

## ARTICLE 8. DEFINITIONS

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### Section 8.1 Terms & Usage

- (A) Except where specifically defined in these regulations or in the Act, or unless otherwise clearly required by the context, all words, phrases and terms in these regulations shall have their usual, customary meanings.
- (B) In the interpretation of words and terms used, defined, or further described in these regulations, the following shall apply:
- (1) the particular controls the general,
  - (2) the present tense includes the future tense,
  - (3) the word “shall” is mandatory; the words “may” and “should” are permissive; the term “generally shall” indicates that it is mandatory unless the Development Review Board or other applicable body deems otherwise in accordance with these regulations,
  - (4) the word “structure” includes “building”;
  - (5) the word “road” includes “street,” and
  - (6) the word “lot” includes “parcel.”
- (C) For the purposes of flood hazard area regulation under Article 9, National Flood Insurance Program definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. Definitions of some commonly used terms are provided in Article 9, Section 14.
- (D) Any interpretation of words, phrases or terms by the Zoning Administrator may be appealed to the Development Review Board under Section 7.5. In such cases, the Board shall base its decision upon the following definitions, state statute, and the need for reasonable and effective implementation of these regulations. The Board shall publish and update from time to time such written interpretations, to ensure consistent and uniform application of the provisions of these regulations.

### Section 8.2 Definitions

**Accepted Agricultural Practices (AAPs):** Accepted practices for agriculture, including farm structures other than dwellings, as currently defined by the Secretary of the Vermont Agency of Agriculture, Food and Markets (see exemptions under Section 7.2). See also Agriculture, Farm Structure.

**Accepted Management Practices (AMPs):** Accepted practices for silviculture (forestry) as currently defined by the Commissioner of the Vermont Department of Forests, Parks and Recreation (see exemptions under Section 7.2). See also Forestry.

**Access:** A defined area of ingress and/or egress between a property and an abutting road right-of-way (e.g., a curb cut) or surface water. See also Driveway, Road.

**Accessory Dwelling:** See Dwelling/Accessory.

**Accessory Structure:** A structure that is customarily incidental and subordinate to the primary use or structure of a lot or parcel of land, is located on the same lot as the primary structure or use, is clearly related to the primary use. See also Accessory Use.

**Accessory Use:** A use that is customarily incidental and subordinate to the principal use of a lot, is located on the same lot as the principal use, and is clearly and customarily related to the principal use. See also Accessory Structure.

**Act:** 24 V.S.A., Chapter 117, the Vermont Municipal and Regional Planning and Development Act as most recently amended.

**Adaptive Re-Use:** The use of a historic building or structure for other than its originally intended use or purpose, in a manner that maintains its historic features and character, in accordance with the requirements of these regulations (see Section 4.3).

**Adequate Capacity:** Capacity for wireless telephony is considered to be “adequate” if the grade of service (“GOS”) is p.05 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, Adequate Capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the wireless telecommunications services facility in question, Adequate Capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

**Adequate Coverage:** Coverage is adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment like East Montpelier, this would be signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage, as long as the signal regains its strength farther away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

**Adjoining landowner:** A landowner(s) that may adjoin or that may abut a parcel or property that is subject to review under these regulations. For the purposes of these regulations, adjoining or abutting can be those immediately next to or those separated by a right of way, road or driveway.

**Administrative Officer:** The East Montpelier Zoning Administrator.

**Affiliate:** For the purposes of regulating telecommunications facilities, (1) when used in relation to an operator, an affiliate is another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator’s principal partners, shareholders, or owners of some other ownership interest; or (2) when used in relation to the municipality, an affiliate is any agency, board, authority or political subdivision associated with the municipality or other person in which the municipality has legal or financial interest.

**Affordable Housing:** Housing that is either: (1) owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the median income for Washington County, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household’s gross annual income; or (2) rented by its inhabitants whose gross annual household income does not exceed 80 percent of the median income for Washington County, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household’s gross annual income. **“Perpetually**

**affordable**” shall mean housing that meets the affordability requirements of these regulations for a minimum period of 99 years from the date of first sale or lease.

**Affordable Housing Development:** A housing development in which at least 20% of the units, or a minimum of five (5) units, whichever is greater, are affordable housing units.

**Agriculture:** As defined by the Vermont Secretary of Agriculture, to include the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; the raising, feeding or management of livestock, poultry, equines, fish or bees; the operation of greenhouses; the production of maple sap; the on-site storage, preparation and sale of agricultural products principally produced on the farm; and the on-site production of fuel or power from agricultural products or wastes produced on the farm. The term shall include commercial riding stables, but specifically excludes the slaughtering of animals or poultry for commercial purposes. See also Accepted Agricultural Practices, Farm Structure.

**Agricultural Products:** Products produced, prepared and/or processed from an agricultural operation including but not limited to milk, vegetables, fruits, flowers, potting or bedding plants, soil or compost, trees, shrubs, greens, maple syrup or other sap products, meat, poultry, eggs, fish, honey, and other bee products. This also includes products manufactured from these products, including cheese and other dairy products. See also Agriculture.

**Agricultural Structure:** See Farm Structure.

**Alteration:** Any relocation, structural change, rearrangement, or addition to a building or structure, excluding normal maintenance and repair activities. Alterations shall include any construction that changes the number of dwelling units, or increases the size of a building or structure, including its height, length, width, footprint, or gross floor area. It shall also include any increase in the number of bedrooms or bathrooms. See also Conversion, Improvement, Substantial Improvement.

**Antenna:** A device for transmitting and/or receiving electromagnetic signals that is attached to a tower or other structure.

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

**Antenna Support Structure:** Any pole, telescoping mast, tower tripod, or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic signals.

