distances from the tower/transmitter, dates of the readings and the name of the person or company who took the readings.
- B. The Development Review Board may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis, at unannounced times. The applicant shall reimburse the Village for the cost of these evaluations, if the applicant is found to be in violation.
- C. Annual structural safety inspections shall be conducted by a qualified person, and submitted in writing to the Village of Hyde Park under the pains and penalties of perjury.
- D. The telecommunications facility owner shall maintain adequate insurance on all telecommunication facilities. Proof of insurance shall be provided annually to the zoning administrative officer.

486.16 Abandoned, Unused, Obsolete, Damaged or Dangerous Towers or Portions of Towers

Abandoned or unused towers or portions of towers and their facilities shall be removed as follows:

- A. An owner who has failed to file an annual declaration with the administrative officer may file a declaration of use or intended use and may request the ability to continue use of the tower. The Zoning Administrative Officer shall send written notice requesting compliance within thirty days.

- B. Abandoned or unused towers and associated facilities shall be removed within 180 days of cessation of operations at the site, unless a time extension is approved by the Development Review Board. In the event the tower is not removed within 180 days of the cessation of operations at a site, the municipality may remove the tower and all associated facilities and the costs of removal shall be assessed against the property or tower owner.
- C. The replacement of portions of a tower previously removed requires the issuance of a new telecommunications facility permit.
- D. Damaged or dangerous towers or portions of towers must be repaired or removed by direction of a licensed tower contractor.

486.17 Enforcement and Penalties

Subject to all enforcement procedures and penalties provided under the Village of Hyde Park Zoning Bylaws.

486.18 Fees

Fees for filing an application to build or alter a telecommunications facility shall be the same as those set for other conditional use permits. Fees may include the reasonable and customary costs of an independent technical assessment of the application.

486.19 Enforcing Agent

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

486.20 Severability

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

486.21 Exemption

Any tower located in the Village of Hyde Park, its relocation or modification, which does not increase the tower height, upon the date of January 20, 1999 shall be exempt from the bylaws.

487. Mobile Homes and Manufactured Homes. Mobile homes and manufactured homes shall be treated the same as any other single family residential structure for the purposes of these Bylaws provided:

487.1 the home is securely anchored to a permanent foundation or pad, and

487.2 a durable skirt, consistent with the appearance of the home, is installed around the home.

488. Fences. Fences are permitted in front yards providing they are of open construction such as: wire, wood rail, picket or iron and do not exceed four feet in height above average grade. Fences and walls in side and rear yards are permitted provided they do not exceed six feet in height above average grade. There shall be no setback requirements.

488.1 For purposes of the above, average grade shall be the average grade of a line perpendicular to the fence line and running twenty-five (25) feet from the fence onto the owners property.

ARTICLE V. SPECIAL REGULATIONS AND PROVISIONS

Section 500. Site Development Plan Approval

501. No zoning permit shall be issued by the Administrative Officer for any use or structure, except for one and two family dwellings, agricultural, and forestry uses, until the Development Review Board grants a Site Development Plan Approval.

502. Site Plan Requirements. In applying for Site Development Plan Approval, the applicant(s) shall submit two (2) sets of site plan maps and any supporting data to the Development Review Board as it may require, which may include all *or* any of the following information presented in drawn form and accompanied by a written text:

- 502.1 the name, address and daytime telephone number of the person(s) or firm(s) preparing the map and supplying the data and information;
- 502.2 the name and address of the owner(s) of record and those of adjoining lands, and of the applicant(s) if different;
- 502.3 a map of the property showing existing features and including:
 - 502.3a a bar scale showing miles or feet,
 - 502.3b a north arrow with the most recent magnetic declination if available,
 - 502.3c the date of map preparation, and existing features including:
 - contours labeled in feet and meters,
 - structures,
 - large trees,
 - streets, utility easements, rights-of-way,
 - land use restrictions, deed restrictions, and
 - unusual natural or geologic features;
- 502.4 a map of the property showing proposed features and including:
 - 502.4a a bar scale showing miles or feet,
 - 502.4b a north arrow with the most recent magnetic declination if available,

Site Plan Requirements (continued)

502.4c the date of map preparation, and proposed features including:
contours labeled in feet and meters,
structures,
water supplies or connections, water and sewer lines or connections,
sewage disposal areas and facilities,
rivers, streams, water courses, drainage ditches, culverts
bridges,
swamps, marshy areas, bogs, and unusual natural and geologic features.

