

ARTICLE 4. SPECIFIC USE STANDARDS

Section 4.1 Applicability

The following standards apply to specific uses in all zoning districts in which such uses are allowed.

Section 4.2 Accessory Dwellings

(A) In accordance with the Act [§4412(1)], one attached or detached dwelling unit which is accessory to a single family dwelling may be allowed in any district subject to review by the ZA under Section 7.2 and the following requirements:

- (1) either the primary single family dwelling or the accessory dwelling must be occupied by the owner;
- (2) the floor (total living) area of the accessory dwelling shall not exceed 600 square feet, or 30% of the floor area of the total existing living area of the primary single family dwelling, whichever is greater; Living areas are determined by the exterior measurements of the dwellings. Finished areas in basements are not included in the living area; and
- (3) at least one on-site parking space shall be provided for the residents of the accessory dwelling.

(B) Any zoning permit issued for an accessory dwelling shall clearly state that the dwelling is permitted only as an accessory to the principal use of the property and shall be retained in common ownership.

(C) An accessory dwelling may be subdivided and/or converted for conveyance or use as a principal dwelling only if it is found to meet all current municipal regulations applying to a two family dwelling, or to two single family dwellings if detached, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to conversion to, or conveyance as, a principal dwelling.

Section 4.3 Campers & Temporary Shelters

(A) Campers (e.g., recreational vehicle, travel trailer) or other temporary shelters may be located, stored or parked on public or private property in accordance with the following:

- (1) campers and other temporary shelters may be located in approved campgrounds (see Section 4.4), sales establishments and, for a specified period, on construction sites for use as a temporary structure;
- (2) campers or temporary shelters may be stored on the lot of a single or two family dwelling and/or on an undeveloped parcel, provided that they are not located within required setbacks for the district in which it is located, are not occupied for dwelling purposes for more than 90 days within any one year period; and are not connected to the residential water or wastewater system or other utilities;
- (3) any camper or temporary shelter that is used for dwelling purposes for more than 90 days within any one year period, or is sited so as not to be readily moveable, shall be deemed a dwelling and be subject to all zoning regulations applicable to accessory or single family dwellings; and
- (4) any wastewater or sewage generated by a camper or temporary shelter shall be disposed of in accordance with state and federal law.

Section 4.4 Campgrounds

(A) A new or expanded recreational vehicle campground, improved seasonal campground, or primitive campground may be permitted in designated zoning districts subject to a site plan and conditional use review under Section 5 and the following provisions:

- (1) The parcel of land for a campground shall be no less than five acres in area or the minimum lot area for the district in which it is located, whichever is greater;
- (2) All campgrounds shall meet minimum setback requirements for the districts in which they are located. A minimum 75 foot setback shall be required from any residential property. No building, camp site, parking or service area shall be located in setback areas;
- (3) Landscaping and/or fencing along property boundaries shall be required as appropriate for screening, security, and privacy;
- (4) Campgrounds shall provide lavatory, shower, and toilet facilities sufficient to serve all camp sites; and
- (5) Adequate provision for the safe, sanitary disposal of trash and recyclables shall be provided on site.

(B) The ZBA may waive any or all of the requirements under subsection (A) if it is demonstrated to the ZBA's satisfaction that access, total lot area, camp site area, and setback distances are sufficient to:

- (1) support the proposed level of use, and
- (2) avoid any adverse impacts to water quality, natural areas, and adjoining properties and uses.

Section 4.5 Extraction of Earth Resources

(A) The extraction of earth resource may be allowed in designated districts subject to conditional use review under Section 5.4. In addition to the conditional use standards set forth in Section 5.4, for commercial extraction operations which are likely to impact surrounding properties due to the scale, intensity and timing of the extraction, the presence of fragile natural features and/or the relative density of nearby land uses, the ZBA shall also require erosion control and site plans showing:

- (1) existing grades, drainage patterns and depths to bedrock and the seasonal high water table;
- (2) the extent and magnitude of the proposed operation, including proposed phasing;
- (3) finished grades at the conclusion of the operation; and
- (4) a detailed plan for the restoration of the site, including final grading and revegetation.

