

## ARTICLE IV. SPECIFIC USE STANDARDS

### Section 4.01 Accessory Dwelling Units

- A. A dwelling unit may be allowed as an accessory to a principal use, subject to the following provisions, which also are intended to meet requirements for accessory dwelling units as set forth in the Act [§4412(1)(E)].
- B. One attached or detached dwelling unit which is accessory to a single family dwelling, does not exceed 800 square feet in floor area or 30% of the gross floor area of the principal dwelling, whichever is greater, and meets other applicable requirements under Subsection (D), may be allowed as a permitted use in designated zoning districts with a zoning permit issued by the Administrative Officer in accordance with Section 6.01.
- C. The following types of accessory dwellings may be allowed as conditional uses in designated zoning districts, subject to conditional use review under Section 5.03 and the provisions of this Section:
  - 1. One attached or detached dwelling unit with a floor area in excess of 800 square feet which is accessory to a single family dwelling.
  - 2. One caretaker's apartment or dwelling unit which is accessory to a nonresidential use.
- D. All accessory dwellings shall:
  - 1. meet setback requirements for the district in which they are located; for nonconforming structures, the degree of noncompliance shall not be increased by the addition of an accessory apartment or dwelling;
  - 2. have adequate potable water and wastewater systems in accordance with applicable municipal and state regulations; and
  - 3. have adequate off-street parking for the residents of the principal and accessory dwellings in accordance with Section 3.09.
- E. A zoning permit issued for an accessory dwelling shall only authorize the development of a use that is accessory to the principal use of the property and as such shall be retained in common ownership. Such a dwelling, together with the appurtenant land, may be subdivided and/or converted for conveyance or use as a principal use only if it is found to meet all current municipal regulations applying to a single (or two) family dwelling, 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 the subdivision, conversion, or conveyance as a principal dwelling.

### Section 4.02 Adaptive Reuse of Historic Barns

- A. **Purpose.** To encourage the viability, reuse, restoration and rehabilitation of historic barns which are no longer associated with an agricultural use, by allowing for specified uses not otherwise allowed in the district in which they are located, within the current dimensions of such barns. Any changes associated with the adaptive reuse shall not significantly alter the facade of the building, and shall be in keeping with the essential character of the neighborhood.

- B. **Applicability.** All adaptive reuse, and associated restoration and/or rehabilitation, of historic barns shall be considered a conditional use subject to review by the Board of Adjustment under Section 5.03 and the provisions of this Section. Historic barns, for the purposes of these regulations, shall include all barns which are 50 years old, and are listed or eligible for listing on the state register of historic sites and structures [see definition under Article VII].
- C. **Allowed Uses.** The following uses may be allowed, subject to conditional use review:
1. Permitted and conditional uses allowed in the district in which the barn is located.
  2. The following additional uses, if not otherwise allowed in the district:
    - a. Artist Studio or Gallery (with no more than 5 artisans or employees on site at any time)
    - b. Community Center
    - c. Cottage Industry
    - d. Cultural Facility
    - e. Day Care Facility
    - f. School
    - g. Warehouse
  3. A combination of the above listed uses.
- D. **Special Requirements.** All adaptive reuse, restoration and rehabilitation of historic barns shall also meet the following requirements:
1. If the barn is a nonconforming structure, the adaptive reuse shall in no way increase the degree of noncompliance, except in accordance with the requirements of Section 3.08.
  2. The proposed adaptive reuse shall not significantly alter the footprint, essential character or immediate context (e.g., barnyard) of the historic barn. In reviewing proposals for adaptive reuse of historic barns, the Board of Adjustment shall determine that the adaptive reuse is in accordance with the Waitsfield Town Plan, and that the historic character of the barn will be retained to the extent practical. In making such a determination, the Board shall consider the guidelines set forth in Table 4.01.
- E. A zoning permit issued for an adaptive reuse shall clearly state that the use is allowed only as a permitted use of the existing structure, and shall not be re-established if the structure is substantially modified, except in accordance with the requirements of these regulations. All applicable municipal permits and approvals shall be obtained prior to the re-establishment of such use in a substantially modified structure.
- F. In the event that the historic barn is destroyed or demolished, the barn may be reconstructed and the adaptive re-use re-established with the approval of the Board of Adjustment in accordance with conditional use review under Section 5.03. In allowing such reconstruction and re-establishment, the Board shall determine that, in addition to meeting conditional use standards, the replacement structure closely replicates the historic structure in architectural style, form, massing, scale, building materials and fenestration.

