

**TOWN OF MORGAN, VERMONT**

**ZONING BYLAW**

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AMENDED: NOVEMBER 2, 1982

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**ZONING BYLAW**

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**TOWN OF MORGAN, VERMONT**  
**ZONING BYLAW**

**ART 1: ENACTMENT AND INTENT**

**§101: Enactment**

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

**§102: Intent**

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

**ART 2: ESTABLISHMENT OF DISTRICTS AND REGULATIONS**

**§201: Zoning Map and Districts**

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

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

**§202: Copies of Zoning Map**

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

**§203: District Boundaries**

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

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

**§204: District Objectives and Land Use Controls**

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

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**§204.01: "LS" Lakeshore**

Objective

Lakeshore is an area adjacent to Lakes Seymour and Salem. It is an area which is suited to scenic residential use and for primary or secondary homes. Land capability to handle sewage must be proven by a percolation test to be performed by a registered engineer before a permit can be issued.

Permitted Uses

- 1. Accessory use
- 2. Agriculture<sup>1</sup>
- 3. Dwelling, one family
- 4. Forestry<sup>1</sup>
- 5. Home occupation
- 6. Subdivision of land

Conditional Uses

- 1. Dwelling, two family
- 2. Essential service
- 3. Municipal facility

Minimum Area and Dimensional Requirements

|  |        |
|--|--------|
| Lot area (sqft):                       | 10,000 |
| Area per family (sqft):                | 10,000 |
| Lot width (ft):                        | 100    |
| Front yard setback (ft) <sup>2</sup> : | 20     |
| Side yard setbacks (ft):               | 25     |
| Rear yard setback (ft):                | 25     |

<sup>1</sup>These uses are exempted from zoning regulation by 24 VSA, §4413(D). See §328 of this bylaw.

<sup>2</sup>For lots in the Lake Shore district, the front yard shall be measured from that property line closest and most parallel to Lakes Seymour and Salem to that part of the structure that is or will be closest to said property line.

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**§204.02: "R-C" Residential-Commercial**

Objective

This district provides for a village-type development in the two existing settlements of Morgan and Morgan Center with the diverse uses usually found in such centers.

Permitted Uses

- 1. Accessory use
- 2. Agriculture<sup>1</sup>
- 3. Church
- 4. Dwelling, one family
- 5. Dwelling, two family
- 6. Forestry<sup>1</sup>
- 7. Home occupation
- 8. Lodging house
- 9. Subdivision of Land

Conditional Uses

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

Minimum Area and Dimensional Requirements

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

<sup>1</sup>These uses are exempted from zoning regulation by 24 VSA, §4413(d). See §328 of this bylaw.

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**§204.03: "RL-1" Rural Lands One**

Objective

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

Permitted Uses

- 1. Accessory use
- 2. Agriculture<sup>1</sup>
- 3. Dwelling, one family
- 4. Dwelling, two family
- 5. Forestry<sup>1</sup>
- 6. Home occupation
- 7. Lodging house
- 8. Subdivision of land

Conditional Uses

- 1. Church
- 2. Earth resource removal
- 3. Educational facility
- 4. Municipal facility
- 5. Recreational facility

Minimum Area and Dimensional Requirements

|                          |                     |
|--------------------------|---------------------|
| Lot area (sqft):         | 40,000 <sup>1</sup> |
| Area per family (sqft):  | 20,000              |
| Lot width (ft):          | 150                 |
| Front yard setback (ft): | 25                  |
| Side yard setbacks (ft): | 25                  |
| Rear yard setback (ft):  | 25                  |

<sup>1</sup>These uses are exempted from zoning regulation by 24 VSA, §4413(d). See §328 of this bylaw.

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**§204.04: "RL-2" Rural Lands Two**

Objective

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

Permitted Uses

- 1. Accessory use
- 2. Agriculture<sup>1</sup>
- 3. Dwelling, one family
- 4. Dwelling, two family
- 5. Forestry<sup>1</sup>
- 6. Home occupation
- 7. Lodging house
- 8. Subdivision of land

Conditional Uses

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

Minimum Area and Dimensional Requirements

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

<sup>1</sup>These uses are exempted from zoning regulation by 24 VSA, §4413(d). See §328 of this bylaw.

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**§204.05: "RL-3" Rural Lands Three**

Objective

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

Permitted Uses

- 1. Accessory use
- 2. Agriculture<sup>1</sup>
- 3. Dwelling, one family
- 4. Dwelling, two family
- 5. Forestry<sup>1</sup>
- 6. Home occupation
- 7. Lodging house
- 9. Recreational facility
- 10. Subdivision of land

Conditional Uses

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

Minimum Area and Dimensional Requirements

|                                 |     |
|---------------------------------|-----|
| Lot area (acres) <sup>2</sup> : | 10  |
| Lot width (ft):                 | 500 |
| Front yard setback (ft):        | 50  |
| Side yard setbacks (ft):        | 50  |
| Rear yard setback (ft):         | 50  |

<sup>1</sup>These uses are exempted from zoning regulation by 24 VSA, §4413(d). See §328 of this bylaw.

<sup>2</sup> 1 acre equals 43,560 square feet.

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**§204.06: "IND/RES" Industrial/Residential**

Objective

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

Permitted Uses

- 1. Accessory use
- 2. Agriculture<sup>1</sup>
- 3. Dwelling, one family
- 4. Dwelling, two family
- 5. Equipment sale/rental
- 6. Forestry<sup>1</sup>
- 7. Home occupation
- 8. Light industry
- 9. Lodging house
- 10. Subdivision of land

Conditional Uses

- 1. Agricultural processing
- 2. Dwelling, multifamily
- 3. Earth resource removal
- 4. Essential service
- 5. Forestry processing
- 6. Municipal facility
- 7. Trucking terminal
- 8. Warehouse

Minimum Area and Dimensional Requirements

|                                 |     |
|---------------------------------|-----|
| Lot area (acres) <sup>2</sup> : | 3   |
| Lot width (ft):                 | 300 |
| Front yard setback (ft):        | 40  |
| Side yard setbacks (ft):        | 30  |
| Rear yard setback (ft):         | 40  |

<sup>1</sup>These uses are exempted from zoning regulation by 24 VSA, §4413(d). See §328 of this bylaw.

<sup>2</sup> 1 acre equals 43,560 square feet.

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**§205: Permitted Uses**

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

**§206: Conditional Uses**

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

**§207: Application of District Regulations**

- 207.01 Any "non-conforming use" or "non-complying structure", as such terms are defined in 24 VSA, §4412(7), existing on the effective date of this bylaw may be continued indefinitely to the extent set forth in ART 6 of this bylaw. Otherwise, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- 207.02 No building shall hereafter be erected or altered:
- A. To accommodate or house a greater number of families than permitted in the district in which the building is located; and/or
  - B. To have narrower or smaller front, side, or rear yards than is specified herein for the district in which such building is located.
- 207.03 No part of a yard or other open space about any building required for the purpose of complying with the provisions of this bylaw shall be included as a yard or other open space similarly required for another building.