**Applicant:** The owner of land or property proposed to be subdivided and/or developed in accordance with these regulations and/or his or her duly authorized representative. Any party with a legal interest in land subdivision and/or development may apply for a permit in cooperation with the owner of the property. See also Interested Party.

**Authorized Agent:** A person or group of persons who have been duly authorized in writing by an applicant or subdivider to act on his/her behalf.

**Available Space:** For purposes of regulating telecommunications facilities, the space on a telecommunications tower or structure to which the antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

**Bar:** See Restaurant.

**Base Station:** The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

**Basement:** Any area of a building having its floor at subgrade (below ground level) on all sides.

**Bed & Breakfast:** A single family dwelling occupied by the owner or operator, in which not more than six double occupancy rooms within the dwelling and/or in an accessory structure located on the same lot, are rented out to provide overnight accommodations to transient travelers. Individual cooking and eating facilities shall not be provided; breakfasts shall be the only meals served and shall be limited to overnight guests. The bed and breakfast shall function as a private home with house guests.

**Boundary (Lot Line) Adjustment:** A division of land for the purpose of adjusting boundaries between adjacent lots or parcels where no new lot is created. A boundary adjustment shall not create a nonconforming lot or use (see Section 3.10). See also Subdivision.

**Buffer:** Any space between adjoining land uses or between a land use and a natural feature, that is intended and designed to reduce the impact of one use on the other use or feature. Buffers may include open space, woodland, landscaped areas, undisturbed vegetated areas, or other types of physical, visual or sound barriers.

**Building:** A structure having a roof supported by columns or walls and intended for the shelter or accommodation of persons, animals, goods, chattel or equipment.

**Building Envelope:** A specific area of a lot, delineated on a subdivision plat, within which structures, parking, and loading areas shall be located; and outside of which no structures, parking or loading areas shall be located. A building envelope shall be defined by required minimum setback and height distances, unless otherwise specified in these regulations. This also may be referred to as the “buildable area” of a lot.

**Building Height:** See Height.

**Camper:** Any vehicle used as temporary sleeping, camping or living quarters, that is mounted on wheels, a truck or a camper body, or towed by a motor vehicle, and includes a holding tank for the storage of sewage if bathroom facilities are present. This definition includes recreation vehicles such as motor homes and travel trailers, but specifically excludes mobile homes (see Section 4.4). See also Mobile Home.

**Campground:** A parcel of land upon which three (3) or more campsites are located for occupancy by a camper, tent, yurt or lean-to as temporary living quarters for recreation, education, or vacation purposes (see Section 4.5). See also Camper.

**Cellular Telecommunications:** A commercial Low Power Mobile Radio Service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels that are assigned in groups to geographic cells within a service area and that are capable of being reused in different cells within the service area.

**Cemetery:** Land used or dedicated to the burial of the dead, including cremains. A cemetery may include as accessory structures mausoleums, columbariums, or maintenance facilities; crematoriums are specifically prohibited. An individual burial site on private land, registered with the East Montpelier Town Clerk in accordance with state law, is exempted from this definition. See also Funeral Home.

**Change of Use:** See Conversion.

**Clearing:** The removal of existing vegetation, e.g., as part of site preparation for the installation of driveways, septic systems, building sites and construction or yard areas.

**Co-location:** Locating wireless telecommunications equipment from more than one provider at a single site or structure.

**Commercial Use:** An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

**Commission:** The East Montpelier Planning Commission, as created under the Act.

**Common Land:** Land within a development or subdivision that is not individually owned, but is designed to be held in common for the use, enjoyment, management and maintenance by the residents of a development or subdivision. Such land may include but not be limited to open space areas, parking lots, community water and wastewater systems, pedestrian walkways, utility and road rights-of way.

**Community Center:** A building owned by a public or nonprofit entity, or a homeowners or similar community association, that is used for recreational and social activities and is intended primarily to serve the population of the community in which it is located.

**Community System (Water, Wastewater):** Any water or wastewater disposal system other than a municipally-owned system that provides potable water to or disposes of wastewater from two or more domestic, commercial, industrial, or institutional uses. Such systems shall include associated collection, distribution and treatment facilities.

**Compact Settlement/Residential Pattern:** Settlement patterns are the manner in which buildings and other structures are organized on the ground and may include building sizes and orientation and the relationships of parking and open space. Sometimes referred to as “historic settlement patterns,” examples of compact settlement/residential pattern include many if not most Vermont towns, villages and hamlets such as East Village, East Montpelier Center and North Montpelier. Compact settlement patterns efficiently use the available open space and provide connections with neighboring properties that reduce curb cuts and enhance pedestrian connections. The use of multiple stories, common open space, clustering and a close relationship to the street are characteristics that can distinguish compact settlements from sprawl or strip development.

**Contiguous Land:** (1) A parcel of land contained within a single, unbroken parcel boundary; or (2) two or more parcels that share a common parcel boundary or point. Where one or more existing road rights-of-way bisect an existing parcel, the right(s)-of-way may be considered a boundary dividing the parcel into two or more lots only if all portions of the parcel divided by the right(s)-of-way meet the minimum lot size requirement for the district within which they are located.

**Contractor’s Yard:** A parcel of land with or without buildings thereon to be used for the storage of equipment, materials, and/or vehicles used in the operation of construction and related trades. See also Home Industry.

**Conversion:** Changing the original purpose of a building to a different use, with or without structural alteration. This includes, but may not be limited to, the conversion of camps or accessory dwellings to single family dwellings, or the conversion of a single family dwelling to a two-family or multi-family dwelling (see Section 3.4). See also Adaptive Reuse.