**Table 4.01**  
**Preservation Guidelines for Historic Barns**

- The historic setting of the barn should be preserved to the extent feasible
- Barn siding should be repaired and repainted, rather than be covered with artificial siding.
- Historic windows should be repaired, rather than replaced where feasible. Blocking or covering up historic windows, and inserting numerous new window openings should be avoided. New windows should be compatible with the size and scale of existing window openings.
- Changing the size of door openings should be avoided where feasible; where doors must be enlarged the visual change should be minimized. Track-hung doors are preferred over rolled steel doors. Doors no longer needed should be fixed shut rather than removed. New doors should be compatible with the size and scale of existing openings, and siding materials.
- An exterior addition should be considered only if it is essential to the continued use of the barn. If an addition is required, it should be built in a way that minimizes damage to external walls, and the internal plan. It should also be compatible with the historic barn, but sufficiently differentiated from it so that the new work is not confused with genuinely historic elements or features.
- Historic features or elements that must be altered should be documented (e.g., through photographs or architectural drawings) prior to alteration.

### **Section 4.03 Child Care Facilities**

- A. **Home Child Care:** In accordance with the Act [§4412(5)], a state registered or licensed child care facility serving no more than 6 full-time children and 4 part-time children, as defined in 33 V.S.A. §4902(3)(A), shall be considered by right to constitute a single family residential use of property. A zoning permit will be required only to ensure that the statutory requirements of this section, as well as other applicable provisions of these regulations, are met.
- B. **Child Care Facilities:** Child care facilities serving more than 6 full-time and 4 part-time children within a single-family dwelling, and all nonresidential child care facilities, may be allowed in designated zoning districts subject to conditional use review under Section 5.3.

### **Section 4.04 Commercial Water Extraction**

Commercial water extraction operations may be allowed in designated zoning districts subject to conditional use review under Section 5.03, and the following additional provisions:

- A. In considering the impacts of the transportation of bulk water, the Board of Adjustment may consider, as a condition of approval, alternatives to trucking and on-site bulk storage of water.
- B. Commercial water extraction specifically excludes the processing of water (e.g., any bottling or packaging other than bulk transport). Such activities are only permitted in districts in which light industry is an allowed use.

### **Section 4.05 Extraction of Earth Resources**

- A. The extraction or removal of topsoil, sand, gravel, rock, minerals or other similar earth resource may be allowed in designated districts subject to conditional use review under Section 5.03, and findings that the proposed operation shall not:
1. cause any hazard to public health and safety, or

2. adversely affect neighboring properties, property values or public facilities and services, surface water and groundwater supplies, or natural, cultural, historic or scenic features.
- B. In granting approval, the Board of Adjustment may consider and impose conditions with regard to any of the following factors as it deems relevant:
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. The application for a conditional use permit under Section 5.2 also shall include erosion control and site reclamation plans showing:
1. existing grades, drainage patterns and depth to 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. revegetation of the site.
- D. In accordance with the Act [§4407(8)] a performance bond, escrow account, or other surety acceptable to the Selectboard may be required to ensure reclamation of the land upon completion of the excavation, to include any regrading, reseeding, reforestation or other reclamation activities that may be required.
- E. The extraction of less than 3,500 cubic yards of sand, gravel, topsoil or similar material resources for a use that is incidental to another duly permitted construction activity located on the same parcel from which the materials were extracted, for use on the same parcel, may be permitted by the Administrative Officer in accordance with Section 6.01.

#### **Section 4.06 Home Occupations & Home Businesses**

- A. **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. A zoning permit is required to ensure that the proposed home occupation complies with the following standards:
1. The home occupation shall be carried on by residents of the dwelling; in addition up to 2 nonresident employees may work on the premises at any one time.

2. The home occupation shall be carried on within a minor portion of the principal dwelling, not to exceed a gross floor area greater than 40% of the interior floor space of the principal dwelling.
3. A home occupation may be located in an accessory structure (see Home Business, below).
4. Exterior storage or display, other than that characteristic of a residential use, is specifically prohibited.
5. The home occupation shall not generate noise, smoke, vibrations, dust, glare, odor, electrical interference or heat which is detectable at the property line, or which otherwise presents a hazard to public health and safety, or to neighboring properties.
6. No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use in the neighborhood. Home child care, as defined under Article VII, is specifically exempted from this provision.
7. Off-street parking for residents and nonresident employees shall be provided in accordance with Section 3.09. No commercial vehicles other than passenger vehicles (e.g., cars, vans, pick-up trucks) associated with the business shall be parked on the premises.
8. The home occupation shall meet all applicable sign standards (Section 3.11)
9. On-site retail sales or services are prohibited.
10. Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.