**§208: Projections into Required Yards**

All structures, whether attached to the principal structure or not, and, whether open or enclosed, including, but not limited to, porches, carports, balconies, platforms or signs above normal grade level, shall not project into any minimum front, side, or rear yard.

**ART 3: GENERAL PROVISIONS****§301: Existing Small Lots**

- 301.01 Any lot in individual and-separate and non-affiliated ownership from surrounding properties in existence on the effective date of this zoning bylaw may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot area requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.
- 301.02 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 the purposes of this bylaw. However such lot shall not be deemed merged and may be separately conveyed, if:
- A. The lots are conveyed in the preexisting, nonconforming configuration; and
  - B. On the effective date of any zoning regulations, each lot had been developed with a water supply and wastewater disposal system; and

- C. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
- D. 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:
  - 1. 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;
  - 2. So that a potable water supply is contaminated or rendered not potable;
  - 3. That presents a threat to human health; or
  - 4. That presents a serious threat to the environment.

301.03 If subsequent to separate conveyance, as authorized under § 301.02 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 State of Vermont 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.

#### **§302: Frontage on, or Access to, Public Roads or Waters**

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

#### **§303: Protection of Home Occupations**

No regulations may 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 thereof.

#### **§304: Lots in Two Zoning Districts**

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations of the less restricted district shall extend not more than 100 feet into that part of such lot which lies in the more restricted district.

#### **§305: Reduction of Lot Area**

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of this bylaw shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when part of a lot is condemned or conveyed for a public purpose.

**§306: Required Area or Yards**

Space required under this bylaw to satisfy yard, area, or other open space requirements in relation to one building shall not be used to satisfy the same requirements for any other structure or use.

**§307: Application of Front Yard Requirements**

Any yard adjoining a public right-of-way or Lakes Seymour and Salem shall be considered a front yard for the purposes of this bylaw.

**§308: Location of Driveways**

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

**§309: Temporary Uses and Structures**

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

**§310: Abandonment of Structures**

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

**§311: Obstruction of Vision**

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

**§312: Height Regulations**

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

**§313: Private Swimming Pools**

Private swimming pools installed below ground level shall be installed and maintained in a manner sufficient to meet the standards established by the provisions of the State Health Code and shall be enclosed by a suitable fence not less than 5 feet in height with no opening greater than 6 by 6 inches.

**§314: Off Street Parking**

Off street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any new use is established or existing use is changed to another use or enlarged.

**Off Street Parking Space Requirements**

| <u>Use</u>              | <u>Parking Spaces Required</u>   |
|-------------------------|----------------------------------|
| Accessory use           | None required                    |
| Agricultural processing | 1 / 1.2 employees                |
| Agriculture             | None required                    |
| Animal hospital/kennel  | 1 / 250 sqft of floor area       |
| Auto service station    | 1 / 300 sqft of floor area       |
| Campground              | 2 / campsite                     |
| Cemetery                | None required                    |
| Church                  | 1 / 3 seats in assembly room     |
| Club, private           | 1 / 6 members                    |
| Dwelling, multi-family  | 2 / dwelling unit                |
| Dwelling, one family    | 2 / dwelling unit                |
| Dwelling, two family    | 2 / dwelling unit                |
| Earth resource removal  | None required                    |
| Educational facility    | 1 / 3 seats in assembly room     |
| Equipment sale/rental   | 1 / 300 sqft of floor area       |
| Essential service       | 1 / 500 sqft of floor area       |
| Forestry                | None required                    |
| Forestry processing     | 1 / 1.2 employees                |
| Funeral home            | 1 / 75 sqft of public floor area |
| Home occupation         | 2 (+2 per dwelling unit)         |
| Hospital                | 1 / 3 beds & 1 / employee        |
| Light industry          | 1 / 1.2 employees                |
| Lodging house           | 1 / lodging unit                 |
| Motel                   | 1 / lodging unit                 |
| Municipal facility      | 1 / 250 sqft of floor area       |

|                       |                            |
|-----------------------|----------------------------|
| Neighborhood store    | 1 / 300 sqft of floor area |
| Professional office   | 1 / 250 sqft of floor area |
| Recreational facility | 1 / 250 sqft of floor area |
| Trucking terminal     | 1 / 1.2 employees          |
| Warehouse             | 1 / 1.2 employees          |

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 Town.

### **§315: Earth Resource Removal**

In accordance with 24 VSA, §4464(b)(4), 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 Board of Adjustment after a public hearing, of a plan for the rehabilitation of the site. In any district, the following provisions shall apply:

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

- 315.07 Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited if damaging to neighboring property.
- 315.08 The Board of Adjustment may attach any additional conditions as it may find necessary for the safety and general welfare of the public.

**§316: Landscaping Requirements**

Landscaping, where required under site plan review shall be installed and maintained in front, side and rear yards, shall take the form of shade trees, deciduous shrubs, evergreens, grassed areas and ground cover.

All such landscaping shall be maintained in a healthy, growing condition, with ground cover or grassed area.

Following are the minimum landscaping requirements:

- 316.01 Where any land use in non-residential districts abuts land in any residential district, a strip of land, at least twenty-five feet in width shall be maintained as a landscape and utility area in the front yard, side yards and rear yard which adjoin these other districts, unless waived by the Planning Commission.
- 316.02 Where any non-residential land use in a residential district abuts residential land use, a strip of land at least fifteen feet in width shall be maintained as a landscape and utility area in the front yard, side yards and rear yard which adjoin these uses, unless waived by the Planning Commission.
- 316.03 In the Residential Districts a strip of land at least five feet in width shall be maintained as a landscape and utility area in the front, side and rear yards, unless waived by the Planning Commission.
- 316.04 In any planned unit development as required by the Planning Commission.