(B) In granting approval, the ZBA may impose conditions with regard to any of the following:

- (1) depth of excavation or quarrying;
- (2) slopes created by removal;
- (3) effects on surface drainage on and off-site;
- (4) storage of equipment and stockpiling of materials on-site;
- (5) hours of operation for blasting, trucking, and processing operations;
- (6) effects on adjacent properties due to noise, dust, or vibration;
- (7) effects on traffic and road conditions, including potential physical damage to public highways;
- (8) creation of nuisances or safety hazards;
- (9) temporary and permanent erosion control, including project phasing to limit exposed area;
- (10) effect on ground and surface water quality, and drinking water supplies;
- (11) effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;
- (12) effect on agricultural land; and
- (13) public health, safety and general welfare.

(C) A performance bond, escrow account, or other surety acceptable to the SB may be required to ensure reclamation of the land upon completion of the excavation. Upon failure of the permit holder, or their successors or assigns, to complete site reclamation, the Town may take legal action to ensure site reclamation and cost recovery.

(D) This section shall not apply to normal agricultural and/or forestry operations, public road maintenance and construction, the operation of a cemetery, or the removal of earth resources for a use that is incidental to another duly permitted construction activity located on the same parcel from which the materials were extracted.

Section 4.6 Home Based Businesses

(A) Home Child Care. In accordance with the Act [§ 4412(5)], a state registered or licensed child care home serving six or fewer children on a full-time basis and up to four additional children on a part time basis, which is conducted within a single family dwelling by a resident of that dwelling, shall be considered a permitted use of a single family residence. No zoning permit is required for home child care providing it meets the requirements of this section.

Nonresidential daycare centers, and those daycare centers operated from a dwelling which serve greater than six children full-time, may be permitted in designated zoning districts as a conditional use subject to review under Section 5.4.

(B) Home Occupations. In accordance with the Act [§4412(4)], no provision of these 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 of the surrounding neighborhood or area. No zoning permit is required for a home occupation provided such home occupation complies with the following standards:

- (1) The home occupation shall be carried on by residents of the dwelling and not more than two additional non-residential employees;
- (2) The home occupation shall not result in excessive noise, traffic, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundary of the property; and
- (3) On-site retail sales, and the service or repair of automobiles, are prohibited (see subsection Home Industry under (C)).

(C) Home Industry. Home industry, as distinguished from “home occupation” under Subsection (B), may be allowed as an accessory to a single family dwelling in designated zoning districts subject to conditional use review under Section 5.4, and the following standards:

- (1) The home industry shall be conducted by residents of the dwelling, and up to four full-time nonresident employees (or full-time equivalent part-time nonresident employees);
- (2) The home industry shall be carried out within the principal dwelling or an accessory structure;
- (3) Exterior storage areas for materials and equipment associated with the home industry may be approved by the ZBA provided that such areas are clearly designated and are adequately screened from public view and neighboring properties. Designated storage areas shall meet the setbacks for the district in which the use is located, although the ZBA may require greater setbacks to avoid impacts on neighboring properties. The storage of hazardous materials anywhere on the premises is prohibited, with the exception of materials customary and characteristic of residential uses (e.g., heating oil); and
- (4) The home industry shall not result in excessive noise, traffic, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundary of the property.

(D) Permits and Approvals The zoning permit issued for a home industry shall clearly state that the home business is permitted only as an accessory to the principal residential use of the property, and as such shall be retained in common ownership. A home occupation or home industry may be subdivided and/or converted for conveyance as a separate, principal use only if it is found to meet all current municipal regulations applying to such use, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to subdivision, conversion, or conveyance of a home business as a principal use.