B. **Home Businesses.** Home Businesses, as distinguished from “home occupations” under Subsection A, may be allowed as an accessory to a single family dwelling in designated zoning districts subject to conditional use review under Section 5.03, and the following provisions:

1. The home business shall be carried on by residents of the dwelling; in addition up to 4 nonresident employees may work on the premises at any one time.
2. The home business shall be carried on within a minor portion of the principal dwelling, not to exceed a gross floor area greater than 40% of the interior floor space of the principal dwelling or, with the approval of the Board of Adjustment, a home business located in an accessory structure may occupy an area greater than 40% of the interior floor space of the principal dwelling.
3. The home business shall not change the character of the neighborhood, or result in a change in the outward appearance of the dwelling or the accessory structure.
4. Exterior storage areas (e.g., for building, construction materials, dumpsters) must be completely screened year-round from public view and from neighboring properties. Landscaping may be required as appropriate. 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).

5. The home business shall not generate traffic, including delivery traffic, in substantially greater volumes than is characteristic of the neighborhood.
  6. Adequate off-street parking shall be provided for residents, employees and customers in accordance with Section 3.09. Commercial vehicles or equipment associated with the home business shall be parked in an enclosed area, or otherwise screened from public view and from adjoining properties.
  7. Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.
  8. The home business shall meet all applicable sign standards (Section 3.11)
  9. Home industries shall not generate noise, smoke, vibrations, dust, glare, odor, electrical interference or heat which is detectable at the property line, or which otherwise presents a hazard to public health and safety, or to neighboring properties.
  10. On-site retail sales shall be minor and incidental to the business.
- C. The zoning permit issued for a home occupation or home business shall clearly state that the dwelling is permitted only as an accessory to the principal residential use of the property.

#### **Section 4.07 Mixed Uses**

In designated districts, more than one use may be permitted within a single building or on a single lot subject to conditional use review in accordance with Section 5.03 and the following provisions:

- A. Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.
- B. The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, maximum lot coverage and minimum lot size.
- C. The mixed use meets all applicable general provisions contained in Article 3, including parking requirements under Section 3.09 based on the cumulative parking demand for the various proposed uses.

#### **Section 4.08 Mobile Home Parks**

- A. Mobile home parks may be permitted in designated districts subject to conditional use review in accordance with Section 5.03 and the following provisions:
  1. Proposed parks shall comply with the requirements of 10 VSA Chapter 153.
  2. Proposed parks shall comply with all applicable state and local laws, ordinances and regulations relating to water supply and waste disposal.
  3. The parcel of land for a mobile home park shall be no less than 5 acres in area.
  4. Each mobile home shall be located on a dedicated site of not less than 8,000 SF in area. Each site shall be landscaped with at least 3 trees of native species of at

least 2.0 inch diameter at chest height for deciduous trees or not less than 8 feet in height for coniferous trees.

5. All roads within a mobile home park shall comply with Town road standards, and adequate walkways shall be provided.
  6. Parking shall be provided in accordance with Section 3.09.
  7. A minimum of 25% of the total land area in any mobile home park shall be set aside for common recreational use or open space.
  8. All mobile home parks shall meet minimum setback requirements from the perimeter boundary for the districts in which they are located. Setback areas shall not be included in the calculation of recreation land or open space under subsection 7.
- B. Changes or alterations to park area, design, layout or common facilities are subject to conditional use review in accordance with the above provisions. Changes or alterations to individual mobile home sites or mobile homes within the park (e.g., the addition of a porch, deck or accessory structure serving the residents of the dwelling), shall be allowed in the same manner as changes or alterations to a single family dwelling.

#### **Section 4.09 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 6.01. In the issuance of a permit the Administrative Officer 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 the requirements of 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 5.2, 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. Applications for the damming of streams to form an impoundment area of 5 acres or more are also subject to state agency referral requirements under Section 6.1, and shall also include the required report for submission to the Vermont Department of Environmental Conservation.

#### **Section 4.10 Public Facilities**

- A. In accordance with the Act [§4413(a)], the following uses are allowed within all zoning districts subject to conditional use review pursuant to Section 5.3 and the standards set forth in subsection C:
1. Public and private hospitals.

