

ARTICLE 3. GENERAL REGULATIONS

Section 3.1 Applicability

In addition to 24 V.S.A. [§§4412, 4413] the following provisions apply to all land development in the Town.

Section 3.2 Access, Driveway & Frontage Requirements

No land development may be permitted on lots which do not have frontage either on a public road, class 4 town or private road or public waters or, with the approval of the Planning Commission (PC) or Select Board (SB), as applicable, 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. Applicant must apply for a driveway access permit in accordance with the Town Highway Ordinance.

Section 3.3 Conversions & Changes of Use

(A) Proposed conversions or changes in the use of land, existing buildings, or other structures are subject to all regulations pertaining to such use.

(B) 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 Zoning Board of Adjustment (ZBA) subject to conditional use review under Section 5.4 and, depending upon the nature of the use, may require site plan approval under Section 5.5 prior to the issuance of a zoning permit.

Section 3.4 Pre-Existing Small Lots

(A) In accordance with the Act Pursuant to [§4412(2) & (7)], any lot that is legally subdivided with individual and separate and non-affiliated ownership from surrounding properties, and is in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, and is in accordance with these regulations, if such lot is at least one-eighth (1/8) of an acre in area with a minimum width or depth of forty (40) feet.

(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 [§ 4412], all of the following requirements are met:

- (1) the lots are conveyed in their pre-existing, nonconforming configuration; and
- (2) on the effective date of these regulations, 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 in 10 V.S.A Chapter 64.

Section 3.5 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 regulations:

- (1) agricultural farm structures as provided by [§4413(d)];
- (2) steeples, spires, belfries, bell and clock towers; and
- (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 ZBA may permit structures in excess of the district standard subject to conditional use review under Section 5.4 upon finding that:

- (1) the structure does not constitute a hazard to public safety, or to adjoining properties;
- (2) that the 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;
- (5) the proposed building height and scale are consistent with the character of the immediate surroundings.

(C) Notwithstanding these regulations, or the district maximum height standards, telecommunication facilities shall meet the standards set forth in Section 4.13.

Section 3.6 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;
- (2) a mixed use (see Section 4.8);
- (3) agricultural and forestry uses on a lot occupied by another use; or
- (4) as otherwise approved by the PC as part of a Planned Residential Developments (PRDs) or Planned Unit Developments (PUDs) in accordance with Section 5.7.

Section 3.7 Noncomplying Structures & Nonconforming Uses

(A) In accordance with [§4412(7)], this section addresses noncomplying structures and nonconforming uses.

(B) **Noncomplying Structures.** Any pre-existing structure which is not in compliance with these regulations with regard to density, setbacks, height, lot size or other dimensional standard, or which does not otherwise meet these regulations, is deemed a noncomplying structure. Noncomplying 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 noncomplying structure:

- (1) may undergo normal repair and maintenance, provided that such action does not increase the Degree of Noncompliance as defined in Appendix 1, Section 2.

- (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 occurs within two years of the damage;
- (3) may be structurally enlarged, expanded or moved, upon approval of the ZA, provided the enlargement, expansion or relocation does not increase the Degree of Noncompliance;
- (4) may undergo alteration or expansion which would increase the degree of noncompliance solely for the purpose of meeting state or federal environmental, safety, health or energy regulations; 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 a permitted 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; and
 - (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 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; and
- (3) shall not be changed to another nonconforming use without the approval of the ZBA in accordance with conditional use review under Section 5.4.

Section 3.8 Parking & Loading Requirements

Parking and loading shall meet the needs of all business or other uses under the terms of any site plan requirement unless otherwise approved under Sections 5.4, and/or Section 5.5.

Section 3.9 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 apply:

- (1) All structures shall be set back a minimum of 75 feet from all streams, rivers and public lakes, as measured from the top of the bank, although the ZBA may, in accordance with conditional use review under Section 5.4, approve the placement of a structure within the 75 feet setback provided that:
 - (a) reasonable provision is made for the protection of water quality such as, the planting of shade trees adjacent to streambanks, the establishment of vegetated buffer areas along streambanks, and/or storm water management provisions to collect and disperse storm water away from the stream or river; and
 - (b) The building placement will better reflect the historic settlement pattern and character of the surrounding area, if applicable.

- (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 state and federal regulations;
 - (c) unpaved bicycle and pedestrian paths and trails;
 - (d) recreation facilities, including structures associated with lake or pond access;
 - (e) agriculture in accordance with Acceptable Agricultural Practices (AAPs) as set forth by the Commissioner of Agriculture, Food and Markets, and forestry in accordance with Acceptable Management Practices (AMPs) as set forth by the Vermont Department of Forests, Parks and Recreation; or
 - (f) any use exempted in subsection (1), above.
- (3) 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. Such alterations within the Flood Hazard Area Overlay District are subject to Section 5.6.

(B) Wetlands. Before undertaking Land Development, land owners should contact the Vermont Agency of Natural Resources to determine whether a wetland exists on their property and should meet applicable State laws.

(C) Groundwater. To ensure the protection of groundwater resources to serve current and future Town residents, these 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 ZBA under conditional use review (Section 5.4), 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 designated Source Protection Areas which is subject to conditional use review under Section 5.4, 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 the state.

Section 3.10 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 with less than 25% gradient. Accepted agricultural practices and acceptable forestry practices are exempted from this section in accordance with Section 7.3.

Section 3.11 Storage of Hazardous Materials

(A) All storage tanks shall comply with state and federal regulations.

(B) 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.

(C) 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 they surround.

Section 3.12 Sign Requirements

(A) A zoning permit shall be required prior to the erection, construction or replacement of any outdoor sign that is used to identify a principal business or service, except for those signs on Town Highways for which the Middlesex Highway Ordinance applies.

(B) Signs as specified in Subsection (A) shall require a zoning permit issued either by the ZA or approved in conjunction with a conditional use, variance or site plan review process.

- (1) There shall only be one sign per principal business or service.
- (2) No sign shall be placed within a public right of way.
- (3) All signs shall be maintained in a safe and secure condition.
- (4) Signs shall comply with existing site conditions, and the character of the neighborhood.
- (5) Lighting of signs shall comply with Section 5.4 (C) (8) and shall not be illuminated when the business is not open for business.
- (6) Signs shall be no larger than 16 square feet.

(C) If the ZA determines that a sign is not secure, safe or in a good state of repair, the ZA may issue a written warning and/or notice of violation under Section 7.7 and may require that any defect in the sign be corrected immediately.