Draft

West Rutland Planning Commission (PC) Regular Meeting Minutes
March 4, 2025 6:00pm Town Offices, 35 Marble St.

Members Present: Sean Barrows (Chair), Michael Brzoza (Vice-Chair), Jim Flint, Leona Minard
Also Present: Jeffrey Biasuzzi, as Recorder and Zoning Administrator (ZA);
Tom Fagan (resident visitor)

Call to Order: Chair S. Barrows called the Meeting to Order at 6:10 pm and led the reciting of the Pledge of Allegiance. The Meeting was electronically recorded on Zoom.

Agenda: S. Barrows moved to amend the draft agenda to include discussion on a planning grant application. L. Minard made a Motion to approve the amended Agenda. M. Brzoza seconded the Motion, all approved and the Motion passed

Approval of Minutes: The Members reviewed Minutes for 2/4/2025 Meeting. M. Brzoza note a misspelling. J. Flint Moved to approve the corrected Minutes. L. Minard seconded, all approved and the Motion passed.

Public Input: J. Biasuzzi introduced the Members to visitor Tom Fagan and asked what brings him to this meeting? Mr. Fagan, a resident of Hansen Drive, introduced himself and expressed his interest in filling the vacant PC position.

New (or continued) Business: Discussion on amendments to current zoning, for compliance to Acts 47 & 181 resumed. The Members reviewed the Definition of Accessory Dwelling Unit (ADU) and it's requirement that an ADU must be owner-occupied, and additional amendments to be incorporated into W.R. zoning, in order to conform to Act 47 (refer to statute 24 VSA Chapter 117, Section 4412(1); attached to these draft Minutes). This language should be incorporated into the W.R. regulations.

The Members discussed **S**hort **T**erm (hospitality) **R**entals (Example "AirBnB"; abbreviated **STR**) and agreed to add this to Definitions and Table of Uses.

S. Barrows Moved to endorse the appointment of Tom Fagan to fill the current PC member vacancy, for up to a 3 year term, to the Select Board. M. Brzoza seconded, all approved and the Motion passed.

Miscellaneous Business: S. Barrows informed Members on Town Manager's plan to apply for a Municipal Planning Grant to update the Master Plan for the Village zoning district. J. Moved to inform the Town Manager and Select Board the PC endorses the application for this grant. M. Brzoza seconded the Motion, all approved and the Motion passed.

Schedule next Meeting:
The next regular PC Meeting will be on Tuesday, April 1 (no fooling), 2025 at 6:00 pm, at Town Office (35 Marble St.).

Adjournment: M. Brzoza made a Motion to end the Meeting. L. Minard seconded, all approved, and the Meeting adjourned at 8:35 pm.

Respectfully submitted by Jeffrey Biasuzzi Approved _____

REFER TO PC MINUTES OF 3/4/2025 (7 PAGES TO)

AMENDED TO CONFORM TO ACT 47 + 181

The Vermont Statutes Online

The Statutes below include the actions of the 2024 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 24 : Municipal and County Government

Chapter 117 : Municipal and Regional Planning and Development

Subchapter 007 : BYLAWS

(Cite as: 24 V.S.A. § 4412)

§ 4412. Required provisions and prohibited effects

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw nor its application by an appropriate municipal panel under this chapter shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title or the effect of discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

(B) Except as provided in subdivisions 4414(1)(E) and (F) of this title, no bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. A municipality may establish specific site standards in the bylaws to regulate individual sites within preexisting mobile home parks with regard to distances between structures and other standards as necessary to ensure public health, safety, and welfare, provided the standards do not have the effect of prohibiting the replacement of mobile homes on existing lots.

(C) No bylaw shall have the effect of excluding mobile home parks, as defined in 10 V.S.A. chapter 153, from the municipality.

(D) Bylaws shall designate appropriate districts and reasonable regulations for multiunit or multifamily dwellings. No bylaw shall have the effect of excluding these multiunit or multifamily dwellings from the municipality. In any district that allows year-round residential development, duplexes shall be an allowed use with dimensional standards that are not more restrictive than is required for a single-unit dwelling, including no additional land or lot area than would be required for a single-unit dwelling. In any district that is

served by municipal sewer and water infrastructure that allows residential development, multiunit dwellings with four or fewer units shall be a permitted use on the same size lot as single-unit dwelling, unless that district specifically requires multiunit structures to have more than four dwelling units.

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to a single-family dwelling on an owner-occupied lot. A bylaw shall require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. The criteria for conversion of an existing detached nonresidential building to habitable space for an accessory dwelling unit shall not be more restrictive than the criteria used for a single-family dwelling without an accessory dwelling unit.

(F) Nothing in subdivision (1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units; or

(ii) a bylaw that regulates short-term rental units distinctly from residential rental units.

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, or a recovery residence serving not more than eight persons, shall be considered by right to constitute a permitted single-family residential use of property. This subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot. As used in this subdivision, "recovery residence" means a shared living residence supporting persons recovering from a substance use disorder that:

(i) Provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders.