503. Additional Conditions. The municipal Development Review Board may impose appropriate conditions and safeguards with respect to the following:

503.1 adequacy of traffic impacts, access, and circulation;

503.2 provision of parking;

503.3 landscaping, and screening; and to

503.4 protect the utilization of renewable energy resources.

Section 510. Planned Residential Developments

511. Authority. In accordance with the provisions set forth in section 4407(3) of the Act, and where permitted in the zoning districts, the modification of the district regulations by the Development Review Board is permitted simultaneously with subdivision plat approval, or, in the absence of subdivision regulations, site plan approval under the following procedures.

512. Purpose. The purpose of the planned residential development (PRD) provision is to encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic provision of streets and utilities, to preserve the natural and scenic qualities of open land, and to provide for a mixture and variety of housing types at different densities, and to provide for the development of existing lots which because of physical, topographical or geological conditions could not otherwise be developed.

513. Application Procedure. A site plan shall be submitted to the Development Review Board showing:

- a). the location, height and spacing of buildings,
- b). open spaces and their landscaping,
- c). streets, driveways and off-street parking spaces,
- d). unique natural or man-made features, and
- e). physical conditions of the site.

Planned Residential Developments (continued)

513.1 Also, there shall be an accompanying statement setting forth the nature of all proposed modifications, changes or supplementation of existing zoning regulations.

514. Standards for Review. The following general standards shall be met in order for the Development Review Board to approve the application:

514.1 The PRD is consistent with the municipal plan.

514.2 The overall density of the project does not exceed the number of dwelling units which could be permitted in the Development Review Board's judgement, if the land were subdivided into lots in accordance with the district regulations.

514.3 The uses proposed for the project are residential; dwelling units may be of varied types, including one-family, two-family or multi-family construction.

514.4 The PRD is an effective and unified treatment of the development possibilities on the project site, and the development plan makes appropriate provision for the preservation of streams and stream banks, steep slopes, wet areas, and unique natural and man-made features.

514.5 The development plan is proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.

514.6 Standards for Approval. The following specific standards shall be met in order for the Development Review Board to approve the application:

515.1 The minimum size of the project shall be ten (10) acres.

515.2 District regulations on height and spacing between main buildings shall be met unless otherwise waived by the Development Review Board.

515.3 To insure adequate privacy for existing or proposed uses adjacent to the PRD, structures on the perimeter of the PRD shall be set back twenty-five (25) feet and screening may be required.

515.4 The maximum building coverage per acre permitted shall be fifty percent (50%).

515.5 The maximum number of dwelling units per acre permitted shall be reviewed on a case-by-case basis.

515.6 Adequate water supply and sewage disposal facilities shall be provided.

Planned Residential Developments (continued)

516. Open Space. If the PRD results in lands available for parks, recreation, open space or other municipal purposes, the Development Review Board as a condition of its approval, may establish such conditions as to the ownership, use and maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purposes, provided this municipality is at least fifty percent (50%) owner of such open space or the development rights of such open space.

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

Section 600. Administrative Officer

601. Appointment and Duties. The Administrative Officer shall be appointed to administer these Bylaws. He or she shall literally enforce these Bylaws, and is authorized to inspect premises affected by land development, maintain records and perform all other duties in accordance with law.

Section 610. Development Review Board

611. Appointment and Duties. There is established a “Village of Hyde Park Development Review Board” (herein referred to as the “Development Review Board”) which shall consist of an odd number between three (3) and nine (9) members. The Development Review Board shall have the powers and duties set forth in Sections 4461-4472 of the Act.

Section 620. Enforcement, Remedies and Penalties

621. General Enforcement. These Bylaws shall be enforced in accordance with Sections 4444 and 4445 and 4470 (c) of the Act, and any section of any applicable future Vermont Statute.

621.1 Whenever these Bylaws are in violation of Vermont Statutes, the Statutes of the State of Vermont shall prevail and Section 121 of these Bylaws shall be made applicable.

