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Abstract:

Amended its zoning code to create a mixed-use residential district to promote infill while also maintaining community character. This technique would allow for much of the zoning code, and therefore community, to remain the same while certain aspects are changed to promote Missing Middle development. The city targets affordable housing as a major factor in this development.

Resource:



Unified Development Regulations

Adopted by Montpelier City Council January 3, 2018

As amended February 24, 2021

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ADOPTED FEBRUARY 24, 2021 / EFFECTIVE MARCH 18, 2021	

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PART 1. GENERAL

Chapter 100. Legal Framework

i The purpose of this chapter is to establish a legal foundation for these regulations.

Section 1001. Authority and Enactment

- 1001.A These *Unified Development Regulations* are established as authorized in Title 24 of the Vermont Statutes Annotated (hereinafter abbreviated V.S.A.) §4402(4).
- 1001.B These regulations have been enacted in accordance with the *Vermont Municipal Planning and Development Act* (24 V.S.A. Chapter 117 hereinafter referred to as “the Act”) and the Charter of the City of Montpelier.

Section 1002. Purpose

- 1002.A These regulations implement the policies of the *Montpelier Master Plan* and the Act. They are intended to:
- (1) Ensure that development protects public health, safety and welfare;
 - (2) Promote development that protects and conserves natural, agricultural, scenic and historic resources;
 - (3) Promote housing to meet the needs of residents; and
 - (4) Promote approaches to land use and development that are consistent with smart growth principles.

Section 1003. Construction of Regulations

- 1003.A These regulations are intended to include all required provisions and to abide by all limitations established under the Act including:
- (1) Equal treatment of housing and required provisions for affordable housing under §4412(1) of the Act.
- 1003.B Other limitations required under state law may be discussed in other places of these regulations where appropriate.

Section 1004. Applicability

- 1004.A Unless specifically exempted in these regulations (see Chapter 110), all development in the City of Montpelier requires a zoning permit issued in accordance with these regulations.
- 1004.B Development includes:
- (1) The construction, reconstruction, conversion, structural alteration, relocation, enlargement or demolition of any building, other structure, or part thereof;
 - (2) Any earthwork including mining, excavation, filling or grading of land;
 - (3) The paving of unpaved surfaces;
 - (4) Removal or disturbance of vegetation in the following:

- (a) Removal of natural woody vegetation from riparian buffers;
 - (b) Disturbance of vegetation, soils, or forest canopy within the first 50 feet of the delineated boundary of a wetland or vernal pool;
 - (c) Disturbing or clearing land, which exceeds the threshold amount(s) specified in Figure 3-09;
- (5) Any change in use of any structure or land or part thereof;
- (6) The subdivision of a parcel which includes:
 - (a) The division of a parcel into two or more parcels;
 - (b) Any resubdivision, amendments to subdivisions, amendments to conditions of plat approval, and boundary line adjustments; and
 - (c) Creation of easements or rights of way to allow access to parcels that lack frontage.

Section 1005. Conflict with Other Laws

- 1005.A If any provision of these regulations is more restrictive than any other law or regulation, then the provision of these regulations shall apply.
- 1005.B Other city approvals or permits may be required for proposed development that is exempted or approved under these regulations including, but not limited to, river hazard area permits and building permits

Section 1006. Effective Date

- 1006.A The Montpelier City Council adopted these regulations on February 24, 2021 and they became effective on March 18, 2021.

Section 1007. Amendment or Repeal

- 1007.A These regulations may be amended or repealed at any time in accordance with state law and the city charter.

Section 1008. Severability

- 1008.A If a court of competent jurisdiction invalidates any provision of these regulations, that decision shall not affect the validity, application, or enforcement of the remaining provisions of these regulations.

Chapter 110. Exemptions

i *The purpose of this chapter is to allow minor development without a zoning permit and recognize the development that is exempted from local zoning by state or federal law.*

Section 1101. General Exemptions

1101.A A zoning permit is not required for the following development:

- (1) Normal maintenance and repair of an existing structure as long as there is no change to its use and involves no change in design, materials, or outward appearance.
- (2) Emergency repair and stabilization of a structure damaged by any cause to the extent necessary to protect public health and safety and to protect the structure from the elements. Further development beyond the minimum necessary to stabilize and secure the structure shall require a zoning permit (see Section 1206 and Section 3004).
- (3) Interior renovations including an increase in floor area (by finishing unfinished space) as long as there is no change to its exterior dimensions and no change in use or in the number of dwelling units.
- (4) Any unroofed garden structure (ex. arbor, trellis, pergola) that is not more than 10 feet in height and that conforms to setback requirements (see Section 3002 and Section 3003).
- (5) An antenna used for single-use local business radio dispatch purposes or for police, fire, ambulance, or similar emergency dispatch purposes.
- (6) Garage sales, yard sales, auctions, or similar activities that do not occur on a property for more than 3 consecutive days and for more than 12 days in any calendar year.
- (7) Use of public or private land for hunting, fishing or trapping in accordance with state regulations. This does not include related recreational facilities, such as firing ranges or rod and gun clubs.
- (8) Minor grading, filling, or excavating, which is not part of approved construction activities or is not commercial mining, extraction or quarrying that:
 - (a) Results in the movement of not more than 30 cubic yards of material for normal maintenance of roads, driveways, parking areas, yards, and personal or community gardens, and
 - (b) Provides appropriate measures to prevent stormwater runoff from adversely impacting nearby properties, public infrastructure, or downstream waterbodies.
- (9) Construction or maintenance of a road, sidewalk, path, bridge, culvert, or other infrastructure within a public right-of-way.
 - (a) Parklets within a public right-of-way that receive approval under the parklets ordinance shall be exempt from review under these regulations.
- (10) Landscaping and outdoor lighting associated with single- and two-unit parcels.
- (11) The following are not considered subdivisions and therefore do not require zoning permits:
 - (a) The filing of boundary surveys or corrective deeds to repair boundary metes and

bounds or to correct technical errors provided the surveys and deeds are of existing parcels with known boundaries.

- (b) The merging of two or more parcels into one parcel.
 - (12) Statutory exemptions:
 - (a) Agriculture and Forestry as described in Section 1102;
 - (b) Utilities, Energy, and Telecommunications as described in Section 1103.
 - (13) Sign exemptions as described in Section 3012.D.
 - (14) Design review exemptions as described in Section 2201.
- 1101.B Except within the Design Review Overlay District, a zoning permit is not required for the following development:
- (1) Any accessory building ancillary to a residential use that:
 - (a) Is less than 100 square feet in floor area;
 - (b) Is less than 10 feet in height if it has a flat roof or less than 12 feet in height if it has a pitched roof; and
 - (c) Conforms to setback and lot coverage requirements (see Section 3002 and Section 3003).
 - (2) A solar energy device installed on and projecting not more than 10 feet above a sloped roof, or a solar energy device of any height installed on a flat roof (any roof with a slope of not more than 5%).
 - (3) A swimming pool without a permanent foundation that conforms to setback requirements (see Section 3002 and Section 3003).
 - (4) A patio, terrace, deck, or similar unroofed structure ancillary to a residential use that is not more than 300 square feet in area and that conforms to setback and lot coverage requirements (see Section 3002 and Section 3003).
 - (5) An entry landing up to 25 square feet and any associated handicapped ramp or stairs provided they are uncovered and that none of these features extend into the right-of-way.
 - (6) Bulkheads that conform to setback requirements.
 - (7) Dormers.
 - (8) A television antenna, radio antenna, satellite dish, or similar device used to provide on-site communication service that meets the standards below. These devices may exceed district height requirements, but shall conform to setback requirements. These devices should be installed on the least visible location on the building or property where they can reasonably function.
 - (a) A roof-, wall-, or ground-mounted dish antenna with a face(s) not more than 15 square feet in area.
 - (b) A roof- or wall-mounted antenna that does not extend more than 12 feet above the roofline of the building that it is attached to.

- (c) A freestanding amateur radio antenna and its supporting structure that does not extend more than 50 feet above the ground.

Section 1102. Agriculture and Forestry

1102.A A zoning permit is not required to farm or harvest timber in accordance with the state's regulations and accepted practices.

i The Vermont Agency of Agriculture establishes and enforces various rules and regulations for farming, including the Accepted Agricultural Practices (AAPs). The Vermont Division of Forestry establishes and enforces various rules and regulations for timber harvesting, including the Acceptable Management Practices (AMPs).

1102.B A zoning permit is not required to build a farm structure as follows:

- (1) The landowner shall complete a zoning permit application.
- (2) The Administrative Officer shall not charge an application fee.
- (3) Except for a fence or wall used for agricultural purposes, an exempt farm structure shall meet setback requirements unless the applicant provides the Administrative Officer with a written waiver from the Vermont Secretary of Agriculture.
- (4) An exempt farm structure may exceed building height, footprint and lot coverage requirements.

1102.C A zoning permit is required to convert an exempt farm structure from an agricultural to a nonagricultural use.

Section 1103. Utility, Energy and Telecommunications Infrastructure

1103.A A zoning permit is not required for any development that receives a Certificate of Public Good from the Vermont Public Utilities Commission including, but not limited to:

- (1) Electric transmission facilities;
- (2) Electric generation facilities (including small, net-metered renewable energy systems);
- (3) Gas pipelines; and
- (4) Telecommunication facilities.

1103.B A zoning permit is not required for telecommunications equipment and related site development that does not exceed a footprint of 300 square feet and a height of 10 feet.

Chapter 120. Vested Rights & Pre-Existing Development

- i *The purpose of this chapter is to preserve the rights of property owners to maintain lawfully established uses or structures and of applicants who have lawfully filed for and received permits or approvals when there are changes to these regulations. It is also to specify how these regulations affect pre-existing development.*

Section 1201. Prior Permits and Approvals

- 1201.A If the Administrative Officer lawfully issued a zoning permit before these regulations were adopted or amended, the applicant shall not need a new or amended permit for the project except:
- (1) If the development is not substantially completed or an extension is not received before the permit expires, then the applicant shall apply for a new zoning permit under the current regulations (see Section 4204).
- 1201.B If an applicant received approval for a phased project before these regulations were adopted or amended, then the Administrative Officer shall issue permits for the development as approved irrespective of any change in these regulations except:
- (1) If the phased project as a whole is not substantially completed within the timeframe specified in the approval, then the applicant shall apply for a new permit under the current regulations.
- 1201.C If an applicant lawfully filed an approved subdivision plat in the city's land records, the plat shall remain valid and shall not expire irrespective of any change in these regulations.

Section 1202. Complete Applications

- 1202.A An application shall be reviewed based on the regulations in effect when the Administrative Officer determines the application is complete.

Section 1203. Nonconformities

- 1203.A **Applicability.** Unless more specific rules exist elsewhere in these regulations regarding nonconformities, the following will apply to all nonconforming parcels, nonconforming structures, and nonconforming uses.
- 1203.B **Nonconforming parcel.** A parcel that is legally subdivided and in independent and separate and nonaffiliated ownership from surrounding properties, and existed as of the effective date of these regulations may be developed even if the parcel no longer conforms to one or more dimensional standards of the district(s) provided:
- (1) Where a parcel is served by, and able to connect to, sewer and water service, such development is in accordance with all other applicable provisions of these regulations.
 - (2) Where a parcel is not served by, and able to connect to, sewer and water service, such development is in accordance with all applicable provisions of these regulations and the following:
 - (a) The parcel is at least 3,000 square feet in area; and
 - (b) A circle with a diameter of at least 40 feet can be drawn within the parcel's boundaries.

1203.C **Nonconforming structure.** The following rules apply to nonconforming structures:

- (1) A nonconforming structure may undergo normal repair and maintenance provided the degree of nonconformity is not increased.
- (2) A nonconforming structure shall not be altered, enlarged, or expanded unless the degree of nonconformity is not increased.
- (3) The phrase “the degree of nonconformity is not increased” means that there will be no horizontal, vertical, or volumetric increase to portions or features of a structure that are nonconforming.
- (4) An applicant may request a waiver to allow an alteration, enlargement, or expansion of a nonconforming portion of a structure in the same manner, and to the same extent, as conforming structures (see Subsection 3002.J and Section 4602).

1203.D **Nonconforming uses.** The following rules apply to nonconforming uses:

- (1) Nonconforming uses shall not be enlarged, extended, expanded, or intensified except as allowed below:
 - (a) An applicant may request a waiver to allow a nonconforming use to utilize more of the structure in which it is located.
 - (b) An applicant may request conditional use approval to allow a nonconforming use to be changed to another nonconforming use. The applicant must demonstrate that the proposed use is of a less intensive nature and is more compatible with the uses allowed in the applicable zoning district than the current nonconforming use. This provision does not apply to applications proposing to change for a nonconforming use to a conforming use.
- (2) A nonconforming use shall not be re-established if it has been abandoned or replaced with a new use except:
 - (a) If the nonconforming use was in a damaged structure or destroyed structure then the use may be re-established if the structure is repaired or rebuilt in accordance with Section 1206.

Section 1204. Abandonment

1204.A A use shall be considered abandoned if the use has been discontinued for a period of one year. Intent to resume a use shall not confer the right to do so.

- (1) A zoning permit, and any applicable approvals, shall be required to re-establish a non-residential use if it has been abandoned or replaced with a new use.
- (2) A zoning permit, and any applicable approvals, shall not be required to re-establish a residential use unless the dwelling unit has been removed or replaced with a new use.

Section 1205. Incomplete Development

1205.A If development authorized by a zoning permit is not completed, the applicant shall demolish or secure any partially completed structures, remove all structural materials from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion prior to or within 6 months after the permit expires (see Section 4204).

Section 1206. Damaged or Destroyed Structures

- 1206.A Within 6 months of a structure being damaged or destroyed by any cause, the owner shall act to either:
- (1) Stabilize and secure the structure as necessary to protect public health and safety and to protect the structure from the elements, if the structure will be reconstructed; or
 - (2) Demolish the structure, remove all structural materials and debris from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion.
- 1206.B The Administrative Officer may grant one or more extensions in 6- to 12- month increments as most appropriate to the situation for a total of not more than 30 months upon finding that:
- (1) The site does not pose a hazard to public health or safety; and
 - (2) The owner has been unable to meet the deadline due to factors beyond the owner's control.
- 1206.C If a nonconforming structure is damaged or destroyed, the structure may be rebuilt and used as before provided:
- (1) The degree of nonconformity is not increased, as that phrase is defined in Section 1203.C(3), by the structure as reconstructed; and
 - (2) The applicant receives a zoning permit for reconstruction within 12 months of the structure being damaged or destroyed.

Chapter 130. Legal Considerations

Section 1301. Reasonable Accommodations for Accessibility

- 1301.A **Policy.** It is the policy of the City of Montpelier, pursuant to the federal Fair Housing Amendments Act, the Federal Americans with Disabilities Act, and the Vermont Fair Housing and Public Accommodations Act, to provide landlords, employers, individuals with disabilities, and others reasonable accommodation to ensure equal accessibility to housing, employment, recreation, commercial businesses, and anywhere else able-bodied persons may access.
- 1301.B **Purpose.** This section establishes the procedures for making requests for reasonable accommodation and standards for review under these Unified Development Regulations. As used herein, “disability” shall have the same meaning as ascribed to the term disability under 9 V.S.A §4501(2) and the term handicap under 42 U.S.C. §3602(h).
- 1301.C **Request for reasonable accommodation.** A request for reasonable accommodation shall be in writing and provide the following information:
- (1) An application for the project as required under these Unified Development Regulations.
 - (2) A written statement identifying what accommodation is being sought (e.g. wheelchair ramp; van accessible parking space, elevator), the provision or requirement that is preventing the approval of the ramp under the UDR, why the provision cannot be met, and how the project is proposing the minimum deviation necessary to accommodate the need.
- 1301.D **Standards of review.** The following standards apply to any request for accommodation:
- (1) The accommodation shall meet the provisions of these regulations if reasonably possible as determined by the Administrative Officer.
 - (2) If the accommodation cannot meet the provisions of these regulations then the approval must be the minimum deviation necessary to meet the accommodation in order for the Administrative Officer to approve.
 - (3) If the accommodation is not the minimum deviation from the regulations, as determined by the Administrative Officer, then the request must be reviewed by the Development Review Board to determine if the request will have a undue adverse effect upon the character of the neighborhood, as this rule is applied in Section 3304.
 - (4) No accommodation can be approved in a City Right of Way without approval of the Director of Public Works.
 - (5) No accommodation shall interfere with line of sight for any vehicle or pedestrian way.
 - (6) All accommodations shall still get all other required approvals in these regulations, as applicable (e.g., Design Review).

Chapter 140. Miscellaneous Provisions

Section 1401. Information Points

- 1401.A There are “information points” provided throughout these regulations, which are designated with the *i* symbol and italic print. These statements are intended to explain what topics are covered in a particular chapter or section, define a key terms or planning concepts mean, or provide similar guidance to readers. They are not to be interpreted as regulatory provisions.

Section 1402. Illustrations

- 1402.A There are illustrations provided throughout these regulations that are intended to provide guidance to readers. In the case of a conflict between an illustration (including any associated descriptive text) and a regulatory provision of these regulations, the regulatory provision shall take precedence.

Section 1403. Calculating Time

- 1403.A The calculation of time periods defined in these regulations as a specific number of days shall be based on calendar days and shall not include the first day (i.e., the day a hearing was warned) but shall count the final day (i.e., the day a hearing was held).

PART 2. ZONING DISTRICTS & STANDARDS

Chapter 200. General Provisions

- i *The purpose of this chapter is to establish zoning districts that implement the land use policies of the Montpelier Master Plan.*

Section 2001. Establishment of Base Zoning Districts & Neighborhoods

2001.A These regulations establish the following zoning districts as shown on the Official Zoning Map and described in Chapter 210:

- (1) Urban Center 1 (UC1) District (Section 2101)
- (2) Urban Center 2 (UC2) District (Section 2102)
- (3) Urban Center 3 (UC3) District (Section 2103)
- (4) Riverfront (RIV) District (Section 2104)
- (5) Eastern Gateway (EG) District (Section 2105)
- (6) Western Gateway (WG) District (Section 2106)
- (7) Mixed Use Residential (MUR) District (Section 2107)
- (8) Residential 1500 (RES 1.5) District (Section 2108)
- (9) Residential 3000 (RES 3) District (Section 2109)
- (10) Residential 6000 (RES 6) District (Section 2110)
- (11) Residential 9000 (RES 9) District (Section 2111)
- (12) Residential 24000 (RES 24) District (Section 2112)
- (13) Rural (RL) District (Section 2113)
- (14) Municipal (MUN) District (Section 2114)

2001.B Each zoning district is further subdivided into neighborhoods as shown on the Official Zoning Map and described in Chapter 210.

2001.C The description of the neighborhoods in each zoning district shall be used solely for determining compatibility with character of that neighborhood. The neighborhoods have no further regulatory purpose except as otherwise specifically stated in these regulations.

Section 2002. Establishment of Overlay Zoning Districts

2002.A These regulations establish a Design Review Overlay District as shown on the Official Zoning Map and described in Section 2201.

2002.B Overlay districts recognize areas that are unique in their environmental or built characteristics. These areas require special consideration to further the purposes of these regulations.

2002.C Within an overlay district the standards of both the base and overlay district apply.

Section 2003. Official Zoning Map

- 2003.A The map(s) delineating the boundaries of the various base and overlay zoning districts established in this chapter are incorporated by reference into these regulations and adopted as part of these regulations, and constitute the Official Zoning Map.
- 2003.B The Official Zoning Map is on file in the city's planning department office. A small-scale, unofficial version of the map(s) is attached for convenience only.

Section 2004. Zoning District Boundaries

- 2004.A The Administrative Officer shall interpret boundaries shown on the Official Zoning Map as specified below when a specific distance or measurement is not shown on the map:
- (1) Boundaries indicated as approximately following streets, railroad lines or rights-of-way shall be construed to follow the centerlines of such streets, railroad lines, or rights-of-way.
 - (2) Boundaries indicated as approximately following parcel lines or municipal boundaries shall be construed to follow such lines or boundaries.
 - (3) Boundaries indicated as approximately following rivers, streams or water bodies shall be construed to follow the centerlines of such rivers, streams, or water bodies.
 - (4) If any of the above natural or built features as they exist on the ground vary from their depiction on the Official Zoning Map, boundaries shall be construed to follow the features as they exist on the ground at the time of the interpretation except that:
 - (a) A boundary line adjustment or subdivision that changes the location of a parcel line shall not change the location of any zoning district boundary indicated as following that parcel line.

Chapter 210. Base Zoning Districts & Neighborhoods

- i The purpose of this chapter is to describe the use and development standards that apply in each zoning district and neighborhood.

Section 2101. Urban Center 1 (UC 1) District & Neighborhoods

- 2101.A **Purpose.** The Urban Center 1 District encompasses the city's historic downtown, the Capitol Complex and adjacent mixed-use neighborhoods and corridors. The land in this district is served by city water and sewer, a gridded street network and public transit. The purpose of this district is to maintain a compact and walkable urban center by preserving historic character and encouraging compatible infill development.
- 2101.B **Neighborhood Character.** The Urban Center 1 District includes the following neighborhoods:
- (1) **Civic.** This neighborhood encompasses the Statehouse and surrounding state-owned properties, as well as adjacent private properties. Proposed development should implement the *Capital District Master Plan*, protect historic character, and allow for the continued use and operation of state facilities and supporting private development in this neighborhood.
 - (2) **Downtown Business.** This neighborhood encompasses most of the city's historic downtown business district characterized primarily by multi-story, block commercial buildings directly fronting on the sidewalk. Proposed development should promote a pedestrian-oriented and mixed-use downtown that preserves and is compatible with historic character by using traditional building forms and street-level storefront designs.
 - (3) **Elm Street - Urban.** This neighborhood of historic row houses sits along the North Branch of the Winooski River. Across Elm Street, the terrain rises sharply forming a rocky cliff and steep wooded hillside. Proposed development should promote the preservation and continued residential occupancy of these historic buildings in order to maintain the neighborhood's distinctive character. This neighborhood also includes the properties at 1 and 7 Court Street and 6 Hillside Ave. These are similar in character and use to the rest of Elm Street except that 7 Court is a larger block style commercial building.
- 2101.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Urban Center 1 district. Drive-through facilities and drive-in establishments are prohibited except as specifically authorized in Figure 2-15.
- 2101.D **Dimensional Standards.** Figure 2-01 establishes the dimensional standards for development in the Urban Center 1 district. Dimensional standards are discussed further in Section 3002.
- 2101.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:
- (1) Buildings with 3 or more stories shall incorporate a base, middle and cap as described below:
 - (a) The base shall include an entryway with transparent windows and a molding or reveal placed between the first and second story or over the second story, which

shall be at least 2 inches deep and 4 inches high.