**§317: Screened Service Area Requirements**

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

**§318: Signs**

No signs or billboards shall be permitted in any district except as specifically permitted herein as follows:

- 318.01 Signs in residential districts. The following signs are permitted when located on the immediate property:

- A. One professional or home occupation sign, not exceeding six square feet.
  - B. One Temporary real estate sign, not exceeding six square feet.
  - C. Signs identifying any non-residential building or use not exceeding a total of twenty square feet.
  - D. Directional or informational signs, not exceeding four square feet.
  - E. Signs necessary for public safety or welfare.
- 318.02 Signs in commercial and industrial districts. The following signs are permitted when located on the immediate property:
- A. All signs permitted in residential districts.
  - B. One business, which may be either a one sided or two sided sign. The maximum area for a one sided sign shall not exceed twenty (20) square feet. The maximum area of a two-sided sign shall not exceed forty (40) square feet. The area of a two-sided sign shall be the sum of the areas of each side.
  - C. One directory sign not exceeding ten square feet in area.
- 318.03 Wall and roof signs.
- A. Signs that are painted or mounted on the wall of a building shall not:
    - 1. Extend above any part of the eaves or gables of the building upon which such sign has been placed.
    - 2. Exceed twenty (20) square feet in area. If the sign is painted on the building the area of the sign shall be the smallest rectangle that will completely surround the sign. If the sign is mounted on the building the area of the sign shall be the area of the materials upon which the sign is painted.
  - B. Signs that are painted or mounted on the roof of a building shall not be permitted.
- 318.04 Computation of permissible sign area. When computing the total sign area for any use:
- A. Existing signs shall be included.
  - B. The total area of all signs shall not exceed the requirements set forth in this bylaw.
  - C. Signs consisting of free standing letters, numerals or other devices shall include any intervening spaces between them.
  - D. Both sides of a double-faced or v-type sign shall be used.
  - E. Back to back signs may be counted as one sign.
- 318.05 Traffic hazard, safety and obstruction. Every sign shall be designed and located in such a manner as to:
- A. Not impair public safety.
  - B. Not restrict clear vision between a sidewalk and street.

- C. Not be confused with any traffic sign or signal.
- D. Not prevent free access to any door, window or fire escape.

318.06 Illuminated and flashing signs.

- A. Signs may be illuminated by a steady light provided that such lighting will not illuminate or reflect onto other properties.
- B. Flashing, oscillating and revolving signs shall not be permitted, unless necessary for public safety or welfare.

318.07 Special signs. Special signs in regards to civic functions may be permitted upon approval of the Planning Commission.

318.08 Setbacks and numbers of signs per lot:

- A. No sign shall be erected in such a manner as to create a traffic hazard. No sign shall be erected closer than 5 feet from any public or private right-of-way.
- B. No more than two (2) of the permitted signs shall be erected on any one lot.

**§319: Burned Buildings**

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

**§320: Home Occupations**

Any home occupation shall be permitted upon issuance of a permit by the Zoning Administrator if such home occupation complies with the requirements of this section.

- 320.01 The home occupation shall be carried on by members of the family. Three on-premise employees who are not part of the family are permitted.
- 320.02 The home occupation shall be carried on within the principal or accessory structures.
- 320.03 Exterior displays or signs other than those normally permitted in the district, exterior storage of materials, and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted.
- 320.04 Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbances, odors, heat or glare shall not be produced.
- 320.05 No traffic shall be generated by such activity in greater volumes than would normally be expected in the neighborhood.
- 320.06 Parking shall be provided off-street.

**§321: Lodging Houses**

Lodging houses will be permitted in all districts, except the Lakeshore district, upon issuance of a zoning permit. Such permit will be issued only if parking is provided on the same lot as the lodging house as set forth in §314.

**§322: Site Plan Review**

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

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

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

322.02 Site Development Plan Review Procedure. The Planning Commission shall conform to the requirements of 24 VSA, §4416 before acting upon any application.

In considering its action the Planning Commission shall consider and may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking, landscaping and screening, and to the protection of the utilization of renewable energy resources.

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

- A. Harmonious relationship between proposed uses and existing adjacent uses.
- B. Maximum safety of vehicular circulation between the site and the street network.
- C. Adequacy of circulation, parking, and loading facilities with particular attention to safety.

- D. Adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility and protection to adjacent property.
- E. To prevent the shading of structures that utilize solar energy and the diversion of wind or water from structures which utilize wind or water to generate energy.

### **§323: Planned Unit Development**

With the approval of a site plan the Planning Commission is hereby empowered to vary certain zoning regulations under the criteria and procedures established in 24 VSA, §4417.

- 323.01 Proposals for planned unit development shall be submitted to the Planning Commission. The material accompanying the proposal shall contain the following:

Required site plan shall depict all buildings, parking areas, and landscaping at a scale sufficient to permit the study of all elements of the plan. All utilities shall also be shown and described. Typical elevations and floor plans may also be required. In addition, the site plans shall show the adjacent building outlines and other outstanding features within 200 feet of the proposed PUD. Any change in grading shall be shown.

- 323.02 The purpose of planned unit development shall be to encourage a development which will result in:
- A. A choice in the type of environment and living units available to the public, and quality in residential land uses so that development will be a permanent and long term asset to the town.
  - B. Open space and recreation areas.
  - C. A pattern of development which preserves trees, outstanding natural topographic and geologic features and prevents soil erosion.
  - D. An efficient use of land resulting in smaller networks of utilities and streets.
  - E. An environment in harmony with surrounding development.
  - F. A more desirable environment than would be possible through the strict application of other sections of this bylaw.
- 323.03 Density may vary within the development but the total permitted number of dwelling units shall not exceed 25% more than the number which could be permitted in the Planning Commission's judgement if the land were subdivided into lots in conformance with the zoning regulations for the district in which the land is situated.
- 323.04 The predominant use of the land shall not differ substantially from the uses permitted in the district in which the plan is located. In a planned unit development, dwelling units may be multi-family. In a planned unit development in a residential district, commercial, educational, and public facilities may be allowed which are designed to serve the development and the area around the development.
- 323.05 Lot size, width, front yard depth, and side yard requirements may be waived; however, these will be evaluated by the Planning Commission on their individual merit.
- 323.06 A planned unit development shall comply with the following standards:

- A. Shall be at least ten contiguous acres except in "RL-3" which shall be at least 50 contiguous acres.
  - B. The developer of a planned unit development with 6 or more units may be required to install common water and/or sewer systems to serve such development.
  - C. At least 50 percent of the development shall be open space for public and/or common usage. The regulations for control and maintenance of this open space shall be approved by the Planning Commission. This may be waived by the Planning Commission for commercial and industrial planned unit developments providing adequate screening and landscaping is provided.
- 323.07 The Planning Commission may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in this zoning bylaw for planned unit development, provided the rules and regulations are not inconsistent with the zoning bylaw. The Planning Commission shall hold a public hearing after public notice as required by 24 VSA, §4464, prior to the establishment of any supplementary rules and regulations for planned unit development.

#### **§324: Travel Trailers**

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

- 324.01 In an approved campground.
- 324.02 The owner of a travel trailer may park it on his own property, in the rear or side yards, providing that the trailer is parked behind the front face of the principal building and no closer than six feet to any lot line. If there is no principal building on the property, the travel trailer must comply with applicable setbacks to the degree possible. A trailer so parked shall not be used as permanent living quarters and shall not be hooked up to any utilities except for periods of not more than 180 cumulative days in any calendar year.
- 324.03 Visitors may park their travel trailers on their hosts land providing they are parked in conformance with §324.02. No more than two travel trailers (no more than one on lakeshore lots), including the land owner's travel trailer, shall be parked on any lot, developed or undeveloped, which is not an approved campground. Any visitor's travel trailer parked on land described herein shall not remain for longer than 180 days out of any given calendar year.
- 324.04 Any travel trailer parked in excess of 180 days in any calendar year shall be considered a permanent structure and, as such, must be approved through the provisions of § 602 Zoning Permits (as well as any applicable state regulations).