**Cul-de-Sac:** A road intersecting another road at one end, and terminated at the other end by a vehicular turnaround.

**Cultural Facility:** A museum, theater, concert hall, or other establishment that offers programs, performances or exhibits of cultural, educational, historical, or scientific interest, and is not operated as a commercial use. See also Recreation, Indoor.

**Curb Cut:** See Access.

**Day Care Center:** All state registered or licensed day care facilities that do not meet the definition of “home child care,” including nonresidential child and adult day care facilities, and home-based childcare facilities that serve more than six children on a full-time basis. See also Home Child Care, Residential Care Facility.

**dBm:** Unit of measure of the power level of an electromagnetic signal at the input of a receiver, given its antenna system gain at a particular frequency, expressed as decibels (dB) above one milliwatt. Signal predictions with this measure are applicable at a particular frequency, and may be ambiguous unless all receivers and antenna combinations utilize an identical frequency.

**dBu:** Unit of measure of the field intensity of an electromagnetic signal, expressed as decibels (dB) above one microvolt per meter, an absolute measure for describing and comparing service areas, independent of the many variables (see dBm) introduced by different receiver configurations. This unit shall be used for coverage prediction plots

**Degree of Non-compliance:** The degree to which a structure, or portion thereof, does not meet required dimensional standards, including setback distances, as specified in these regulations For purposes of these regulations, any enlargement or other structural alteration that extends the footprint, height or volume of a structure within a required setback distance, or above the maximum allowed height (i.e., the amount of encroachment), shall be considered to increase the degree of non-compliance. See also Non-Conforming Structure.

**Demolition:** The razing of more than fifty percent (50%) of a structure.

**Density:** The maximum number of dwelling units per acre of lot area, excluding the land area within existing and proposed road rights-of-way, unless otherwise specified in these regulations.

**Development:** See Land Development.

**Drive-through:** An establishment that, by design, physical facilities, and/or service, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

**Driveway:** A private travel way, easement, or right-of-way serving one or two parcels, that provides vehicular access to a parking area(s) associated with the principal structure or use. See also Road.

**Dwelling/Accessory:** A secondary dwelling unit established in conjunction with and clearly subordinate to a single family dwelling, that is retained in common ownership, is located within, attached to or on the same lot as the primary dwelling, and that otherwise meets applicable requirements of these regulations (see Section 4.2). See also Dwelling/Two-Family.

**Dwelling/Multi-Family:** A building or portion thereof containing three (3) or more dwelling units. See also Dwelling Unit, Dwelling/Two Family.

**Dwelling/Single Family:** (1) A building containing one (1) principal dwelling unit, and up to one (1) accessory dwelling as allowed under Article 4, Section 4.2. See also Dwelling/Accessory, Group Home.

**Dwelling/Two Family:** A building, such as a duplex, that contains two principal dwelling units.

**Dwelling Unit:** A building, or portion thereof, designed, constructed, or used as separate living quarters for one (1) family, including any domestic employees that are employed on the premises, that includes food preparation, sleeping and sanitary facilities. This definition specifically excludes boarding or rooming houses, residential care facilities, inns and hotels. See also Family.

**Easement:** A property owner's authorization for the use by another person of any designated part of the property for a specified purpose.

**Enlargement:** Any increase in the height or the footprint of a structure, e.g., through extensions or additions to any side.

**Extraction of Earth Resources:** A use involving the on-site removal of surface and subsurface materials, including soil, sand, gravel, stone, rock or organic substances other than vegetation, from land or water. Customary extraction operations include sand and gravel pits, rock quarries, and accessory operations such as the crushing, screening, and temporary storage of materials excavated on-site (see Section 4.6).

**Family:** One or more persons related by blood, marriage, civil union, adoption or other form of legal guardianship as recognized by the State of Vermont, or a group of not more than six (6) unrelated persons, exclusive of domestic servants, living together as a household. See also Group Home.

**Farm Structure:** As defined by the Vermont Secretary of Agriculture to include a structure or structures used for agricultural production, that meets one or more of the following: 1) is used in connection with the sale of \$1,000 or more of agricultural products in a normal year; 2) is used in connection with the raising, feeding and management of the minimum specified number of adult animals: four (4) equines, five (5) cattle or bison, 15 swine, 15 goats, 15 sheep, 15 fallow or red deer, 50 turkeys or geese, 100 laying hens or ducks, 250 broilers, pheasant, Chukar partridge or Coturnix quail, three (3) camelids, four (4) ratites, 30 rabbits, or 1000 pounds of cultured trout; 3) is used by a farmer filing with the Internal Revenue Service a 1040(F) income tax statement in at least one of the past two years; 4) is on a farm with a business and farm management plan approved by the Secretary. In accordance with the Act [§ 4413(d)], this definition includes farm buildings, silos, enclosures and fences, but specifically excludes dwellings for human habitation. See also Agriculture, Accepted Agricultural Practices.

**FCC:** Federal Communications Commission. The government agency that is responsible for regulating telecommunications in the United States.

**Fence:** An assemblage of materials, which may include metal, stone, wood, or any combination, erected and placed on the ground for purposes of limiting visual or physical access, and/or to mark a property boundary. Agricultural fences [of any height](#), and other fences or walls six (6) feet or less in height, that do not obstruct public rights-of-way are specifically exempted from these regulations (see Section 7.2).

**Financial Institution:** A bank, savings and loan, finance, mortgage or investment company.

**Fiscal Impact Analysis:** An analysis of the costs and revenues associated with a specific development application. Also sometimes known as a cost-revenue analysis.