Section 4.7 Light Industry & Manufacturing

(A) Light industry (as distinguished from home industry under Section 4.6 (C) and manufacturing are permitted in designated zoning districts subject to conditional use review under Section 5.4. In addition to the standards set forth in Article 2 and Section 5.4, such uses shall meet the following standards:

- (1) All industrial and manufacturing activities, and the maintenance and repair of vehicles and equipment, shall be conducted within an enclosed building or buildings, or within a designated outdoor area screened year-round from the road and from neighboring properties;
- (2) Outdoor storage of materials, vehicles and heavy equipment shall be limited to a designated area approved by the ZBA. This area shall be screened year-round from the road and from neighboring properties. Dead metal (e.g., inoperable, unused, unregistered equipment) shall not be stored on the premises;
- (3) Any area designated for the outdoor storage of materials shall be set back a minimum of 100 feet from road rights-of-way, surface waters, wetlands and adjacent properties unless the ZBA finds that the neighboring property is occupied by a compatible non-residential use. All other setback and dimensional standards for the district in which the light industry is located shall apply. The ZBA may however, as a condition of approval, require greater setbacks based on specific site conditions to protect water quality and neighboring properties;
- (4) In approving an industrial or manufacturing use under Section 5.4, the ZBA may place conditions on the proposed activity, including conditions on the hours of operation, in order to protect public health, safety, and welfare, municipal facilities and services, and other public investments;
- (5) The on-site storage of hazardous materials shall require the specific approval of the ZBA. In approving such storage the ZBA shall require the submission of a hazard mitigation plan, prepared by or on the behalf of the applicant, to ensure the protection of ground and surface waters and public safety in the event of a spill or release; and
- (6) Sufficient landscaping and screening shall be provided along parcel boundaries and within the project site to protect adjacent properties from objectionable visual impacts. At a minimum, a landscaped buffer a minimum of 30 feet deep shall be located along all boundaries adjoining a residential property.

Section 4.8 Mixed Uses

(A) In designated zoning districts, more than one principal use may be allowed within a single building or on a single lot, subject to the following standards:

- (1) Each of the proposed uses is allowed as a permitted or conditional use within the zoning district in which the mixed use is located; and
- (2) The uses in combination meet all applicable standards for the district in which the mixed use is proposed, including minimum lot, frontage and setback requirements; or the mixed use is part of a Planned Unit Development (PUD) reviewed in accordance with Section 5.7.

Section 4.9 Mobile Home Parks

(A) Mobile home parks may be permitted in designated districts subject to conditional use review in accordance with Section 5.4 and the following provisions:

- (1) Proposed parks shall comply with all applicable state regulations, including regulations relating to water supply and wastewater disposal;
- (2) The parcel of land for a mobile home park shall have a minimum area of no less than five acres, or the minimum lot area for the district in which it is located, whichever is greater;
- (3) Each mobile home shall be located on a dedicated site of not less than 8,500 square feet in area. Each site shall be landscaped with two or more trees;
- (4) Mobile home parks shall meet minimum setback requirements along their perimeter for the district in which they are located. Setback areas shall not be included in the calculation of recreation land or open space under this section. A strip of land 25 feet deep shall be maintained as a landscaped buffer along all property boundaries;
- (5) Each mobile home, and associated accessory structures, shall be set back a minimum of 10 feet from adjoining mobile home sites;
- (6) All roads within a mobile home park shall comply with Section 6.5, and adequate walkways shall be provided;
- (7) Adequate parking shall be provided;
- (8) A minimum of 100 square feet of indoor storage space (e.g., storage shed, or a central storage building) shall be provided for each mobile home located within the park; and
- (9) A minimum of 20% of the total land area in any mobile home park shall be set aside for common recreational use or open space.

(B) The mobile home park owner, or designated operator, as a condition of ZBA approval, shall:

- (1) maintain all park buildings, roads, parking areas, paths, utilities, infrastructure, landscaping, open space and common areas in good condition, and shall provide for the regular collection and removal of recyclables, waste and garbage; and
- (2) remove snow from all park roads and service areas.

(C) Changes or alterations to park area, design, layout or common facilities are subject to conditional use review in accordance with the above provisions. The owner of a mobile home within an approved mobile home park may apply for a zoning permit under Section 4.2 for a deck or accessory structure which meets site setback requirements under subsection (A), without additional approval by the ZBA. The replacement of a permitted mobile home(s) within an approved mobile home park also shall require a zoning permit issued by the ZA in accordance with Section 7.2 to ensure ongoing compliance with all conditions of conditional use approval.