621.2 This municipality shall (according to Section 4470 (c) of the Act,) enforce all decisions of the Village of Hyde Park Development Review Board that pertain to the municipality of the Village of Hyde Park.

621.2a The Village of Hyde Park may, according to Section 4470 (c) of the Act, seek enforcement of these Bylaws through the courts of this State.

621.3 Interested persons may utilize Section 4470 (c) of the Act to seek enforcement of these Bylaws by the courts of this State.

Administration and Enforcement (continued)

622. Enforcement-Penalties. Any person who violates these Bylaws after they have been adopted or who violates a comparable ordinance or regulation adopted under prior enabling laws, shall be fined. The fine shall be established by the Board of Trustees and shall not be more than one-hundred dollars (\$100.00) for each offense, unless subsequent Vermont Statutes allow municipalities to change the maximum amount of the fine.

622.1 Guidelines for Levying Fines. No action may be brought under this section unless the alleged offender has had at least seven (7) days warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding twelve (12) months.

622.1a The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within seven (7) days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

622.2 Non-Payment of Fines. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double the amount of such fine.

622.3 Each day that a violation is continued shall constitute a separate offense.

622.4 Collection of Fines. All fines collected for the violation of these Bylaws shall be paid over to the Village of Hyde Park.

623. Further violations of these Bylaws regarding Section 4444(b) of the Act shall be penalized in accordance with that Section of the Act if applicable.

624. Enforcement-Remedies. If any street, building, structure, or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of these Bylaws, the Administrative Officer shall institute in the name of the Village of Hyde Park any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate such construction or use, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

Section 630. Conditional Uses

631. Procedure. Uses listed as Conditional Uses in the district regulations may be allowed by the Development Review Board after public hearing, as provided for in Section 4407(2) of the Act.

632. General Standards. In order to allow the proposed use, the following general standards shall not be adversely affected:

632.1 the capacity of existing or planned community facilities;

632.2 the character of the area affected;

632.3 traffic on roads and highways in the vicinity; and

632.4 bylaws in effect with special reference to these zoning regulations;

632.5 utilization of renewable energy resources.

Conditional Uses (continued)

633. Other Standards. Other general guidelines for evaluation are that the use:
- 633.1 will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water, so that a dangerous or unhealthy condition may result.
- 633.2 will not result in undue water, noise or air pollution.
634. Determinations. In making these determinations the Development Review Board shall at least consider:
- 634.1 the elevation of land above sea level in relation to flood plains;
- 634.2 the nature of soils and subsoils and their ability to adequately support waste disposal;
- 634.3 the slope of land and its effect on effluents;
- 634.4 the availability of streams for disposal of effluents;
- 634.5 and the applicable Federal, State and local health and natural resources regulations.
635. Specific Standards. In allowing a conditional use, the Development Review Board shall consider specific standards including:
- 635.1 increasing the required lot size or yard dimensions in order to protect adjacent properties,
- 635.2 limiting the coverage of height of buildings because of obstruction to view and reduction of light and air to adjacent property,
- 635.3 controlling the location and number of vehicular access points to the property,
- 635.4 increasing the street width,
- 635.5 increasing the number of off-street parking or loading spaces required,
- 635.6 limiting the number, location and size of signs,
- 635.7 requiring suitable landscaping and screening where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area,
- 635.8 specifying a specific time limit for construction, alteration, or enlargement to begin for a structure to house a conditional use, and
- 635.9 requiring that any future enlargement or alteration of the use be reviewed by the Development Review Board to permit the specifying of new conditions.
636. Extra Conditions. As a condition of the granting of a conditional use, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Act and these zoning regulations, and to protect the health, safety and welfare of the general public.
- 637 Pre-Existing Conditional Uses. Use listed as conditional uses, which existed prior to the effective date of these regulations, shall conform to all requirements herein pertaining to conditional uses with respect to a change in use, expansion or contraction of land area, or alteration of structures.

Section 640. Appeals

641. Filing Appeals. An interested person may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the secretary of the Development Review Board or the clerk of the municipality if no such secretary has been elected, and a copy of such notice shall be filed with the Administrative Officer.