**Flood Hazard Area:** Defined as "special flood hazard area" in Article 9.

**Floor Area/ Gross:** The total area of all floors of a building as measured to the outside surfaces of exterior walls, including halls, stairways, elevator shafts, attached garages, enclosed porches and balconies, but excluding interior vehicular parking and loading spaces, or any space where the floor to ceiling height is less than six (6) feet.

**Forestry:** The use and management of woodlands for purposes of timber production and harvesting for commercial, wildlife and/or conservation purposes. This definition specifically excludes permanent sawmills, lumber yards and other similar facilities used for the processing and/or manufacturing of wood and wood products; but may include, as accessory uses, portable sawmills and equipment used on-site in association with timber harvesting operations.

**Frequency:** The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

**Frontage:** See Lot Frontage.

**Funeral Home:** A building or part thereof used for human funeral services. Such building may also contain space and facilities for preparation of the dead for internment or cremation; the performance of autopsies and associated surgical procedures; the storage and sale of caskets, funeral urns and related funeral supplies; and the storage of funeral vehicles, but shall not include facilities for cremation.

**Garage Sale:** The casual sale or offering at any one time of new, used, or second hand items of tangible personal property to the general public, that is generally advertised by terms such as garage sale, yard sale, rummage sale, attic sale, lawn sale, porch sale, barn sale or similar phrase (see Exemptions under Section 7.2). See also Outdoor Market.

**Gas Station:** An establishment principally used for the sale of automobile or motor vehicle fuels, lubricants, and related motor vehicles products, and/or that has facilities for fueling motor vehicles. This definition specifically excludes automobile and motor vehicle repair services and sales, and the sale of food and unrelated convenience or grocery items (see section 4.7). See also Motor Vehicle Service, Mixed Use.

**Grade, Finished:** Completed surface of grounds, lawns, walks, paved areas and roads that have been brought to grades as shown in associated plans.

**Grade, Natural:** The initial, original surface of ground within a proposed building or structure footprint, as measured from contour elevations prior to any site clearing, filling or excavation.

**Group Home:** In accordance with the Act [§4412(1)], a residential care home operating under state licensing or registration, that serves not more than eight (8) persons who have a handicap or disability as defined in state statutes (9 V.S.A. 4501), and meets the requirements of Section 4.8. See also Residential Care Facility.

**Hazardous Waste Facility:** A facility that stores, processes, neutralizes, reclaims, treats or disposes of hazardous waste for which a notice of intent to construct has been received under state law [10 V.S.A., §6606a].

**Height:** The distance above ground of a structure as measured vertically from the average finished grade at the base of the structure to the highest point of the structure or roof surface, excluding the chimney (see Section 3.6). See also Grade, Finished.

**Hertz:** (Hz) One hertz is the frequency of an electric or magnetic field that reverses polarity once each second, or one cycle per second.

**Historic Sites and Structures:** As listed in the *East Montpelier Town Plan* or on the Vermont State Register of Historic Places or on the National Register of Historic Places.

**Home Child Care:** A state registered or licensed child care home serving 6 or fewer children on a full-time basis, and up to 4 additional children on a part-time basis, which is conducted within a single family dwelling by a resident of that dwelling (see Section 4.9). See also Day Care Facility.

**Home Industry:** An expanded home-based business conducted by the resident of a single family dwelling that meets the specific standards set out in Section 4.9 of this bylaw. See also Home Occupation, Home Child Care.

**Home Occupation:** An accessory use conducted within a dwelling or accessory building by the residents thereof, that is clearly secondary to the dwelling's use for living purposes, does not change the residential character thereof and meets the specific standards set out in Section 4.9.

**Hotel/Motel:** A building or buildings containing bedrooms and other facilities rented out to provide overnight accommodations to transient travelers, and having a management entity operating the building(s) and providing services such as maid service, a central switchboard, or dining facilities to occupants of the lodging facility. See also Bed & Breakfast.

**Interference:** An undesirable effect caused by electromagnetic signals. FCC "Type 1" interference refers to interference regulated by the FCC and affecting other FCC licensees or other entities over which the FCC has jurisdiction. FCC "Type 2" interference refers to electromagnetic disturbances to business, institutional, medical, and home electronic equipment.

**Junk:** Any scrap or waste material that is collected, stored, kept, or handled for salvage, resale or conversion to another use.

**Junk Yard:** See Salvage Yard.

**Kennel:** Any premises in which the care, boarding, breeding, grooming, or training of four (4) or more dogs, cats, or other domestic animals is done for primarily commercial or monetary purposes. See also Veterinary Clinic.

**Land Development:** The division of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining operation, excavation or landfill, and any change in the use of any building or other structure, land or extension of use of land. See also Subdivision.

**Light Industry:** A use providing for the fabrication of goods predominately from previously prepared materials into finished products or parts, including processing, assembly, treatment, packaging, incidental storage, sales and distribution of such products or components. See also Manufacturing.

**Loading Area:** One or more spaces logically and conveniently located for bulk pickups and deliveries, that is scaled to accommodate delivery vehicles. Required off-street loading areas are not to be included as off-street parking spaces in the computation of required off-street parking space (see Section 3.11).

**Location:** For purposes of regulating telecommunications facilities, references to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true north.

**Lot:** (1) Any parcel of land that is occupied or is to be occupied by a principal structure or use, or a mixed use as defined herein and allowed under Section 4.10, and associated accessory structures and/or uses and open space, that has sufficient area to meet the dimensional requirements of these regulations; (2) a portion of land in a subdivision or plat that is separated from other portions by a property line. See also Contiguous Land; Lot, Existing; Lot of Record.

**Lot Area (Lot Size):** The total land area within the boundaries (lot lines) of a lot exclusive of the area designated for any proposed road rights-of-way as measured within the boundaries of the right-of-way.