Section 4.10 Pond Construction

(A) The construction of ponds and other impoundments may be allowed as an accessory use in any district upon receipt of a zoning permit in accordance with Section 7.2. In the issuance of a permit the ZA shall find that:

- (1) Any pond that will impound, or be capable of impounding in excess of 500,000 cubic feet of water has received a permit from the Vermont Department of Environmental Conservation in accordance with 10 V.S.A. Chapter 43.
- (2) Any pond involving the alteration of a stream has received a stream alteration permit from the Vermont Department of Environmental Conservation in accordance with 10 V.S.A. Chapter 41.

(B) In addition to the application materials set forth in Section 7.2, an application to construct any pond involving the impoundment of water through the creation of an embankment, berm, or other structure that exceeds the natural grade of the site and contains greater than 20,000 cubic feet of water shall include written certification that the pond has been designed by a state licensed professional engineer, or is allowed as a conditional use after finding it poses no danger to neighboring properties.

Section 4.11 Protected Public Uses

(A) In accordance with the Act [§ 24413(a)], the following public facilities or uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that such regulations do not have the effect of excluding, or interfering with the intended functional use:

- (1) state or community owned and operated institutions and facilities;
- (2) public and private schools and other educational institutions certified by the Vermont Agency of Education;
- (3) churches and other places of worship, convents, and parish houses;
- (4) public and private hospitals;
- (5) regional solid waste management facilities certified by the state under 10 V.S.A. Chapter 159; and
- (6) hazardous waste management facilities for which a notice of intent to construct has been received by the state under 10 V.S.A. § 6606a.

(B) Reasonable provision has been made for siting of the public facilities listed in Subsection (A) and uses within specified zoning districts, as summarized in Table 7.1. Such facilities or uses must meet district requirements and may be subject to site plan review under Section 5.5 or conditional use review under Section 5.4. Associated conditions of approval shall not exceed allowed regulation, as specified in the Act and Subsection (A) above.

(C) In accordance with the Act [§ 24413(b)], public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board (under 30 V.S.A. § 248) are specifically exempted from these regulations.

Section 4.12 Salvage Yards

(A) New or expanded salvage yards may be permitted within designated zoning districts subject to conditional use review under Section 5.4 and the following requirements:

- (1) Salvage yards shall meet all setback standards for the district in which the yard is located and shall be set back at least 75 feet from surface waters and wetlands. Required setbacks may be increased as appropriate based on specific site conditions, and to protect water quality and neighboring properties;
- (2) Yards shall be screened as appropriate from public view and from adjoining residential properties;
- (3) Salvage yards shall be secured as necessary to protect public health, safety, and welfare, and neighboring properties. Exterior lighting shall be the minimum required for security and safe operation;
- (4) Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located; and

- (5) All salvage yards must be certified by the State and must meet the requirements of 24 V.S.A. § 2241-2283; and
- (6) All salvage yards shall be responsible for all upkeep and maintenance of fences, screening, and other required site improvements, and the proper storage of salvaged and hazardous materials, as required under municipal and state regulations, and associated conditions of approval.

(B) All materials shall be removed from the site within 12 months of the cessation or abandonment of operations and the site shall be restored to a safe, usable condition. Site restoration, including the clean-up and disposal of hazardous materials, shall be subject to state and federal laws. A site restoration plan may be required as a condition of approval.

Section 4.13 Telecommunications Facilities

(A) Purpose. The purpose of this section is to protect the public health, safety, general welfare and scenic character of the Town, while accommodating the communication needs of residents and businesses. The intent of these regulations is to:

- (1) Preserve the character and appearance of the Town while allowing adequate telecommunication services to be developed;
- (2) Minimize the impact of telecommunications facilities on the scenic, historic, environmental, natural and human made resources and property values of the Town;
- (3) Provide standards and requirements for the siting, design, appearance, construction, monitoring, modification, and removal of telecommunications facilities;
- (4) Minimize tower and facility proliferation by requiring the sharing of existing communications facilities, towers and sites where possible and appropriate;
- (5) Facilitate the provision of wireless telecommunications services to the residences and businesses of the Town;
- (6) Minimize the adverse visual effects of towers and other facilities through careful design and siting standards; and
- (7) 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;
- (8) Conform to the objectives and principles set forth in the Middlesex Town Plan.