- (b) The middle may include windows and balconies.
- (c) The cap shall include the area from the top floor to the roof of the building, and shall include a cornice or roof overhang.
- (2) Floor levels, windowsills, moldings, and cornices shall align with those of adjacent buildings to the maximum extent feasible.
- (3) Building facades shall be composed of modules or bays that:
 - (a) Incorporate visible changes in the facade elevation through the use of wall plane projections or recesses, piers, columns, colonnades, arcades or similar architectural features that create a distinct facade elevation.
 - (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet.
 - (c) Shall not exceed 48 feet in width and an average of 32 feet in width for a single, continuous facade.
- (4) Building facades shall incorporate at least one principal entrance as follows:
 - (a) Building facades exceeding 60 feet in width shall provide multiple ground-level entrances.
 - (b) The distance between ground-level entrances along a single, continuous facade shall not exceed 80 feet.
- (5) Pedestrian access shall be provided from the public sidewalk or street to the street-facing principal entrance(s) as follows:
 - (a) The street-facing principal entrance(s) and ground floor level shall align with the sidewalk elevation to the maximum extent feasible.
 - (b) Within the Downtown Business Neighborhood, doors opening to the sidewalk shall be recessed into the face of the building creating an entryway with not less than 15 square feet of floor space or shall be covered by an awning, gallery, or arcade.
 - (c) Within the Downtown Business Neighborhood, entry doors shall not open out into the sidewalk in a manner that would restrict the sidewalk width to less than 4 feet.
 - (d) Within the Downtown Business Neighborhood, each detached building shall have at least one street-facing principal entrance. For detached buildings exceeding 60 feet in width or attached buildings, there shall be not more than 60 feet between the street-facing principal entrances.
- (6) The ground floor of building facades shall be designed to encourage and complement pedestrian-oriented activity as follows:
 - (a) Building facades shall feature ground-level windows or doors arranged so that interior spaces are visible from and accessible to the street on at least 40% of the facade length.
 - (b) Within the Downtown Business Neighborhood, at least 60% of the total surface area of the front ground floor elevation up to a height of 10 feet shall be public

entrances and transparent windows (including retail display windows).

- (c) Within the Downtown Business Neighborhood, ground floor residential units are prohibited along the street frontage.
 - (7) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the street with materials that are compatible with the building's predominant exterior materials.
- 2101.F **Riverfront Standards.** To promote redevelopment of the riverfront as an amenity and greenway corridor, development within the water setback area:
- (1) Shall meet the groundcover requirements of Section 3005.F but no riparian buffer is required.
 - (2) Are encouraged to provide public walkways, multi-use pathways, outdoor seating, and similar public amenities along the river. An applicant may request a waiver to water setback requirements for such amenities within the water setback upon demonstrating that the proposed design furthers the city's riverfront redevelopment goals.

Figure 2-01. **Urban Center 1 Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 3,000 sf min Frontage: 30 ft. min Coverage: 100% max	Front: 0 ft. min Side: 0 ft. min Rear: 0 ft. min Water: 10 ft. min or per Note 2	Floor Area Ratio: 4.0 max	Height: 24 ft. min, 60 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Note 2 Setback will be 0 feet for structures from top of bank on the North Branch (see Section 3005 for specific information).

Section 2102. Urban Center 2 (UC 2) District & Neighborhoods

2102.A **Purpose.** The Urban Center 2 District includes the existing high-density developments along Barre Street. The area is served by sewer and water and is located on major public transit routes. The purpose of this district is to maintain a compact walkable urban center by preserving the historic pattern of development.

2102.B **Neighborhood Character.** The Urban Center 2 District includes the following neighborhoods:

- (1) **Barre Street - West.** This neighborhood encompasses the blocks along Barre Street immediately adjacent to the downtown business district. Once largely residential, many of the historic homes in this neighborhood have been converted into mixed-use or multi-unit buildings. The development pattern is primarily characterized by large, multi-story residential-style buildings on small parcels with narrow front and side setbacks. Proposed development should feature a mix of uses either within historic buildings or within new construction that is compatible in scale and character to neighboring historic buildings. This neighborhood is well suited for infill with higher-density, multi-unit housing, particularly on sites that are currently developed at a lower density than allowed in this zoning district and with buildings that are not contributing historic structures.

2102.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Urban Center 2 district. Drive-through facilities and drive-in establishments are prohibited except as specifically authorized in Figure 2-15.

2102.D **Dimensional Standards.** Figure 2-02 establishes the dimensional standards for development in the Urban Center 2 district. Dimensional standards are discussed further in Section 3002.

2102.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:

- (1) Buildings with 3 or more stories shall incorporate a base, middle and cap as described below:
 - (a) The base shall include an entryway with transparent windows and a molding or reveal placed between the first and second story or over the second story, which shall be at least 2 inches deep and 4 inches high.
 - (b) The middle may include windows and balconies.
 - (c) The cap shall include the area from the top floor to the roof of the building, and shall include a cornice or roof overhang.
- (2) Floor levels, windowsills, moldings, and cornices shall align with those of adjacent buildings to the maximum extent feasible.
- (3) Building facades shall be composed of modules or bays that:
 - (a) Incorporate visible changes in the facade elevation through the use of wall plane projections or recesses, piers, columns, colonnades, arcades or similar architectural features that create a distinct facade elevation.
 - (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet.
 - (c) Shall not exceed 48 feet in width and an average of 32 feet in width for a single,

continuous facade.

- (4) Building facades shall incorporate at least one principal entrance as follows:
 - (a) Building facades exceeding 60 feet in width shall provide multiple ground-level entrances.
 - (b) The distance between ground-level entrances along a single, continuous facade shall not exceed 80 feet.
- (5) Pedestrian access shall be provided from the public sidewalk or street to the street-facing principal entrance(s).
- (6) The street-facing principal entrance(s) and ground floor level shall align with the sidewalk elevation to the maximum extent feasible.
- (7) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the street with materials that are compatible with the building's predominant exterior materials.

2102.F **Riverfront Standards.** To promote redevelopment of the riverfront as an amenity and greenway corridor, development within the water setback area:

- (1) Shall meet the groundcover requirements of Section 3005.F but no riparian buffer is required.
- (2) Are encouraged to provide public walkways, multi-use pathways, outdoor seating, and similar public amenities along the river. An applicant may request a waiver to water setback requirements for such amenities within the water setback upon demonstrating that the proposed design furthers the city's riverfront redevelopment goals.

Figure 2-02. **Urban Center 2 Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 6,000 sf min Frontage: 60 ft. min Coverage: 90% max	Front: 5 ft. min Side: 5 ft. min Rear: 10 ft. min Water: 20 ft. min	Floor Area Ratio: 3.0 max	Height: 24 ft. min, 55 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2103. Urban Center 3 (UC 3) District & Neighborhoods

2103.A **Purpose.** The Urban Center 3 District includes the existing high-density developments along Main Street. The area is served by sewer and water and is located on major public transit routes. The purpose of this district is to maintain a compact walkable urban center by preserving the historic pattern of development.

2103.B **Neighborhood Character.** The Urban Center 3 District includes the following neighborhoods:

- (1) **Main Street.** This linear neighborhood extends out from the business district and historically developed with churches, civic buildings, and grand houses. These buildings are located on small parcels with shallow front and side yards. While there has been some infill development and conversion of the large homes to office and multi-unit residential uses, the historic character of the neighborhood remains distinctive and well preserved. That character should be enhanced by preserving historic buildings, retaining landscaped front yards and green strips with trees between the sidewalk and street, and ensuring that new construction is compatible in scale, form, and placement with the historic pattern.

2103.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Urban Center 3 district. Drive-through facilities and drive-in establishments are prohibited except as specifically authorized in Figure 2-15.

2103.D **Dimensional Standards.** Figure 2-03 establishes the dimensional standards for development in the Urban Center 3 district. Dimensional standards are discussed further in Section 3002.

2103.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:

- (1) Buildings with 3 or more stories shall incorporate a base, middle and cap as described below:
 - (a) The base shall include an entryway with transparent windows and a molding or reveal placed between the first and second story or over the second story, which shall be at least 2 inches deep and 4 inches high.
 - (b) The middle may include windows and balconies.
 - (c) The cap shall include the area from the top floor to the roof of the building, and shall include a cornice or roof overhang.
- (2) Floor levels, windowsills, moldings, and cornices shall align with those of adjacent buildings to the maximum extent feasible.
- (3) Building facades shall be composed of modules or bays that:
 - (a) Incorporate visible changes in the facade elevation through the use of wall plane projections or recesses, piers, columns, colonnades, arcades or similar architectural features that create a distinct facade elevation.
 - (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet.
 - (c) Shall not exceed 48 feet in width and an average of 32 feet in width for a single, continuous facade.

- (4) Building facades shall incorporate at least one principal entrance as follows:
 - (a) Building facades exceeding 60 feet in width shall provide multiple ground-level entrances.
 - (b) The distance between ground-level entrances along a single, continuous facade shall not exceed 80 feet.
- (5) Pedestrian access shall be provided from the public sidewalk or street to the street-facing principal entrance(s).
- (6) The street-facing principal entrance(s) and ground floor level shall align with the sidewalk elevation to the maximum extent feasible.
- (7) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the street with materials that are compatible with the building's predominant exterior materials.

2103.F **Riverfront Standards.** To promote redevelopment of the riverfront as an amenity and greenway corridor, development is encouraged to provide public walkways, multi-use pathways, outdoor seating, and similar public amenities along the river.

Figure 2-03. **Urban Center 3 Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 9,000 sf min Frontage: 60 ft. min Coverage: 80% max	Front: 15 ft. min or as per Note 2 Side: 10 ft. min Rear: 10 ft. min Water: 0 ft. min	Floor Area Ratio: 3.0 max	Height: 24 ft. min, 45 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Note 2 Where existing buildings on abutting properties are closer to the street than 15 feet, new buildings can match building lines of adjacent buildings.

Section 2104. Riverfront (RIV) District & Neighborhoods

- 2104.A **Purpose.** The Riverfront District includes land along Barre Street and Berlin Street on either side of the Winooski River. The land in this district is served by city water and sewer, a gridded street network and public transit. The district has historically been characterized by a mix of residential, commercial, and industrial uses extending outward from downtown along the river. The purpose of this district is to encourage compact, higher-density infill development, particularly multi-unit housing, within walking distance of downtown. This district is also intended to recognize the natural constraints and hazards created by the river corridor, and to encourage redevelopment of the riverfront as a public amenity and greenway corridor.
- 2104.B **Neighborhood Character.** The Riverfront District includes the following neighborhoods:
- (1) **Barre Street – East.** This neighborhood along Barre Street is more residential than the blocks closer to downtown. It includes both historic homes, now a mix of single-unit and multi-unit buildings, as well as more recently constructed attached housing. There is a small neighborhood commercial center at the Sibley Avenue intersection. The buildings have shallow front and side yards. This neighborhood should continue to be primarily residential with a range of housing choices and opportunities for business activities that shall not adversely affect quality of life in the neighborhood.
 - (2) **Cross Roads.** This neighborhood near the intersection of Berlin Street and Northfield Street has an auto-oriented, highway commercial development pattern. This neighborhood has historically served as a service center for through travelers and those living or working in the city. Incremental redevelopment should be encouraged that would improve the walkability and visual character of this major entrance into the downtown. Higher-density, compact, walkable and mixed-use redevelopment and infill development that creates an attractive streetscape through the design of landscaping, signs, lighting and building facades should be encouraged.
 - (3) **Route 2.** This neighborhood developed primarily as a commercial and industrial corridor along the Winooski River, highway, and rail line. These regulations encourage the continued transformation of this area into a mixed-use neighborhood. Creative and adaptive re-use of historic buildings should be promoted, along with infill and redevelopment. The neighborhood is well suited for larger-scale buildings and innovative designs that reference the area’s historic industrial character and architectural forms. Efforts should be made to enhance public access – both physical and visual – to the river and to improve and capitalize on buildings that face the river.
- 2104.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Riverfront District. Drive-through facilities and drive-in establishments are prohibited as a component of any allowed use.
- 2104.D **Dimensional Standards.** Figure 2-04 establishes the dimensional standards for development in the Riverfront District. Dimensional standards are discussed further in Section 3002.
- 2104.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:
- (1) Buildings with 3 or more stories shall incorporate a base, middle and cap as described below:
 - (a) The base shall include an entryway with transparent windows and a molding or

reveal placed between the first and second story or over the second story, which shall be at least 2 inches deep and 4 inches high.

- (b) The middle may include windows and balconies.
 - (c) The cap shall include the area from the top floor to the roof of the building, and shall include a cornice or roof overhang.
- (2) Building facades shall be composed of modules or bays that:
- (a) Incorporate visible changes in the facade elevation through the use of wall plane projections or recesses, piers, columns, colonnades, arcades or similar architectural features that create a distinct facade elevation.
 - (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet.
 - (c) Shall not exceed 48 feet in width and an average of 36 feet in width for a single, continuous facade.
- (3) Building facades shall incorporate at least one principal entrance as follows:
- (a) Building facades exceeding 60 feet in width shall provide multiple ground-level entrances.
 - (b) The distance between ground-level entrances along a single, continuous facade shall not exceed 80 feet.
- (4) Pedestrian access shall be provided from the public sidewalk or street to the street-facing principal entrance(s).
- (5) The street-facing principal entrance(s) and ground floor level shall align with the sidewalk elevation to the maximum extent feasible.
- (6) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the street.

2104.F **Riverfront Standards.** To promote redevelopment of the riverfront as an amenity and greenway corridor, development within the water setback area:

- (1) Shall meet the groundcover requirements of Section 3005.F. Riparian buffers shall be required in areas where the river is unchanneled.
- (2) Are encouraged to provide public walkways, multi-use pathways, outdoor seating, and similar public amenities along the river. An applicant may request a waiver to water setback requirements for such amenities within the water setback upon demonstrating that the proposed design furthers the city's riverfront redevelopment goals.

Figure 2-04. **Riverfront District Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 3,000 sf min Frontage: 45 ft. min Coverage: 80% max	Front: 5 ft. min Side: 5 ft. min Rear: 10 ft. min Water: 20 ft. min	Residential: 1 du/1,500 sf max Floor Area Ratio: 2.0 max	Footprint: 5,000 sf max Height: 24 ft. min, 45 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have

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reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2105. Eastern Gateway (EG) District & Neighborhoods

- 2105.A **Purpose.** The Eastern Gateway District includes land along the major arterial roadways at the eastern entrance to the city that is primarily developed for retail, service, auto-oriented and light industrial uses, as well as businesses that cater to the traveling public. The district is served by city water and sewer and is generally accessible from major transportation corridors. The purpose of this district is to encourage increased business activity, mixed-use redevelopment, and infill development that enhances property values, the quality of construction and site design, and the overall aesthetics of this entrance to the city.
- 2105.B **Neighborhood Character.** The Eastern Gateway District includes the following neighborhoods:
- (1) **Eastern Corridor.** This neighborhood extends along Route 302 from the city line to the intersection with Route 2. It has developed as a typical low-density highway commercial corridor and accommodates many of the city's auto-oriented businesses. Proposed development should promote infill development and mixed-use redevelopment that shall enhance the aesthetic character of the corridor with well-designed buildings, landscaping, and signage along the frontage.
 - (2) **Farm and Factory.** This neighborhood at the city's southeastern edge is primarily industrial with a number of the businesses connected to agriculture. Proposed development should support ongoing industrial uses and compatible mixed-use development and to enhance the character of this neighborhood with well-designed buildings, landscaping and signage, particularly along the Route 2 frontage.
- 2105.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Eastern Gateway District. The Development Review Board may approve a drive-through facility or and drive-in establishment as a conditional use.
- 2105.D **Dimensional Standards.** Figure 2-05 establishes the dimensional standards for development in the Eastern Gateway District. Dimensional standards are discussed further in Section 3002.
- 2105.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:
- (1) Building facades shall be composed of modules or bays that:
 - (a) Incorporate visible changes in the facade elevation through the use of wall plane projections or recesses, a change in roof form, or similar architectural features that create a distinct facade elevation.
 - (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet.
 - (c) Shall not exceed 48 feet in width and an average of 36 feet in width for a single, continuous facade.
 - (2) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the front property line with materials that are compatible with the building's predominant exterior materials.
 - (3) Vehicle bay doors and loading areas shall be oriented away from the street, and to the side or rear of the parcel.

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Figure 2-05. **Eastern Gateway District Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 20,000 sf min Frontage: 120 ft. min Coverage: 50% max	Front: 20 ft. min Side: 20 ft. min Rear: 30 ft. min Water: 50 ft. min	Residential: 1 du/5,000 sf max Nonresidential: 1.5 FAR max	Footprint: 40,000 sf max Height: 45 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2106. Western Gateway (WG) District & Neighborhoods

2106.A **Purpose.** The Western Gateway District includes land along the major arterial roadways at the western entrance to the city that is primarily developed for office, governmental and civic uses. The district is served by city water and sewer and is generally accessible from major transportation corridors. The purpose of this district is to:

- (1) Encourage the ongoing use of this district for office, governmental and civic uses, as well as the development of a mix of new uses to support a vibrant campus and village setting at National Life and an attractive gateway with uses that support the downtown;
- (2) Protect significant views of the Statehouse as one enters the city; and
- (3) Enhance pedestrian connections between this district and downtown.

2106.B **Neighborhood Character.** The Western Gateway District includes the following neighborhoods:

- (1) **Office Park.** This neighborhood located on Dewey Hill near Exit 8 overlooks downtown and the river valley. Sitting atop the hill is the National Life building, a major employment center that houses both the corporation's offices and state government offices. There is a large amount of undeveloped land in this neighborhood. Proposed development should promote further office and compatible light industrial and mixed-use development in this neighborhood. Use of context sensitive siting and design should be encouraged to fit new development into the sloped and wooded setting.
- (2) **Western Corridor.** This neighborhood follows the Winooski River west from downtown. There is limited opportunity for further development within this neighborhood due to the combination of floodplains, land dedicated to the interstate and Exit 8, and the Montpelier High School. Proposed development should facilitate these ongoing uses and functions with an emphasis on enhancing the attractiveness of this gateway from the interstate into downtown and protecting significant views of the Statehouse.

2106.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Western Gateway District. Drive-through facilities and drive-in establishments are prohibited except as specifically authorized in Figure 2-15.

2106.D **Dimensional Standards.** Figure 2-06 establishes the dimensional standards for development in the Western Gateway District. Dimensional standards are discussed further in Section 3002.

2106.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:

- (1) Building facades facing or parallel to the street shall be composed of modules or bays that:
 - (a) Incorporate visible changes in the facade elevation through the use of wall plane projections or recesses, a change in roof form, or similar architectural features that create a distinct facade elevation.
 - (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet.
 - (c) Shall not exceed 48 feet in width and an average of 36 feet in width for a single, continuous facade.

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- (2) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the street with materials that are compatible with the building's predominant exterior materials.

Figure 2-06. **Western Gateway District Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 20,000 sf min Frontage: 120 ft. min Coverage: 50% max	Front: 20 ft. min Side: 20 ft. min Rear: 30 ft. min Water: 50 ft. min	Residential: 1 du/4,000 sf max Nonresidential: 1.5 FAR max	Footprint: 30,000 sf max Height: 24 ft. min, 60 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2107. Mixed Use Residential (MUR) District & Neighborhoods

2107.A **Purpose.** The Mixed Use Residential District is composed mainly of traditional neighborhoods in proximity to the city's downtown that are predominately residential in form but that are more diverse in use. The land in this district is served by city water and sewer, a gridded network of neighborhood streets and public transit. The purpose of this district is to encourage infill development – including neighborhood-scale businesses and a range of housing choices – while preserving each neighborhood's distinct character and quality.

2107.B **Neighborhood Character.** The Mixed Use Residential District includes the following neighborhoods:

- (1) **College Hill – East State Street.** This neighborhood east of downtown includes the campus of the Vermont College of Fine Arts, as well as historic homes along major streets, many of which have been converted to multi-unit or mixed-use buildings. The institutional properties have a substantial amount of greenspace that enhances the neighborhood. Proposed development should protect the historic character and appeal of this neighborhood while allowing for compatible infill development and adaptive reuse of older institutional and residential structures.
- (2) **Community College of Vermont.** This neighborhood north of the downtown on Elm Street includes a small group of commercial properties near the recreation fields, which includes the campus of the Community College of Vermont and what is currently a licensed day care facility. It is surrounded by residential properties and recreation fields that are farther from downtown than many other neighborhoods and therefore could benefit from some small commercial options in walking distance. Future development in this area should therefore support the college, recreation fields, and residential character of the abutting neighborhoods.
- (3) **Court Street.** This neighborhood includes the parcels fronting on or accessed from Court Street east of the State House, primarily developed with modest, historic homes, some of which have now been converted to office or multi-unit buildings. Proposed development should protect the residential scale and character of the neighborhood while allowing conversion of buildings to compatible nonresidential uses as appropriate for their location. The scale of these buildings and their proximity to the Capitol Complex and downtown makes this neighborhood particularly appropriate for a mix of office and residential uses. Court Street is a rare street whose neighborhood is different on the north (MUR) than the south (UC-1). Properties on each side of the street are expected to be developed consistent with the respective character of that neighborhood and therefore have difficulty meeting requirements regarding character of the neighborhood. As such, Urban Center projects on Court Street shall be exempt from the requirement of 3304.A that potential impacts of both neighborhoods shall be considered.
- (4) **Lower East State Street.** This neighborhood provides a transition from the urban downtown to the mixed use College Hill neighborhoods. The area includes high-density residential housing with some mixed use and commercial uses primarily in historic buildings. Proposed development should protect historic character and architectural appeal of this area, as it shall continue to be a critical walking and biking route into the downtown.