**Lot, Corner:** A lot at the junction of and abutting on two or more intersecting roads where the interior angle of the intersection does not exceed 135 degrees. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve are the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135 degrees.

**Lot Depth:** The minimum horizontal distance measured at right angles from the street line of the lot to the rear lot line of such a lot.

**Lot/Existing:** An identifiable and separate parcel of land legally in existence as of the effective date of these regulations. The merger of any lot prior or subsequent to the effective date of these regulations shall terminate its separate existence for the purpose of these regulations (see also Section 3.10 regarding Nonconforming Lots). See also Nonconforming Lot.

**Lot Frontage:** The distance that a lot fronts a road, measured along the road right-of-way from the intersection of one lot line to the intersection of the other lot line. See also Lot Width.

**Lot Line:** The boundary line of a lot; a property line.

**Lot Line, Front:** Lot line that physically borders the public or private road or public waterway.

**Lot of Record:** Any lot that individually, or as part of a subdivision, has been recorded in the East Montpelier Town Office.

**Lot Size:** See Lot Area.

**Lot Width:** For lots without road frontage, the horizontal distance between side lot lines as measured along a straight line paralleling the front lot line at the minimum required setback distance. See also Lot Frontage.

**Manufacturing:** The processing, treatment and/or conversion of raw or semi-finished materials into a different form or state. This definition does not include the processing of agricultural goods raised on the premises, which falls under the definition of agriculture. See also Light Industry.

**Manufactured Home:** Means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreation vehicle.”

**Medical Clinic:** A building or portion of a building containing offices and facilities for providing medical, dental, chiropractic, therapeutic, or other licensed health care professionals services for outpatients only.

**Micro-Cell:** A low power mobile radio service wireless telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

**Mixed Use:** A building or parcel containing two (2) or more principal uses that are otherwise allowed as permitted or conditional uses in the district in which the building or parcel is located (see Section 4.10). Also see Planned Unit Development.

**Mobile Home:** A prefabricated single family dwelling unit that: (1) is designed for continuous residential occupancy; (2) is designed to be moved on wheels, as a whole or in sections, (3) on arrival at the site, is complete and ready for occupancy except for incidental unpacking, assembly, and placing on supports or a permanent foundation, or installation as a unit in a previously prepared structure; and (4) contains the same water supply and wastewater disposal systems as immovable housing (see Section 3.18). See also Camper; Dwelling, Single Family; Mobile Home Park.

**Mobile Home Park:** A parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, three (3) or more mobile homes to be occupied for living purposes (see Sections 3.5 and 4.11). See also Mobile Home.

**Mobile Home Sales:** An establishment, including land and/or a building, for which the principal use is the sale of mobile homes. This may include customary accessory structures or uses, such as an office, an enclosed sales room, and a parking area.

**Modification of an Existing Telecommunications Facility:** Any change, or proposed change, in power input or output, number of antennas, change in antenna type(s) or model(s), repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit.

**Modification of an Existing Telecommunications Tower or Structure:** Any change, or proposed change, in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment.

**Monitoring:** For purposes of regulating telecommunications facilities, the measurement, by the use of instruments in the field, of non-ionizing radiation exposure at a site as a whole, or from telecommunications facilities, towers, antennas or repeaters.

**Monitoring Protocol:** For purposes of regulating and monitoring telecommunications facilities, the testing protocol, such as the Cobbs Protocol, or the FCC Regulations (Title 47, Part 1, Section 1.1307 referenced as IEEE C95.3 1991), or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, (Reports 86 and 119) which is to be used to monitor the emissions and determine exposure risk from existing and new telecommunications facilities.

**Monopole:** A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below-grade foundations.

**Motor Vehicle Sales:** A building, lot or portion thereof used for the sale and/or rental of automobiles, trucks, motorcycles, or other motor vehicles.

**Motor Vehicle Service:** An establishment whose principal purpose is the repair of motor vehicles, including body shops, general vehicle and engine repair shops, and rebuilding and/or reconditioning shops. Gasoline stations are specifically excluded from this definition. See also Gas Station, Motor Vehicle Sales.

**Municipal Land Use Permit:** As defined in Section 4303 of the Act to include, as issued by the municipality: (1) final zoning, subdivision, site plan or building permits or approvals relating to subdivision and land development; (2) septic or sewage system permits; (3) final official minutes of meetings which relate to permits or approvals, which serve as the sole evidence of such permits or

approvals; (4) certificates of compliance or similar certificates; and (5) any amendments to the previously listed, permits, approvals and/or certificates.

**Municipal Plan:** The municipal plan for the Town of East Montpelier as most recently adopted in accordance with the Act.

**Neighborhood Business:** A retail or other commercial establishment of which the total allowable square footage, number of employees, and the operation of the business and/or type or nature of the goods or services offered for sale are limited by supplemental district standards for the zoning district within which the use is located (see Article 2, table 2.4).

**Non-Conforming Lot:** A lot lawfully in existence as of the effective date of these regulations, which does not conform within these regulations, including zoning district dimensional, density or coverage requirements, or other applicable dimensional requirements of these regulations (see Section 3.9). See also Non-conforming Structure, Non-conforming Use.

**Non-Conforming Structure:** A type of non-conformity, defined for purposes of these regulations as a structure or part thereof lawfully in existence as of the effective date of these regulations, which is not in compliance with the provisions of these regulations, including but not limited to building bulk, dimensions, height, setbacks, area, yards, density or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of these regulations (see Section 3.10). See also Non-conforming Use.

