
ARTICLE 3. GENERAL REGULATIONS

Section 3.1 Applicability

The following general standards, including provisions required under the Act [§§4412, 4413], apply to all uses and structures as specified within the Town of Middlesex.

Section 3.2 Access, Driveway & Frontage Requirements

In accordance with the Act [§4412(3)], no land development may be permitted on lots which do not have either frontage on a public or private road or public waters or, with the approval of the Middlesex Select Board, have access to such a road or waters by a permanent easement, right-of-way or fee-simple ownership that is at least 20 feet in width.

Section 3.3 Conversions & Changes of Use

(A) Conversions or changes in the use of land, existing buildings, or other structures are subject to the following:

- (1) The proposed use shall be subject to all the requirements of these bylaws pertaining to such use.
- (2) A conversion or change from a permitted use to a conditional use, or from a conditional use to a different conditional use, shall be approved by the Board of Adjustment subject to conditional use review under Section 5.5 and, depending upon the nature of the use, may require site plan approval under Section 5.4.

Section 3.5 Existing (Nonconforming) Small Lots

(A) In accordance with the Act [§4412(2) & (7)], any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, if such lot is at least one-eighth of an acre in area with a minimum width or depth of forty (40) feet. Development of the existing lot shall be subject to all other applicable requirements.

(B) Existing small lots in affiliated or common ownership or such lots which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of these regulations. However, such lots shall not be deemed merged, and may be separately conveyed, if in accordance with the Act *all* of the following requirements are met:

- (1) the lots are conveyed in their pre-existing, nonconforming configuration; and
- (2) each lot had been developed with a water supply and wastewater disposal system; and
- (3) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and,
- (4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined by 10 VSA Chapter 64.

Section 3.6 Height Requirements

(A) The maximum height of structures in all districts shall not exceed the district maximum, except as permitted under Subsection (B), or for the following which are specifically exempted from the height requirements of these bylaws:

- (1) agricultural structures in accordance with the Act [§4413(d)];
- (2) steeples, spires, belfries, bell and clock towers;
- (3) accessory structures associated with residential use which are less than fifty (50) feet in height above the lowest grade at ground level at the base of the structure, including antennas, flag poles, ornamental cupolas, chimneys, wind generators with blades less than twenty (20) feet in diameter, and rooftop solar collectors.

(B) The Board of Adjustment may permit structures in excess of the district standard subject to conditional use review under Section 5.5, upon finding that:

- (1) the structure does not constitute a hazard to public safety, or to adjoining properties;
- (2) that portion of the structure above the district maximum height shall remain unoccupied except for normal maintenance;
- (3) the structure is not to be used for advertising purposes;
- (4) the portion of the structure above the minimum height for the district within which it is located shall not be lighted; and,
- (5) the proposed building height and scale are consistent with the character of the immediate surroundings.

(C) Notwithstanding these requirements, or the district maximum height standards, telecommunications facilities shall meet the standards set forth for such facilities in the Middlesex Wireless Telecommunications Sites Bylaw (Appendix 2).

Section 3.7 Lot & Yard Requirements

(A) Only a single principal use or structure may be located on a single lot, unless permitted within the specific district as:

- (1) an accessory use to a principal use (e.g., a home occupation, home child care, accessory apartment);
- (2) a mixed use (see Section 4.9);
- (3) agricultural and forestry uses on a lot occupied by another use; or
- (4) as otherwise approved by the Planning Commission as part of a Planned Residential Development (PRD) or Planned Unit Development (PUD) in accordance with Section 5.7.

Section 3.8 Non-complying Structures & Nonconforming Uses

(A) In accordance with the Act [§4412(7)], these regulations address three categories of nonconformity:

- (1) Non-complying structures (see subsection (B));
- (2) Non-conforming uses (see Subsection (C)); and
- (3) Existing small lots (see Section 3.5).