- (5) **Northfield Street - North.** This linear neighborhood begins a block south of the intersection of Northfield Street and Berlin Street and is largely defined by its terrain. The street is traversing a hill and the adjacent land is steeply sloped. Development has been fit into the terrain and wooded landscape where feasible, resulting a more rural character than found in other neighborhoods in this district. At the same time, this neighborhood is very close to downtown and on a main highway corridor. There is a sidewalk along Northfield Street, although the hill limits the walkability of the neighborhood. Proposed development should feature a mix of residential and commercial uses on those lands suitable for development.
 - (6) **Redstone.** This historic neighborhood, which extends up the hill west of the Capitol Complex and along Route 2, is primarily developed with residential structures, a number of which have been converted to offices. These regulations are intended to protect the residential scale and character of the neighborhood while allowing conversion of buildings to compatible nonresidential uses as appropriate for their location as a gateway to downtown.
 - (7) **School Street.** This neighborhood is a small transitional neighborhood that connects the urban downtown to the high-density residential neighborhoods immediately adjacent to downtown. The neighborhood includes Montpelier Union Elementary School, the historic First Baptist Church, and other historic multiunit and commercial buildings. Proposed development should protect the safe walkable neighborhood characteristics and maintain the traditional mix of uses found in this area.
 - (8) **The Meadow – Elm Street.** This traditional residential neighborhood along Elm Street is densely developed with historic homes close to the sidewalk on tree-lined streets. While many large homes have been converted to multi-unit buildings, the neighborhood continues to have historic appeal. These regulations are intended to protect the residential scale and character of the neighborhood created by the primarily residential use, historic building stock, front yards, porches, and walkable, tree-lined streets.
- 2107.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Mixed Use Residential District. Drive-through facilities and drive-in establishments are prohibited as a component of any allowed use.
- 2107.D **Dimensional Standards.** Figure 2-07 establishes the dimensional standards for development in the Mixed Use Residential District. Dimensional standards are discussed further in Section 3002.
- 2107.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:
- (1) Building facades shall be composed of modules or bays that:
 - (a) Incorporate visible changes in the facade elevation through the use of wall plane projections or recesses, a change in roof form, or similar architectural features that create a distinct facade elevation.
 - (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet in length.
 - (c) Shall not exceed 40 feet in width and an average of 32 feet in width for a single, continuous facade.

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- (2) The principal entrance shall open onto a street, sidewalk, plaza, or public greenspace and shall not open onto a parking lot.
- (3) Pedestrian access shall be provided from the public sidewalk or street to the principal entrance.
- (4) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the street with materials that are compatible with the building's predominant exterior materials.

Figure 2-07. **Mixed Use Residential District Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 3,000 sf min Frontage: 45 ft. min Coverage: 70% max	Front: 5 ft. min Side: 5 ft. min Rear: 10 ft. min Water: 25 ft. min	Residential: 1 du/1,500 sf max Floor Area Ratio: 1.0 FAR max	Footprint: 3,000 sf max Height: 24 ft. min, 40 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2108. Residential 1500 (RES 1.5) District & Neighborhoods

- 2108.A **Purpose.** The Residential 1500 District is composed mainly of traditional, higher-density residential neighborhoods close to downtown. The land in the district is served by city water and sewer, and a gridded network of neighborhood streets. The purpose of the district is to encourage infill residential development with a range of housing choices while preserving each neighborhood's distinct character and quality.
- 2108.B **Neighborhood Character.** The Residential 1500 District includes the following neighborhoods:
- (1) **Blanchard Park.** This neighborhood west of Hubbard Street is a densely built residential neighborhood characterized by large historic homes on small parcels with narrow setbacks. Some of these residences have been converted to multi-unit occupancy, while others remain single-unit. Proposed development should maintain the historic development pattern in this neighborhood. Modest increases in density may be accommodated in this neighborhood through ongoing, incremental conversion of single-unit residences to multi-unit buildings, further division of multi-unit buildings to add additional units, conversion of outbuildings for residential occupancy, or similar approaches that do not significantly alter the physical form of the neighborhood and its historic buildings.
 - (2) **Franklin Street - Southwest.** This diverse neighborhood extends along the North Branch of the Winooski River north of downtown with a dense mix of residential, commercial, and industrial buildings, the latter of which have been largely converted to residential use. A network of narrow streets serves the neighborhood, typically with sidewalks on one side. Small parcels with shallow front and side yards and traditional homes with front porches are common features in the neighborhood. The result is a neighborhood with a diversity of building types and housing choices, which proposed development should protect by featuring adaptive reuse of historic buildings and compatible – primarily residential – infill development.
 - (3) **Liberty Street - West.** This traditional neighborhood adjacent to downtown is densely developed primarily with historic multi-story residences built close to the street on narrow parcels. Many large homes have been converted to multi-unit buildings and a smaller number to professional offices. These regulations are intended to protect the traditional residential character of this neighborhood while allowing compatible infill development and adaptive reuse of historic buildings. Efforts should be made to provide public recreation opportunities within walking distance for neighborhood residents.
- 2108.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Residential 1500 District. Drive-through facilities and drive-in establishments are prohibited as a component of any allowed use.
- 2108.D **Dimensional Standards.** Figure 2-08 establishes the dimensional standards for development in the Residential 1500 District. Dimensional standards are discussed further in Section 3002.
- 2108.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:
- (1) Building facades shall be composed of modules or bays that:
 - (a) Incorporate visible changes in the facade elevation through the use of wall plane

projections or recesses, a change in roof form, or similar architectural features that create a distinct facade elevation.

- (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet in length.
- (c) Shall not exceed 40 feet in width and an average of 32 feet in width for a single, continuous facade.
- (2) The principal entrance shall open onto a street, sidewalk, plaza, or public greenspace and shall not open onto a parking lot.
- (3) Pedestrian access shall be provided from the public sidewalk or street to the principal entrance.
- (4) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the street with materials that are compatible with the building's predominant exterior materials.

Figure 2-08. **Residential 1500 District Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 3,000 sf min Frontage: 45 ft. min Coverage: 60% max	Front: 10 ft. min Side: 5 ft. min Rear: 10 ft. min Water: 25 ft. min	Residential: 1 du/1,500 sf max Floor Area Ratio: 1.0 FAR max	Footprint: 2,500 sf max Height: 35 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2109. Residential 3000 (RES 3) District & Neighborhoods

2109.A **Purpose.** The Residential 3000 District is composed mainly of traditional residential neighborhoods close to downtown. The land in this district is served by city water and sewer, and a gridded network of neighborhood streets. The purpose of this district is to encourage infill residential development with a range of housing choices while preserving each neighborhood's distinct character and quality.

2109.B **Neighborhood Character.** The Residential 3000 District includes the following neighborhoods:

- (1) **College Hill - South.** This neighborhood east of downtown is primarily residential with homes located on small parcels along narrow, tree-lined streets. Proposed development should protect the historic character and appeal of this neighborhood while allowing for a moderate increase in residential density through compatible infill development, particularly with compact buildings, and conversion of existing buildings to multi-unit occupancy.
- (2) **Franklin Street - Northeast.** This is a primarily single-unit residential neighborhood with homes fit into the terrain, most with a compact development footprint. Proposed development may feature a modest increase in residential density accomplished primarily through conversion of existing buildings to multi-unit occupancy and with a limited amount of infill on suitable sites.
- (3) **Liberty Street - East.** This traditional neighborhood adjacent to downtown is densely developed primarily with historic multi-story residences built close to the street on small parcels. These regulations are intended to protect the traditional residential character of this neighborhood while allowing some increase density through primarily through conversion of existing buildings to multi-unit occupancy. Efforts should be made to provide public recreation opportunities within walking distance for neighborhood residents.
- (4) **Main Street - East.** Most of this residential neighborhood along Main Street east of North Street to Lincoln Avenue is densely built with small parcels and narrow setbacks. The terrain has influenced the development pattern, with narrow parcels and homes set into the hillside above street level on the north side of Main Street and wider parcels with larger yards on south side. The neighborhood is currently developed with a mix of single-unit and multi-unit residences. Proposed development should protect the residential character of this neighborhood while creating opportunities for small-scale infill development and incremental division of residential buildings to add additional dwelling units.
- (5) **River Street.** This is a traditional residential neighborhood along the south side of River Street (Route 2). Many of the historically single-unit homes have been converted to multi-unit occupancy, particularly along the highway. Proposed development should protect the traditional residential development pattern and character, and avoid expansion of commercial activity along this segment of the highway. Side streets extend up the hillside with mostly single-unit homes on larger, sloping parcels. There is a significant amount of undeveloped land in this neighborhood, some of which is suitable for infill residential development. Proposed development may feature residential growth with a diversity of housing in this neighborhood, including the potential for multi-unit housing development on suitable undeveloped sites
- (6) **Route 2 – Prospect Street.** This is a residential neighborhood with many homes fit into the steep terrain on significantly constrained parcels. The streets serving most of the

neighborhood are narrow and steep. Proposed development should maintain the existing pattern of development, and avoid significant increases in density. A portion of this neighborhood fronts on the heavily trafficked Berlin Street (Route 2). Proposed development should protect the residential character of this portion of the highway and avoid the continued expansion of commercial activity eastward from the Cross Roads neighborhood.

- (7) **The Meadow - West.** This traditional residential neighborhood close to downtown and Hubbard Park is densely developed with historic, mostly single-unit homes close to the sidewalk on tree-lined streets. These regulations are intended to protect the historic and family-friendly character of the neighborhood created by the primarily residential use, historic building stock, front yards, porches, walkable, tree-lined streets, and low levels of non-resident traffic.

2109.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Residential 3000 District. Drive-through facilities and drive-in establishments are prohibited as a component of any allowed use.

2109.D **Dimensional Standards.** Figure 2-09 establishes the dimensional standards for development in the Residential 3000 District. Dimensional standards are discussed further in Section 3002.

2109.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:

- (1) Building facades shall be composed of modules or bays that:
 - (a) Incorporate visible changes in the facade elevation through the use of wall plane projections or recesses, a change in roof form, or similar architectural features that create a distinct facade elevation.
 - (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet.
 - (c) Shall not exceed 40 feet in width and an average of 32 feet in width for a single, continuous facade.
- (2) The principal entrance shall open onto a street, sidewalk, plaza, or public greenspace and shall not open onto a parking lot.
- (3) Pedestrian access shall be provided from the public sidewalk or street to the principal entrance.
- (4) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the street with materials that are compatible with the building's predominant exterior materials.

Figure 2-09. Residential 3000 District Dimensional Standards

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 3,000 sf min Frontage: 45 ft. min Coverage: 60% max	Front: 10 ft. min Side: 5 ft. min Rear: 10 ft. min Water: 25 ft. min	Residential: 1 du/3,000 sf max Floor Area Ratio: 1.0 FAR max	Footprint: 2,500 sf max Height: 35 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2110. Residential 6000 (RES 6) District & Neighborhoods

2110.A **Purpose.** The Residential 6000 District is composed mainly of established residential neighborhoods. The land in this district is or could reasonably be served by city water and sewer, an interconnected street network and public transit. The purpose of this district is to encourage infill development and a range of housing choices while preserving neighborhood character and quality.

2110.B **Neighborhoods Character.** The Residential 6000 District includes the following neighborhoods:

- (1) **Berlin Street.** This residential neighborhood is separated from downtown by a busy highway (Route 2) and the Winooski River. It is a mix of older and new homes, many with spacious yards, and has greater variability in setbacks and parcel sizes. Many streets do not have sidewalks or a regular pattern of street trees like the older neighborhoods closer to downtown. While infill housing is encouraged, it should primarily be in the form of small-scale projects that do not substantially change the scale or density of development in the neighborhood. Efforts should be made to improve walkability between this neighborhood and the Urban Center 1 and Riverfront districts and to provide public recreation opportunities within walking distance for neighborhood residents.
- (2) **College Hill - North.** This neighborhood northeast of downtown is primarily residential with historic homes located on parcels of varying size. Proposed development should protect the historic character and appeal of this neighborhood while accommodating modest increases in density through compatible infill development and conversion of existing buildings to multi-unit occupancy.
- (3) **College Hill - Southeast.** This neighborhood east of downtown is primarily residential with homes located on small parcels along narrow streets. Proposed development should protect the historic character and appeal of this neighborhood while accommodating a moderate increase in residential density through compatible infill development, particularly with compact buildings, and conversion of existing buildings to multi-unit occupancy.
- (4) **Redstone - North.** This area northwest of the Capitol is primarily residential with homes located within a short walk of downtown. Proposed development should protect the character and appeal of this neighborhood while accommodating a moderate increase in residential density through compatible infill development and conversion of existing buildings to multi-unit.

2110.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Residential 6000 District. Drive-through facilities and drive-in establishments are prohibited as a component of any allowed use.

2110.D **Dimensional Standards.** Figure 2-10 establishes the dimensional standards for development in the Residential 6000 District. Dimensional standards are discussed further in Section 3002.

2110.E **Architectural Standards.** The following standards apply for major site plan applications (see Section 3201) under Section 3207:

- (1) Building facades shall be composed of modules or bays that:
 - (a) Incorporate visible changes in the facade elevation through the use of wall plane

projections or recesses, a change in roof form, or similar architectural features that create a distinct facade elevation.

- (b) Feature a regular pattern of windows and entryways so that the length of solid or blank walls shall not exceed 20 feet.
- (c) Shall not exceed 40 feet in width and an average of 32 feet in width for a single, continuous facade.
- (2) The principal entrance shall open onto a street, sidewalk, plaza, or public greenspace and shall not open onto a parking lot.
- (3) Pedestrian access shall be provided from the public sidewalk or street to the principal entrance.
- (4) Mechanical equipment, electrical meter and service components, and similar utility devices whether at ground level or mounted on the building shall be screened from view at the street with materials that are compatible with the building's predominant exterior materials.

Figure 2-10. **Residential 6000 District Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 6,000 sf min Frontage: 60 ft. min Coverage: 50% max	Front: 15 ft. min Side: 10 ft. min Rear: 20 ft. min Water: 25 ft. min	Residential: 1 du/6,000 sf max Nonresidential: 0.5 FAR max	Footprint: 2,500 sf max Height: 35 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2111. Residential 9000 (RES 9) District & Neighborhoods

2111.A **Purpose.** The Residential 9000 District is composed mainly of established residential neighborhoods. Most of the land in this district is served by city water and sewer. The purpose of this district is to encourage infill development and a range of housing choices while preserving neighborhood character and quality.

2111.B **Neighborhoods Character.** The Residential 9000 District includes the following neighborhoods:

- (1) **Cliffside.** This small, hillside neighborhood sits between downtown and Hubbard Park. Its primarily single-unit homes are nestled into the hillside in a wooded setting that offers views to downtown and the river valley below. Proposed development may feature infill housing to the extent that it can be fit into the terrain and wooded setting without requiring extensive land disturbance or changes in natural drainage patterns.
- (2) **Crestview.** This neighborhood encompasses the portions of the undeveloped property at the western side of the city that is most suitable for development. It presents an opportunity to develop a new neighborhood in proximity to downtown and other developed city neighborhoods and corridors. Proposed development should result in a new neighborhood built in accordance with traditional neighborhood development principles that incorporates a range of housing options, energy-efficient and compact building types, a walkable street network, and public recreation areas and open spaces.
- (3) **Elm Street.** This linear residential neighborhood extends along Elm Street (Route 12). While much of the suitable frontage has been developed, proposed development may feature infill housing particularly where there is adequate depth to accommodate development behind the existing parcels.
- (4) **Gallison Hill.** This outlying neighborhood extends up Gallison Hill Road off Route 2 at the eastern edge of the city. Its primarily single-unit homes have been built over recent decades on generously sized parcels created on former farmland. The neighborhood is adjacent to the U32 High School. Proposed development may feature infill residential development, particularly on the larger parcels in this neighborhood.
- (5) **Murray Hill.** This is one of the city's more recent residential developments with single-unit homes and townhouses accessed by several cul-de-sac streets and a substantial amount of open space. Proposed development may feature infill residential development where infrastructure is available and to the extent feasible given the availability and ownership of land in this neighborhood.
- (6) **North Street.** This is a small, linear, transitional neighborhood between the traditional residential neighborhoods to the south and the rural lands to the north. There are a number of houses located close to the road and much of the frontage is wooded. Proposed development may feature infill residential development where infrastructure is available or the land is capable to support growth.
- (7) **Northfield Street.** This typical, post-war suburban neighborhood features modest homes on spacious, landscaped lots, along with more recent duplexes and townhomes. There is a network of curvilinear streets, largely without sidewalks. Proposed development may feature compatible infill residential development but should not result in significant increases in overall density within the neighborhood.

- (8) **Park West.** This residential neighborhood grew over time up into the hills along several tree-lined streets behind the Capitol Complex and abutting Hubbard Park. This development pattern has resulted in a suburban neighborhood that offers a range of housing options and is appealing for families. Proposed development may feature compatible infill housing and should protect the neighborhood's character and quality of life.
- (9) **Stonewall Meadows.** This more recently developed neighborhood is a mix of modest single-unit homes and attached, multi-unit buildings accessed by several cul-de-sac streets. There remains a considerable amount of undeveloped land in this neighborhood suitable for housing. Proposed development may feature further housing development in this neighborhood where infrastructure is available and the land is capable to support growth.
- (10) **Towne Street.** This small neighborhood is largely developed with single-unit homes on spacious lots. Proposed development may feature compatible infill residential development but should not result in significant increases in overall density within the neighborhood.
- (11) **Toy Town.** This small residential neighborhood is nestled between the interstate and the Winooski River at the western edge of the city. There is a limited amount of land available for additional growth. Proposed development may feature compatible infill residential development but should not result in significant increases in overall density within the neighborhood.

2111.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Residential 9000 District. Drive-through facilities and drive-in establishments are prohibited as a component of any allowed use.

2111.D **Dimensional Standards.** Figure 2-11 establishes the dimensional standards for development in the Residential 9000 District. Dimensional standards are discussed further in Section 3002.

Figure 2-11. **Residential 9000 District Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 9,000 sf min Frontage: 75 ft. min Coverage: 40% max	Front: 20 ft. min Side: 15 ft. min Rear: 30 ft. min Water: 25 ft. min	Residential: 1 du/9,000 sf max Nonresidential: 0.5 FAR max	Footprint: 2,500 sf max Height: 35 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2112. Residential 24000 (RES 24) District & Neighborhoods

2112.A **Purpose.** The Residential 24000 District is composed of established neighborhoods on small parcels mixed with larger undeveloped parcels. Most of the land in this district is served by either city water or sewer or, in many cases, both. The purpose of this district is to encourage infill development and a range of housing choices while preserving neighborhood character and quality.

2112.B **Neighborhoods Character.** The Residential 24000 District includes the following neighborhoods:

- (1) **College Pasture.** This three-acre undeveloped parcel is presently owned by the college and is located behind properties on Sabin Street. The land abuts other undeveloped land owned by the college to the north (zoned Mixed Use Residential) and south (zoned Riverfront). The open space also connects to Sabin's Pasture to the east. This land is close to downtown and could support some housing development or have those units transferred to other undeveloped land abutting the parcel in order to conserve the open space.
- (2) **Towne Hill.** This is a large neighborhood with residential developments separated by significant amounts of undeveloped land, including several large tracts of open farmland. City water and sewer is not available throughout the entire neighborhood. Proposed development may feature further housing development in this neighborhood where infrastructure is available and the land is capable to support growth.

2112.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Residential 24000 District. Drive-through facilities and drive-in establishments are prohibited as a component of any allowed use.

2112.D **Dimensional Standards.** Figure 2-12 establishes the dimensional standards for development in the Residential 24000 District. Dimensional standards are discussed further in Section 3002.

Figure 2-12. Residential 24000 District Dimensional Standards

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 24,000 sf min Frontage: 75 ft. min Coverage: 30% max	Front: 20 ft. min Side: 15 ft. min Rear: 30 ft. min Water: 25 ft. min	Residential: 1 du/24,000 sf max Nonresidential: 0.5 FAR max	Footprint: 3,500 sf max Height: 35 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2113. Rural (RL) District & Neighborhoods

2113.A **Purpose.** The Rural District is composed mainly of large landholdings used for rural residential, agricultural, forestry, recreation, open space, conservation and other natural resource-based purposes. Generally, land in this district is not served by city water or sewer or by roads capable of accommodating heavy traffic. The purpose of this district is to maintain a low-density settlement pattern and rural character by clustering development and protecting farmland, forestland, open space, and important natural resources.

2113.B **Neighborhood Character.** The Rural District includes the following neighborhoods:

- (1) **Eastern Rural.** This neighborhood encompasses approximately 600 acres of land along the city's eastern boundary. It includes the golf course, productive farmland and a small amount of residential development, but most of the land is undeveloped forestland or former farmland returning to forest. This undeveloped land remains in large parcels. Proposed development should discourage fragmentation of this land by following conservation subdivision principles that would cluster development while protecting large tracts of open space for conservation, forestry, farming, and recreation uses.
- (2) **Highland.** This neighborhood encompasses approximately 200 acres of land along North Street and Main Street at the northern edge of the city. It is generally farmland and large, rural residential properties. Proposed development should feature the continued productive use of this land for commercial agriculture, homesteading or rural residential estates.
- (3) **Hill Street.** This neighborhood encompasses approximately 300 acres of land along Hill Street at the southern edge of the city. It is a mix of open, productive farmland and undeveloped, wooded hillsides. There has been some residential development on smaller parcels along the road frontage. Proposed development should feature rural residential housing in this neighborhood, particularly when it is located off productive farmland.
- (4) **Pembroke Heights.** This neighborhood encompasses approximately 250 acres of land in the northwestern part of the city. It is largely undeveloped, wooded, and steep. Proposed development should facilitate the ongoing use of this land for open space, recreation, and forest uses with the opportunity for limited, low-density residential development.
- (5) **Sabin's Pasture.** Sabin's pasture is an undeveloped property that presents an opportunity to develop a new neighborhood for Montpelier. This area has complex natural features including floodplains, wetlands steep slopes and an old quarry. These opportunities and constraints invite a proposal that would cluster development in higher densities along existing roadways (zoned Riverfront) while protecting open space in more challenging areas. Proposed development should result in a new neighborhood built in accordance with traditional neighborhood development principles that incorporates a range of housing options, energy-efficient and compact building types, a walkable street network, and public recreation areas and open spaces. Open space should be protected in accordance with the Natural Resources Inventory Map and any Official Map, if so adopted.