2. Regional solid waste management facilities certified by the State – excluding Transfer Station [10 V.S.A., Chapter 159].
  3. Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A., §6606a].
- B. In accordance with the Act [§4413(a)], following uses are allowed within designated zoning districts subject to conditional use review pursuant to Section 5.0 and the standards set forth in subsection C:
1. State or community owned and operated institutions and facilities (see Public Facility).
  2. Public and private schools and other educational institutions certified by the Vermont Department of Education (see School).
  3. Churches, places of worship, convents and parish houses (see Places of Worship).
  4. Regional solid waste management facilities certified by the State – Transfer Station only (see Transfer Station).
- C. In reviewing public facilities listed in subsections (A) and (B), the Board of Adjustment shall ensure that the proposed use complies with all applicable district standards under Article II and conditional use standards under Section 5.3, only to the extent that such standards relate to location, size, height, bulk, yards, courts, setbacks, density of buildings, off-street parking and loading facilities, traffic, noise, lighting, and landscaping or screening requirements associated with the proposed public facility.

#### **Section 4.11 Telecommunications Facilities**

- A. New or expanded telecommunication facilities, including but not limited to towers and accessory structures, may be permitted in designated zoning districts as conditional uses subject to review under Section 5.3 and the following provisions:
1. A proposal for a new tower shall not be permitted unless it is determined by the Board of Adjustment that the equipment planned for the proposed tower cannot be accommodated on an existing approved tower, building or structure.
  2. New towers shall be designed to accommodate the co-location 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. All towers, including antennae, shall not exceed a height of 10 feet higher than the surrounding forest canopy or, in the case of towers located in open (unforested) areas, shall not exceed a height of 50 feet, as measured from the lowest grade at ground level to the top of the highest structure or component.
  4. 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 Board of Adjustment:
    - a. if tower design and construction guarantees that it will collapse inwardly upon itself, and there is no risk of damage to adjoining private or public property or injury to persons; 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.

5. Tower construction and wiring shall meet all state and federal requirements, including but not limited to Federal Communication Commission 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.
  6. New towers shall be sited and designed to minimize their visibility. No tower shall be located on a ridge line or hill top, and shall be sighted so that the highest point of the facility does not exceed the highest point of land in the immediate vicinity of the tower, and does not exceed the height of 10 feet higher than the surrounding tree canopy or exceed the height of the adjacent ridgeline or hill top. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.
  7. Towers shall be enclosed by security fencing at least 6 feet in height, and shall be equipped with appropriate anti-climbing devices.
  8. Towers shall not be illuminated by artificial means and shall not display strobe lights.
  9. The use of any portion of a tower for signs other than warning or equipment information is strictly prohibited.
  10. Access roads, and all accessory utility buildings and structures shall be designed to aesthetically blend in with the surrounding environment, meet all other minimum requirements for the district in which they are located and comply with the standards set forth in subsection 3.2. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate based on site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed under ground.
  11. All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site, 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 Select Board may be required to ensure tower removal and site reclamation.
- B. In addition to the site development plan required under Section 5.2, applications for new towers shall also include the following:
1. a report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;
  2. information regarding the availability of existing towers and buildings located within the site search ring for the proposed site, including written documentation

- from other tower owners within the search ring that no suitable sites are available;
  - 3. written documentation that the proposed tower will comply with all requirements of the Federal Communications Commission and Federal Aviation Administration; and
  - 4. any additional information needed to determine compliance with the provisions of these regulations.
- C. Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment to be mounted on existing towers, utility poles, or other structures may be permitted by the Board of Adjustment pursuant to conditional use review under Section 5.3 provided that:
- 1. no changes are made to the height or appearance of such structure except as required for mounting;
  - 2. no panel antenna shall exceed 72 inches in height or 24 inches in width;
  - 3. no dish antenna shall exceed 3 feet in diameter;
  - 4. any accompanying equipment shall be screened from view.
- D. 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. All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator 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.

#### **Section 4.12 Temporary Uses & Structures (including Special Events)**

- A. A temporary zoning permit may be issued by the Administrative Officer for a period not to exceed 90 days from the effective date of permit, for a nonconforming use or structure which is incidental to a permitted use, provided that such permit requires as a condition the removal of the structure or use within 7 days after expiration of the permit. The permit for a temporary use or structure shall expire at the end of the 90 day period, or upon removal of the use or structure, whichever is earlier. Such permits are subject to all other requirements for issuance and appeal under Sections 6.01 and 6.04.
- B. A temporary structure shall meet all setback requirements for the district in which it is located, and all other applicable provisions of these regulations.
- C. Temporary construction trailers may remain on the construction site for the duration of the construction or for a maximum of 18 months, whichever is less.