**Non-Conforming Use:** A type of non-conformity, defined for purposes of these regulations as the use of a land or structure lawfully in existence as of the effective date of these regulations, which does not conform with these regulations, including but not limited to allowed uses within the district in which it is located, where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of these regulations (see Section 3.10). See also Non-conforming Structure.

**Open Space:** Land not occupied by structures, buildings, roads, rights-of-way, and parking lots. Open space may or may not be held in common. "Usable open space" is further characterized as open space that is available and accessible to all occupants of the building or buildings on the lot for purposes of active or passive recreation.

**Out Building:** See Accessory Structure.

**Parking Facility:** A separate off-street parking area, garage or similar structure that is the principal use of a lot. See also Transit Facility.

**Parking Space:** An off-street area which is not less than nine (9) feet in width and 20 feet in depth, exclusive of adequate access or maneuvering area, ramps, columns, etc., which is to be used exclusively as a temporary storage space for a single motor vehicle (see Section 3.11).

**Person:** Any individual, partnership, corporation, association, unincorporated organization, trust, or any other legal or commercial entity, including a joint venture or affiliated ownership, which owns or controls land or other property to be subdivided and/or developed under the provisions of these regulations. The word person shall also include any municipality or other government agency.

**Personal Service:** A business which provides services of a personal nature for example: laundry and dry cleaning, beauty and barber shops, tailoring and shoe repair, photographic studios, and similar businesses. Sales of products must be clearly related and incidental to services provided. See also Funeral Parlor.

**Personal Communications Services:** Digital wireless telephone technology using higher frequency spectrum than cellular.

**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.

**Place of Worship:** A building used solely for purposes of assembly and worship by a legally established and recognized religious institution. This definition also includes customary accessory structures such as parish houses (see Section 4.12). See also Public Facility.

**Planned Residential Development (PRD):** An allowed method of land development for residential use in which an area of land, consisting of one or more parcels, is planned to be developed as a single entity, to include residential dwelling units allowed within a zoning district(s) and associated accessory structures and facilities. In a PRD, zoning district dimensional standards under these regulations (Article 2), including lot size, density, coverage, frontage and setback requirements, may be modified or waived to provide flexibility in subdivision and site design in order to promote desired types and patterns of development (see Article 5). See also Planned Unit Development.

**Planned Unit Development (PUD):** An allowed method of land development for mixed use development in which an area of land, consisting of one or more parcels, is planned to be developed as a single entity for one or more uses allowed within a zoning district(s), and associated accessory structures and facilities. In a PUD, zoning district dimensional standards under these regulations (Article 2), including lot size, density, coverage, frontage and setback requirements, may be modified or waived to provide flexibility in subdivision and site design in order to promote desired types and patterns of mixed use development (see Article 5). See also Mixed Use, Planned Residential Development.

**Plat:** A map or representation on paper, Mylar or other accepted material, of a piece of land subdivided into lots and roads, drawn to scale.

**Principal Structure:** A structure or building in which the main, primary or principal use of the property is conducted. Attached accessory dwellings, garages, porches or carports, or other structures that share a common wall and/or roof, or are connected by an enclosed breezeway, are considered part of the principal structure.

**Private Club.** A corporation, organization, or association or group of individuals existing for charitable, fraternal, social, recreational, or educational purposes, for cultural enrichment or to further the purposes of agriculture, which owns, occupies, or uses certain specified premises, which is not organized or operated for profit, and the benefits of which are available primarily to members only.

**Professional/Business Office:** A room, suite of rooms or building used for conducting the affairs of a business, profession or government, or as used as an accessory to personal services, industry and other uses. The on-premise retail sale of goods is specifically excluded from this definition.

**Public Facility:** A building or other facility owned, leased, held, used, and/or controlled exclusively for public purposes by a municipality, state or federal government, regulated utility or railroad. Such facilities include, but may not be limited to municipal buildings and garages, water and wastewater facilities, power generation and transmission facilities, and educational facilities (see Section 4.12).

**Radial Plots:** Radial plots are the result of drawing equally spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial. A

threshold plot uses a mark to indicate whether that point would be strong enough to provide adequate coverage i.e., the points meeting the threshold of adequate coverage. The draw back is the concentration of points close to the antenna and the divergence of points far from the site near the ends of the radials.

**Reasonable Use:** A use of real property which is allowed within the district in which the property is located, which provides some (but not necessarily all) potential benefit to the owner, and which does not lead to unreasonable interference with another's use of property, or with the natural flow of water. Reasonable use does not mean highest and best use; nor does it include accessory uses, structures, or additions which may be customary, but are not necessary, to the existing or intended principal use (e.g., garages, swimming pools).

**Reconstruct:** To replace or rebuild a building or structure which has been substantially destroyed or demolished without regard to cause.

**Recreation Facility [indoor]:** A building or structure designed, equipped and used for sports, leisure time, and other recreational activities, except for such facilities which are accessory to an approved educational facility or a residential use. This includes, but may not be limited to bowling alleys, skating rinks, gymnasiums, fitness facilities, and indoor swimming pools. See also Community Center, Cultural Facility.

**Recreation Facility [outdoor]:** A facility for outdoor recreation, including but not limited to a tennis or basketball court, athletic field, in-ground swimming pool, or cross-country skiing center, except for such facilities which are accessory to an approved educational facility, public park, or a residential use.

**Repeater:** A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas that are not able to receive adequate coverage directly from a base or primary station.

**Residential Care Facility:** A facility licensed by the state which provides primarily non-medical residential care services to seven or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, on a 24-hour a day basis. See also Day Care Facility, Group Home.

**Restaurant:** Premises where food and drink are prepared, served, and consumed primarily within the principal building.