(B) **Non-complying Structures.** Any pre-existing structure which is not in compliance with the provisions of these regulations concerning density, setbacks, height, lot size or other dimensional standard, or which does not meet other applicable requirements of these regulations, shall be deemed a non-complying structure. Non-complying structures legally in existence on the effective date of

these regulations will be allowed to continue indefinitely, but shall be subject to the following provisions. A non-complying structure:

- (1) may undergo normal repair and maintenance provided that such action does not increase the degree of noncompliance (see definition of degree of noncompliance in Appendix 1. Definitions);
- (2) may be restored or reconstructed after damage from fire or other catastrophe, provided that the reconstruction does not increase the degree of noncompliance which existed prior to the damage and that the reconstruction occur within two years of such damage;
- (3) may be structurally enlarged, expanded or moved, upon approval of the Zoning Administrator, provided the enlargement, expansion or relocation does not increase the degree of noncompliance;
- (4) may, subject to conditional use review under Section 5.5, undergo alteration or expansion which would increase the degree of noncompliance solely for the purpose of meeting mandated state or federal environmental, safety, health or energy regulations (e.g., handicap access ramp in accordance with ADA standards); and/or
- (5) may, in the case of single family, two family and multi-family dwellings in districts in which such uses are allowed, be structurally enlarged or expanded provided:
 - (a) the purpose of the expansion is an allowed use within the applicable district;
 - (b) no portion of the proposed expansion is closer to the centerline of any adjacent highway than the closest point of the existing dwelling;
 - (c) the existing dwelling is not located within the highway right-of-way;
 - (d) the expansion complies with minimum side yard setback standards for the district within which it is located.

(C) **Nonconforming Uses.** Any use of land or a structure which does not conform to the uses allowed for the zoning district in which it is located shall be deemed a nonconforming use.

Nonconforming uses which legally exist on the effective date of these regulations may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:

- (1) shall not be re-established or continued following abandonment or discontinuance resulting from structural damage from fire or other catastrophe, unless the nonconforming use is carried on uninterrupted in the undamaged part of the structure, or the use is reinstated within one year of such damage;
- (2) shall not be re-established if such use has been changed to, or replaced by, a conforming use, or if such use has been discontinued for a period of two years, regardless of the intent to re-establish such prior use;
- (3) shall not be changed to another non-conforming use without the approval of the Board of Adjustment in accordance with Section 5.5.

Section 3.9 Parking & Loading Requirements

Parking and loading shall meet the needs of all business or other uses under the terms of any site plan requirements.

Section 3.10 Protection of Water Resources

(A) **Surface Waters.** To prevent soil erosion and sedimentation of surface waters, maintain water quality and protect wildlife habitat, the following standards shall apply to all streams and rivers:

- (1) All structures shall be setback a minimum of 75 feet from all streams, rivers and public lakes, as measured from the top of the bank, although the Board of Adjustment may, in accordance with conditional use review under Section 5.5, approve the placement of a structure within the 75 feet setback providing it meets the following standards:
 - (a) the structure is located within the Village District; and
 - (b) the building placement will better reflect the historic settlement pattern and character of the surrounding area; and

- (c) reasonable provision is made for the protection of water quality such as, but not limited to, the planting of shade trees adjacent to streambanks, the establishment of vegetated buffer areas along streambanks, and/or stormwater management provisions to collect and disperse stormwater away from the stream or river.
- (2) An undisturbed, vegetated buffer strip shall be maintained for a minimum of 25 feet from all streams, rivers and lakes. The 25 feet buffer strip shall be measured from the top of the streambank. No development, excavation, filling, clearing or grading shall occur within the buffer strip, with the exception of clearing and associated site development necessary to accommodate the following:
 - (a) road, driveway and utility crossings;
 - (b) streambank stabilization and restoration projects, in accordance with applicable state and federal regulations;
 - (c) unpaved bicycle and pedestrian paths and trails;
 - (d) recreation facilities, including structures, associated with lake or pond accesses;
 - (e) Agriculture in accordance with Acceptable Agricultural Practices (AAPs) as defined by the Commissioner of Agriculture, Food and Markets, and Forestry in accordance with *Acceptable Management Practices (AMPs) For Maintaining Water Quality on Logging Jobs in Vermont*, published by the Vermont Department of Forests, Parks and Recreation; or
 - (f) any use exempted in subsection (1), above.
 - (3) The expansion or enlargement of any structure in existence prior to the effective date of these bylaws, and not in compliance with this Section, is permitted with approval of the Board of Adjustment pursuant to Section 3.8 regarding non-complying structures.
 - (4) No alteration of the natural course of any stream shall be allowed unless a stream alteration permit has been issued by the Vermont Department of Environmental Conservation in accordance with 10 VSA Chapter 41. Such alterations within the Flood Hazard Area Overlay District are subject to state agency and municipal referral requirements under Section 5.6.