641.1 Notice of Appeal. The notice of appeal shall be in writing and shall include: the name and address of the appellant(s), a brief description of the property to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant(s), the alleged grounds why such requested relief is believed proper under the circumstances, and any other requirements dictated in Section 4465 of the Act.

641.2 Timing of Appeals. An appeal of any decision of the Administrative Officer must be filed within fifteen (15) days of the date of such decision or act.

641.3 Interested Person – Defined. An interested person shall include the applicant; any person owning title to property affected by the decision; the municipality; any municipality which adjoins this municipality; adjacent property owners; any person owning or occupying property in the immediate neighborhood who is concerned with compliance to the Municipal Development Plan or bylaws of this municipality; and any ten (10) persons owning real property within the municipality who petition to the Development Review Board that relief granted will not be in compliance with the Municipal Development Plan or bylaw of this municipality; the Vermont Agency of Development and Community Affairs; any agency, department, or administrative subdivision of this State owning property or an interest within the municipality; the municipal conservation commission if one exists; and any other party declared to be an interested person as stated in Section 4464(b) of the Act.

641.4 Stay of Enforcement. If a notice of appeal includes a request for a stay of enforcement, the appellant(s) shall follow procedures stated in Section 4466 of the Act.

642. Public Hearing on the Appeal. The Development Review Board shall set a date and place for a public hearing on an appeal which shall be within sixty (60) days of the filing of the notice of appeal according to Sections 4464 through 4467 of the Act.

642.1 Public Notice. The Development Review Board shall give public notice of the hearing and shall mail to the appellant(s) a copy of such notice at least fifteen (15) days prior to the hearing.

Appeals (continued)

642.2 Hearing Procedures. The public hearing shall be open to the public. Any hearing held under this section may be adjourned by the Development Review Board from time to time, provided, however, that the date and place of the adjourned hearing shall be announced at the hearing. All procedures of the public hearing shall follow those established in Sections 4467 and 4470 of the Act.

642.3 Decisions on the Appeal. The Development Review Board shall render its decision, which shall include findings of fact, within forty-five (45) days after completing the hearing.

642.3a The Development Review Board shall within that same period send to the appellant(s), by certified mail, a copy of the decision.

642.3b Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and a copy thereof shall be filed with the Administrative Officer and the Village Clerk as part of the public records of this municipality.

642.3c Time Limitation. If the Development Review Board does not render a decision within forty-five (45) days, the Board shall be deemed to have rendered a decision in favor of the appellant(s) and granted the relief requested by the appellant(s) on the last day of such period.

642.3d Rejection of Appeal. The Development Review Board, (under the criteria and procedures stated in Section 4470(b) of the Act), may reject an appeal without hearing and render a decision, which shall include findings of fact, within ten (10) days of the date of the filing of the notice of appeal.

642.3e Enforcement of Decision. All decisions of the Development Review Board shall be enforced according to Section 4470(c) of the Act and any other pertinent Vermont Statute.

643. Further Appeals. Any interested person may appeal a decision of the Development Review Board to the superior court having jurisdiction in this county. The manner and procedures of an appeal of this type shall be consistent with Sections 4471 and 4472 of the Act, and any other pertinent Vermont Statute.

644. Variance Appeals. In accordance with Section 4468 of the Act, the Development Review Board may grant a variance from the provisions of these Bylaws for a structure that is not primarily a renewable energy resource structure, if all of the following facts are found and the finding is specified in its decision.

 a). That 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 such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;

Variance Appeals (continued)

b). That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

c.) That the unnecessary hardship has not been created by the appellant(s);

d.) That 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, nor be detrimental to the public welfare;

e). That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least possible deviation from the zoning regulation and from the Municipal Development Plan; and

f). That the variance meets all other criteria established in Section 4468 of the Act.

644.1 Variance Procedure. An appeal for a variance shall follow the procedures described in Sections 641 through 643 of these Bylaws and/or established in Section 4468 of the Act.

644.2 Extra Conditions. The Development Review Board in granting a variance may attach such conditions to such variances as it may consider necessary and appropriate under the circumstances to implement the purposes of these Bylaws, the Municipal Development Plan, and the Act.

644.3 Unusual Variances. When a variance is requested for a structure that is primarily a renewable energy resource structure, the granting or denial of such variance shall be governed by Section 4468(b) of the Act.