- (6) **Southwestern Rural.** This neighborhood encompasses approximately 40 acres of land in the southwestern corner of the city, much of which is developed with the interstate highway. The remaining private land in this district is undeveloped and accessible only from Berlin. Proposed development should facilitate the ongoing use of this land for open space, recreation, and forest uses with the opportunity for limited, low-density residential development.
- (7) **Western Rural.** This neighborhood encompasses approximately 200 acres of undeveloped, primarily wooded land along the city's western boundary. Its development potential is constrained by a number of factors including slopes and wetlands. Proposed development should facilitate the ongoing use of this land for open space, recreation, and forest uses with the opportunity for limited, low-density residential development.
- (8) **Wrightsville.** This neighborhood encompasses approximately 950 acres in the northern portion of the city, terminating at the Wrightsville Reservoir. It is a mix of open farmland in the valley along the North Branch of the Winooski River and wooded hillsides. There has been some residential development along Elm Street and Gould Hill Road. Proposed development should discourage fragmentation of this land by following conservation subdivision principles that would cluster development while protecting large tracts of open space for conservation, forestry, farming, and recreation uses. Efforts should be made to locate any new residential development off quality farmland and out of the floodplain.

2113.C **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Rural District. Drive-through facilities and drive-in establishments are prohibited as a component of any allowed use.

2113.D **Dimensional Standards.** Figure 2-13 establishes the dimensional standards for development in the Rural District. Dimensional standards are discussed further in Section 3002.

Figure 2-13. **Rural District Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
Parcel size: 2 ac min Frontage: 120 ft. min Coverage: 20% max	Front: 20 ft. min Side: 20 ft. min Rear: 40 ft. min Water: 50 ft. min	Residential: 1 du/ 2 ac max Nonresidential: 0.2 FAR max	Height: 35 ft. max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

Section 2114. Municipal (MUN) District & Neighborhoods

- 2114.A **Purpose.** The Municipal District encompasses city-owned lands, including parks, recreation facilities, cemeteries, and other facilities. The purpose of this district is to continue to use and conserve these properties as appropriate to provide municipal services and infrastructure.
- 2114.B **Use Standards.** Figure 2-15 lists the uses that are permitted or conditional in the Municipal District. Drive-through facilities and drive-in establishments are prohibited as a component of any allowed use.
- 2114.C **Dimensional Standards.** Figure 2-14 establishes the dimensional standards for development in the Municipal District. Dimensional standards are discussed further in Section 3002.

Figure 2-14. **Municipal District Dimensional Standards**

PARCELS	SETBACKS	DENSITY	BUILDINGS
n/a	Front: 20 ft. min Side: 40 ft. min Rear: 40 ft. min Water: 50 ft. min	n/a	n/a

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

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Figure 2-15. Use Table

<i>P = Permitted Use</i>		ZONING DISTRICT											
<i>C = Conditional Use</i>		UC 1	UC 2	UC 3	RIV	EG	WG	MUR	RES 1.5	RES 3	RES 6	RES 9	RES 24
<i>- = Use Not Allowed</i>													
RESIDENTIAL													
One and two dwelling-units ⁷	P	P	P	P	P	P	P	P	P	P	P	P	P
Three and four dwelling-units ⁷	P	P	P	P	P	P	P	P	P	P	P	P	P
Multi-unit dwellings (5 or more units)	P	P	P	P	P	C	C	C	C	C	C	-	-
Group home, major	P	P	P	P	P	C	C	C	C	C	C	C	C
Residential care home, major	P	P	P	P	P	C	C	P	C	C	C	C	-
Congregate living	P	P	P	P	P	C	C	C	C	C	C	C	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-
LODGING													
Bed and breakfast	P	P	P	P	P	P	P	P	P	P	C	C	C
Inn	P	P	P	P	P	P	P	P	-	-	-	C ⁶	C
Temporary housing	P	P	P	P	P	C	C	C	C	C	C	C	-
Hotel or motel	P	P	P	P	P	P	P	C	-	-	-	-	-
COMMERCIAL													
Retail sales and service (indoor)	P	P	P	P	P	P	P	C ⁴	-	-	-	-	-
Retail sales & service (outdoor)	-	-	-	-	C	C	C	C	-	-	-	-	-
Neighborhood market	-	-	-	-	C	C	C	C	C	-	-	-	-
Open market or market shop	-	-	-	-	P	P	C	C	-	-	-	-	-
Malls or shopping centers	C	C	C	C	C	C	-	-	-	-	-	-	-
Car wash	-	-	-	-	C	P	-	-	-	-	-	-	-
Fueling station	-	-	-	-	C ³	P	-	-	-	-	-	-	-

PART 2. ZONING DISTRICTS & STANDARDS
Chapter 210. Base Zoning Districts & Neighborhoods

P = Permitted Use C = Conditional Use - = Use Not Allowed		ZONING DISTRICT												
		UC 1	UC 2	UC 3	RIV	EG	WG	MUR	RES 1.5	RES 3	RES 6	RES 9	RES 24	RL
Automobile repair and service	-	-	-	C	P	-	-	-	-	-	-	-	-	-
Automobile sales or rental establishment	-	-	-	-	P	-	-	-	-	-	-	-	-	-
Lumberyard & bldg material sales	-	-	-	C	P	-	-	-	-	-	-	-	-	-
Bank	P1	P1	P1	P	C	P1	-	-	-	-	-	-	-	-
Personal or professional services	P	P	P	P	P	P	P	-	-	-	-	-	-	-
Veterinary and animal services	P	P	P	P	P	P	-	-	-	-	-	-	C	-
Office	P	P	P	P	P	P	C	-	-	-	-	-	-	-
Restaurant	P	P	P	P	C	C	C	-	-	-	-	-	-	-
Restaurant, take-out	P	P	P	P	C	C	C	-	-	-	-	-	-	-
Bar or nightclub	P	P	P	C	C	C	-	-	-	-	-	-	-	-
Food service contractor	P	P	P	P	P	-	C	-	-	-	-	-	C	-
Contractor's yard (with outdoor storage)	-	-	-	C	P	-	-	-	-	-	-	-	C	-
INDUSTRIAL														
Painting studio	P	P	P	P	P	P	P	-	-	-	-	-	P	-
Light manufacturing	C2	C2	C2	C	P	C	-	-	-	-	-	-	C	-
Manufacturing	C2	C2	C2	C	P	C	-	-	-	-	-	-	-	-
Heavy manufacturing	-	-	-	-	C	C	-	-	-	-	-	-	-	-
Laboratory or technical facility	P	P	P	P	P	C	C	-	-	-	-	-	-	-
Warehouse or storage	C2	C2	C2	C	P	C	-	-	-	-	-	-	C	-
Mini-warehouse	-	-	-	-	C	C	-	-	-	-	-	-	-	-
Large area distribution or transit warehouse	-	-	-	-	C	-	-	-	-	-	-	-	-	-
Tank farms	-	-	-	-	C	-	-	-	-	-	-	-	-	-

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	UC 1	UC 2	UC 3	RIV	EG	WG	MUR	RES 1.5	RES 3	RES 6	RES 9	RES 24	RL	MUN
Wholesale trade establishment	C	C	C	C	P	C	-	-	-	-	-	-	-	-
Publishing	P	P	P	P	P	C	-	-	-	-	-	-	-	-
PUBLIC ASSEMBLY														
Performance theater	P	P	P	P	C	P	C	-	-	-	-	-	-	-
Movie theater	P	P	P	P	C	-	-	-	-	-	-	-	-	-
Amphitheater	P	P	P	P	C	P	-	-	-	-	-	-	C	P
Indoor games facility	P	P	P	P	C	-	C	-	-	-	-	-	-	C
Sports arena	C	C	C	C	C	-	C	-	-	-	-	-	-	C
Exhibition, convention or conference structure	P	P	P	P	P	P	C	-	-	-	-	-	-	C
Religious facility	P	P	P	P	P	P	P	P	P	P	P	P	P	-
Government facility, office or courthouse	P	P	P	P	-	P	C	-	-	-	-	-	-	P
Other community centers	P	P	P	P	C	P	C	-	-	-	-	-	C ⁵	P
Fitness, sports, gym or athletic facility	P	P	P	P	C	P	C	-	-	-	-	-	C ⁵	P
Golf course	-	-	-	-	-	-	-	-	-	-	-	-	C	P
Camps, camping and related establishments	-	-	-	-	-	-	-	-	-	-	-	-	C	C
Nature or recreational park	P	P	P	P	P	P	P	P	P	P	P	P	P	P
INSTITUTIONAL OR COMMUNITY FACILITY														
Hospital	C	C	C	C	C	P	-	-	-	-	-	-	-	-
Medical clinic building	P	P	P	P	P	P	C	-	-	-	-	-	-	-
Grade school	P	P	P	P	-	P	P	P	P	P	P	P	-	C
Academic institution	P	P	P	P	P	P	P	C	C	C	C	C	-	-

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	UC 1	UC 2	UC 3	RIV	EG	WG	MUR	RES 1.5	RES 3	RES 6	RES 9	RES 24	RL
	MUN												
Library	P	P	P	P	-	P	P	C	C	C	C	C	-
Museum, gallery or exhibition hall, or pavilion	P	P	P	P	-	P	P	C	C	C	C	C	P
Public safety facility	P	P	P	P	P	P	C	-	-	-	-	-	C
Cemetery	C	C	C	C	C	C	P	P	P	P	P	P	P
Funeral home or cremation facility	P	P	P	P	P	C	P	-	-	-	-	-	C
Child day care facility, licensed	P	P	P	P	C	P	P	C	C	C	C	C	C
Child day care home, registered	P	P	P	P	P	P	P	P	P	P	P	P	-
TRANSPORTATION FACILITY													
Surface parking	P	P	P	P	P	P	C	C	-	-	-	-	-
Parking structure or garage	P	P	P	P	P	P	-	-	-	-	-	-	P
Bus stop shelter	P	P	P	P	P	P	P	P	P	P	P	P	C
Bus maintenance facility	-	-	-	C	P	-	-	-	-	-	-	-	-
Rail transportation facility	P	P	P	P	P	P	-	-	-	-	-	-	-
Road passenger & transit services	P	P	P	P	P	P	C	-	-	-	-	-	C
Truck & freight transport. Services	-	-	-	-	C	C	-	-	-	-	-	-	-
UTILITIES													
Utility structures	P	P	P	P	P	P	P	P	P	P	P	P	P
Water supply related facility	C	C	C	C	P	P	-	-	-	-	-	-	P
Sewer related facility	C	C	C	C	C	C	-	-	-	-	-	-	C
Communication antenna	P	P	P	P	P	P	P	P	P	P	P	P	P
Communication tower	C	C	C	C	P	C	-	-	-	-	-	-	C

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	UC 1	UC 2	UC 3	RIV	EG	WG	MUR	RES 1.5	RES 3	RES 6	RES 9	RES 24	RL	MUN
	MINING, AGRICULTURE AND FORESTRY													
Stable or equine facility	–	–	–	–	P	–	C	–	–	–	C	C	P	C
Composting facility	–	–	–	–	C	–	–	–	–	–	–	–	C	C
Greenhouse	P	P	P	P	P	C	C	C	C	C	C	C	P	P
Kennel	–	–	–	C	P	–	–	–	–	–	–	–	P	–
Mining, extracting, quarrying and stone cutting	–	–	–	–	C	C	–	–	–	–	–	–	C	–
Agriculture and forestry	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Rural enterprise	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Support functions for animal production	–	–	–	C	P	C	–	–	–	–	–	–	C	–
Game and fishing retreats and reserves	–	–	–	–	–	–	–	–	–	–	–	–	P	–

Notes

- 1 Drive-through or drive-in establishment allowed with conditional use approval from the Development Review Board.
- 2 Use shall not occupy more than 20,000 square feet of floor area and shall be fully enclosed.
- 3 Use allowed only in the Cross Roads neighborhood and on the river side of Berlin Street / River Street.
- 4 Use shall not occupy more than 3,000 square feet of floor area.
- 5 Use shall not occupy more than 6,000 square feet of floor area.
- 6 Use is limited to a maximum of 20 guest rooms.
- 7 Each residential category is a separate use. Although listed on the same line in the table, a change from one unit to two units is a change of use. A change from three units to four units is a change of use.

Chapter 220. Overlay Zoning Districts

Section 2201. Design Review Overlay District

2201.A Purpose and Declaration of Public Policy.

- (1) The City Council finds that Montpelier is a compact community with special historical, architectural, engineering, urban design, visual, natural, and cultural significance. In particular, the city has retained a wealth of historic buildings, newer buildings, parks, common areas, bridges, structures, travel corridors, and other contributing resources that, together, establish the city's exceptional visual quality and convey a distinctive and powerful sense of place and time to residents and visitors alike. The tangible fabric of that visual quality represents an intricate weave of historic buildings, landscapes, and structures, including monumental public buildings, dignified commercial blocks, architecturally distinctive residences, important common areas, wooded hillsides, and traditional patterns of streets and walkways that join these interconnected resources, thus revealing the city's historic patterns of settlement from its founding to present day.
- (2) The City Council also finds: (i) that the city's special historic and aesthetic character has been compromised in the past, either through the destruction of entire buildings; through the incremental loss of small or selective features on individual buildings that results in a substantial and cumulative loss over time; or through the location or design of new buildings that compromise the visual and historic quality of the city; and (ii) that such compromises have occurred without adequate consideration or awareness of the irreplaceable loss to the people of the city of the aesthetic, cultural and historic values represented by those resources.
- (3) It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation, and use of the city's architectural, engineering, landscape, and cultural features of historic or aesthetic value is a public good and is required in the interest of health, prosperity, safety, and general welfare of the people. The purpose of this Design Review Overlay District is to: (i) accomplish the protection, enhancement and perpetuation of those features that represent the city's cultural, social, economic, political, engineering, and architectural history; (ii) safeguard the city's historic, aesthetic and cultural heritage; (iii) stabilize and improve property values; (iv) foster civic pride in the accomplishments of the past; (v) protect and enhance the city's attractions to tourists and visitors, thus furthering support and stimulus to business and industry; (vi) strengthen the economy of the city; (vii) promote the use of historic resources for the education, enjoyment, and welfare of the people of the city; and (viii) protect significant viewsheds, including gateway views of the Vermont State House, a National Historic Landmark that is representative of the city's historic role as a seat of government.

- (4) The Design Review Standards, Guiding Design Principles, Specific Design Standards, and New Construction Standards contained herein are intended to advance the purposes of this Design Review Overlay District identified in Paragraph (3) above. Any supplemental educational publications or brochures, as referenced in Section 2201.G(3), prepared by the Design Review Committee or by the city's Historic Preservation Commission, as authorized by this ordinance, are intended to serve as practical, informative guides for property owners and are not substitutes for the standards, principles or guidelines contained herein. Instead, such educational materials should be read in conjunction with the provisions of this ordinance, a means to become better informed about the process required to obtain permits.
 - (5) The goals of the Design Review Overlay District are as follows:
 - (a) To preserve the City's irreplaceable historic resources, its built environment, and historic settlement pattern.
 - (b) To promote and support new development projects that are compatible with and complement the City's historic architecture.
 - (c) To retain a strong sense of place for residents and visitors and foster civic pride in the beauty of the City's historic and cultural heritage.
 - (d) To safeguard the City's cultural landscape and significant viewsheds including gateway views of the City and State Capitol.
- 2201.B **Enabling Legislation.** In accordance with 24 V. S. A. Chapter 117 §4414(1)(E), the Design Review Overlay District has been created to guide development in areas with particular historical, architectural, urban design, visual and cultural significance.
- 2201.C **Overlay Zoning.** These design review regulations are an overlay zoning district and are therefore in addition to any requirements of the underlying zoning district. All uses and dimensional requirements of the underlying zoning district remain the same.
- 2201.D **Boundary.** The Design Review Overlay District shall consist of all lands depicted in Design Review Overlay District on the official City of Montpelier Zoning Map kept on file in the Department of the Planning and Community Development and incorporated into these Regulations.
- 2201.E **Applicability.** Except as provided herein, development within the Design Review Overlay District shall meet the provisions of this Section.
- (1) **Exempt Development.** The following development is exempt from design review approval requirements:
 - (a) The subdivision of land.
 - (b) Interior alterations or changes of use that will not result in any exterior modifications. The alteration to doors or windows, located on exterior walls is not an exempt activity.
 - (c) Repainting of exterior painted surfaces provided that destructive surface preparation treatments, including, but not limited to high-pressure water washing, grinding, water blasting, sandblasting, and chemical cleaning are not used.

- (d) Roof repair with in-kind roofing material.
 - (e) Repair or replacement of roof drainage systems, including flashing, downspouts, gutters, snow guards, and rain barrels.
 - (f) Temporary mechanical or equipment installations lasting no more than one hundred twenty (120) days, which will not damage character defining features of a building.
- (2) **Limitations.** Consistent with the goals laid out in Section 2201.A(5), development associated with a community facility shall be governed by this Section 2201 to the extent allowed by Section 3103 of these regulations.

2201.F Submittal Requirements.

- (1) **Standard Materials:** In addition to the materials required by any other provisions of these Regulations, applications for design review shall include information sufficient to demonstrate compliance with this Section. At a minimum, applications will typically contain the following, as appropriate for the specific project:
- (a) A written description of proposed work.
 - (b) Locational map showing the parcel location.
 - (c) Current color photographs showing the site and affected structures, all sides, neighboring structures and relevant details.
 - (d) Building elevations, drawn to scale, or annotated photographs of the existing structure, including architectural details such as trim and molding. These drawings do not need to be drawn by an architect, but must be drawn to scale, easy to read, and must include architectural details.
 - (e) A drawing clearly showing new structures and/or changes to existing structures.
 - (f) A plan showing proposed landscaping including information on the type and size of plant materials to be installed. (This is required for projects subject to Site Plan review.)
 - (g) A description of all materials to be used on the exterior of any building. Physical samples of building materials are also helpful for review.
 - (h) Cut sheets for lighting fixtures, bulb type, lumens, and direction of light.
 - (i) If replacing materials that are part of Character Defining Features, a written description of the existing condition of materials and why repair is not feasible.
- (2) **Additional Materials.** The Design Review Committee or Administrative Officer, as appropriate, may require an applicant to submit additional information, as necessary to determine compliance with these rules.

2201.G Review Process.

- (1) **Determination of Review Type:** The Administrative Officer shall review projects requiring Design Review per Chapter 420 and either: (1) review the applications administratively per Section 2201.G(5); or (2) refer them to the Design Review Committee for review.

- (2) **Review Criteria:** The Design Review Committee, the Administrative Officer, and the Development Review Board shall evaluate an application's conformance to the criteria set forth in the following design standards when making a determination or recommendation on an application (i.e., alteration or addition to an existing historic or non-historic building, new building, new sign, etc.).
- (3) **Additional Guidance Materials:** The Administrative Officer, Design Review Committee, and Development Review Board may use additional outside materials in making recommendations and determinations, including the following: (i) the Secretary of the Interior's Standards for Rehabilitation, attached as Appendix A; (ii) the Montpelier Guidelines for [title TBD], attached as Appendix B; and (iii) any other supplemental educational publications or brochures prepared by the Committee or the City's Historic Preservation Commission, and available through the Department of Planning and Community Development.
- (4) **Optional Referral:** The Administrative Officer may refer applications to the Design Review Committee when there is uncertainty about whether the proposal is eligible for administrative review.
- (5) **Administrative Review.** The following may be reviewed by the Administrative Officer without review by the Design Review Committee:
 - (a) Routine maintenance and repair of existing structure(s) and site improvements, including repairs and changes to siding and roofing, provided that all changes are in-kind.
 - (b) Repair, replacement, and installation of mechanical, electrical, data, and plumbing systems on the rear building elevation provided that such work does not alter or permanently change the appearance or affect character-defining features of the building.
 - (c) Repair or partial replacement of deteriorated porches, cornices, exterior siding, doors, balustrades, stairs, or trim when the repair or replacement is done in-kind.
 - (d) Window and door repair and maintenance including the installation of storm windows and doors that do not require permanent alteration to the window or door openings and where all visually-related windows or doors on the same façade receive the same storm window or door treatment.
 - (e) New or modified retractable awnings on the side elevation of residential buildings and all elevations of commercial buildings.
 - (f) One accessory structure meeting the requirements of Section 1101.B(1) per lot located in the side or rear yard.
 - (g) Exterior placement of meters, vents, cable or telephone boxes, wiring, antennas, satellite dishes and components of HVAC systems including heat pumps located on the side building elevation.
 - (h) Electric, fuel or propane tanks less than 500 gallons, gas meters, cable boxes, satellite dishes less than 3 feet in diameter, HVAC equipment, service meters, sprinkler systems, valves, wiring, and any associated screening systems.
 - (i) Above-ground storage tanks not exceeding a total of 500 gallons per property which are located in the side yard and generally not visible from the public right-

of-way.

- (j) Americans with Disability Act (ADA) features, such as ramps, located on the sides or rear building elevation.
 - (k) Installation of roof drainage systems, including flashing, downspouts, gutters, snow guards, and rain barrels.
 - (l) The removal of signs.
 - (m) Modifications to plans previously approved by the Design Review Committee upon a finding that the proposed change:
 - (i) Is not a material change; and
 - (ii) Does not affect any character-defining features on the parcel.
- (6) **Design Review Committee Review:** All projects not specified for Administrative Review in Section 2201.G(5) must be reviewed by the Design Review Committee.
- (7) **Informal Review:** Applicants whose projects or properties are located within the Design Review Overlay District are encouraged to have an informal meeting with the Administrative Officer or the Design Review Committee, as appropriate, to obtain information or guidance:
- (a) prior to undertaking significant repairs, or for technical assistance with implementing recommended repair and maintenance practices; and
 - (b) to get preliminary guidance regarding the proposed activity or project and the necessary application contents.