**§325: Campgrounds**

- 325.01 Permit Required. It shall be unlawful for any person to construct, maintain or operate any campground within the limits of the Town of Morgan unless the owner and operator holds a valid permit. Upon approval of the Planning Commission, the Zoning Administrator shall issue a permit which shall be contingent upon compliance with this local regulation.
- 325.02 Permit - Method of Application and Requirements. Applications for permits shall be made in writing, signed by the applicant who shall file with the application proof of ownership of the premises or of a lease or written permission from the owner thereof together with a complete set of plans drawn to scale, showing the location of the proposed campground, and which shall include:
- A. The areas and dimensions of the tract of land.
  - B. The maximum number, location and size of all camping spaces.
  - C. The location of any existing buildings and any proposed structures.
  - D. The location and width of access driveways, roadways, parking areas, walkways, and turn arounds.
  - E. The location of electrical, water, storm drainage and sewer lines and the sewage disposal systems.
  - F. A contour map showing the proposed grading of the campground.
- 325.03 Construction or Enlargement of Campgrounds. No person shall construct or enlarge a campground without first obtaining site plan approval from the Planning Commission and conditional use approval from the Board of Adjustment if required. Before such a permit may be issued, there must be favorable recommendation by a majority of the Planning Commission. Before giving site plan approval the Planning Commission may require a performance bond from the operator of the campground to assure that the campground is constructed and maintained in a satisfactory manner. The Planning Commission, in the interest of public safety, health and welfare, may require any other improvements and facilities before approving the campground. The Planning Commission may accept the proposed plan, accept the proposed plan with recommended changes, or reject the plan. The Commission shall submit the application and the plan to the Zoning Administrator together with the Commission's action regarding the permit.
- 325.04 Campground Standards. The following regulations shall apply in respect to all campgrounds:
- A. A campground shall have an area of not less than 10 acres.
  - B. Campgrounds shall provide for individual trailer spaces, access driveways and parking.
  - C. Each campsite shall be at least 2,500 square feet in area, and at least thirty feet in width and have a compacted gravel surface at least ten feet in width and forty two feet in length.

- D. A strip of land at least twenty-five feet in width shall be maintained as a landscaped area abutting all campground property lines except when the campground boundary is adjacent to residential uses, then the landscaped area shall be at least fifty feet in width.

### **§326: Accessory Uses**

Accessory structures and uses must comply with required setbacks.

### **§327: Junk Yards**

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

### **§328: Agriculture and Forestry**

- 328.01 Nothing contained herein shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the Commissioner of agriculture, food and markets or the Commissioner of forests, parks and recreation, respectively, under 10 VSA, §§1021(f) and 1259(f) and 6 VSA, §4810.
- 328.02 Zoning permits need not be obtained for farm structures. However, any landowner proposing to erect a farm structure shall notify the Zoning Administrator of such intent prior to the erection of such structure.
- 328.03 Farm structures shall comply with setbacks approved by the Commissioner of agriculture, food and markets. The approved setbacks are those setbacks contained in §204 of this bylaw.
- 328.04 A person proposing to construct a farm structure with setbacks less restrictive than those contained herein shall submit, in writing, a request for a variance to the Commissioner of agriculture, food and markets. Such request must include the following information:
- A. A statement of the reason or reasons less restrictive setbacks are necessary;
  - B. A copy of this zoning bylaw;
  - C. A sketch plan of the proposed structure(s) showing the distance from all property lines, and;
  - D. A description of the adjoining land uses.

### **§329: Setbacks from Private Rights-of-Way**

When an individual's property abuts a private right-of-way not owned by said individual, any and all structures erected on said individual's property shall be setback from the private right-of-way in conformance with the applicable setback. If the property also abuts a public right-of-way, the front yard setback shall be from such public right-of-way. If the property abuts only a private right-of-way, then the front yard setback shall be from the private right-of-way.

**§330: Location and Size of Culverts**

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

**§331: Lakefront Decks and Access Stairs**

§ 208 notwithstanding, within the Lakeshore and commercial districts property owners may, following the issuance of a permit by the Zoning Administrator, erect the following structures within the setbacks required by §§ 204.01 and 204.02:

- 331.01 Stairs providing access to the lakeshore, and
- 331.02 Freestanding decks that are not more than 3 feet above grade at any point. Such decks shall be at least 10 feet from the seasonal high water mark.

**§332 Subdivision of Land**

- 332.01 Applications for the subdivision of land shall include a preliminary survey prepared by a registered land surveyor. The preliminary survey shall give the specific dimensions and size of any parcels being created, specific size and locations of all improvements on the property including, but not limited to, septic tanks, drain fields, and wells. It shall also show, at least in a schematic representation, the size and configuration of any remaining parcels in such detail as to allow the Planning Commission to determine compliance with the bylaws.
- 332.02 All parcels created by any subdivision shall comply with all specific requirements of these bylaws and shall allow for viable development of all land affected by the subdivision.
- 332.03 Parcels which do not comply with the district minimum lot size may be created provided these parcels are combined with adjacent property and a single property description with a new warranty or similar deed filed in the Town land records.
- 332.04 A final mylar must be submitted to the Zoning Administrator for approval before the subdivision is filed in the Morgan Town Land Records.
- 332.05 The approved subdivision may not be officially filed until all appeal periods have expired and/or all appeals are concluded.
- 332.06 The fee for a subdivision application shall be established by the Selectboard. Said fee must accompany each application for a permit.

**§333 Wireless Telecommunications**

- 333.01 This bylaw shall be known as the Wireless Telecommunications Facilities Bylaw of the Town of Morgan. Wireless telecommunication facilities shall include all wireless telecommunication providers, licensed and/or regulated by the Federal Communications Commission, and associated equipment and buildings.