ARTICLE VII. DEFINITIONS

Section 700. STATE DEFINITIONS. The definitions under Section 4303 of the Act shall apply to these Bylaws, and shall supersede those defined herein if a conflict exists.

SECTION 710. OTHER DEFINITIONS. The following definitions shall also apply to these Bylaws.

THE ACT – Refers to Title 24, Chapter 117 of the Vermont Statutes Annotated.

ACCESSORY USE. A use or structure on the same lot with, and customarily incidental and subordinate to, the principal use or structure. Such use or structure shall not exceed, in area, thirty percent (30%), or 400 square feet, whichever is greater, of the principal use or structure. Structures accommodating any accessory use subject to the same requirements (i.e. setbacks, height and size restriction, etc.) as the principal use or structure.

ADMINISTRATIVE OFFICER – The term “Administrative Officer is intended to mean that person appointed in accordance with Section 4442 of the Act.

AREA OF SPECIAL FLOOD HAZARD. This refers to the land in the floodplain within a community, subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A is usually refined into Zones A, AO, AH, A1-A30, AE, or A99.

AUTHORIZED AGENT OR REPRESENTATIVE – A person or group of persons, who have been duly authorized by a written statement filed with the Development Review Board by the applicant to act in his or her behalf.

AUTO SERVICE STATION. See “Motor Vehicle Service Station.”

BASE FLOOD. The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASEMENT. This means any area or the building having its floor subgraded (below ground level) on all sides.

BED AND BREAKFAST. See “Transient Lodging Facilities.”

BOARDING HOUSE. See “Transient Lodging Facilities.”

BUILDING. [except as used in Section 320 of these Bylaws] Any structure that is used principally for enclosure of persons, animals, chattels, or property of any kind.

DEFINITIONS (continued)

BUILDING. [as used in the Flood Hazard Area regulations: Section 320 of these Bylaws] This means a walled and roofed structure, including a gas or liquid storage tank, that is principally located above ground.

BUILDING FRONT LINE. Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed, but does not include steps or ramps.

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.

CARE HOMES. See “Group or Care Homes.”

CHILDCARE FACILITIES. See “Day Care Facilities.”

CHURCHES, SYNAGOGUES, TEMPLES, CONVENTS AND PARISH HOUSES.

This term means any development of which the principal purpose is the conduct of religious worship or other religious activities. This shall include any related offices, rectory, and residential dwellings for the clergy, convents, and meeting halls. It shall not be construed to include any private or parochial educational facility except those, which may be used for Sunday school or similar activities.

COMMERCIAL USE. This shall include all businesses, stores, warehouses, offices, banks, and similar structures constructed for the promotion and conduction of commerce. This shall not include motor vehicle service stations, or transient lodging facilities.

COMMUNICATION EQUIPMENT – Satellite dishes, towers and antennas that receive and or transmit signals, except those under twenty (20) feet in height, used for private or personal reception.

CONDITIONAL USES. Those uses which, according to the particular district regulations, are allowed on a property only after certain general and specific standards have been met, and upon approval of the Development Review Board after one or more public hearings on the matter, and after the Development Review Board determines that the proposed use will conform to the general and specific standards. (see Sections 630 through 639 of these Bylaws).

DAY CARE FACILITIES. This shall mean a State licensed or registered facility caring for children.

DEFINITIONS (continued)

DEVELOPMENT – The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure; or any mining, excavation, or landfill; and any change in the use of any building or other structure; or land; or extension or use of land.

DEVELOPMENT REVIEW BOARD – The Hyde Park Development Review Board created in accordance with Section 4461 of the Act.

DWELLINGS. See “Single Family Residential Dwelling Unit,” “Two Family Residential Dwelling Units,” “Multi-Family Residential Dwelling Units,” “Dwelling, Seasonal,” or “Dwelling Unit.”

DWELLINGS, SEASONAL. A dwelling unit that is not to be occupied as a principal place of abode, but rather used as a recreational home, or a second home.

DWELLING UNIT. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental, or lease, and physically containing independent cooking, bathroom/toilet facilities, and sleeping facilities.