(B) **Consistency with Federal Law.** In accordance with the Telecommunications Act of 1996 and other federal law, these regulations shall not be interpreted in a manner that would:

- (1) Prohibit or have the effect of prohibiting the provision of wireless telecommunications services; Unreasonably discriminate among providers of functionally equivalent services; or
- (2) Regulate wireless telecommunications 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.

(C) **Applicability:** Telecommunications facilities shall include all facilities subject to licensing or regulation by the FCC, including towers, associated accessory structures, buildings and/or equipment, except as specifically exempted under subsection (D) below. New, modified or expanded telecommunication facilities, except as specified for small scale facilities under subsection (E) below, may be allowed in designated zoning districts as conditional uses subject to review under Section 5.4 and the requirements of this section; However,

- (1) A new tower shall not be permitted unless it is found by the ZBA that the equipment planned for the proposed tower cannot be accommodated on an existing approved tower, building or structure;
- (2) No towers are allowed within the exclusion areas identified in subsection (I) below.
The ZBA can hire qualified person(s) to conduct an independent technical review of applications filed under this section and can require the applicant to pay for all reasonable costs thereof.

(D) **Exemptions.** The following are specifically exempted from the provisions of this section:

- (1) A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 35 feet in height above the lowest grade at ground level;
- (2) Citizens band radio antennas operated by federally licensed amateur radio operators which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located; and
- (3) Replacement of telecommunications facilities operated by public (municipal, state or federal) or not-for-profit emergency service providers (e.g., fire, ambulance) in association with their duties.

(E) **Small Scale Facilities.** Notwithstanding other provisions under this section or Article 5, the following may be permitted in any zoning district by the ZA in accordance with Section 7.2 without conditional use approval:

- (1) Small scale wireless telecommunications equipment, including antennas, microcells or repeaters, which are to be installed on existing towers, utility poles, or other structures, or the installation of ground facilities less than 20 feet in height, provided that:
 - (a) such device is located a minimum of 50 feet from an existing residence;
 - (b) no changes are made to the height or appearance of such structure except as required for mounting;
 - (c) the height of the facility as mounted does not extend the total height of the structure by more than 10 feet;
 - (d) no panel antenna shall exceed 72 inches in height or 24 inches in width;
 - (e) no dish antenna shall exceed 3 feet in diameter; and
 - (f) any accompanying equipment shall be screened from view.
- (2) Wireless communications facilities designed for temporary use, provided that:
 - (a) the temporary facility is permitted for the duration of the intended use or event, as specified in the permit, which shall not exceed 60 days, and is removed immediately upon the expiration of the permit; and
 - (b) the height of the facility does not exceed 50 feet from grade, and the facility complies with all other provisions of these regulations.

(F) **Application Requirements.** In addition to the requirements under Section 5.3, applications for new towers shall also include the following:

- (1) the name and address of the applicant, landowners of record and agents, and contact information for the person(s) authorized to operate, maintain and ensure the safety of the facility;
- (2) information regarding existing coverage, the feasibility of using repeaters or microcells on existing structures to achieve desired coverage, the availability of other towers, buildings and structures located within 5 miles of the proposed site, and written documentation from other facility owners that no suitable sites are available;
- (3) a site plan showing the footprint of all proposed facilities, including towers and accessory structures, and proposed access roads, in relation to existing site features and adjoining properties;

- (4) a report from a qualified and licensed professional engineer which describes facility height, design, construction and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;
- (5) a letter of intent committing the tower owner and his/her successors to allow shared use of the facility if an additional user agrees in writing to meet reasonable terms and conditions for shared use;
- (6) written documentation that the proposed tower shall comply with all requirements of the FCC and the Federal Aviation Administration (FAA); and
- (7) any additional information as needed to determine compliance with the provisions of these regulations, including but not limited to visual impact assessments or independent evaluations of the proposed facility, to be paid for by the applicant.