- 333.02 The purpose of this bylaw is to protect the public health, safety and general welfare of the Town of Morgan while accommodating the communication needs of residents and businesses. This bylaw shall:
- A. Preserve the character and appearance of the Town of Morgan while allowing adequate wireless telecommunications services to be developed.
  - B. Protect the scenic, historic, environmental, and natural resources of the Town of Morgan.
  - C. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of wireless 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 Town of Morgan.
  - F. Minimize the adverse visual effects of towers and other facilities through careful design and siting standards.
  - G. Encourage, through performance standards and incentives, the location of towers and antennas in non-residential areas and away from other sensitive areas such as schools, hospitals and childcare facilities.
- 333.03 Pursuant to 24 V.S.A. § 4401 et seq. the Planning Commission/Zoning of the Town of Morgan is authorized to review, approve, conditionally approve, and deny applications for wireless telecommunications facilities, including sketch, preliminary and final plans, and installation. Pursuant to 24 V. S.A. § 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 all reasonable costs thereof.
- 333.04 In addition to other findings required by this bylaw, the Board shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. 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; or
  - C. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.
- 333.05 Definitions. See Article 5, § 502.
- 333.06 Wireless telecommunications towers or facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in the following zoning districts:
- A. Industrial/Residential

- B. Rural Lands 2
- C. Rural Lands 3.

Additionally, freestanding telecommunications towers or antennas over 20 feet in elevation may not be located in any of the following locations:

- A. Within the height of the unit plus 10% of a State or Federally designated wetland.
- B. The habitat of any State listed Rare or Endangered Species.
- C. Within the height of the unit plus 10% horizontally from any Historic District or property eligible to be listed on the Federal Historic Register.
- D. Closer than the height of the unit plus 10% horizontally to the boundary of the property on which the tower is located.
- E. Closer than the height of the unit plus 10% horizontally to any structure existing at the time of the application which is used as either a primary or secondary residence, to the property of any school, or to any other building.
- F. Within the height of the unit plus 10% horizontally of any river or perennial stream.
- G. Within the height of the unit plus 10% horizontally of any known archeological site.
- H. Within the height of the unit plus 10% horizontally of a designated scenic road or highway.

333.07 Small Scale Facilities. The placement of wireless telecommunications antennas, repeaters or microcells on existing buildings, structures, roofs, or walls, and not extending more than 10 feet from the same, or the installation of ground facilities less than 20 feet in height, may be approved by the Planning Commission provided the antennas meet the applicable requirements of this bylaw, upon submission of

- A. A final site and building plan.
- B. A report prepared by a qualified engineer indicating the structure's suitability for the telecommunications facility, and that the proposed method of affixing the antenna or other device to the structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point(s) of attachment shall be indicated.
- C. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure.

However no such device may be located closer than 50' to an existing residence.

333.08 An applicant for a permit must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity, to the Administrative Officer at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

No construction, alteration, modification (including the installation of antennas for new uses) or installation of any wireless telecommunications tower or facility shall commence

without a conditional use permit first being obtained from the Zoning Board of Adjustment.

In addition to information otherwise required in the Town of Morgan's Zoning Bylaws applicants for wireless 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.
- B. The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.
- C. The names and addresses of the record owners of all abutting property.
- D. A report from qualified engineers that:
  1. Describes the facility height, design and elevation by a structural engineer.
  2. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas by a radio frequency (RF) engineer.
  3. Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the applicant expects the tower to accommodate by a structural engineer.
  4. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures, or other structures proposed by the applicant within 5 miles of the proposed site cannot reasonably provide adequate coverage and adequate capacity to the Town of Morgan. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow the independent reviewer to verify that other locations will not be suitable.
  5. Demonstrates that the applicant has analyzed the feasibility of using "repeaters" or micro-cells in conjunction with all facility sites listed in compliance with Section 1.9. D. v. (above) to provide coverage to the intended service area
  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, sector orientation and power output per channel, as appropriate for each proposed antenna.
  8. Includes a written explanation for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town.

9. Demonstrates the tower's compliance with the municipality's structural standards and or setbacks for towers and support structures.
  10. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure. The Planning Commission may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.
  11. Includes other information required by the Commission that is necessary to evaluate the request. Includes an engineer's stamp and registration number, where appropriate.
  12. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.
- E. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the administrative officer at the time an application is submitted).
- F. To the extent required by the National Environmental Policy Act (NEPA) 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. The permit application shall be signed under the pains and penalties of perjury.
- 333.09 In addition to site plan requirements found elsewhere in the Town of Morgan's Zoning Bylaws, site plans for wireless 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 facility site.
  - B. Vicinity Map showing the entire vicinity within a 2500-foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed facility site parcel and all easements or rights of way needed for access from a public way to the facility.
  - C. Proposed site plans of the 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.
  - E. Computer generated photo simulations of the proposed facility showing the facility from all public rights-of-way and any adjacent property from which it may be visible. Each photo must be labeled with the line of sight, elevation and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

- F. 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.
  - G. Construction sequence and time schedule for completion of each phase of the entire project.
  - H. Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.
- 333.10 An application for a new wireless telecommunications facility shall not be approved unless the Planning Commission finds that the facilities planned for the proposed structure 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.
  - 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 and such interference cannot be mitigated at a reasonable cost.
  - C. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create excessive radio frequency exposure.
  - D. 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 engineer.
  - E. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
  - F. There is no existing or approved tower in the area in which coverage is sought.
  - G. 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 placement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally and in all other respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

- 333.11 Where the construction of new wireless telecommunications towers and facilities requires construction of or improvement to access roads, to the extent practicable, roads shall follow the contour of the land, and be constructed or improved within forest or forest fringe areas, and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area. The Town may require closure of access roads to vehicles following facility construction where it is determined that site conditions warrant the same and where maintenance personnel can reasonably access the facility site on foot.

- 333.12 Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor. Height and mass of facilities shall not exceed that which is essential for the intended use and public safety.
- A. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have dictated color. Use of stealth design, including those which imitate natural features, may be required in visually sensitive locations.
  - B. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be not more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the Zoning Board of Adjustment that the additional height is necessary in order to provide adequate coverage in the Town of Morgan or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.
  - C. Towers, antennas and any necessary support structures shall be designed to avoid having an undue adverse impact aesthetic impact on prominent ridgelines and hilltops. In determining whether a tower's aesthetic impact would be undue and adverse, the Planning Commission will consider:
    - 1. The period of time during which the proposed tower would be viewed by the traveling public on a public highway;
    - 2. The frequency of the view experienced by the traveling public;
    - 3. The degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
    - 4. Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
    - 5. The distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline;
    - 6. The sensitivity or unique value of a particular view affected by the proposed tower;
    - 7. Significant disruption of a view shed that provides context to a historic or scenic resource.

The Planning Commission shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility. Furthermore, the Planning Commission may designate an alternative location for the tower to be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic impacts. In consideration of this, the applicant may revise its application to include such a site, assuming it is

available to the applicant and reasonably-technically feasible to meet the applicant's communication objectives.