(ii) Is certified by an organization approved by the Department of Health and that is either a Vermont affiliate of the National Alliance for Recovery Residences or another approved organization or is pending such certification. If certification is pending beyond 45 days, the municipality shall retain its right to consider the residence pursuant to zoning bylaws adopted in compliance with 24 V.S.A. § 4411.

(H) No bylaw shall have the effect of prohibiting or penalizing a hotel from renting rooms to provide housing assistance through the State of Vermont's General Assistance program, or to any person whose room is rented with public funds. In this subsection, the term "hotel" has the same meaning as in 32 V.S.A. 9202(3).

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes

permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

(A) A municipality may prohibit development of a lot not served by and able to connect to municipal sewer and water service if either of the following applies:

(i) the lot is less than one-eighth acre in area; or

(ii) the lot has a width or depth dimension of less than 40 feet.

(B) The bylaw may provide that if an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

(i) The lots are conveyed in their preexisting, nonconforming configuration.

(ii) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.

(iii) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.

(iv) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

(C) Nothing in this subdivision (2) shall be construed to prohibit a bylaw that is less restrictive of development of existing small lots.

(3) Required frontage on, or access to, public roads, class 4 town highways, or public waters. Land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.

(4) Protection of home occupations. No bylaw may infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

(5) Child care. A "family child care home or facility" as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the State for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home

serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 3511(7), shall be considered to constitute a permitted use of property but may require site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part-time children may, at the discretion of the municipality, be subject to all applicable municipal bylaws.

(6) Heights of renewable energy resource structures. The height of wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high on sloped roofs, any of which are mounted on complying structures, shall not be regulated unless the bylaws provide specific standards for regulation. For the purpose of this subdivision, a sloped roof means a roof having a slope of more than five degrees. In addition, the regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. § 248a, may be exempt from review under this chapter according to the provisions of that section.

(7) Nonconformities. All bylaws shall define how nonconformities will be addressed, including standards for nonconforming uses, nonconforming structures, and nonconforming lots.

(A) To achieve the purposes of this chapter set forth in section 4302 of this title, municipalities may regulate and prohibit expansion and undue perpetuation of nonconformities. Specifically, a municipality, in its bylaws, may:

(i) Specify a time period that shall constitute abandonment or discontinuance of that nonconforming use, provided the time period is not less than six months.

(ii) Specify the extent to which, and circumstances under which, a nonconformity may be maintained or repaired.

(iii) Specify the extent to which, and circumstances under which, a nonconformity may change or expand.

(iv) Regulate relocation or enlargement of a structure containing a nonconforming use.

(v) Specify the circumstances in which a nonconformity that is destroyed may be rebuilt.

(vi) Specify other appropriate circumstances in which a nonconformity must comply with the bylaws.

(B) If a mobile home park, as defined in 10 V.S.A. chapter 153, is a nonconformity pursuant to a municipality's bylaws, the entire mobile home park shall be treated as a nonconformity under those bylaws, and individual lots within the mobile home park shall in no event be considered nonconformities. Unless the bylaws provide specific standards as described in subdivision (1)(B) of this section, where a mobile home park is a nonconformity under bylaws, its status regarding conformance or nonconformance shall apply to the

parcel as a whole, and not to any individual mobile home lot within the park. An individual mobile home lot that is vacated shall not be considered a discontinuance or abandonment of a nonconformity.

(C) Nothing in this section shall be construed to restrict the authority of a municipality to abate public nuisances or to abate or remove public health risks or hazards.

(8) Communications antennae and facilities.

(A) Except to the extent bylaws protect historic landmarks and structures listed on the State or National Register of Historic Places, no permit shall be required for placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

(B) If an antenna structure is less than 20 feet in height and its primary function is to transmit or receive communication signals for commercial, industrial, institutional, nonprofit, or public purposes, it shall not be regulated under this chapter if it is located on a structure located within the boundaries of a downhill ski area and permitted under this chapter. For the purposes of this subdivision, "downhill ski area" means an area with trails for downhill skiing served by one or more ski lifts and any other areas within the boundaries of the ski area and open to the public for winter sports.

(C) The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal approval under this chapter when and to the extent jurisdiction is assumed by the Public Utility Commission according to the provisions of that section. This exemption from obtaining approval under this chapter shall not affect the substantial deference to be given to a plan or recommendation based on a local land use bylaw under 30 V.S.A. § 248a(c)(2).

(D) A municipality may regulate communications towers, antennae, and related facilities in its bylaws provided that such regulations do not have the purpose or effect of being inconsistent with subdivisions (A) through (C) of this subdivision (8).

(9) De minimis telecommunications impacts. An officer or entity designated by the municipality shall review telecommunications facilities applications, and upon determining that a particular application will impose no impact or de minimis impact upon any criteria established in the bylaws, shall approve the application.