(G) **Findings.** No tower or wireless telecommunications facility shall be erected, constructed or installed without first obtaining a conditional use approval from the ZBA. In approving an application for conditional use, the ZBA must determine that the proposed facility, or modification to an existing facility, is in compliance with the standards set forth in Section 5.4 and Subsection (H) below. In addition, the ZBA shall, in consultation with independent consultant(s) if appropriate, make all of the following applicable findings before granting the conditional use approval:

- (1) the applicant is not already providing adequate coverage and/or adequate capacity to the Town;
- (2) the applicant is not able to use existing tower/facility sites either with or without the use of repeaters to provide adequate coverage and/or adequate capacity to the Town;
- (3) the applicant has endeavored to provide adequate coverage and adequate capacity to the Town with the least number of towers and antennas which is technically and economically feasible;
- (4) good faith efforts have been made to locate new towers adjacent to existing towers;
- (5) the applicant has agreed to rent or lease available space on the tower, under the terms of a fair-market lease, with reasonable conditions and without discrimination to other wireless telecommunications providers; and
- (6) the proposed facility complies with rules as adopted in FCC 97-303 and procedures outlined in FCC Bulletin 65 regarding emissions and exposure from electromagnetic radiation, and that the required monitoring program has been developed and shall be paid for by the applicant.

(H) **Telecommunication Facility Standards.** In addition to the required findings described under Subsection (G) above, the ZBA shall ensure that all proposed telecommunications facilities comply with the following standards:

- (1) **Compliance with Federal Regulations.** Telecommunication facility construction and wiring shall meet all state and federal requirements, including FCC requirements for transmissions, emissions and interference. No telecommunication facility shall be located or operated in such a manner that it poses a potential threat to public health or safety. Prior to the siting of new antennas at existing sites, a cumulative Radio Frequency Radiation (RFR) emissions study shall be performed by the applicant to certify FCC compliance;
- (2) **Colocation Requirements.** New towers shall be designed to accommodate the collocation of both the applicant's antennas and comparable antennas for one or more additional users, depending on tower height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights;
- (3) **Setbacks.** No wireless telecommunication facility shall be located within 500 feet of an existing residence. Towers shall be set back from all property lines and public rights of-way for a distance equaling their total height, including attached antennas, unless otherwise permitted by the ZBA in accordance with the following:

- (a) if tower design and construction guarantees that it will collapse inwardly upon itself, and that no liability or risk to adjoining private or public property shall be assumed by the municipality; or
- (b) to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public health, safety or welfare results;
- (4) **Access Roads and Utilities:** Access roads, and all accessory utility buildings and structures shall be designed to follow natural contours, aesthetically blend in with the surrounding environment, and meet all other minimum requirements for the zoning district in which they are located. Utility lines (e.g., power) serving telecommunications facilities shall follow access roads and not involve extensive clearing; the ZBA may require that such utilities be buried where they are likely to otherwise have an adverse visual impact;
- (5) **Landscaping/Screening** Ground-mounted equipment shall be screened from view. The ZBA may require increased setback, landscaping and screening as appropriate based on site conditions, to protect neighboring properties and uses;
- (6) **Fencing and Signs:** Towers shall be enclosed by security fencing at least 6 feet in height, but not greater than 12 feet in height, and shall be equipped with appropriate anti-climbing devices. The ZBA may require that appropriate landscaping materials be planted adjacent to the security fence to screen it from view of neighboring properties and public roads. The use of any portion of a tower for signs other than warning or equipment information signs is strictly prohibited;
- (7) **Building Design:** Communication equipment shelters and accessory buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. Whenever possible, the buildings shall be joined or clustered so as to appear as one building;
- (8) **Tower Height and Visual Impacts.** New telecommunications facilities, including towers, shall be sited and designed to minimize their visibility and not result in an undue adverse impact on the town's scenic landscape. In no case shall a tower and all associated telecommunications facilities exceed a height of 180 feet, although the ZBA may impose conditions regarding the location, height and design of the structure, including a reduction of tower height, in accordance with the following:
 - (a) The ZBA may require an assessment of potential visual impacts from specified vantage points. In determining whether a facility's impact on scenic resources would be undue and adverse, the Board will consider the period of time during which the proposed tower would be viewed by the traveling public on a public highway;
 - i. the frequency of the view experienced by the traveling public;
 - ii. the degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
 - iii. background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
 - iv. the distance of the proposed tower from the vantage point and the proportion of the facility that is visible above the skyline;
 - v. the sensitivity or unique value of a particular view affected by the proposed tower, including scenic features or landscapes identified in the Middlesex Town Plan and/or through a site assessment; and
 - vi. the potential disruption to a view shed that provides context to a historic or scenic resource.
 - (b) Any tower designed to accommodate a single provider shall not exceed a maximum height of 100 feet. The ZBA may allow taller towers, in accordance with these standards, up to the maximum of 180 feet, to encourage collocation and discourage multiple facilities;
 - (c) No tower shall be located on an unforested hilltop or ridgeline, Telecommunications facilities should be installed in forested settings wherever feasible. No tower, antenna and/or associated fixtures or equipment shall exceed a height of 20 feet greater than the average height of the canopy measured within a 200 feet radius of the facility. A management plan