- D. All buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the Planning Commission) shall meet the minimum setback requirements of the underlying zoning district or setback requirements specified in this bylaw. If the minimum setbacks of the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances, the minimum distance from the tower to any property line shall be no less than the height of the tower, including antennas and other vertical appurtenances.
  - E. 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 onsite 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 on the facility from surrounding properties and other vantage points.
- 333.13 An alteration or addition to a previously approved wireless 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. Addition or change of any equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennas, not specified in the original application.
- 333.14 Unless required by the Federal Aviation Administration (FAA), no lighting of towers is permitted. In any case where a tower is determined to need obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. Copies of required FAA applications shall be submitted by the applicant. Heights may be reduced to eliminate the need for lighting or another location selected.
- A. No commercial signs or lettering shall be placed on a tower or facility. Signage shall be limited to that required by federal or state regulation.
  - B. The Board may impose conditions to minimize the affect of noise from the operation of machinery or equipment upon adjacent properties.
- 333.15 Any wireless 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 Town of Morgan Planning Commission.
  - B. Temporary 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.
- 333.16 Upon receiving a permit, the permittee shall annually demonstrate that he or she is in compliance with all FCC standards and requirements regarding radio frequency exposure, and provide the basis for his or her representations
- 333.17 Abandoned, unused, obsolete, or noncompliant towers or facilities governed under this bylaw shall be removed as follows:
- A. The owner of a facility/tower shall annually, on January 15, file a declaration with the Town of Morgan's Planning Commission certifying the continuing safe operation of every facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and considered abandoned.
  - B. Abandoned or unused towers or facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the Planning Commission. In the event the tower or facility is not removed within 180 days of the cessation of operations at a site, the municipality shall notify the owner and may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.
  - C. Towers and facilities which are constructed in violation of permit conditions or application representations shall be removed within 180 days of cessation of operations at the site unless a time extension or negotiated solution is approved by the Planning Commission. In the event the tower or facility is not removed within 180 days of notification of such a violation, the municipality may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.
  - D. An owner who has failed to file an annual declaration with the Planning Commission by January 15 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.
  - E. The Applicant shall, as a condition of the conditional use permit, provide a financial surety bond payable to the Town of Morgan and acceptable to the Planning Commission to cover the cost of removal of the facility and remediation of the landscape, should the above clauses be invoked.
- 333.18 The Applicant shall maintain all facilities. Such maintenance shall include, but not be limited to painting, structural integrity and landscaping. In the event the applicant fails to maintain the facility, the Town of Morgan may undertake such maintenance at the expense of the applicant or landowner.
- 333.19 The facility owner shall maintain adequate insurance on all facilities.
- 333.20 Fees for filing an application to build or alter a wireless telecommunications facility shall be \$150.00 for small scale facilities (see Section 1.7) and \$1000 for all other facilities.

Additional fees may include the reasonable costs of an independent technical assessment of the application that may be incurred during the review and permitting process.

- 333.21 The Administrative Officer shall be the agent to enforce the provisions of this bylaw.  
333.22 If any portion of this bylaw is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this bylaw shall not be affected.

### **§334: Wind Energy Conversion Systems**

This section provides basic design criteria intended to encourage the responsible use of wind energy conversion systems (WECS) consistent with the public safety. Any and all wind driven conversion or power generating facility, windmills and wind turbines, consisting of wind turbine generators, transmission lines and accessory buildings and structures, whether to be connected to any public utility power grid or not, shall require a permit, unless the Vermont Public Service Board has issued a "Certificate of Public Good," in which case a permit is not required. WECS are considered an accessory use.

334.01 Application Requirements: Applications shall contain the following information:

- A. The applicant's and property owner's name, address and phone number;
- B. Plot plan showing property lines, easements, setback lines and layout of all structures on the lot;
- C. Standard drawings of the structural components of the WECS, including structures, pole or tower, base, footings, guy lines where required, and guy line anchor bases. The drawing shall include the distance of these components from all property lines;
- D. Height of any structures or trees over thirty-five (35) feet within a five hundred (500) foot radius on-site or off-site of the proposed WECS.
- E. Evidence from a qualified individual that the site is feasible for a WECS.
- F. Certification from a registered engineer or qualified person that the rotor and over speed control have been designed for the proposed use on the proposed site.

334.02 Safety Requirements: The Town of Morgan promotes the effective and efficient use of WECS in a manner that the public health, safety and welfare of the neighboring property owners or occupants will not be jeopardized. To ensure that the use of the property will not result in material damage or prejudice to other properties in the area, the following requirements apply:

- A. The safety of the design of all WECS towers shall be certified by a professional engineer or by an authorized factory representative;
- B. All WECS shall be equipped with manual and automatic over speed controls to limit rotation of blades to speed below the designed limits of the conversion system. The professional engineer or authorized factory representative shall certify that the rotor and over speed control design and fabrication conforms with good engineering practices.
- C. The WECS shall be designed and installed to withstand natural lightning strikes.

- D. Appropriate warning signs shall be posted. The type and placement of the signs shall be determined on an individual basis as safety needs dictate.
- E. It is the responsibility of the property owner or applicant to contact the FCC and FAA regarding additional permits.

#### 334.03 Setbacks:

- A. No part of the WECS shall be located within or above any required front, side, or rear setback area of the district in which it is located.
- B. The WECS shall be located at a distance of at least 1.25 times the height of the facility (measured from the base to the highest reach of the blade) from any structure occupied by humans and from all property lines.
- C. The setback from the property lines shall be waived if the abutters of those affected properties so grant their permission in writing.

#### 333.04 Design Requirements:

- A. Aesthetics: The WECS shall be designed and placed in such a manner to minimize to the greatest extent feasible, all adverse visual impacts on neighboring areas. The colors and surface treatment of the WECS and supporting structures shall to the greatest extent feasible, minimize disruption of the natural characteristics of the site.
- B. Height: The minimum height of the lowest position of the WECS blade shall be at least thirty (30) feet above the ground and forty (40) feet above the highest structure or tree within a two hundred and fifty (250) foot radius.
- C/ Fence: All towers or poles must be unclimbed by design or protected by anti-climbing devices such as:
  - 1. Fences with locking portals at least six (6) feet high;
  - 2. Anti-climbing devices twelve (12) feet from base of the pole;
  - 3. Anchor points for guy lines supporting tower shall be enclosed by a six (6) foot high fence or shall be located within the confines of the yard which is completely fenced.
- A. Noise: Operational noise, as measured by the latest standards of the American Standards Institute, shall not exceed fifty-five (55) decibels, measured at the property line of the property on which the WECS has been installed except for temporary construction or maintenance and in no event shall the WECS create a nuisance.
- B. Lighting: Lighting of the exterior of the facility shall be prohibited, unless required by the FAA.
- C. Access Roads: The site and any access roadways shall be developed and maintained in a manner that will minimize soil erosion, contamination of surface and ground water sources, and damage to important wildlife habitats or natural areas.
- D. Ornamental: Systems that are by nature ornamental, rather than functional, shall be exempt from attaining a permit if the total height is less than thirty-five (35) feet.