2201.H **Design Review Standards.**

- (1) **Design Standards.** Project requiring Design Review shall be evaluated based on the following standards, as applicable:
- (a) **All Projects.**
 - (i) Exterior design and materials of new construction or alterations of existing buildings shall be consistent and compatible with the characteristics of the existing building or other properties in the district;
 - 1. Additions to existing buildings shall respect and be compatible with the size, scale, materials, detailing, and overall character of the primary building and its environs.
 - 2. Additions shall not obscure or undermine the essential form and character of the original building, and should reflect the addition's period and style as appropriate.
 - (ii) Existing buildings shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken. New construction, additions, and alterations shall be of their own time and shall not create a false sense of historicity;

- (iii) Proposed landscaping shall be compatible with the Neighborhood and the site on which the project is located.
- (iv) Location and appearance of all utilities, mechanical equipment, trash storage, and fencing shall be sited to minimize adverse visual impact or adequately and appropriately screened from public view;
- (v) Alterations to buildings called for by public safety, accessibility, and fire codes shall be designed to maintain the character of the construction materials and features to the maximum extent feasible;
- (vi) Where applicable, development shall be designed to respect views of the State House Dome;
- (vii) For parcels with both river and street frontage, development shall be oriented so that both river and street façades are primary. Materials on the riverside of a structure shall be of equal character and quality as those on the street side. Both façades should incorporate fenestration, detailing, and other building components that are dimensionally proportional and are pedestrian friendly.
- (viii) **Height.** The height of building additions shall not overwhelm the primary façade.
 - 1. The height of building additions shall be considered in relation to the varied heights of existing building and adjacent buildings.
- (ix) **Proportion.**
 - 1. The relationship between the width and height of the façades of buildings shall be compatible with adjacent buildings.
 - 2. The relationship of width to height of windows and doors of adjacent buildings shall be referenced and incorporated into the design of new additions.
- (x) **Rhythm.** The visual patterns established by the alterations of solid walls and openings (windows and doors) in the façade of buildings shall create a rhythm.
 - 1. Proportional architectural details, a sense of rhythm, and regular spacing of fenestration shall be considered.
 - 2. Scale and massing of architectural features shall present a variety in their composition.
- (xi) **Roof Shape and Equipment.**
 - 1. The similarity or compatibility of roof shapes in the immediate areas shall be considered in the alteration of a building.
 - 2. Rooftop equipment and fixtures on flat roofs shall be concealed from eye level view from adjacent public rights-of-way, and from the ground level of any adjacent properties.
- (xii) **Architectural Features.** Architectural features, including but not limited to, cornices, windows, shutters, fanlights, entablature, trim, and other forms of molding or character-defining detailing prevailing on the existing building shall be considered in the alteration of a building.

- (xiii) **Roof Drainage Systems.** Roof drainage systems shall not hide or obscure architectural character-defining features and shall run adjacent to building corners when possible.
- (xiv) **Signage.** When removing a sign, evidence of the sign's installation must be removed to the greatest extent practicable.

(b) **Additions and Alterations to Historic Buildings**

(i) **Generally Applicable**

1. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a historic property shall be avoided.
2. Character-defining features, finishes, and construction techniques or examples of craftsmanship that characterize a historic building shall be preserved. For instance:
 - a. Additions shall not obscure or undermine the essential form and character of the original building, and should reflect the addition's period and style as appropriate; and
 - b. Additions to buildings shall not introduce style and features that are not compatible with the historic building.
3. Development shall not destroy Character Defining Features.
 - a. Deteriorated Character Defining Features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a character-defining feature, the new feature shall be replaced in-kind.
4. Any treatments that cause damage to historic materials, including but not limited to chemical or physical treatments such as sandblasting, shall not be approved.
5. Any new development shall be differentiated from the old, but shall respect and be compatible with the massing, size, scale, architectural features, detailing and overall character of the primary historic building and nearby historic properties.

(ii) **Rhythm.** Patterns of solids and openings shall be preserved to the extent feasible.

1. It is not appropriate to add, cover over, or remove a window or door opening on façades visible from a public street unless the applicant can demonstrate it is essential to operations occurring within the building. In those cases where a window or door opening must be added, covered or removed, a suitable design solution that maintains the architectural integrity of the façade shall be proposed, including retention of the window or door opening and trim, with any infill material set back within the opening.

(iii) **Site Features.** Existing historic and contributing resources such as street trees, fences, gates, walls, steps, gazebos, walkways, front and side yard patterns

shall be retained or restored when impacted by the alteration of a building. Walls and fences shall be compatible with the site and the building in scale, traditional materials, and design that reflects the period of the building and/or is compatible with the surrounding context.

- (iv) **Materials.** Character Defining Materials should be preserved to the maximum extent practicable and replaced in-kind when they have deteriorated beyond repair. Replacement materials shall match existing materials to the maximum extent feasible. Covering Character Defining Materials with new materials shall be avoided.
 - 1. An alteration shall be considered to be compatible if the building materials used possess a kind or type which are appropriate to that building. Materials selected shall either fit the context of the existing building and/or reflect the nature and use of the structure.
 - 2. Materials shall be selected for the long-term performance and durability.
 - 3. When composite materials are appropriate, they should be treated in the same manner of the replaced material(s).
- (v) **Roof Shape.** Roof forms and pitch shall not be altered on the primary façade.
- (vi) **Architectural Features.**
 - 1. Architectural or Character Defining Features prevailing on the existing building shall be considered in the alteration of a building.
 - 2. When an architectural feature on a historic building has deteriorated beyond repair, the replacement architectural feature shall match the existing in design, texture, other visual qualities, and materials.
 - 3. Architectural features on an addition shall not duplicate, but shall respect the original building's architectural features.
- (vii) **Windows and Doors.**
 - 1. Character Defining window and door patterns, placement, sizes, proportions, and original features such as trim, sash and moldings, shall be preserved to the extent possible. When preservation is not possible, such Character Defining windows and doors must be rehabilitated or replaced in-kind.
 - 2. Windows and doors that are not Character Defining, may be replaced, but such replacements must be compatible with the historic building's style, materials, and architectural features. .
- (viii) **Porches and Stairs.**
 - 1. The location of porches, ramps, and stairs shall be placed in a manner that does not impact or undermine the original and significant ornamentation or detailing of the existing building.
 - 2. Stairs, ramps and porches shall employ suitable detailing to connect and be compatible with the historic and important design features of existing buildings and new construction.

3. Stairs and ramps shall be designed in a manner with details and materials that provide the most sensitive and compatible structure and that fits the building design and layout.

(c) **Projects that Do Not Involve an Historic Building**

- (i) **Additions and Alterations.** Additions and alterations to non-historic and non-contributing structures shall respect and be compatible with existing patterns and setbacks found in adjacent buildings. New additions on non-historic and non-contributing structures that overshadow or diminish the historic character of adjacent contributing structures are prohibited.
- (ii) **New Development.**
 1. New development shall incorporate sustainable design and construction methods and materials compatible with historic materials and styles.
 2. **Scale and Massing.** The scale and massing of new buildings shall be compatible with surrounding structures.
 - a. Compatible scale and massing can be achieved by incorporating a variety of shapes or materials, such as columns, windows and their placement, doorways, roof segments, and wall patterns.
 3. **Orientation.** New buildings shall be oriented toward, and relate both functionally and visually to, public streets and/or common greens, parks, or plazas. To provide a uniform streetscape, new principal structures shall be located and oriented with their fronts parallel to the street and with the setback distance comparable to adjacent structures.
 - a. Consideration shall be given to buildings serving special civic, social, or cultural functions, including places of worship, that may be designed to serve as prominent focal points and result in different site planning parameters within the district, subject to the limitations noted in Section 3103 of these regulations.
 4. **Height.** The height of a new building shall be compatible with the varied heights of existing adjacent buildings.
 5. **Proportion.**
 - a. The relationship between the width and height of the facades of buildings shall be similar to adjacent buildings.
 - b. The relationship of width to height of windows and doors of adjacent buildings shall be referenced and incorporated into the design of a new building.
 6. **Rhythm.** The visual patterns established by the alterations of solid walls and openings (windows and doors) in the façade of buildings create a rhythm. These patterns of solids and openings shall be compatible to the adjacent buildings in the construction of a new building.
 - a. In making this determination, proportional architectural details, a sense of rhythm, and regular spacing of fenestration shall be considered.

7. **Continuity.** Physical elements such as yards, fences, evergreen masses, or building facades may combine to form lines of continuity along a street. These supporting design or landscape elements, and particularly those with historic value and purpose, shall be retained or referenced in new construction.
8. **Materials.** The materials of new construction shall be compatible with materials of surrounding buildings.
 - a. New construction shall be considered to be compatible if the materials used possess a kind or type that are appropriate to the District.
 - b. Materials selected shall either fit the Neighborhood context of the proposed building and/or reflect the nature and use of the structure.
 - c. Materials may be selected for the long-term performance and durability.
9. **Roofs.**
 - a. **Shape.** The roof shape shall be compatible with roof shapes in the surrounding area.
 - b. **Equipment and Fixtures.** Rooftop equipment and fixtures on flat roofs shall be concealed from eye level view from adjacent public rights-of-way, and from the ground level of any adjacent properties.
10. **Architectural Features.** Architectural features including but not limited to cornices, windows, shutters, fanlights, entablature and other forms of molding or unique detailing prevailing in the surrounding area shall be regarded as suggestive of the extent, nature, and scale of details that are appropriate for new buildings.
 - a. This subsection does not require that the details of historic buildings be duplicated.
11. **Context and Connectivity.** Building design shall be sensitive to the overall character and context of the Design Review Overlay District and to adjacent buildings.
 - a. New construction shall incorporate architectural elements that reinforce or add to the character of the area.
 - b. Other building elements and components such as lighting fixtures, sign size, design and sign placement, paving patterns, and landscape elements are to be selected and incorporated into new construction in a manner that provides compatibility with adjacent structures and sites.
12. **Accessory Buildings and Structures.**
 - a. New accessory buildings or structures shall be located within either the side yard or rear yard.

- b. New accessory buildings shall not visually disrupt the streetscape or affect the integrity of the existing building or proposed new building.
- (d) **Demolition.** The demolition of any structure, or portion thereof, shall be reviewed under subsections (a), (b), and (c), as applicable.
- (e) **Signage.** The size, location, design, color, texture, lighting, and material of all exterior signs within the Design Review Overlay District shall be compatible with the buildings and structures of the site and surrounding properties. Additional guidance includes the following standards:
 - (i) Where appropriate, signing shall respect the original sign placement and sign “bands” on historic structures. If a building has multiple tenants, there shall be consistency in placement and size among all signs.
 - (ii) It is recommended that sign placement be centered over building entries.
 - (iii) Sign installation shall minimize damage to character defining materials on the building.
 - 1. In masonry buildings, fasteners shall be in the mortar joints.
 - (iv) Sign design, color, and typography shall respect historic precedents where appropriate, and shall be the appropriate scale for existing and new buildings.
 - (v) Sign support structures shall be compatible with the building architecture and must not be overly complex or dominant in and of themselves.
 - (vi) Lighting fixtures for signs on façades of Historic Buildings shall not conflict with or damage the building’s architectural integrity, or cover or impact character-defining architectural features.
 - (vii) Lighting fixtures for signs mounted on all building façades shall be designed with appropriate housing, shielding, and photometrics to ensure that there is appropriate lighting levels and illumination that focuses on the sign panels exclusively.
- (f) **Outdoor Lighting Fixtures.** The structural design of outdoor lighting fixtures shall be compatible with the architectural design and function of the building and compatible with the neighborhood.
- (g) **Landscaping, Screening, and Site Furnishings** Projects within the Design Review Overlay District and subject to the landscaping requirements in Section 3203 shall consider the following:
 - (i) Site furnishings including fencing, seating and other types of site furniture visible from the street or side yards shall be considered within the context of the existing building, its site and its context.
 - (ii) Landscaping should not be placed or designed in a manner that would obscure or undermine key architectural patterns or elements on historic buildings.
 - (iii) When practicable, existing historic fencing shall be preserved or replicated when employed in either residential or commercial/institutional settings. For

new construction compatible materials and design patterns shall be employed.

- (iv) Mechanical equipment such as HVAC elements, utility structures, loading docks and trash receptacles shall be screened from public view either by: (i) siting on rooftops or in rear yard locations; or (ii) via screening with fencing and/or landscaping.
 - 1. “Green” fencing such as hedges planted with native and hardy landscape species can be employed as effective buffers and screens for utilities and other elements incompatible with an historic district and setting.

- (2) **Waivers** – When reviewing an application under these regulations, the Design Review Committee, the Administrative Officer, and the Development Review Board may consider exceptional circumstances including, but not limited to, cost and technical feasibility.

2201.1 **Defined Terms.** The following defined terms are specific to the provisions of Section 2201. The general definitions under Chapter 510 shall apply to this Section unless otherwise specified in this subsection.

- (1) **Alteration**- The change of the exterior features, appearance, or form of an existing building.
- (2) **Architectural feature** – Any part of a building and general arrangement of the exterior of a building or other structure, including, but not limited to, type or textures of the building material and siding; the type and style of all windows, doors, porches, roofs, foundations, signs, landscaping, fencing and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.
- (3) **Character** - The visual aspects and physical features that comprise the appearance of a building. Character may include individual structures or the relationship between structures.
- (4) **Character Defining Materials**- The construction materials included in a character defining feature of a building, structure, or site.
- (5) **Compatible**- In harmony with surroundings considering, for example, balanced with or similar in size, scale, massing, outward appearance, fenestration, proportion, etc.
- (6) **Cultural Landscape**- Historically significant places that show evidence of human interaction with the physical environment. Cultural landscapes include both cultural and natural resources and are associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values. In addition to vegetation and topography, cultural landscapes may include water features, such as ponds, streams, and fountains; circulation features, such as roads, paths, steps, and walls; buildings; and furnishings, including fences, benches, lights and sculptural objects.
- (7) **Elevation**- The external face of a building or a drawing thereof.
- (8) **Façade**- Any one of the external vertical planes of a building. The primary façade of a building usually faces the street and serves as the building’s main entrance.

- (9) **Feature, Character-Defining** – Building or landscape components that contribute to the historical or architectural interest, identity, or significance of a resource. This includes parts of buildings that if removed or inappropriately altered would compromise its architectural character or appearance. Character-defining features may include the overall shape of the building, its materials, craftsmanship, and decorative details, as well as the various aspects of its site and environment.
- (10) **Fenestration**- The arrangement of windows and doors on the elevations of a building.
- (11) **Historic Building**- Any building listed on the State Register or National Register of Historic Places.
- (12) **In-kind** – In-kind replacement refers to replacing an element with a matching element of the same material, size, shape, and appearance (excepting color).
- (13) **Integrity**- The ability of a property to convey its significance. Seven aspects or qualities that, in various combinations, define integrity include location, design, setting, materials, workmanship, feeling, and association.
- (14) **Mass, massing** – The bulk, form, and shape of a building.
- (15) **National Register of Historic Places**- Those properties located in Montpelier, Vermont, and nominated for listing on the United States federal government's official list of districts, sites, buildings, structures, and objects deemed worthy of preservation for their historical significance, through a National Register of Historic Places Registration Form, last updated April 2017, as amended from time to time.
- (16) **Proportion**- Refers to the relationship of height to width of the various elements in a building's design.
- (17) **Resource** – In the context of historic preservation, a building, structure, site, district, or object. Also known as “cultural resource” or “historic resource.”
- (18) **Resource, Contributing** – A building, structure, site, district, or object with qualities of historical or architectural interest. Generally contributing resources are more than 50 years old and are identified as contributing in the National Register of Historic Places nomination.
- (19) **Resource, Non-contributing** – A building, structure, site, district, or object without qualities of historical or architectural interest or significance.
- (20) **Rhythm** – A patterned repetition or alternation of formal elements (doors, windows, porches, etc.) or motifs to establish a repetitive pattern.
- (21) **Routine Maintenance** –The repair of any deterioration, wear or damage to a structure or any part thereof in order to return the same as nearly as practicable to its condition prior to the occurrence of such deterioration, wear, or damage with in-kind material and quality workmanship. Routine maintenance includes in-kind replacement of exterior elements or accessory hardware.
- (22) **Scale** – The size and mass of a building's façade and form in relation to nearby buildings. Important factors in establishing the scale of a façade include the physical relationship of elements, such as window area to wall area, the shape and size of fenestration, the bonding pattern of the brickwork, and details such as cornices and trim.

- (23) **Secretary of Interior's Standards** - When referenced in these regulations, the Standards refer to the list of ten Rehabilitation Standards aimed at retaining and preserving those features and materials that are important in defining the historic character of a resource.
- (24) **Setting** – The physical environment that surrounds a building or structure.
- (25) **Side Building Elevation** – Means the building elevation that faces a side yard.
- (26) **Siding**- The exterior wall covering of a structure.
- (27) **Significance**- The importance of a property to the history, architecture, archeology, engineering, or culture of a community, a State, or the nation. The Historic Preservation Commission may provide testimony of the significance of a property at a Design Review Committee or Development Review Board hearing.
- (28) **Structure, Contributing** – A structure that qualifies as a Contributing Resource.
- (29) **Structure, Non-contributing** – A structure that qualifies as a Non-Contributing Resource.
- (30) **State of Vermont Register of Historic Places**- The State's official list of historic properties significant to the history of the Green Mountain state.
- (31) **Trim** – Finished woodwork used to decorate, border or protect the edges of openings, such as doors and windows.
- (32) **Visible from the public right-of-way** - Any portion of a building or structure that is generally visible from the public street or sidewalk immediately adjacent to the property. For the purposes of these regulations, any portion of a building or structure that is not visible due to landscaping shall be considered visible from the public right-of-way.

PART 3. DEVELOPMENT STANDARDS

Chapter 300. General Standards

Section 3001. Use Standards

- 3001.A **Standards.** Development shall conform to the use standards for the applicable zoning district unless:
- (1) A subject use is a nonconformity and the proposed development is in conformance with the requirements of Section 1203;
 - (2) The proposed development shall be approved as a planned unit development in accordance with the provisions of Chapter 440.
- 3001.B **Mixed Uses.** Any combination of permitted or conditional uses may be allowed on a single parcel.
- (1) Where residential uses are in separate or multiple structures, the use will be regulated based on the total number of units on the parcel. Three single-unit homes on a non-subdivided parcel will therefore be a conditional use in the Rural district because three dwelling units is a conditional use in that district.
- 3001.C **Prohibited Uses.** A use not specifically listed is prohibited unless the Administrative Officer finds that the unlisted use:
- (1) Is materially similar to a listed use in accordance with Subsection 3001.D; or
 - (2) Is required to be permitted in a zoning district by state or federal law.
- 3001.D **Materially Similar Uses.** The Administrative Officer may determine that an unlisted use is materially similar to a listed use in the applicable zoning district and that it should be allowed to the same extent and subject to the same standards as that listed use if it has:
- (1) Similar impacts on the neighborhood such as traffic, noise and lighting as that listed use; and
 - (2) Similar characteristics such as building type, site arrangement, floor area, number of employees, customer traffic, equipment use, hours of operation, parking, vehicle trips and signage as that listed use.

Section 3002. Dimensional Standards

- 3002.A **Standards.** Development shall conform to the dimensional standards for the applicable zoning district unless:
- (1) A subject parcel or structure is a nonconformity and the proposed development is in conformance with the requirements of Section 1203;
 - (2) The applicant receives a waiver (Section 4602) or variance (Section 4603) to a dimensional standard from the Development Review Board; or

- (3) The proposed development will be or was approved as a planned unit development in accordance with the provisions of Chapter 440 or under a previous set of zoning regulations.

3002.B **Principal Buildings.** More than one principal building may be located on a parcel as follows:

- (1) The total amount of development on the parcel shall not exceed the maximum density or FAR allowed in the district.
- (2) Approval of multiple principal buildings on a parcel shall not constitute a right to subdivide or separately convey those structures.

3002.C **Residential Density.** Residential density shall be regulated in accordance with Section 3111 and the following:

- (1) Maximum residential density shall be based on a parcel's total acreage or square footage.
- (2) Any nonconforming parcel may be developed with one dwelling unit in accordance with these regulations irrespective of whether it has the required amount of buildable land required to meet the applicable district standard.
- (3) The number of dwelling units on a parcel shall not exceed the maximum density specified in each zoning district except:
 - (a) Accessory dwelling units approved under Section 3104 shall not count as a dwelling unit for the purposes of calculating density.
 - (b) At a minimum, any conforming parcel served by city water and sewer may be used for two dwelling units irrespective of the district density standard provided that all other applicable standards of these regulations are met. Further, any parcel served by sewer and water may be subdivided such that two dwelling units are on a conforming parcel irrespective of the district density provided all other applicable standards of these regulations are met.

3002.D **Calculating Density.** Each base zoning district establishes the maximum density of development allowed on a parcel. Those standards shall be measured or calculated as described in this subsection.

- (1) **Nonresidential Development.** The density of nonresidential development and congregate living uses (see Section 3111) shall be measured as floor area ratio (FAR), which is the ratio of gross floor area, to the total parcel area as shown in Figure 3-04.
- (2) **Residential Development.** The density of residential development shall be measured in square feet of parcel area per dwelling units (sf/du). 1 acre = 43,560 square feet as shown in Figure 3-05. See also Section 3111.
- (3) **Mixed Use Development.** Proposals with both residential and non-residential development shall not exceed the necessary square footage of the combined uses. For example, an 8,500-square foot parcel in Mixed Use Residential has a maximum residential density of 1 unit per 1,500 square feet and an FAR of 1.0. If an applicant proposes three dwelling units (4,500 square feet used) then they would be allowed up to 4,000 square feet of non-residential use.

- (4) Off-street parking located within the footprint of a principal building shall not be included in the calculation of floor area ratio.