**Retail Sales:** Premises where goods or merchandise are offered for retail sale or rent to the general public for personal, business, or household consumption and services incidental to the sale of such goods are provided. This definition specifically excludes the retail sale of gasoline or motor vehicles and other separately regulated retail uses defined herein.

**Road:** Any public or private right-of-way serving three (3) or more lots, which is designed and intended for use by motor vehicles. The word road shall mean the entire right-of-way. See also Driveway.

**Road Classifications:** All town highways are classified into one or another of the following classes, in accordance with state statutes [19 V.S.A §302]: (1) Class 1 town highways are town highways, designated by the state, which form the extension of a state highway route and which carry a state highway route number. (2) Class 2 town highways are town highways, designated by the Selectboard with the approval of the state, as the most important highways in town, including improved highways connecting neighboring towns and places which, by their nature, carry more than normal traffic. (3) Class 3 town highways, as designated by the Selectboard in consultation with the state, are all traveled town highways other than class 1 or 2 highways which, at minimum are negotiable under normal conditions all seasons of the year by a standard manufactured car. This would include but not be limited to sufficient surface and base, adequate

drainage, and sufficient width capable to provide winter maintenance. (4) Class 4 town highways, designated by the Selectboard, are all other town highways. (5) Trails shall not be considered highways and the town shall not be responsible for any maintenance including culverts and bridges.

**Road/Private:** Any road or street which is not publicly owned and maintained, excluding private driveways serving one or two lots. See also Road, Driveway.

**Road/Public:** A road that is constructed within the boundaries of an officially deeded and/or accepted public right-of-way, including municipal, state and federal highways.

**Roof and/or Building Mount Telecommunications Facility:** A telecommunications facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

**Salvage Yard:** A facility or area for storing, keeping, selling, dismantling, shredding, or salvaging of discarded material or scrap metal. This definition includes, but is not limited to “junkyards” as defined by the state.

**Sanitary Landfill:** An engineered facility for the disposal of solid waste, identified in the Central Vermont Solid Waste Management District Implementation Plan and certified by the state [10 V.S.A Chapter 159], which is designed and operated to minimize public health and environmental impacts.

**Self-Storage Facility:** A building or buildings consisting of small, self-contained units that are leased or owned for the storage of business and household goods.

**School:** A public, private or parochial institution licensed by the State of Vermont to provide educational instruction to students. Such facilities may also include accessory recreational and dining facilities, and may be used as officially designated temporary emergency shelters (see Section 4.12). See also Public Facility.

**Setback:** The horizontal distance from a road, lot line, boundary or other delineated feature (e.g., a stream bank or channel, shoreline, or wetland area), to the nearest part of a building or structure on the premises. In the case of a public highway or private road, the distance shall be measured from the centerline of the highway or private road (see Section 2.3(E)).

**Setback, Front:** The distance between the nearest portion of any structure or proposed structure on a lot and the centerline of the public or private road.

**Setback, Side and Rear:** The distance between the nearest portion of any structure or proposed structure on a lot and the side and rear property lines.

**Sign:** Any structure, display, device, material, object or representation which is designed or used to advertise, direct or call attention to any property, establishment, business, enterprise, profession, product, or service or other matter from any public right-of-way (see Section 3.12). This definition includes logos and other outdoor advertising displayed on walls, canopies, and exterior windows.

**Significant Wildlife Habitat Areas:** Habitats identified in the town plan as supporting rare, threatened or endangered species.

**Silviculture:** See Forestry.

**Stealth Design:** A telecommunications facility design intended to blend into the surrounding environment. Examples of stealth designed facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements (like clock towers, bell steeples, silos), antenna structures designed to look like light poles, and structures designed to resemble natural features such as trees or rock outcroppings.

**Story:** That part of any building, excluding cellars and basements, between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between a floor and the ceiling above it. See also Story, Half.

**Story/Half:** Any space partially within the roof framing, where the clear height of not more than 50% of such space between the top of the floor beams and the structural ceiling level is 7½ feet or more.

**Stream:** Any surface water course in the Town of East Montpelier as depicted by the U.S. Geological Survey on topographic maps, the zoning map, Vermont Base Map orthophotos, or as identified through site investigation; excluding artificially created irrigation and drainage channels. See also Stream Channel, Stream Banks.

**Stream Channel:** A defined area that demonstrates clear evidence of the permanent or intermittent passage of water and includes, but may not be limited to bedrock channels, gravel beds, sand and silt beds, and swales. A stream bank may define the usual boundaries, but not the flood boundaries, of a stream channel. Artificially created water courses such as agricultural irrigation and drainage ditches are specifically excluded from this definition. See also Stream, Stream Banks.

**Stream Banks:** Physiographic features that normally contain streams within a channel. The banks are distinct from the streambed, which is normally wetted and provides a substrate that supports aquatic organisms. For purposes of these regulations, “**Top of Bank**” is defined as the point of the average high water mark as delineated by the area where woody vegetation starts growing. “**Top of Slope**” is defined as a break in the slope adjacent to steep-banked streams that have little or no floodplain.

**Street:** See Road.

**Street Line:** The dividing line between a lot and a public or private road or street, typically defined by the edge of the road right-of-way.

**Strip Development:** Sometimes referred to as “sprawl,” strip development is a pattern of land use that is characterized by dispersed, automobile-dependent development outside of compact urban and village centers, along highways and in the rural countryside. Strip development is often characterized by low density, inefficient use of land and a dependence on the auto for access.

**Structurally Able:** For purposes of regulating telecommunications facilities, the determination that a tower or structure is capable of safely carrying the load imposed by the proposed new antenna(s) under all reasonably predictable conditions as determined by professional structural engineering analysis including the wind load or any other structural requirements.