EDUCATIONAL FACILITIES. This term includes any public, private, or parochial preschool, nursery school, school, college, university, or other similar institution, and shall include all related development such as: athletic and play fields, playgrounds, parking facilities, dormitories, etc.

ELEVATION – For the purpose of determining the height limits in a zone set forth in this Bylaw and shown on the zoning maps, the datum shall be mean sea level elevation unless otherwise specified.

ESSENTIAL SERVICES. See “Public Service and Utilities Facilities.”

FAA - Federal Aviation Administration.

FAMILY. Any number of individuals related by blood, marriage or adoption, living together as a single housekeeping unit. A group of not more than five (5) persons keeping house together but not necessarily related by blood or marriage, may be considered a family, for purposes of establishing density of use.

FCC – Federal Communications Commission.

DEFINITIONS (continued)

FEDERAL, STATE, COUNTY OR MUNICIPALLY OWNED AND OCCUPIED OFFICES AND FACILITIES. This includes any use, structure or development both owned and operated by either the United States government, the State of Vermont, the County of Lamoille, the Town of Hyde Park, the Village of Hyde Park, the Hyde Park Town School District, the Lamoille North Supervisory Union, the Lamoille Regional Solid Waste Management District, or any department or agency thereof, or their successors.

FLOOD HAZARD BOUNDARY MAP (FHBM) This means an official map of the community issued by the Administrator, where the boundaries of the flood, mudslide (i.e. mudflow), and related erosion areas having special hazards have been designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM). This means an official map of the community on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. This means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOODPROOFED OR FLOODPROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

FLOOD FRINGE AREA. The land in the Flood Hazard Areas subject to a one percent (1%) or greater chance of flooding in any given year and is designated Zone A or A1 through 30 on the Flood Insurance Rate Map. In case of streams or rivers this is usually the area between the outer boundary or the floodway and the 100-year flood boundary.

FUEL STATION. See "Motor Vehicle Service Station."

GEOGRAPHICAL INFORMATION SYSTEM(GIS) – The computerized mapping and information system adopted by the State of Vermont, Office of Geographic Information Services and/or the regional planning commission serving this Municipality.

DEFINITIONS (continued)

GROUND WATER SOURCE PROTECTION AREA(SPA) – An area designated by the State of Vermont, Agency of Natural Resources as a public drinking water source and recharge zone, and given special protection in these Bylaws.

GROUP OR CARE HOMES. This shall mean a State licensed or registered facility serving as a temporary or permanent residential care home for qualifying persons.

HEIGHT, STRUCTURE – The vertical distance from the average finished grade at the foundation of the building, to the highest point on the structure.

HOME INDUSTRY OR HOME BUSINESS. Any small industrial, commercial, or service type of operation carried out in the home under the conditions established by these regulations.

HOME OCCUPATION. An accessory use of a service character conducted within a dwelling, by the residents thereof, which is clearly secondary to the dwelling used for living purposes and does not change the character thereof.

HOTEL. See “Transient Lodging Facilities.”

INN. See “Transient Lodging Facilities.”

JUNK YARD. Land or building used for the collecting, storage or sale of waste papers, rags, scrap metal, or discarded material, or for the collecting, wrecking, dismantling, storage, salvaging or sale of used machinery parts or unregistered vehicles not in running condition.

LCPC – Lamoille County Planning Commission, the regional planning commission serving this Municipality.

LEGISLATIVE BODY – The Selectboard of the Town of Hyde Park. The Trustees of the Village of Hyde Park.

LIGHT INDUSTRY. Manufacturing which does not conduct large scale, direct processing of raw earth materials (“Raw earth materials” does not include timber, wood, clay, tree sap, animal hides and fur or hair, and agricultural products). Assembly of products from components produced and/or processed elsewhere is considered a “light industry.”

DEFINITIONS (continued)

LOADING SPACE. Off-street space used for the temporary location of one licensed motor vehicle, which is at least twelve feet (12') wide and forty feet (40') long and fourteen feet (14') high, not including access driveway, and having direct access to a street or alley.

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 incidental 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 Development Review Board 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 these Bylaws *and the Act*.

LOT MEASUREMENTS:

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.

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 eighty percent (80%) of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the eighty percent (80%) requirement shall not apply.