Figure 3-01. Illustrated Parcel Dimensional Standards

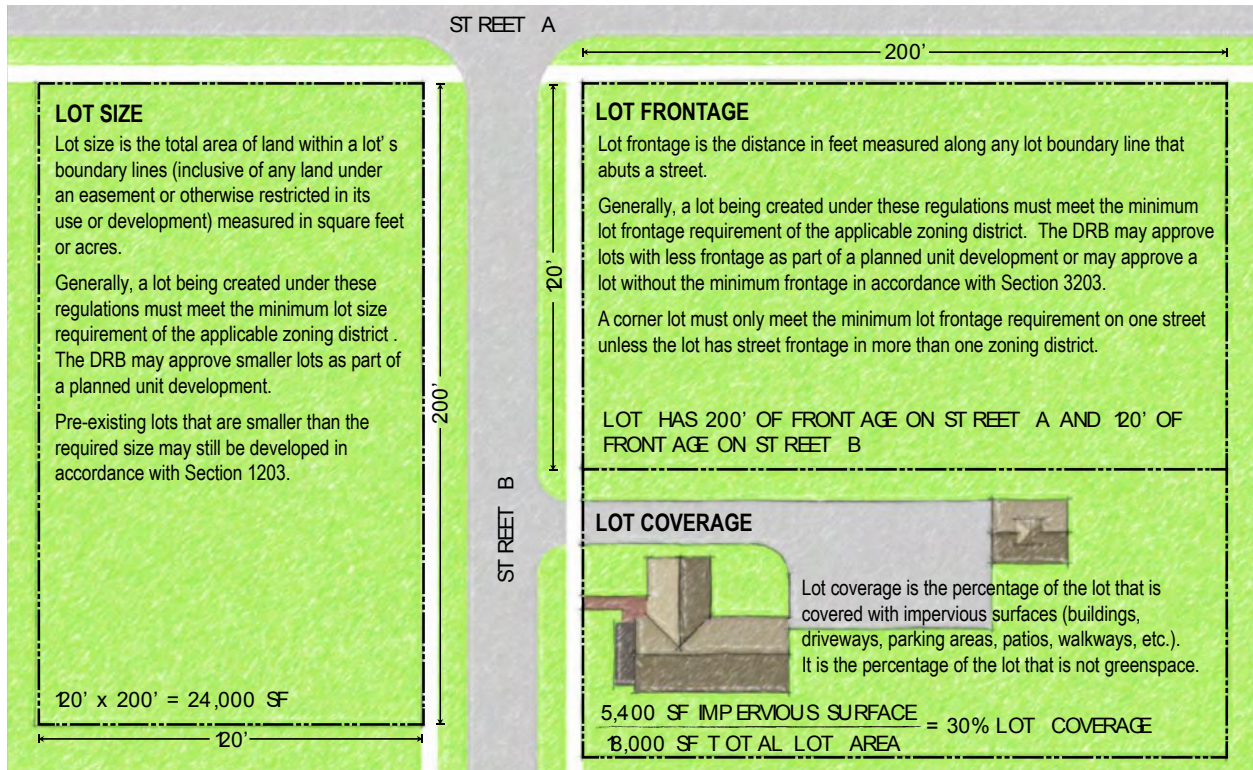


Figure 3-02. Illustrated Setback Dimensional Standards

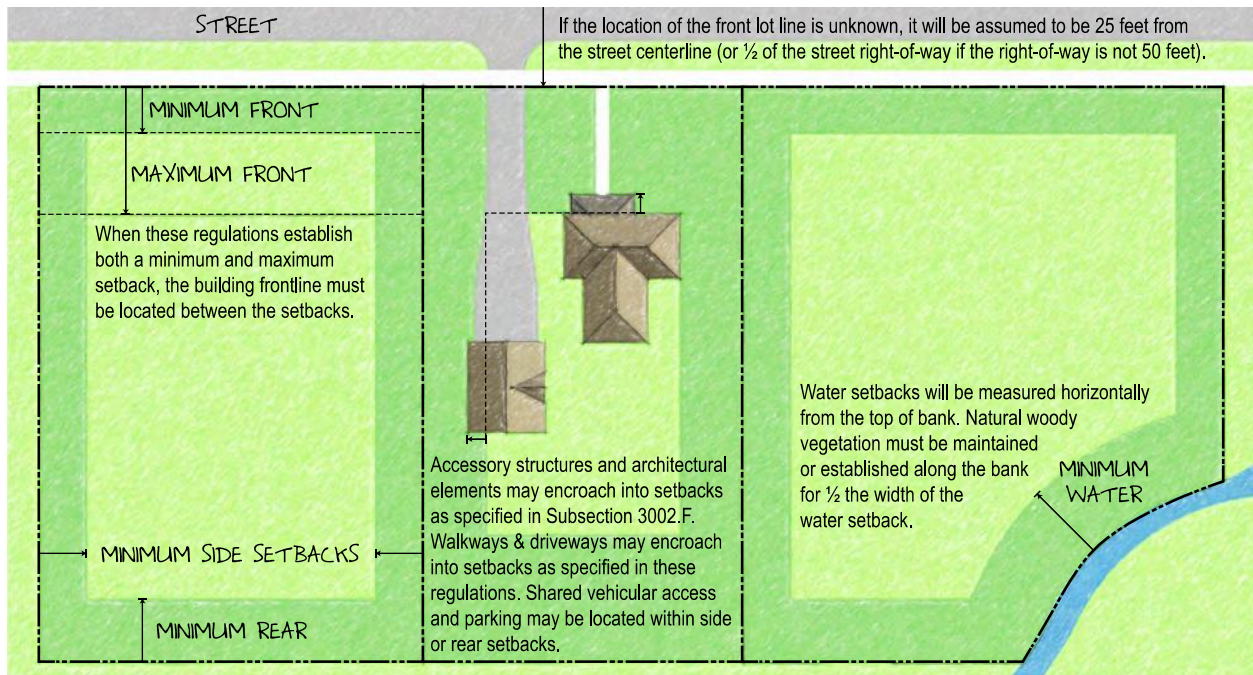


Figure 3-03. Illustrated Building Dimensional Standards

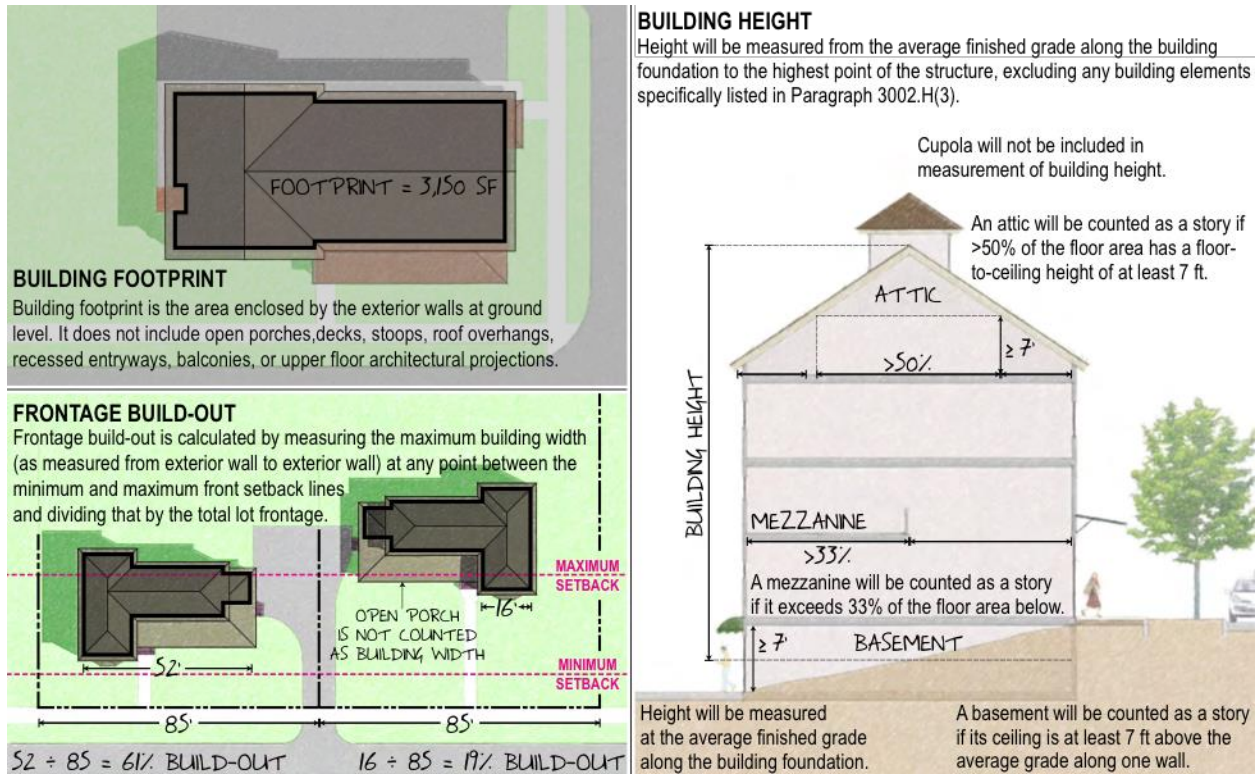
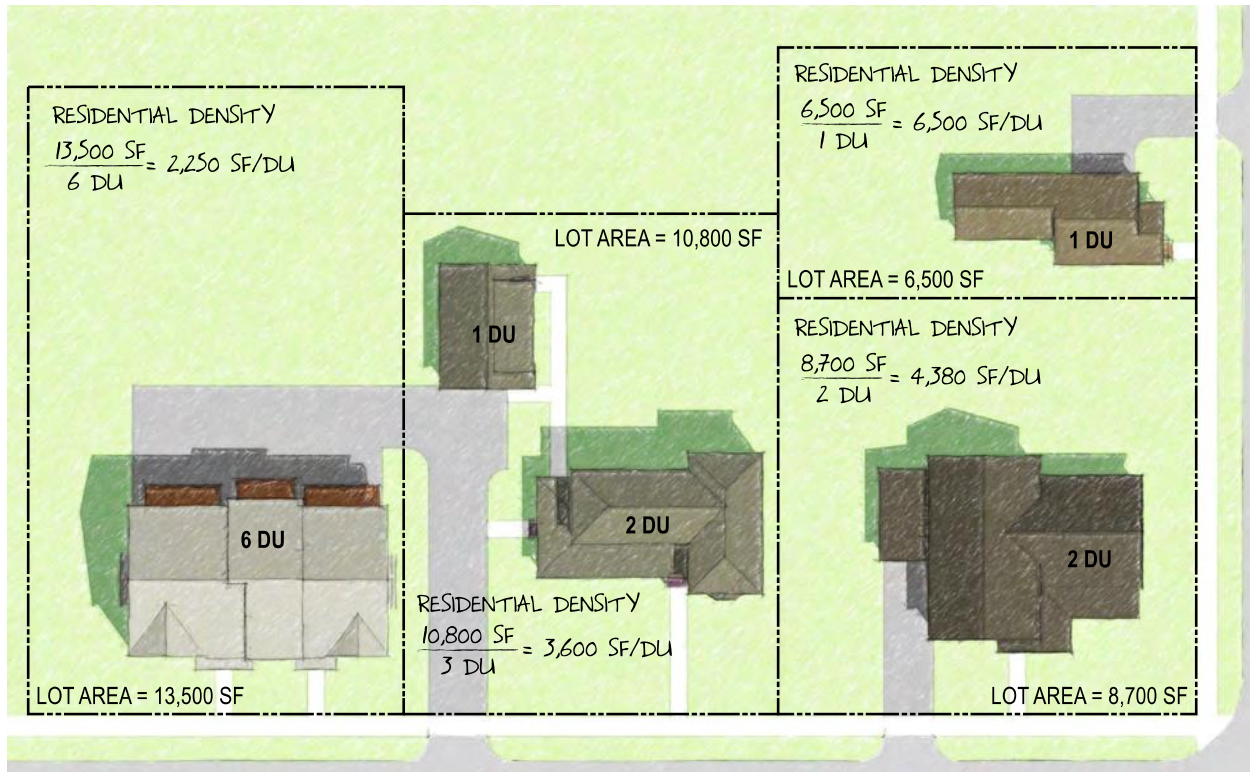


Figure 3-04. Floor Area Ratio (FAR) Illustrated



Figure 3-05. Dwelling Units per Square Foot of Parcel Area (sf/du) Illustrated



3002.E **Parcel Size.** Parcel size shall be regulated in accordance with the following:

- (1) Any parcel created under these regulations shall meet the minimum parcel size requirement for the district in which it is located unless approved as part of a planned unit development in accordance with the provisions of Chapter 440.
- (2) Nonconforming parcels are regulated in accordance with Subsection 1203.B.
- (3) A parcel that has or will include land in more than one zoning district shall meet the minimum parcel size based on the proportional contribution of each zone. For example, a parcel proposed to have 2,000 square feet in MUR and 1,000 square feet in RES 6 shall have 0.667% of an MUR parcel (2,000 divided by 3,000 square feet minimum parcel size) and 0.167% of a RES 6 parcel (1,000 divided by 6,000) so combined it would have 0.833% (not enough for a legal parcel). Had that same scenario included 1,000 square feet in RES 3 rather than RES 6 it would count for 0.333% and make the total 1.0.

3002.F **Street Frontage.** All parcels shall front on a public or private street as specified in each zoning district and in accordance with the following:

- (1) An existing parcel without the minimum required frontage on public or private street must have access to such a street over an easement or right-of-way approved by the Development Review Board that is not less than 20 feet wide for single- and two-unit residential parcels and 50 feet wide for all other parcels.

- (2) Parcels that front on more than one street shall only be required to meet minimum frontage requirements on one street except:
 - (a) On parcels in more than one zoning district the minimum frontage shall be maintained on at least one street in each district where the parcel has frontage.
- (3) All new parcels created under these regulations shall have the minimum frontage on a public or private street unless the Development Review Board:
 - (a) Approves a parcel with less frontage as part of a planned unit development in accordance with the provisions of Chapter 440; or
 - (b) Reduces the frontage requirement to not less than 20 feet for irregularly shaped parcels or parcels accessed by a shared driveway.

3002.G **Setbacks.** Buildings shall be set back from streets, property lines, and water bodies as specified in each zoning district and in accordance with the following:

- (1) Parcels with frontage on more than one street shall meet front setback requirements on each street, and shall meet side setback requirements on the remaining sides.
- (2) Accessory structures and uses may encroach into a required setback as specified in Section 3003.
- (3) Driveways may encroach into a required setback as specified in Section 3003, Figure 3-07. .
- (4) To encourage a regular building pattern along a street, the Administrative Officer shall reduce the minimum front setback requirement to allow a principal building to match the average setback of the two closest principal buildings on the same side of the street.
- (5) Setbacks for buildings and similar structures shall be measured on a level line to the closest point on the structure to the subject property line or water body.
- (6) Parcels without frontage shall have no front or rear setback but shall have sides setbacks from all property lines.

3002.H **Height.** No structure may exceed district height limits as measured in accordance with this section and as specified below:

- (1) Minimum and maximum height requirements for principal structures are established for each zoning district.
- (2) Accessory structures shall not exceed the height requirements established in Section 3003.
- (3) Height limits do not apply to:
 - (a) Belfries, spires, steeples, cupolas, domes or similar architectural features not used for human habitation; and
 - (b) Skylights, parapet walls, cornices, chimneys, ventilators, or mechanical equipment usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
- (4) Where a minimum building height is specified:

- (a) Buildings with a footprint of less than 6,000 square feet shall maintain that height along the entire facade and for a depth of at least 20 feet.
 - (b) Buildings with a footprint of 6,000 square feet or more shall maintain that height along at least 30% of the facade and for a depth of at least 30 feet.
 - (5) Height shall be measured as the vertical distance from the highest point of the structure (excluding building elements in Paragraph (3) above) to the average of the highest and lowest points where the exterior wall meets the finish grade. See Figure 3-03.
- 3002.I **Measuring Dimensional Standards.** The dimensional standards for parcels, setbacks, and buildings shall be measured as shown in Figure 3-01, Figure 3-02 and Figure 3-03.
- (1) Building footprint is a maximum cap for individual buildings and is not a cap of the cumulative total of all buildings.
 - (2) Parcels without frontage shall not be required to meet frontage buildout for the district in which they are located.
- 3002.J **Waivers.** Applicants may request a waiver to dimensional standards not to exceed the maximum waiver in Figure 3-06. Applicants shall follow the process in Section 4602 and shall demonstrate the request shall meet the standards in Figure 4-02.

Figure 3-06. **Waiver Limitations**

STANDARD	MAXIMUM WAIVER
Parcel	
Coverage	5% or 2,000 sf more than district standard, whichever is less
Setback	
Side	10 ft. less than district standard, but not to less than 5 ft.
Rear	10 ft. less than district standard, but not to less than 10 ft.
Building	
Footprint (maximum)	No maximum limit to waiver request
Height (maximum)	5 ft.
Other Dimensional Standards	
The Development Review Board may modify any dimensional standard in these regulations by not more than 10%.	

Section 3003. Accessory Structures and Uses

- 3003.A **Applicability.** This section applies to any subordinate use of a structure or land that is clearly incidental to, and customarily found in conjunction with, the principal use or structure. Accessory structures and uses are allowed in all districts in accordance with this section.
- 3003.B **Establishment.** An accessory structure or use shall not be converted to a principal structure or use without complying with dimensional requirements for primary structures.
- 3003.C **Dimensional and Density Standards.** Accessory structures and uses shall meet all of the following:
- (1) Except with regard to water setbacks, the accessory structures and uses may encroach into district setbacks as specifically authorized in Figure 3-07.

- (a) Where a base district setback is less than the setback in Figure 3-07, the smaller setback applies.
- (2) The height of an accessory structure located within the minimum setback required for principal structures in the zoning district shall not exceed the height specified in Figure 3-07.
- (3) The height of an accessory structure located outside the minimum setback required for principal structures in the zoning district shall not exceed the standard for a principal structure within the applicable zoning district.

Figure 3-07. **Accessory Structures and Uses Within Setbacks for Principal Buildings**

Structure	Location (Yard)	Setback	Max Height
Arbors	Any	0 ft.	12 ft.
Berms	Any	0 ft.	–
Driveways	Any	0 ft.	–
Equipment, ancillary (unless otherwise specified in these regulations)	Rear or side	5 ft.	–
Fences (see Section 3101)	Any	0 ft.	8 ft.
Fire escapes, entry stairs, handicap ramps or similar safety/accessibility structures	Any	0 ft.	–
Flag poles	Any	10 ft.	35 ft.
Garages, carports, pole barns, and similar large accessory structures (max 2 per parcel may be located within the setback for principal structures unless meeting all the dimensional standards for principal buildings in the applicable district)	Rear or side	10 ft.	35 ft.
Gates	Any	0 ft.	–
Heating and cooling units	Rear or side	5 ft.	–
Mailboxes	Any	0 ft.	–
Pools, hot tubs, decks or patios	Rear or side	5 ft.	–
Retaining walls (see Section 3101)	Any	0 ft.	12 ft.
Sheds or similar small accessory buildings (max 3 per parcel, max 200 sf footprint each may be located within the setback for principal structures unless meeting all the dimensional standards for principal buildings in the applicable district)	Rear or side	5 ft.	15 ft.
Sidewalks	Any	0 ft.	–
Sports or recreation equipment	Any	5 ft.	15 ft.
Green stormwater infrastructure	Any	0 ft.	–

Section 3004. Demolition

- 3004.A **Applicability.** A zoning permit is required to demolish a structure or part of a structure.
- 3004.B In addition to basic application requirements, the application shall include a demolition and site remediation plan which at a minimum describes the intended use of the site and the manner in which the site shall be returned to grade, surfaced, landscaped and /or screened to minimize adverse visual impacts, and secured to prevent hazards to public safety and adjoining properties.

- 3004.C All demolition shall be completed with 60 days of commencement and, at a minimum, completion shall include:
- (1) All structural materials and debris shall be removed from the site;
 - (2) The site shall be restored to a natural grade; and
 - (3) Groundcover shall be re-established to prevent erosion unless otherwise specified as a condition of approval.
- 3004.D **Demolition.** The demolition or replacement of any structure, or portion thereof, listed as a contributing structure on the Vermont Historic Sites and Structures Survey and the National Register for Historic Places, or any application for development which involves the demolition of such structures, shall be reviewed by the Development Review Board under the following provisions:
- (1) **Application Requirements.** The permit application shall include, in addition to other required materials:
 - (a) A demolition and site restoration plan which, at a minimum, describes the intended use of the site and the manner in which the site is to be restored to grade, surfaced, landscaped or screened to minimize adverse visual impacts, and secured to prevent hazards to public safety and adjoining properties; and
 - (b) For historic structures, documentation that the rehabilitation of the structure would cause undue financial hardship to the owner, or that the demolition is part of a site development plan that would provide clear and substantial benefit to the municipality.
 - (2) **Demolition of Historic Structures.** The demolition or replacement of any structure or portion thereof listed as a contributing structure on the Vermont Historic Sites and Structures Survey or the National Register for Historic Places is prohibited unless the Development Review Board approves the demolition and site restoration plan, and:
 - (a) The Board finds, pursuant to Paragraphs (3) and (4) below, that rehabilitation of the structure or portion thereof would cause undue financial hardship to the owner; or
 - (b) The Board finds that the demolition is part of a site development plan and design plan (if applicable) that would provide clear and substantial benefit to the community.
 - (3) **Standards for Determination.** The Development Review Board shall consider the following factors in making its determination regarding whether undue financial hardship exists under Paragraph (4) below:
 - (a) The applicant's knowledge of the property's historical significance at the time of acquisition, or of its status subsequent to acquisition;
 - (b) The structural soundness of the building, or any structures on the property and their suitability for rehabilitation;
 - (c) The economic feasibility of rehabilitation or reuse of the existing property in the case of a proposed demolition;
 - (d) The current level of economic return on the property as considered in relation to

the following:

- (i) amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;
 - (ii) a substantial decrease in the fair market value of the property as a result of the denial of the permit;
 - (iii) the fair market value of the property at the time the application is filed;
 - (iv) real estate taxes for the previous three (3) years;
 - (v) annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and a depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years;
 - (vi) remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years;
 - (vii) all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property;
 - (viii) any state or federal income tax returns on or relating to the property for the previous three (3) years.
- (e) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and the price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
- (i) any real estate broker or firm engaged to sell or lease the property;
 - (ii) reasonableness of the price or rent sought by the applicant; and
 - (iii) any advertisements placed for the sale or rent of the property by the owner or applicant.
- (f) The feasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:
- (i) a report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings/structures on the property and their suitability for rehabilitation;
 - (ii) testimony from a licensed engineer or architect with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of existing buildings/structures on the property.
- (g) Studies and evaluations conducted at the owner's expense shall identify impact of economic incentives and funding available to the applicant through federal, state, city, or private programs, including tax credits, in relation to a ten (10) year pro forma of projected revenues and expenses for the reasonable uses or revenues

that takes into consideration the utilization of incentives programs available.