(B) **Wetlands.** To maintain the ecological function of wetland areas, including maintenance of water quality, wildlife habitat and flood retention, the following standards shall apply to all wetlands:

- (1) An undisturbed, vegetated buffer strip at least 50 feet in width shall be maintained around all wetlands as identified on current National Wetland Inventory Maps, Vermont Significant Wetland Inventory (VSWI) maps or through field investigation (as measured from a delineated boundary). The width of the buffer strip shall be measured from the delineated wetland boundary.
- (2) The setback distance for wetland areas may be reduced in accordance with a conditional use determination (CUD) issued by the Vermont Agency of Natural Resources under the Vermont Wetland Rules. In the event that a CUD has been issued, the setback requirements specified in the determination shall apply.

(C) **Groundwater.** To ensure the protection of groundwater resources to serve current and future Middlesex residents, the following standards shall apply to all development:

- (1) The following potential sources of contamination are specifically prohibited within designated Source Protection Areas, unless it is demonstrated to the satisfaction of the Board of Adjustment under conditional use review (Section 5.5) that no potential for contamination of a water supply exists:
 - (a) gasoline and motor vehicle service and repair facilities;
 - (b) machine and body shops;
 - (c) car washes;
 - (d) the outdoor storage of road salt and other de-icing chemicals;
 - (e) public or community wastewater treatment facilities;
 - (f) fuel storage except for agricultural or residential use;

- (g) underground storage tanks;
- (h) solid waste disposal facilities and sanitary landfills;
- (i) dry cleaning, furniture stripping, metal plating, and photographic processing activities;
- (j) junk and salvage yards;
- (k) extraction and quarrying activities;
- (l) cemeteries;
- (m) lawn and garden stores;
- (n) power plants and substations; and/or
- (o) any other use which involves the generation, use, storage, treatment, transportation or disposal of potential contaminants greater than normal household use.

An application for development within delineated source protection areas which is subject to conditional use review shall also be forwarded for review by the local fire or water district having jurisdiction prior to the issuance of a permit, if applicable. Development within a source protection area shall be managed in accordance with the adopted source protection plan for that area. Conditions may be attached as appropriate, in consultation with the local district and/or state.

Section 3.12 Steep Slopes

(A) Development shall not take place on slope gradients in excess of 25% with the exception of limited site improvements necessary to facilitate development on contiguous land less than 25% gradient.

(D) Accepted agricultural practices and forestry, as defined in Article 4, are exempted from this Section in accordance with Section 4.3.

Section 3.13 Storage of Hazardous Materials

(A) The storage of any highly flammable or hazardous liquid or gas in tanks above ground with unit capacity greater than 550 gallons shall be prohibited, unless such tanks up to and including 10,000 gallon capacity are placed not less than 80 feet from all property lines, and unless all such tanks of more than 10,000 gallon capacity are placed not less than 200 feet from all property lines. All storage tanks shall comply with all applicable state and federal regulations.

(B) All tanks containing flammable and/or hazardous liquids located above-ground and having a capacity greater than 550 gallons shall be properly retained with dikes having a capacity not less than 1.5 times the capacity of the tanks surrounded.