- 334.05 Interference: The WECS shall be operated such that no disrupting electromagnetic interference is caused. If it is determined that a WECS is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference including relocation or removal of the facilities.
- 334.06 Facility Removal: If any WECS remains non-functional or inoperative for a continuous period of one year, the permittee shall remove said system at their expense within two (2) years of cessation of operations or use, or when the tower structure becomes structurally unsound. Removal of the system includes the entire structure including foundations, transmission equipment, and fencing from the property. In the event that the system is not removed or dismantled within the two (2) years of the cessation of operations at the site, the municipality shall notify the owner and may remove the facility. Cost of removal shall be assessed against the property or WECS owner.
- 334.07 Insurance Requirements: The WECS operator shall maintain a current insurance policy which will cover installation and operation of the WECS.

#### **ART 4: NON-CONFORMING USES AND NON-COMPLYING STRUCTURES**

##### **§401: Permits Issued Prior to Bylaw Amendment**

Permits issued under the June 25, 1990 Morgan Zoning Bylaw that are valid on the effective date of this Bylaw may be utilized even if such permits result in structures and/or uses considered non-complying and/or non-conforming under the requirements of this Bylaw. In addition, nothing contained herein shall require any changes to the plans or construction of previously permitted structures and/or uses. However, such structures and/or uses shall be established within the permit's effective period of three years. Applications to renew expired permits issued under the June 25, 1990 Morgan Zoning Bylaw will not be approved unless the structure and/or use for which the original permit was issued complies with the requirements of this Bylaw.

##### **§402: Non-Conforming Uses**

The following provisions shall apply to all uses existing on the effective date of this bylaw which do not conform to the requirements set forth in this bylaw and to all uses which in the future do not conform by reason of any subsequent amendment to this bylaw.

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

- 402.01 Shall not be moved, enlarged, altered, extended, reconstructed, or restored (except as provided below), nor shall any external evidence of such use be increased by any means whatsoever.
- 402.02 Shall not be changed to another non-conforming use without approval of the Planning Commission, and then only to a use which, in the opinion of the Planning Commission is of the same or of a more restricted nature.

402.03 Shall not be re-established if such use has been discontinued for any reason for a period of one year, or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.

**§403: Non-Complying Buildings**

The following provisions shall apply to all structures existing on the effective date of this bylaw which do not comply with the lot area, setback and other requirements set forth in this bylaw and all structures which in the future do not comply by reason of any subsequent amendment to this bylaw.

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

- 403.01 May be moved if such action does not increase the non-complying structure's degree of non-compliance.
- 403.02 May be enlarged or extended if such enlargement or extension complies with the requirements of this bylaw and does not increase the non-complying structure's degree of non-compliance.
- 403.03 May be razed and subsequently replaced on the original footprint (or smaller) if the replacement complies with the requirements of this bylaw and does not increase the non-complying structure's degree of non-compliance.
- 403.04 May receive normal maintenance and repair provided that such action does not increase the degree of non-compliance.

**ART 5: DEFINITIONS**

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

**§501: Word Definitions**

The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

The word shall is mandatory, the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot includes the words plot or parcel.

**§502: Term Definitions**

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

**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 personal wireless 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 for wireless telephony is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that most 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, this would be a 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 further 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.

**AFFILIATE:** When used in relation to an operator, 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. When used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

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

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

**ALTERNATIVE DESIGN TOWER Structure:** Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also *Stealth Facility*).

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

- ANTENNA:** A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.
- ANTENNA HEIGHT:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
- ANTENNA SUPPORT STRUCTURE:** Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.
- APPLICANT:** A person who applies for a telecommunications facility siting. An applicant can be the telecommunications service provider with the owner's written permission (or other legally designated representative) or the owner of the property.
- AUTO SERVICE STATION:** Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing of sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories.
- AVAILABLE SPACE:** The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.
- 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.
- BULLETIN 65:** Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.
- 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.
- BULLETIN 65:** Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.
- BUILDING:** Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.
- BUILDING HEIGHT:** Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for all other types of roofs.
- CAMPER:** Any individual who occupies a campsite or otherwise assumes charge of, or is placed in charge of, a campsite.
- CAMPGROUND:** A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, educational or vacation purposes.
- CAMPING UNIT:** Any tent, recreational vehicle, cabin, lean-to or similar structure established or maintained in a campground as temporary living quarters for recreation, education or vacation purposes.

- CAMPSITE:** Any plot of ground within a campground intended for the exclusive occupancy by camping unit or units under the control of a camper.
- CELL SITE:** A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include others uses associated with and ancillary to cellular communications transmission.
- CELLULAR SERVICE:** A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.
- 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 which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.
- CELLULAR TELECOMMUNICATIONS FACILITY:** Consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
- CEMETERY:** Property used for the interring of the dead.
- CHANNEL:** The segment of the radiation spectrum to or from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.
- CHURCH:** A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.
- CLUB, PRIVATE:** Building or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.
- COLLOCATION:** Locating wireless communications equipment from more than one provider on a single site.
- COMMON CARRIER:** An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated rates.
- COMMUNICATION EQUIPMENT SHELTER:** A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.
- COMMUNICATION TOWER:** A guyed, monopole, or self-supporting tower, constructed as a free standing 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.
- COMMUNICATIONS FACILITY:** A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communications facilities may include structures, towers or accessory buildings.
- COVERAGE:** That percentage of the lot area covered by those structures located on said lot.
- dBm:** Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

**DIRECTIONAL ANTENNA:** An antenna or array of antennas designed to concentrate a radio signal in a particular area.

**DISH ANTENNA:** A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

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

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

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

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

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

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

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

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

**FACILITY SITE:** A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

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

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

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

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

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

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

**GHz:** Gigahertz. One billion hertz

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

**HOME OCCUPATION:** 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.

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

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

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

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

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

**LOCATION:** 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.

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

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

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

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

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

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

**LOT LINE, REAR:** That lot line opposite and most distant from the street line.

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

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

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

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

**MHz:** Megahertz, or one million hertz.

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

**MICROWAVE ANTENNA:** A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

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

**MOBILE HOME PARK:** Land on which 2 or more mobile homes are parked and occupied for living purposes.

**MONITORING:** The measurement, by the use of instruments in the field, of radiofrequency exposure from telecommunications facilities, towers, antennas or repeaters.