- (h) Input from community organizations, preservation groups, other associations, and private citizens who may wish to evaluate and comment on a submission made under the financial hardship provision.
- (4) **Determination of Undue Financial Hardship.** A determination of undue financial hardship may be granted only if the project fully complies with one of the following requirements:
 - (a) For income producing properties – the building, site or object cannot be feasibly used or rented at a reasonable rate of return in its present condition or if rehabilitated, and denial of the application would deprive the owner of all reasonable use of the property; or
 - (b) For non-income producing properties – the building site or object has no beneficial use as a residential dwelling or for an institutional use in its present state or if rehabilitated, and denial of the application would deprive the owner of all reasonable use of the property.
- (5) Conduct to be excluded from review – Demonstration of undue financial hardship by the owner shall not be based on conditions caused by or resulting from the following:
 - (a) willful or negligent acts by the owner, agents, tenants, or licensees;
 - (b) purchasing the property for substantially more than market value at the time of purchase;
 - (c) failure to perform normal maintenance and repairs;
 - (d) failure to diligently solicit and retain tenants;
 - (e) failure to prescribe a rental amount which is reasonable; or
 - (f) failure to provide normal tenant improvements.
 - (g) failure to maintain or repair significant architectural features or structural components.
- (6) **Hearing Recess.** Prior to approving the demolition of an historic structure, the Development Review Board may temporarily adjourn the hearing process for a period not to exceed six months from the date of complete application, to provide time to assess the feasibility of rehabilitation of the structure, or to document the historic and architectural elements of the structure prior to its demolition.
- (7) **Site Restoration.** Within 30 days after a permanent or temporary building or structure has been demolished, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over and filled to the normal grade by the owner(s), unless otherwise required as a condition of an approved site restoration plan.
- (8) The requirements of this section shall not apply to orders of the Building Inspector or Fire Marshall requiring that a building be removed due to public health, safety, or welfare concerns.

Section 3005. Riparian Areas

- 3005.A **Purpose.** The purpose of this section is to protect and enhance the overall quality, natural function, ecological health, scenic benefits, and recreation potential of the city's water resources by limiting or mitigating the impact of development within riparian areas.
- 3005.B **Applicability.** The provisions of this section apply to land within the water setback as established in the base district and as measured below. Pre-existing buried streams, regardless of whether it is identified on Montpelier Natural Resources Map, shall meet the requirements of Subsection 3005.D.
- 3005.C **Measuring Water Setbacks.** Water setbacks shall be measured from top of bank of all surface waters mapped on the Montpelier Natural Resources Inventory Map.
- 3005.D **Exception- pre-existing buried streams.** Pre-existing buried streams are exempt from the requirements of this section except that a 10-foot setback shall be maintained from the centerline of the culvert. No buffer is required for buried streams.
- 3005.E **Development in the Riparian Area.** Except as outlined in Subsection 3005.F and Subsection 3005.G below, all development is prohibited in the water setback.
- 3005.F **Groundcover within Water Setbacks.** Applicants shall establish or maintain a riparian buffer of natural woody vegetation from the top of bank a distance equal to or greater than half of the water setback for the applicable zoning district (i.e., a 50-foot water setback requires a 25-foot riparian buffer).
- (1) The water setback area that is not part of the required riparian buffer may be covered with mowed lawns, patios, decks, walkways, or other impervious area provided impervious cover does not exceed 20% of the entire water setback area.
 - (2) The setback area that is not part of the required riparian buffer may be used for stormwater treatment and snow storage.
 - (3) The applicant may apply for a waiver to remove woody vegetation from part of the riparian buffer to allow for the development of water access and the development of water-dependent uses.
 - (a) Applicants shall submit waiver requests to the Conservation Commission for written comments before the Development Review Board shall review the request.
 - (b) In addition to the requirements of Subsection 3005.G, the applicant shall demonstrate that the amount of woody vegetation proposed to be removed shall be minimized, that the location is not critical habitat, and that erosion and other environmental hazards are mitigated. The Development Review Board may require replacement of an equal amount of buffer in the water setback area.
- i *A water-dependent structure or use means a structure or use that requires access to the water or a location adjacent to, extending over or extending into the water as a necessary component of its purpose or function.*
- 3005.G **Nonconforming Development within the Riparian Buffer.** Nonconforming development within the riparian buffer shall be regulated as follows:

- (1) A nonconforming building or developed site may be used for any purpose allowed in the zoning district.
- (2) Where an applicant proposes to expand a nonconforming structure or nonconforming site in the riparian area, a waiver shall be required in accordance with Section 3005.F(3).
- (3) When a proposal requiring major site plan approval occurs on a parcel with a nonconforming riparian area, the applicant shall bring the riparian area into conformance to the maximum extent feasible.
 - (a) Maximum extent feasible shall be interpreted to mean that buffer material shall be planted and maintained, impervious cover shall be removed to meet maximum coverage, and similar nonconformities removed but that encroaching structures, especially primary structures shall not be required to be removed.
- (4) On previously developed residential parcels, natural woody vegetation shall not have to be re-established on areas within the riparian setback maintained as lawns or gardens. Nonconforming lawn or garden areas within the riparian buffer shall not be expanded except in accordance with this section. Landowners are encouraged to replace nonconforming lawn or garden areas with natural woody vegetation, which can provide multiple benefits including bank stabilization, filtration of runoff and wildlife habitat.
- (5) Demolished nonconforming structures within the Urban Center 1, Urban Center 2, Urban Center 3 and Riverfront Districts may rebuild on the previous footprint provided all other requirements of these regulations are met and an application to rebuild is made within 12 months of demolition.

3005.H **Waiver Review Criteria.** When reviewing proposed development within the riparian area, the Development Review Board shall find that either Paragraph (1) or (2) below is met:

- (1) All of the following:
 - (a) The proposed development cannot reasonably be accommodated on any portion of the parcel outside the riparian area;
 - (b) The proposed development shall not have new or greater (as compared to existing conditions) adverse impact on the natural functions of the surface water and land within the riparian area; and
 - (c) The proposed development shall be the minimum necessary to accommodate a reasonable use of the property.
- (2) The proposed development is a water dependent use such as a boat or fishing access or a public access for swimming.

Section 3006. Wetlands and Vernal Pools

3006.A **Purpose.** This section is intended to preserve and protect the natural function and ecological health of the city's wetlands and vernal pools by preventing, minimizing or mitigating the impact of development within or adjacent to them.

- (1) Vernal pools have been identified and are here regulated in order to mitigate impacts within the amphibian life area which is defined as critical terrestrial habitat for amphibians that extends at least 500 feet beyond vernal pool boundaries. Development is not intended to be prohibited within the vernal pool buffer but rather must be carefully planned to prevent, minimize, or mitigate impacts within the 500-foot amphibian life zone.

3006.B **Applicability.** The provisions of this section apply only to land identified as a wetland or vernal pool on the Montpelier Natural Resources Inventory Map at the initial filing of a permit application, as well as any required buffer, except that:

- (1) Development that obtains a state wetlands permit shall be assumed to have met the requirements of this section with the exception of development within an identified vernal pool or vernal pool buffer. Any zoning permit or approval shall be conditional upon the applicant submitting a copy of the state permit to the Administrative Officer prior to the start of construction.

3006.C **Hearing Required.** Development subject to this section shall require approval of a waiver from the Development Review Board meeting the standards in Subsection 3006.D.

3006.D **Development Standards.** Development in the affected area shall not have an undue adverse impact on the wetland or vernal pool. The Development Review Board shall consider the following factors in determining impact including:

- (1) Prohibit development including disturbance of vegetation, soils, and forest canopy within the first 50 feet of the delineated boundary of all vernal pools on the Montpelier Natural Resources Inventory map.
- (2) Locate development on portions of the parcel outside wetlands and vernal pools.
- (3) Maintain naturally vegetated areas between wetlands or vernal pools and nearby development. Where disturbance and clearing are necessary, the disturbance and clearing should be minimized within wetland buffers and vernal pool buffers.
- (4) Minimize earthwork and alteration of the natural grade of the land and natural drainage characteristics.
- (5) Limit road and utility crossings through wetland buffers and vernal pool buffers and locate any unavoidable crossings at the narrowest section of the wetland buffer or vernal pool buffer. Consider use of existing crossings or shared driveways to access upland areas on the parcel.
- (6) Minimize the amount of impervious surface. Consider use of pervious materials.
- (7) Avoid water withdrawal or changes in drainage patterns that shall direct water away from the wetland or vernal pool.

Section 3007. Steep Slopes

3007.A **Purpose.** This section is intended to allow appropriate development on or near steep slopes and to limit disturbing or clearing steep slopes for development in order to:

- (1) Protect public safety and property;

- (2) Minimize the potential for erosion, runoff, flooding and degradation of water quality; and
- (3) Avoid the increased cost of providing services to remote or difficult to access land.

3007.B **Applicability.** The provisions of this section apply to development that:

- (1) Proposes to develop on steep slopes, including disturbing or clearing land, which exceeds the threshold amount(s) specified in Figure 3-09; or
- (2) Results in slopes that exceed the thresholds in Figure 3-09.

3007.C **Definition.** For the purposes of this section, the following definitions apply:

- (1) Disturbing or clearing includes any activity that removes the existing, natural vegetative cover from the ground as a precursor to or component of development. It does not include normal property maintenance or management activities such as removing invasive species or hazard or diseased trees, or the harvesting of timber for personal use.
- (2) Steep slopes are any slopes equal to, or in excess of, 15%.

3007.D **Measuring Slope.** To determine the extents of steep slopes on the property, applicants may:

- (1) Determine using the attached slope map.
- (2) Rely on other more accurate elevation and slope data available from the city or state (see the Vermont Agency of Natural Resource's *Natural Resource Atlas*).
- (3) Provide a professionally prepared topographic survey.
- (4) Exclude isolated areas with slopes equal to or in excess of 15% that are less than 500 square feet in area, including any contiguous areas with slopes equal to or in excess of 15% on adjacent properties.

3007.E **Hearing Requirement.** Any development that proposes to develop land on steep slopes that exceeds the threshold amount(s) specified in Figure 3-08 shall require a hearing by the Development Review Board in accordance with the process for conditional use review outlined in Chapter 450. In addition to other applicable provisions of these regulations, the Development Review Board shall consider the extent to which the proposed development conforms to the design standards established in Subsection 3007.H.

3007.F **Engineered Plan and Report.** An applicant shall not propose to develop land in excess of the limit established in Figure 3-09 unless the applicant submits a plan signed and sealed by a professional engineer registered in the State of Vermont. The plan and report shall, at a minimum, address the following:

- (1) Existing and proposed grades;
- (2) Foundations and retaining walls designs, if applicable;
- (3) Drainage and swale information;
- (4) A written statement from the engineer indicating that the project will not have an undue adverse effect on slope stability and safety of existing or proposed structures;

- 3007.G **Disturbance and Clearing Limits.** The Development Review Board may establish development envelopes and limit the amount of disturbance or clearing outside such envelopes as deemed necessary to further the purposes of this section.
- 3007.H **Design Standards.** Development on steep slopes shall be safe and not have an undue adverse effect on slope stability. Development therefore shall be designed to:
- (1) Limit the amount of disturbance, clearing of existing natural vegetation and impervious surface in order to minimize potential for erosion, stormwater runoff, and flooding and water quality impairment.
 - (2) Preserve distinctive natural features, the general topography of the site and existing natural vegetation.
 - (3) Maintain or reduce the pre-existing rate, and retain the pattern, of stormwater runoff leaving the property.
 - (4) Produce a final grade that is compatible with surrounding natural terrain.
 - (5) Create a harmonious transition between graded slopes and the natural terrain.
 - (6) Avoid creating continuous unbroken slopes or linear slopes.
 - (7) Contour graded slopes by varying the slope increment to produce a final grade that undulates both vertically and horizontally.
 - (8) Vary cut-and-fill banks and terraces to produce a final grade that has visual interest and allows for naturalistic landscaping.
 - (9) Consider use of retaining walls and terracing rather than cut-and-fill banks.
 - (10) Vary the pad elevations on sites with multiple structures to follow the natural terrain.
 - (11) Provide roads and drives that follow existing contours.
 - (12) Use compact building forms and or multi-story buildings to minimize building footprint.
 - (13) Use split- or multi-level building forms that step up or down the slope.

Figure 3-08. **Hearing Required**

SLOPE	HEARING THRESHOLD
≥15%	Disturbing 8,000 sf or more of land in this slope category on the parcel shall require a hearing.
≥20%	Disturbing 6,000 sf or more of land in this slope category on the parcel shall require a hearing.
≥25%	Disturbing 4,000 sf or more of land in this slope category on the parcel shall require a hearing.
≥30%	All development of land in this slope category shall require a hearing.

Figure 3-09. Engineered Plan Required

SLOPE	DISTURBANCE OR CLEARING LIMIT
≥15%	No more than 4,000 sf of the land in this slope category on the parcel may be developed without an engineered plan.
≥20%	No more than 3,000 sf of the land in this slope category on the parcel may be developed without an engineered plan.
≥25%	No more than 2,000 sf of the land in this slope category on the parcel may be developed without an engineered plan.
≥30%	All development of land in this slope category on the parcel requires an engineering plan.

Section 3008. Erosion Control

3008.A **Purpose.** This section is intended to promote construction practices on development and redevelopment sites that limit soil disturbance and compaction, and minimize erosion and sedimentation of downstream water bodies.

3008.B **Applicability.** The provisions of this section apply to any development that will disturb soil except that:

- (1) Development that obtains a state construction general or individual permit shall be assumed to have met the requirements of this section. Any zoning permit or approval shall be conditional upon the applicant submitting a copy of the state permit to the Administrative Officer prior to the start of construction.

3008.C **Erosion Control Plan Required.** Applicants shall submit and implement a professionally prepared erosion control plan for construction activities that exceed the threshold amount(s) of soil disturbance specified in Figure 3-10 in accordance with the *Vermont Standards and Specifications for Erosion Prevention and Sediment Control*.

3008.D **Erosion Control Practices.** Construction activities shall be undertaken in accordance with the following practices:

- (1) Limit the size of the construction area to the minimum necessary to accommodate the proposed development.
- (2) Preserve significant existing trees within the construction area where possible.
- (3) Mark site boundaries to identify the limits of construction with flags or fencing. The site boundaries should include storage and access areas. No soil compaction should occur outside the delineated construction area. Trees to be preserved within the construction area should be protected by fencing that at a minimum encloses the area around their drip line.
- (4) Limit the amount of soil exposed at one time to reduce the potential for erosion by phasing construction.
- (5) Stabilize and maintain the construction entrance to prevent mud from being tracked onto streets.

- (6) Install silt fences to intercept runoff and allow suspended sediment to settle out on the downslope side of construction activities and between disturbed soil and any drainage feature, stormwater inlet or water body.
- (7) Divert any stormwater from upslope areas around the disturbed area with appropriately stabilized berms and ditches to prevent the runoff from picking up sediment. Untreated stormwater and sediment shall not be diverted to neighboring properties, public rights-of-way or water bodies.
- (8) Treat and filter any water pumped out of the construction area before allowing it to flow off the site or to be discharged to a storm drain or water body.
- (9) Slow down any concentrated flows of runoff by installing stone check dams in drainage channels.
- (10) Stabilize exposed soil with seed and mulch or erosion control matting promptly when work in an area is complete. All areas of disturbance should have permanent stabilization within 48 hours of reaching final grade with recognition that this may not be possible in every case, particularly for construction occurring between mid-October and mid-April.
- (11) Monitor the site to ensure that all sediment and erosion control measures are functioning properly. It is particularly important to check erosion control measures just before and after any significant rainfall.
- (12) Periodically clean, replace and maintain all sediment and erosion control measures until vegetation is permanently established on all disturbed areas.
- (13) In order to promote water infiltration and plant health:
 - (a) Any compacted soil should be tilled prior to the final seeding and mulching; and
 - (b) Topsoil removed during construction shall be stockpiled and spread back onto disturbed areas prior to the final seeding and mulching. If the quality of the site's topsoil is inadequate to support appropriate vegetative cover, it does not need to be stockpiled and it may be replaced with better quality soil or, if it is retained, it should be amended as needed.

Figure 3-10. **Erosion Control Plan Required**

SLOPE	THRESHOLD FOR ENGINEERED PLAN
≥10%	An erosion control plan is required for development disturbing 10,000 sf or more of soil on the parcel that is greater than or equal to 10%.
≥15%	An erosion control plan is required for development disturbing 8,000 sf or more of soil on the parcel that is greater than or equal to 15%.
≥20%	An erosion control plan is required for development disturbing 6,000 sf or more of soil on the parcel that is greater than or equal to 20%.
≥25%	An erosion control plan is required for development disturbing any amount of soil on the parcel that is greater than or equal to 25%.

See Subsection 3007.D for guidance on measuring slope.

Section 3009. Stormwater Management

- 3009.A **General Requirement.** Storm sewer system and other drainage improvements shall be in accordance with plans approved by the Director of Public Works. In no case shall stormwater discharge into a city sewer system if a separate system exists.
- 3009.B **Management Plan.** Where required by the Director of Public Works, a stormwater management plan shall be submitted for review and approval by the Development Review Board. Stormwater control facilities shall be designed to accommodate the 25-year storm event frequency or as required. All existing facilities for the conveyance of waters, both private and public, which may be affected or impacted by the development shall be identified and analyzed. An historical account of off-site facilities within a drainage area (culverts, ditches and brooks, etc.) may also be required. The plan shall show all natural and constructed drainage ways, both existing and proposed.
- 3009.C **Minimization of Stormwater Runoff.** The best available technology shall be used to minimize stormwater runoff, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems, and minimize discharge of pollutants to ground and surface water. Best available technology may include measures such as retention basins, recharge trenches, swales, and minimal use of impervious surfaces.
- (1) Stormwater drainage shall not negatively affect adjacent properties. Low points and standing water should be avoided unless specifically designed as in detention ponds, artificial wetlands, or similar facilities. Failure to maintain natural and engineered on-site systems as part of an approved development shall be considered a violation of the permit.
- 3009.D **Type of Drainage Systems.** Natural watercourses and drainage ways shall be incorporated into the design of drainage systems to the fullest extent possible. Where open drainage systems are proposed, minimum grades shall be provided as directed by the Director of Public Works. Closed drainage systems shall be required where directed by the Director of Public Works based upon an evaluation of building densities and drainage conditions.
- 3009.E **Public vs. Private Drainage Systems.** Drainage systems associated with public streets shall be located within the street right-of-way or within an easement provided to the city and indicated on the plan. All public drainage systems shall be designed in accordance with the Department of Public Works specifications. Drainage systems on individual parcels shall be privately owned and maintained.
- 3009.F **Responsibility for Downstream/Off-site Drainage.** Where anticipated discharge from the development shall overload existing downstream drainage facilities, the Development Review Board shall not approve the development until provision has been made for improvement of the downstream facilities. The Development Review Board may require detention ponds or other measures such that a zero percent increase in drainage flows result from the development.
- 3009.G **Design Calculations.** All calculations for the drainage system - including upstream potential discharge, downstream capacity, and requirements for on-site facilities and easement width – shall be based on a 25-year storm or as required by the Director of Public Works.

Section 3010. Vehicle Access and Circulation

3010.A **Purpose.** The provisions of this section are intended to promote safe and efficient access to and circulation within a property for vehicular traffic.

3010.B **Vehicular Access.** All parcels being developed or redeveloped shall provide vehicular access from the street in accordance with any city public works specifications, VTrans' B-71 Standards for Residential and Commercial Drives, and the standards below. Where a vehicular access is a driveway or private street that is providing access to more than 3 parcels, the access is also required to meet the street standards described in Section 3506. In the case of any conflict, the city's public works specifications would take precedence over standards of this section, and the standards of this section would take precedence over the B-71 standard:

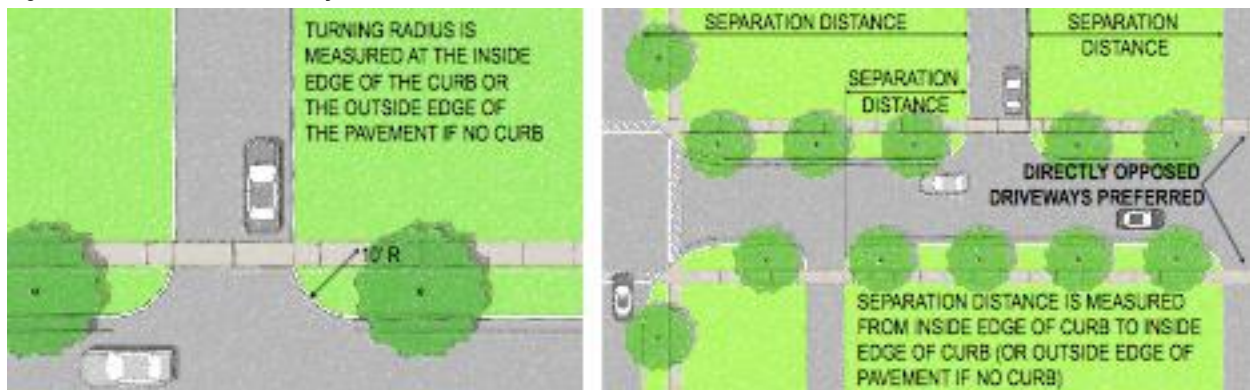
- (1) **General.** All proposed development shall be designed with adequate access and circulation to prevent traffic congestion on the street and traffic conflicts (including service vehicles, passenger vehicles, parking, drive-through lanes, bicyclists, and pedestrians) within the site.
- (2) **State or Class 1 Highways.** Access to parcels with frontage on a state or Class 1 highway shall be in conformance with the following:
 - (a) Access to a corner lot fronting on a state or Class 1 highway shall be from the secondary street unless otherwise approved by the Development Review Board upon the applicant demonstrating that access from the state or Class 1 highway shall improve traffic circulation or safety.
 - (b) If the parcel shall be accessed from a state highway, the applicant shall provide a letter of intent confirming that the Vermont Agency of Transportation is prepared to issue an access permit and setting out any proposed conditions on that permit.
- (3) **Number.** Shared access between adjacent properties is strongly encouraged. A parcel may be served by only one access point except as provided for below:
 - (a) A corner lot not fronting on a state or Class 1 highway may have one access point on each street provided that the spacing requirements specified below shall be met.
 - (b) The Development Review Board may approve more than one access on a parcel when necessary to accommodate unique physical conditions on the property, to provide adequate emergency access, or to provide adequate traffic circulation within the site.
- (4) **Spacing.** Access spacing shall be measured from the inside curb or pavement edge of the proposed driveway to the inside curb or pavement edge of the adjacent or opposite driveway or street as shown in Figure 3-12. Access points shall be spaced as specified in Figure 3-11. The Development Review Board may:
 - (a) Reduce the spacing for residential driveways based on the site and street conditions.
 - (b) Reduce the spacing distance when it is not physically feasible to achieve and upon the applicant obtaining an access permit from the city or state, as applicable.