(10) Planting projects; flood hazard and similar areas. A bylaw under this chapter shall not require the filing of an application or the issuance of a permit by the municipality for a planting project considered to have a permit by operation of subsection 4424(c) of this title.

(11) Accessory on-farm businesses. No bylaw shall have the effect of prohibiting an accessory on-farm business at the same location as a farm.

(A) Definitions. As used in this subdivision (11):

(i) "Accessory on-farm business" means activity on a farm, the revenues of which may exceed the revenues of the farming operation, and comprises one or both of the following:

(I) The storage, preparation, processing, and sale of qualifying products, provided that the qualifying products are produced on a farm; the sale of products that name, describe, or promote the farm or accessory on-farm business, including merchandise or apparel that features the farm or accessory on-farm business; or the sale of bread or baked goods.

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used in this subdivision (II), "farm stay" means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.

(ii) "Farm" means a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the RAP rules. For leased lands to be part of a farm, the lessee must exercise control over the lands to the extent they would be considered as part of the lessee's own farm. Indicators of such control include whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related use of the leased lands and whether the lessee manages the land for farming during the lease period.

(iii) "Farming" shall have the same meaning as in 10 V.S.A. § 6001.

(iv) "Qualifying product" means a product that is:

(I) an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;

(II) livestock or cultured fish or a product thereof;

(III) a product of poultry, bees, an orchard, or fiber crops;

(IV) a commodity otherwise grown or raised on a farm; or

(V) a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

(v) "RAP rules" means the rules on required agricultural practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

(B) Eligibility. For an accessory on-farm business to be eligible for the benefit of this subdivision (11), the business shall comply with each of the following:

(i) The business is operated by the farm owner, one or more persons residing on the farm parcel, or the lessee of a portion of the farm.

(ii) The farm meets the threshold criteria for the applicability of the RAP rules as set forth in those rules.

(C) Use of structures or land. An accessory on-farm business may take place inside new or existing structures or on the land.

(D) Review; permit. Activities of an accessory on-farm business that are not exempt under section 4413 of this title may be subject to site plan review pursuant to section 4416 of this title. A bylaw may require that such activities meet the same performance standards otherwise adopted in the bylaw for similar commercial uses pursuant to subdivision 4414(5) of this title.

(E) Less restrictive. A municipality may adopt a bylaw concerning accessory on-farm businesses that is less restrictive than the requirement of this subdivision (11).

(F) Notification; training. The Secretary of Agriculture, Food and Markets shall provide periodic written notification and training sessions to farms subject to the RAP rules on the existence and requirements of this subdivision (11) and the potential need for other permits for an accessory on-farm business, including a potable water and wastewater system permit under 10 V.S.A. chapter 64.

(12) In any area served by municipal sewer and water infrastructure that allows residential development, bylaws shall establish lot and building dimensional standards that allow five or more dwelling units per acre for each allowed residential use. Density and minimum lot size standards for multiunit dwellings shall not be more restrictive than those required for single-family dwellings.

(13) In any area served by municipal sewer and water infrastructure that allows residential development, bylaws shall permit any affordable housing development, as defined in subdivision 4303(2) of this title, including mixed-use development, to exceed density limitations for residential developments by an additional 40 percent, which shall include exceeding maximum height limitations by one floor, provided that the structure complies with the Vermont Fire and Building Safety Code.

(14) No zoning or subdivision bylaw shall have the effect of prohibiting unrelated occupants from residing in the same dwelling unit. (Added 2003, No. 115 (Adj. Sess.), § 95; amended 2005, No. 172 (Adj. Sess.), § 5, eff. May 22, 2006; 2007, No. 79, § 15; 2007, No. 79, § 15, eff. June 9, 2007; 2009, No. 54, § 45, eff. June 1, 2009; 2011, No. 53, § 14e, eff. May 27, 2011; 2011, No. 137 (Adj. Sess.), § 7, eff. May 14, 2012; 2011, No. 155 (Adj. Sess.), § 14; 2011, No. 170 (Adj. Sess.), § 16e, eff. May 18, 2012; 2013, No. 16, § 5, eff. May 6, 2013; 2013, No. 96 (Adj. Sess.), § 162; 2013, No. 131 (Adj. Sess.), § 127, eff. May 20, 2014; 2015, No. 130 (Adj. Sess.), § 5b, eff. May 25, 2016; 2017, No. 4, § 2, eff. March 6, 2017; 2017, No. 130 (Adj. Sess.), § 17; 2017, No. 143 (Adj. Sess.), § 2; 2019, No. 179 (Adj. Sess.), § 1, eff. Oct. 12, 2020; 2021, No. 174 (Adj. Sess.), § 1, eff. July 1, 2022; 2023, No. 22, § 9, eff. May 25, 2023; 2023, No. 47, § 2, eff. July 1, 2023; 2023, No. 181 (Adj. Sess.), § 17, § 52, eff. June 17, 2024.)