- may be prepared and submitted to the ZBA to ensure that the adjoining tree cover will be maintained to create the visual impression of the tower and/or associated equipment emerging from a largely unbroken tree canopy and protruding no more than 20 feet above that canopy;
- (d) Telecommunications facilities shall not be illuminated by artificial means and shall not display strobe lights; and
 - (e) Telecommunications facilities shall be designed to blend into the surrounding environment, to the greatest extent feasible, through the use of natural topography, existing vegetation, landscaping and screening, the use of compatible materials and colors, and/or other camouflaging techniques. Camouflaging techniques which may be required by the ZBA include designing the facility to mimic natural or architectural features, depending upon the context of the surrounding landscape and applicable zoning districts;
- (9) **Use of Repeaters:** The use of repeaters to assure adequate coverage, or to fill holes within areas of otherwise adequate coverage, while minimizing the number of required facilities is encouraged. Applicants shall detail the number, location, power output and coverage of any proposed repeaters in their systems and provide engineering data to justify their use;
- (10) **Coverage Area:** Not more than 50% of the primary coverage from the proposed facility may be located outside of Middlesex unless the applicant can demonstrate an inability to locate within the town(s) which is primarily receiving service from the proposed facility; and
- (11) **Alternative Sites:** The ZBA shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility. The ZBA 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.

(I) **Prohibited Locations:** Telecommunication facilities are expressly prohibited within the Telecommunications Facility Exclusion Area depicted on the Official Zoning Map. Exclusion areas include all land above an elevation of 1,400 feet on Dumpling Hill and all land above an elevation of 1,500 feet in the main range of the Worcester Mountains;

(J) **Documentation of Denial.** In accordance with federal regulations, any decision by the ZBA to deny an application for a conditional use under this section shall be written and supported by substantial evidence contained in a record.

(K) **Mandatory Conditions.** All permits granted under this section shall contain the following conditions:

- (1) The permittee shall demonstrate annually that he or she is in compliance with all FCC standards, regulations and requirements regarding RFR, and provide to the ZBA the basis for his or her representation. The permittee shall provide a list of the most recent RFR readings at the site, their distances from the tower/transmitter, dates of the readings, and the name of the person or company who took the readings.
- (2) The owner of a facility shall annually, on January 15, file a declaration with the ZA certifying the continuing safe operation of every facility installed subject to these regulations. Failure to file a declaration shall mean that the facility is no longer in use and considered abandoned. An owner who has failed to file an annual declaration with the ZA by January 15 may, by February 15, file a declaration of use or intended use and may request the ability to continue the use of the facility/tower.
- (3) Before testing or operating a new service or change in existing service, the telecommunications provider shall notify the Town at least 10 calendar days in advance of the change and allow the Town to monitor interference levels during that testing process.

(L) **Removal.** Within 12 months of the cessation of operations of the site all abandoned, unused, obsolete, or noncompliant telecommunications facilities, including towers, accessory structures and/or equipment shall be removed, and the site shall be restored to its original appearance. A copy of the relevant portions of any signed lease which requires the applicant to remove the tower and associated facilities shall be submitted at the time of application. A bond or other form of surety acceptable to the SB may be required to ensure tower maintenance or removal and site reclamation.