**Structure:** Any construction, assemblage or other combination of materials on the land for occupancy or use, including but not limited to buildings, additions to buildings, mobile homes, tennis courts, swimming pools, airstrips, relay or radio antennae, gas station canopies, and tanks for the outdoor storage of gas or oil. Specifically excluded from this definition are sidewalks, driveways, roads, parking areas, signs, service lines, walls and fences [that are six \(6\) feet or less in height](#), and the subsurface components of potable water and sewage disposal systems. Other structures shall be exempted from these regulations only in

accordance with the Act [§4446] and these regulations (see Section 7.2). See also Accessory Structure, Building.

**Subdivider:** Any person(s) who shall lay out for the purpose of transfer of ownership or right to use any subdivision or part thereof. The term shall include an applicant for subdivision approval. See also Applicant.

**Subdivision:** The division of any parcel of land into two or more parcels, lots or other legal division of land for the purposes of offer, transfer, sale, lease, conveyance or development (see Article 6, Section 6.1). The term includes the resubdivision of a previously subdivided parcel, amended subdivisions, and the division of land held in common among several owners; and shall also include the development of a parcel as a planned residential or planned unit development. See Boundary (Lot Line) Adjustment.

**Subdivision/Major:** A subdivision of land resulting in the creation of four (4) or more lots.

**Subdivision/Minor:** Amendments to an approved subdivision plan that will not substantially change the nature of the previously approved plan or conditions of approval, or a subdivision which results in the creation of three (3) or fewer lots.

**Substantial Improvement:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% percent of the market value of the structure either: (1) before the improvement or repair is started, or (2) if the structure has been damaged and restored, before the damage occurred. For the purpose of administering flood hazard area regulations (Article 9), refer to the definition for cumulative substantial improvement.”

**Substantially Commenced:** For purposes of these regulations, to include initial site preparation, the installation of an access, and the installation of a foundation, water and/or wastewater system on-site, in accordance with these regulations and all permits and approvals.

**Substantially Destroyed:** Fifty percent (50%) or more of the structure has been damaged and/or the damaged structure is no longer structurally sound, habitable or safe for its intended use.

**Telecommunications Equipment Shelter:** A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions including any foundation that may be required.

**Telecommunications Facility:** All equipment (including repeaters) with which a telecommunications provider broadcasts and receives radio frequency signals which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or its agent of record or another owner or entity (see Section 4.13).

**Telecommunications Facility Site:** A property, or any part thereof, which is owned or leased by one or more telecommunications providers and upon which one or more telecommunications facilities and any required landscaping are located.

**Telecommunications Provider:** An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

**Telecommunications Tower:** A guyed, monopole, or self-supporting tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

**Temporary Structure:** A structure designed for limited use with no foundation or footings, which is easily relocated and which remains in place for less than 12 months. Trailers that were intended for on-road usage, box vans, shipping containers and similar containers, shall be considered structures if they are used for storage on a parcel for more than 12 months. Structures in existence for more than 12 months shall be considered permanent and require a permit.

**Temporary Wireless Telecommunications Facilities:** Any tower, pole, antenna, or other facility designed for use while a permanent wireless telecommunications facility is under construction, rehabilitation or restoration.

**Tiled Coverage Plots:** Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Tiled plots (in comparison to radial plots) (1) provide a uniform distribution of points over the area of interest, (2) usually allow the same grid to be used as different sites are examined, and (3) do not necessitate the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. Tile plotting requires more topographic data and longer (computer) execution time than radial plotting, but is preferable for comparative analysis.

**Transfer Station/Recycling Center:** A facility certified by the state that functions as a collection point for solid waste and recyclable material that will subsequently be transported to a state-approved landfill or disposal facility. The facility will include, at minimum, a receiving hopper and compacting equipment (see Section 4.12). See also Public Facility.

**Transit/Transportation Facility:** A building, structure, or area designed and intended for use by persons changing transportation modes, including but not limited to bus shelters and park-and-ride facilities.

**Undue Adverse Affect (Impact):** An unnecessary or excessive effect or impact that violates a clearly stated community standard, to include a provision of these regulations or other applicable municipal bylaws and ordinances, or a policy of the East Montpelier Town Plan, and which can not be avoided through site or design modifications, on or off-site mitigation, or other conditions of approval.

**Use:** The specific purpose for which a parcel of land or structure is designated, designed or intended, or for which it may be used and maintained. See also Accessory Use, Structure.

**Veterinary Clinic:** A building or part thereof used for the care, diagnosis, treatment and temporary boarding of animals. See also Kennel.

**Warehouse/Storage:** One or more structures used for the storage of goods and materials, and not as a primary location or outlet for business or retail uses. See also Self-Storage Facility.

**Wetland:** As defined by Vermont Wetland Rules, as most recently amended, to include “those areas of the State which are inundated by surface or ground water with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction.” Such areas include, but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but exclude such areas where food and crops are grown in connection with farming activities. The location of wetlands on a particular parcel, as indicated on State Wetland Inventory Maps, shall be confirmed through site investigation.

**Wildlife Refuge:** A designated area owned and/or managed by a public or nonprofit entity principally for the purpose of sustaining wildlife habitat and/or wildlife populations, which may also be open to the public

for hunting and outdoor recreation. Designated trails and parking areas, and storage and maintenance structures may be allowed as accessory to the principal use.

**Withdraw or Withdrawal:** The intentional removal by any method or instrument of groundwater from a well, spring or combination of wells or springs.

**Yard Sale:** See Garage Sale.

**Zone of Influence:** The area surrounding a pumping well within which the water table or potentiometric surface has been changed due to a groundwater withdrawal.