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

LOWEST FLOOR. [as used in the Flood Hazard Area regulations in Section 320 of these Bylaws]. This means the bottom floor of the lowest enclosed area (including basement.) An unfinished or flood resistant enclosure, useable solely for parking vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.

DEFINITIONS (continued)

MANUFACTURED HOME. This means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term “manufactured home” also includes mobile homes, park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For flood insurance purposes and other purposes of these Bylaws, the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

MEAN SEA LEVEL. This means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the community’s Flood Insurance Rate Map are referenced.

MOBILE HOME. See “Manufactured Home.”

MOTEL. See “Transient Lodging Facilities.”

MOTOR VEHICLE SERVICE STATION. Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles. A motor vehicle service station is not a sales, or major repair agency for autos, trucks or trailers.

MULTI-FAMILY RESIDENTIAL DWELLING UNITS. A residential building or buildings on a lot designed for, intended for occupancy, or actually occupied by three or more families living independently of each other in individual dwelling units, with the number of families in residence not exceeding the number of dwelling units provided.

MUNICIPAL PLANNING COMMISSION. This shall mean the Village of Hyde Park Municipal Planning Commission established in accordance with Section 4321 of Title 24, Chapter 117 of the Vermont Statutes.

MUNICIPALITY. This term shall mean the Village of Hyde Park, Lamoille County, Vermont.

NON-CONFORMING USE. Use of land or structure, which does not comply with all Zoning Regulations for the district in which it is located, where such use conformed to all applicable laws and regulations prior to enactment of these Regulations.

DEFINITIONS (continued)

NON-COMPLYING STRUCTURE. Structure not complying with the Zoning Regulations for the district in which it is located, where such structure complied with all applicable laws and regulations prior to enactment of these Regulations.

NON-RESIDENTIAL USE. All uses of buildings, structures or land except single-family dwellings, two-family dwellings and multi-family dwellings.

OFF-LOT WATER AND SEWER. A situation in which the source of the potable water and the disposal of the sewage are at a location not located on the lot. Further provided that each of these systems shall be designed so as to provide service to six or more independent users.

ON-LOT WATER AND SEWER. A situation in which the potable water is from a source (such as a drilled well) located on the same lot as the building for which it is provided for, and the disposal of the sewage is located on the same 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 room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated to be 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, in a manner appropriate to the circumstances of the case, and in accordance with all Bylaws and regulations of the Village.

PERMITTED USES. Uses specifically allowed in the district, excluding illegal uses and non-conforming uses.

PERSONAL WIRELESS SERVICES – Commercial mobile services, unlicensed wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

PLANNED RESIDENTIAL DEVELOPMENT. This shall mean an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units; the plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one or more districts created, from time to time, under the provisions of a municipal zoning ordinance under the authority of the Act.

DEFINITIONS (continued)

PLANNING COMMISSION. This shall mean the Village of Hyde Park Municipal Planning Commission established in accordance with Section 4321 of Title 24, Chapter 117 of Vermont Statutes Annotated.

PRIMARY SINGLE FAMILY RESIDENTIAL DWELLING UNIT. See “Single Family Residential Dwelling Unit.

PROHIBITED USES. Those uses, which shall require special approval of the Development Review Board after public hearing to determine that the public health and safety will not be endangered. (See Section 481 of these Bylaws.)

PUBLIC ASSEMBLY. Includes auditorium, theater, public hall, school hall, meeting hall, church, temple, and synagogue, or any structure meant to accommodate a gathering of twenty (20) or more persons.

PUBLIC SERVICE AND UTILITIES FACILITIES. Any building, facility, or use, (including their erection, construction, alteration, or maintenance), by any public utility, or municipal or other governmental agency, providing any underground, surface, or overhead transmission, collection, or distribution of energy sources and/or products and materials; or providing communication, or emergency services. Such services and products may include but are not limited to: natural gas, electrical power, steam, water, sewage, drainage, telephone and telegraph communications, cable television transmission, fire protection, ambulance service, police protection, services and utilities determined by the Development Review Board to be reasonably necessary for the general welfare and public health.