**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.

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

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

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

- NON-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 the enactment of this bylaw.
- NON-CONFORMING USE:** Use of land or structure which does not comply with the zoning regulations for the district in which it is located, where such use conformed to all applicable laws and regulations, prior to the enactment of this bylaw.
- NON-RESIDENTIAL USE:** All uses of buildings, structures or land except 1 family, 2 family, and multi-family dwellings.
- OFF-LOT WATER AND SEWER:** The providing of water from a source, and the disposal of sewage, by means of systems not located on the lot on which is located the building for which these utilities are provided.
- OMNIDIRECTIONAL ANTENNA:** An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed.
- ON-LOT WATER AND SEWER:** The providing of water from a source such as a drilled well or spring and the disposal of sewage by such means as a septic system and drainage field located on the same lot or adjacent lot as the building for which these utilities are provided.
- PARKING SPACE, OFF-STREET:** For the purposes of this bylaw, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering space.
- PERMIT:** Embodies the rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its facility within the boundaries of the municipality.
- PERSONAL COMMUNICATIONS SERVICES OR PCS:** Digital wireless telephone technology using higher frequency spectrum than cellular.
- PERSONAL SERVICE:** Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.
- 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.
- PREEXISTING TOWERS AND ANTENNAS:** Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.
- PRINCIPAL BUILDING:** Any building or structure whose use, actual or intended, is not subordinate to any other use which is located in another building on the same lot.
- PRINTING SHOP:** Any facility involved in the printing or publishing of forms, stationary, envelopes, books and other materials.
- PROFESSIONAL OFFICE:** Place where the business of a commercial, industrial, service or professional organization is transacted. Includes a clinic.
- RADIATED-SIGNAL PROPAGATION STUDIES OR COVERAGE PLOTS:** Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary

tools for determining a need and whether the telecommunications equipment will provide adequate coverage for that site.

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

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

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

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

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

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

**SCENIC VIEW:** A scenic view is a wide angle or panoramic field of sight and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or a nearby object.

**SELF-SUPPORTING TOWER:** A communications tower that is constructed without guy wires.

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

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

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

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

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

- A. Flags and insignia of any government except when displayed in connection with commercial promotion.

- B. Legal notices, identification, informational, or directional signs erected as required by governmental bodies.
- C. Integral decorative or architectural features of building, except letters, trademarks, moving parts or moving lights.
- D. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

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

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

**SPECTRUM:** Relating to any transmissions or reception of electromagnetic waves.

**STEALTH FACILITY:** Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to look like light poles, and structures designed to resemble natural features such as trees or rock outcroppings. (See also Alternative Design Tower Structure.)

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

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

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

**STRUCTURALLY ABLE:** The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

**SYSTEM:** The communications transmission system operated by a telecommunications service provider in the municipality or region.

**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.

**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.

**TOWER:** A vertical structure for antenna(s) that provide telecommunications services.

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

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

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

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

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

**WHIP ANTENNA:** A vertical antenna that normally transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape, narrow (less than 6 inches in diameter) and long (often measure 18 inches in height or more).

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

## **ART 6: ADMINISTRATION AND ENFORCEMENT**

### **§601: Zoning Administrator**

The Zoning Administrator shall be appointed to administer the zoning bylaw pursuant to 24 VSA, §4448. Said Zoning Administrator shall literally enforce the provisions of this bylaw and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of this bylaw. Appeals from any decision or act taken by the Zoning Administrator shall be made as provided for in 24 VSA, §4465. An acting Zoning Administrator may be appointed pursuant to 24 VSA, §4448(b).

**§602: Zoning Permits**

- 602.01 No land development, as defined in 24 VSA, §4303(10), may be commenced without a permit therefore issued by the Zoning Administrator. No zoning permit may be issued by the Zoning Administrator unless the proposed project complies with all applicable sections of this bylaw and all applicable approvals required herein by the Planning Commission and/or Zoning Board of Adjustment have been granted.
- 602.02 Applications for zoning permits shall be made to the Zoning Administrator on forms provided by him for that purpose. **Permits are not required for buildings less than 64 square feet as calculated by outside dimensions. All structures (whether requiring a permit or not) must be in compliance with bylaws applicable to the Zoning District where the structure is located.**
- 602.03 Prior to the issuance of any zoning permit the Zoning Administrator shall first satisfy himself that the subject of the application is in conformance with this bylaw. He may request from an applicant any information he deems necessary for this purpose. No such permit shall be issued unless an application, fee, plot plan and any other approvals of the Planning Commission or the Board of Adjustment required by this bylaw have been properly obtained and are submitted in connection with the application. The Zoning Administrator shall, within 30 days of submission of the application, data and approvals, either issue or deny a zoning permit. If denied, the Zoning Administrator shall so notify the applicant in writing, stating his reasons therefore. If the zoning permit is approved, all activities authorized by its issuance shall be completed within three years of its date of issue, or a reapplication must be submitted to and approved by the zoning administrator (no additional fee will be charged).
- 602.04 In the issuance of zoning permits, the Zoning Administrator shall comply with all of the provisions of 24 VSA, §4449.
- 602.05 The fee for a zoning permit shall be established by the Select Board. It may be a sliding scale depending upon the cost of the land development. Said fee must accompany each application for a permit.
- 602.06 No zoning permit issued pursuant to 24 VSA, §4449 shall take effect until the time for appeal (15 days) in 24 VSA, §4465(a) has passed, or in the event that a notice of appeal is properly filed, such permit shall not take effect until the final adjudication of said appeal.

**§603: Penalties**

Any violation of this bylaw after the effective date thereof shall be punished as provided in 24 VSA, §§4451 and 4452.

**§604: Board of Adjustment**

- 604.01 The Legislative Body shall appoint a Board of Adjustment, whose members shall act on all matters within its jurisdiction under this bylaw in the manner prescribed in 24 VSA, Chapter 117; provided however, that the members of the Board of Adjustment

incumbent on the effective date of this bylaw shall continue in office for the duration of the terms to which they were respectively appointed.

604.02 Rules of procedure applicable to the Board of Adjustment, the nature of appeals to the Board from actions of the Zoning Administrator, public notice requirements, conditions for variance relief, and all other matters governing the action of said Board shall be as provided in 24 VSA, Subchapters 10 and 11.

604.03 The fee for an application to the Board of Adjustment shall be established by the Select Board. Said fee must accompany each application or appeal.

### **§605: Public Notice**

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

## **ART 7: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE, REPEAL**

### **§701: Amendments**

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

### **§702: Interpretation**

702.01 In their interpretation and application, the provisions of this bylaw shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

702.02 Except for 24 VSA, §4413(c) and where, in this bylaw specifically provided to the contrary, it is not the intention of this bylaw to repeal, annul, or in any way to impair any regulations or permits previously adopted or issued; provided however, that where this bylaw imposes a greater restriction upon the use of a structure or land than is required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of this bylaw shall control.

### **§703: Effective Date**

This bylaw shall take effect in accordance with the voting and other procedures contained in 24 VSA, §4442(c).

### **§704: Separability**

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

**§705: Repeal of Former Zoning Bylaw**

Upon the date of adoption of this bylaw, the former Town of Morgan Zoning Bylaw, adopted September 8, 1997 is hereby declared repealed and shall have no further force or effect.