Such facilities necessary may include but are not limited to: buildings, poles, wires, mains, drains, sewers, pipes, conduit cables, public utility substations (in conformance with Section 483 of these Bylaws), fire alarm boxes, hydrants, street lights, traffic signals, signs, police call boxes, police stations, jails, fire stations, ambulance stations, sewage treatment plants, water treatment plants, and other similar facilities determined by the Development Review Board to be reasonably necessary for the public health and general welfare.

PUBLIC WATER, PUBLIC SEWER. Water supply and sewage disposal systems approved by the State of Vermont as a public water or sewer system.

REGIONAL PLANNING COMMISSION – The planning commission for the region created under Subchapter 3 of the Vermont Planning and Development Act, Title 24 V.S.A. Chapter 117, and which this Municipality is a member of, and known as the Lamoille County Planning Commission, Inc.

RESIDENCE – Those dwellings units that include toilet facilities, and facilities for food preparation and sleeping.

DEFINITIONS (continued)

RESIDENTIAL DWELLING UNITS OR USE. Includes single-family dwelling, two-family dwelling and multi-family dwellings whether the dwelling units are in one or more structures on the lot.

RETAIL STORE. Includes enclosed restaurant, café, shop and store for the sale of retail goods, personal service shop and department stores; and shall exclude any drive-up service, free-standing retail stand, gasoline and/or fuel service, motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

RFI – Radio Frequency Interference

RFR – Radio Frequency Radiation

ROAD. See “Street.”

SIGN – Any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

SINGLE-FAMILY RESIDENTIAL DWELLING UNIT. One detached residential dwelling on a lot designed for and occupied by one family only as their primary residence, solely as the only home on the lot.

STORAGE YARD. This means any outdoor area whether fenced or unfenced which is used to stockpile, save, or otherwise store any goods or materials.

STREET. Any public or private way, or right of way, which provides, or is reserved to provide, the principal access to abutting properties.

STRUCTURE. This means an assembly of materials for occupancy or use, including but not limited to: buildings, mobile homes, trailers, manufactured homes, billboards, signs, walls, or fences, except a wall or fence on an operating farm.

SUBSTANTIAL IMPROVEMENT. This means the repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds forty percent (40%) of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and was being restored before the damage occurred. The term does not, however, include either (1) any project for improvement of the structure to comply with existing State, or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.

DEFINITIONS (continued)

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

TELECOMMUNICATIONS PROVIDER – An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

TELECOMMUNICATIONS TOWER – A structure that is intended to support antennas that send and or receive signals from satellite or ground based through the air/atmosphere; including but not limited to radio, television, telecommunications, beeper, pagers, wireless phones, two-way radios, HAM radios, other types of transmitting or receiving structures.

TEMPORARY WIRELESS COMMUNICATION FACILITY – Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

TWO-FAMILY RESIDENTIAL DWELLING UNITS. A residential building or buildings on a lot designed for or occupied by two families living independently of each other in individual dwelling units. The maximum number of dwelling units and families living on the lot shall not exceed two.

TRANSIENT LODGING FACILITIES. Any structure containing rooms, which are designed to be, rented as sleeping units for persons on a temporary basis. This definition shall include: “bed and breakfasts,” “hotels,” “inns,” “motels,” “lodges,” and “hostels.”

TRAVEL TRAILER. Trailer shall mean any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways, whether licensed or not, and constructed in such a manner as will permit occupancy thereof as a sleeping place for one or more persons. The vehicle may or may not be provided with a toilet, bathtub, or shower and cannot readily be connected to community sewer and water service. A trailer shall also mean tent trailers, truck campers, pop-up campers, camper vans, and vehicles converted to sleeping facilities. This definition includes uses to which trailers might be put.

WAREHOUSE AND STORAGE FACILITIES. Includes warehouse, wholesale establishments, discount houses, bulk storage and bulk sales outlets, and other similar structures provided that all long term storage is located within the structure(s).

DEFINITIONS (continued)

WETLANDS – Shall mean those areas of the state that are inundated by surface or ground water with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction.

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.

YARD, FRONT. Yard between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the building.

YARD, REAR. Yard between the rear lot line and the rear line of a building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

YARD, SIDE. Yard between the principal building or accessory building and a side lot line, and extending from the front yard to the rear yard.