- (5) **Cross Access.** Proposed nonresidential or mixed-use development shall provide for cross access between adjacent properties whenever physically feasible. At the time of subdivision, the Development Review Board may require construction of the access or a common access easement with agreement for later construction of the access as a condition of approval.
- (6) **Length.** Driveway length and internal circulation patterns shall be adequate to prevent vehicles entering and exiting the site from causing queuing on the street.
- (7) **Emergency Vehicle Access.** All proposed development shall provide adequate access for emergency vehicles including fire lanes, pull-offs and turnarounds as necessary to accommodate emergency vehicles.
- (8) **Street Improvements.** The applicant may need to fully or partially fund or to construct a turn lane, traffic signal, intersection redesign or other street improvements if necessary to accommodate anticipated traffic and minimize congestion as warranted by a traffic study.
- (9) **Nonconformities.** Previously developed sites with nonconforming access shall come into conformance with the provisions of this section when changes are proposed to the site layout, access, or circulation.
 - (a) The Development Review Board may approve a waiver for this requirement where the applicant demonstrates the proposal cannot come into compliance due to the physical characteristics of the parcel or existing structures on the parcel.

Figure 3-11. Driveway Separation Standards

	UC 1, UC 2, UC 3 RIV & MUR	RES 1.5, RES 3, RES 6, RES 9 & RES 24	All Other Districts
Distance between Street Intersections and Driveways	50 ft. min	100 ft. min	200 ft. min
Distance between Driveways	30 ft. min	45 ft. min	120 ft. min

Figure 3-12. Illustrated Driveway Standards



Section 3011. Parking and Loading Areas

3011.A Purpose. The provisions of this section are intended to ensure that development provides adequate off-street parking and loading areas to avoid congestion on surrounding streets while also avoiding excessive parking that results in increased flooding, decreased water quality, increased land consumption and sprawl, and a less attractive and pedestrian-friendly environment.

- 3011.B **Applicability.** Except within the Urban Center 1, Urban Center 2, Urban Center 3 and Residential 1500 districts, all development shall provide off-street parking in accordance with this section and all nonresidential or mixed-use development shall provide loading areas in accordance with this section.
- (1) Within the Urban Center 1, Urban Center 2, Urban Center 3 and Residential 1500 districts, there are no minimum parking or loading requirements, but any parking or loading areas that will be provided shall meet the provisions of this section including specifically Paragraph 3011.G(5).
- 3011.C **Minimum Amount of Parking.** All development shall provide off-street parking in accordance with the following:
- (1) The minimum number of spaces may be determined based on Figure 3-13.
 - (2) If a proposed use is not listed or if uncertainty exists as to which ratio in Figure 3-13 applies to a proposed use, the Administrative Officer shall set a ratio based on the listed use that is the most similar to the proposed use.
 - (3) The Development Review Board may waive some or all off-street parking requirements to that extent that:
 - (a) The applicant submits a parking study demonstrating that less parking will be needed;
 - (b) The applicant meets the requirements for shared parking in Paragraph 3011.E;
 - (c) There is adequate on-street or public parking available within 1,000 feet of the proposed development to meet all or a portion of the demand;
 - (d) There is an existing or proposed public transit stop within ¼ mile of the proposed development; or
 - (e) The proposed development shall provide secure, enclosed bicycle storage and shower facilities for employees who bicycle, jog, or walk to work.
 - (4) When calculation of minimum parking requirements based on these ratios results in a fractional number, the number of spaces shall be rounded down to the nearest whole number.
- 3011.D **Maximum Amount of Parking.** The creation of more than twice the minimum amount of parking as calculated based on Figure 3-13 shall be approved by the Development Review Board in accordance with the following:
- (1) The applicant shall submit a parking study demonstrating that the additional parking is necessary.
 - (2) The Development Review Board may condition approval of any parking in excess of the minimum on the additional area being surfaced with pervious materials and being phased so that it is constructed only as warranted to meet future demand.
- 3011.E **Shared Parking.** A shared parking plan may be approved to allow parking to be shared by two or more uses or to be provided off-site in accordance with the following:
- (1) Calculate the total amount of shared parking required by:
 - (a) Determining the minimum parking requirements based on Figure 3-13 for each

use as if it were a separate use.

- (b) Multiply each amount by the corresponding percentages for each of the five time periods set forth in Figure 3-14. For uses not listed on the figure, the Administrative Officer shall determine percentages based on comparing the proposed use to the use in Figure 3-14 that is most similar in parking demand.
 - (c) Calculate the total for each time period.
 - (d) Select the highest total as the required minimum number of shared parking spaces.
- (2) Any shared or off-site parking shall be located within a 1,000-foot walk of the associated use(s). The parking area and building(s) served shall be connected by a sidewalk or hard-surfaced walkway.
 - (3) The applicant shall submit a written agreement between the owners and lessees executed for a minimum of 20 years. Should the use(s), parties involved, or terms of the agreement change in a manner that would alter the amount of parking provided or required, a revised agreement will need to be submitted and approved in accordance with this section. Should the agreement expire or otherwise terminate, the use(s) for which the shared or off-site parking was provided shall be considered in violation of these regulations unless replacement parking is provided in accordance with this section.
 - (4) The applicant shall submit plans showing the location of the use(s) or structure(s) for which shared or off-site parking shall be provided, the location of the parking, and the schedule of times used by those sharing the parking.

3011.F **Loading Areas.** An applicant for a use that will regularly receive deliveries or generate shipments by truck shall demonstrate that there will be adequate off-street space for loading and unloading without interfering with traffic circulation, access and parking.

3011.G **Locational Standards.** Off-street parking and loading areas shall be located as follows:

- (1) Parking and loading areas shall be located on the same parcel as the use or structure it serves unless a shared parking plan is approved in accordance with Subsection 3011.E.
- (2) Parking and loading areas (inclusive of vehicle overhang) shall be located behind the front line of the building. Irrespective, parking of personal vehicles is allowed within any lawful residential driveway.
- (3) Parking located behind buildings is encouraged in all zoning districts.
- (4) A loading area shall be located to the side or rear of the building it serves.
- (5) Within the Urban Center 1, Urban Center 2, Urban Center 3 and Riverfront districts, the following standards apply:
 - (a) No additional off-street surface parking may be constructed between the street and the frontline on the parcel (this does not apply to parcels where parking is the principal use).

3011.H **Dimensional Standards.** Off-street parking and loading areas shall conform to the following:

- (1) **Parking Spaces.** Off-street parking spaces shall not be less than 8½ feet wide by 18 feet deep, except for compact car spaces approved by the Development Review Board. Each

space shall be accessible from a driveway or access aisle except for:

- (a) Stacked spaces within a driveway serving not more than 4 dwelling units; or
 - (b) Tandem parking (a double-depth parking space with one vehicle parking the other in) for residential or employee parking.
- (2) **Access Aisles.** The access aisles within a parking lot or structure shall be not less than 20 feet wide except that one-way aisles serving angled parking spaces may be designed in accordance with accepted engineering standards.
- (3) **Loading Areas.** Loading areas shall conform to the following minimum standards:
- (a) Off-street loading areas for single-unit trucks shall have an overhead clearance of at least 10 feet and shall be not less than 10 feet wide and 20 feet long, exclusive of access and maneuvering area.
 - (b) Off-street truck loading areas for trailer trucks shall have an overhead clearance of at least 14 feet and shall be not less than 12 feet wide and 50 feet long, exclusive of access and maneuvering area.
- (4) **Turnarounds.** All off-street, non-residential parking and loading areas shall be designed so that vehicles can enter and exit the property without backing out onto a street right-of-way to the maximum extent feasible given the physical characteristics of the subject property.

3011.I **Design, Construction and Maintenance Standards.** Off-street parking and loading areas shall conform to the following:

- (1) **Pavement.** Off-street parking and loading areas shall provide a firm, level surface appropriate for the anticipated level of use in all seasons in accordance with the following:
 - (a) Parking areas for more than 20 vehicles, drive-through lanes, and large truck loading areas shall be surfaced with asphalt, concrete, or other durable materials.
 - (b) The Development Review Board may modify the surfacing requirement for parking areas that will not be regularly used.
 - (c) Use of pervious pavement for lightly used parking areas is strongly encouraged.
- (2) **Layout.** Perpendicular (90 degree) parking is encouraged and angled parking should be avoided unless necessitated by site-specific conditions.
- (3) **Snow Storage.** Snow cleared from off-street parking and loading areas shall be stored on-site without obstructing vehicular or pedestrian visibility or circulation to the maximum extent feasible given the physical characteristics of the subject property and in accordance with the following:
 - (a) If adequate space for snow storage is not available on-site, the snow shall be removed from the property as necessary and disposed of in accordance with state regulations.
 - (b) Snow shall not be cleared or stored in a location or manner that would damage required landscaping.
 - (c) Use of low impact development techniques to filter and infiltrate snowmelt is

strongly encouraged.

- (4) **Markings and Edging.** Parking areas with more than 10 spaces shall demarcate the parking spaces in accordance with the following:
 - (a) If the surface is paintable, the spaces shall be demarcated with painted lines.
 - (b) If the surface is not paintable, the spaces shall be demarcated however practical.
 - (c) The markings shall be kept clearly visible and distinct.
 - (d) Wheel stops, curbing, bollards or similar structural barriers shall be used to delineate the end of a parking space and prevent vehicles from entering or extending over abutting yards, landscape islands, sidewalks, or walkways.
 - (e) Any area subject to vehicle overhang shall not be included in the calculated area of a required walkway, island, buffer, or yard.
- (5) **Electric Vehicle Charging.** Electric vehicle charging stations may be provided within parking areas as an allowed accessory use in any zoning district. Development that will create more than 40 parking spaces for residents or employees shall provide at least 1 electric vehicle charging station per 20 parking spaces. Additional parking shall not be required when parking spaces are converted and reserved for charging vehicles and such spaces shall count towards the minimum parking required under this section.
- (6) **Maintenance.** Parking and loading areas shall be maintained in good condition free of weeds, dirt, trash, and debris.

3011.J **Nonconforming Parking and Loading Areas.** Sites with nonconforming parking and loading areas shall come into conformance with the provisions of this section to the maximum extent feasible given the physical characteristics of the parcel and the existing development when there is going to be an increase in the amount of parking, a change in the location of parking on the site, or a substantial change to the site layout, access or circulation. When redesigning pre-existing parking and loading areas on a parcel, the highest priority should be to eliminate any nonconforming parking within the minimum front setback. Any redevelopment of a previously developed site shall provide the minimum amount of parking required under this section.

Figure 3-13. Minimum Parking Ratios

USE	MINIMUM PARKNG SPACES
Residential	
Residential dwelling units including accessory dwelling units	1.0 per DU
Residential care homes- major and group homes major	0.5 per DU (household living) or 0.3 per bed (congregate living)
Congregate living	0.5 per bed
Lodging	
Bed and breakfast, inn,	2.0 + 1.0 per guest room
Hotel or motel	0.8 per guest room + 1.0 per 600 sf of public assembly space
Commercial	
Uses with high customer turnover	1.0 per 300 sf of GFA
Uses with regular customer traffic	1.0 per 450 sf of GFA
Uses with limited customer traffic	1.0 per 600 sf of GFA
Uses with no regular customer traffic	1.0 per 900 sf of GFA

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USE	MINIMUM PARKNG SPACES
Industrial	
Uses with no customer traffic	1.0 per 1,500 sf of GFA
Uses with limited customer traffic	1.0 per 900 sf of GFA
Uses with regular customer traffic	1.0 per 600 sf of GFA
Public Assembly	
Facilities for mass assembly	1.0 per 6 seats or 1.0 per 60 sf of assembly area if no seats
Public assembly with high visitor turnover	1.0 per 300 sf of GFA
Public assembly with regular visitor traffic	1.0 per 450 sf of GFA
Public assembly with limited visitor traffic	1.0 per 600 sf of GFA
Institutional or Community Facility	
Hospital	1.0 per 600 sf of GFA
Medical clinic building	1.0 per 300 sf of GFA
Grade school	0.1 per student + 1.0 per 300 sf of office space
College or university	0.3 per student
Trade or specialty school	1.0 per 300 sf of GFA
Library	1.0 per 300 sf of GFA
Museum or exhibition hall	1.0 per 1,200 sf of GFA
Public safety facility	1.0 per employee + 1.0 per 300 sf of office space
Funeral home	1.0 per 300 sf of GFA
Supervision or rehabilitative services	1.0 per 600 sf of GFA
Social assistance, welfare or charitable services	1.0 per 300 sf of GFA
Mining, Agriculture and Forestry	
Stable or equine facility or greenhouse	1.0 per 600 sf of GFA
Kennel	1.0 per 300 sf of GFA
Mining, extracting, quarrying and stone cutting	1.0 per employee + 1.0 per facility vehicle
Support functions for animal production	1.0 per 600 sf of GFA

Notes. DU = Dwelling Unit. GFA = Gross Floor Area.

High turnover uses are characterized primarily by an ongoing stream of customers or visitors arriving throughout the day and staying for a limited period of time (ex. convenience store, coffee shop, or gym).

Uses with regular traffic are characterized by customers or visitors arriving primarily at an expected or appointed time, and staying for moderate period of time (ex. sit-down restaurant, theater, or medical office).

Uses with limited traffic are characterized by customers or visitors arriving infrequently and primarily by appointment (ex. attorney or accountant).

Figure 3-14. Shared Parking Percentages

Land Use	Weekday		Weekend		Nighttime (12 AM – 6 AM)
	Daytime (9 AM – 4 PM)	Evening (6 PM – 11 PM)	Daytime (9 AM – 4 PM)	Evening (6 PM – 11 PM)	
Office or Industrial	100%	10%	10%	5%	5%
Retail	60%	70%	100%	70%	5%
Lodging	70%	100%	70%	100%	70%
Dining	50%	100%	70%	100%	5%
Other Commercial	40%	100%	80%	100%	5%
Residential	50%	90%	80%	90%	100%

Section 3012. Signs

3012.A **Purpose.** By encouraging the orderly and appropriate design, scale, and placement of signs, the provisions of this section are intended to:

- (1) Protect public safety;
- (2) Promote effective identification, communication and wayfinding; and
- (3) Maintain and enhance an attractive visual environment that fosters a healthy economy.

3012.B **Applicability.** All signs shall be designed and installed in accordance with the provisions of this section. The applicant shall apply for and receive a zoning permit before any sign is erected, enlarged, replaced, redesigned, or altered in any way except as specifically exempted in Subsection 3012.D. Signs within the Design Review Overlay District shall also meet the requirements of Section 2201, as applicable.

3012.C **Prohibited Signs.** The following signs are prohibited:

- (1) Off-premises signs, except for signs on a common scheme premises in accordance with Paragraph 3012.G(6).
- (2) On-premises signs more than 1,500 feet from the main entrance of the building, except for signs on a common scheme premises in accordance with Paragraph 3012.G(6).
- (3) Abandoned signs.
- (4) Signs attached to trees, utility poles, or public amenities such as public benches or streetlights.
- (5) Signs placed on any public property or public right-of-way, except for a portable sign in accordance with this section.
- (6) Signs that obstruct pedestrian traffic or visibility.
- (7) Signs that limit drivers' sight distance, that could be confused with official highway signs or signals, that unduly distract drivers' attention, or that otherwise impair public safety.
- (8) Signs illuminated by, composed of, or containing flashing, intermittent, rotating, or moving lights.
- (9) Internally illuminated signs except where specifically allowed under these regulations.
- (10) Signs that move or that incorporate any pennant, ribbon, streamer, spinner, balloon, inflatable or other similar moving, fluttering or revolving device except for revolving barber poles not more than 4 feet tall.
- (11) Signs mounted or extending more than 35 feet above the ground or, if building mounted, above the building's roofline.
- (12) Signs placed on vehicles or trailers that are parked or located for the primary purpose of displaying the sign.
- (13) Electronic message signs that display message content in more than one color, except as allowed for theater marquees in accordance with Paragraph 3012.I(1).
- (14) Any sign that is otherwise not allowed under these regulations.

3012.D **Exempt Signs.** The following signs do not require a zoning permit:

- (1) Public signs or notices erected or required by the city or state within the public right-of-way, including signs associated with public transit.
- (2) Government flags not more than 60 square feet in area when flown from a flag pole.
- (3) One temporary sign with an area that does not exceed 4 square feet displayed for fewer than 48 consecutive hours on a parcel where a garage sale, yard sale or other similar sale of personal property is taking place.
- (4) One temporary sign with an area of not more than 6 square feet in area adjacent to each street on which a parcel that is actively for sale has frontage. Such signs shall be removed within 1 week following the sale or lease of the parcel.
- (5) One temporary sign with an area of not more than 32 square feet in area on a parcel where construction is taking place. Such signs shall be removed not more than 3 days after the Administrative Officer issues a certificate of compliance for the project on the parcel or when construction on the parcel ceases if no certificate of compliance is required.
- (6) One open flag not more than 15 square feet or open/closed sign not more than 2 square feet in area per business. The flag shall be displayed only when the business is open. An open sign may be illuminated only when the business is open.
- (7) Posted, trespassing, hunting, or similar signs not more than 2 square feet in area.
- (8) Non-illuminated name, address, or similar identification signs not more than 2 square feet in area.
- (9) Decorative signs or banners on single-unit or two-unit residential property.
- (10) Sandwich board signs are exempt from these regulations but are required to receive approval from the Department of Public Works.
- (11) Signs on the inside of windows and inside buildings shall not be considered signs for the purposes of these regulations.

3012.E **Dimensional Standards.** Figure 3-16 establishes the maximum sign area and height by zone to be calculated or measured as follows:

- (1) **Sign Area.** Sign area shall be calculated by drawing one or more rectangles around all the components (ex. text, logos, symbols, and graphics) that serve to communicate the sign's message in accordance with the following:
 - (a) Support components (ex. frames, bases, poles, posts, roofs, etc.) shall not be included in the calculation of sign area unless they are integral to communicating the sign's message.
 - (b) Sign area only includes one side of a multi-sided sign provided that the message is the same on all sides (if it is not, each unique message component shall be counted once in the calculation).
 - (c) The area of a nonrectangular sign shall be adjusted to compensate for the amount of negative space within the sign area rectangle(s) as specified in Figure 3-17.
 - (d) See Figure 3-17 for further guidance on calculating sign area.

- (2) **Sign Height.** The height of a ground-mounted sign shall be measured from the lowest point on the ground at the base of the sign to the highest point of the sign, including any support component (ex. post, roof, etc.). See Figure 3-16 for further guidance on measuring sign height.

3012.F **General Standards.** Signs shall conform to the following:

- (1) Signs shall be structurally sound and located so that they do not pose a threat to pedestrian or vehicular traffic.
- (2) Permanent ground-mounted signs shall be self-supporting structures built on and attached to concrete foundations.
- (3) Signs shall not be designed or located in a manner that would obscure architectural features such as cornices, arches, columns, etc.
- (4) Signs shall not be designed or located in a manner that would obstruct access to any fire escape, required exit, window, or door.
- (5) Sign lighting shall meet the provisions of Subsection 3012.H.
- (6) Signs shall not be displayed more than 14 days before the associated use commences.
- (7) All signs shall be maintained in a safe, legible, functional, and well-kept condition that is substantially the same as when they were constructed or installed.

3012.G **Specific Standards.** Signs shall conform to the following:

- (1) **Wall Signs.** Wall signs are allowed as specified in Figure 3-15 and in accordance with the following:
 - (a) A building may have multiple wall signs.
 - (b) Wall signs may be mounted on any building facade.
 - (c) The total area of all wall signs on a building shall be counted towards the maximum area of building-mounted signs specified in Figure 3-16.
 - (d) The width of a wall sign shall not exceed 80% of the width of the building facade associated with the office, space or unit occupied by either a use, for buildings with two or more uses and/or a residence or business, for a building with more than one occupant or building facade, for buildings with one use and one occupant.
 - (e) A wall sign may be illuminated in accordance with Subsection 3012.H.
 - (f) Wall signs that project more than 6 inches from the wall shall have a minimum clearance of 8 feet from the bottom of the sign to the grade below.
 - (g) Wall signs may encroach into required setbacks or over sidewalks.
- (2) **Projecting Signs.** Projecting signs are allowed as specified in Figure 3-15 when designed and placed so the sign is visible to, and for the purpose of capturing the attention of a pedestrian walking along the same side of the street as the building to which the projecting sign is attached or under a building arcade or canopy in accordance with the following:

- (a) There shall not be more than one projecting sign per customer entrance except as allowed under Paragraph (4) below.
 - (b) The sign shall not exceed 6 square feet in area.
 - (c) The area of a projecting sign shall be counted towards the maximum area of building-mounted signs per building specified in Figure 3-16.
 - (d) The sign may be illuminated in accordance with Subsection 3012.H.
 - (e) The sign and its support structure shall have a minimum clearance of 8 feet from the bottom of the sign to the grade below.
 - (f) The sign and its support structure shall not project more than 3 feet from the wall of the building on which the sign is mounted.
 - (g) The sign and its support structure may encroach into required setbacks and over sidewalks to within 1 foot of the curb.
 - (h) Projecting signs shall not be mounted on a building facade above the second floor level, except that blade signs may be mounted at ground or second floor level and extend more than one story in height not to exceed the eaves or parapet.
 - (i) No projecting sign shall be located less than 24 feet from another projecting sign.
- (3) **Directory Signs.** Building-mounted directory signs are allowed as specified in Figure 3-15 to identify uses that shall be accessed from inside the building and in accordance with the following:
- (a) There shall not be more than one directory sign per shared building entrance.
 - (b) The sign shall not exceed 6 square feet in area.
 - (c) The sign shall be located at or adjacent to a building entrance.
 - (d) The sign may be illuminated in accordance with Subsection 3012.H.
 - (e) The area of a directory sign shall be counted towards the maximum area of building-mounted signs per building specified in Figure 3-16.
- (4) **Signs for Businesses located above Ground Floor Level of a Building.** Building-mounted signs identifying uses where a building has more than one residence, business, or occupants, with a space, office, or unit located above the ground floor level of building are allowed as specified in Figure 3-15 and in accordance with the following:
- (a) For each building occupant with a space, office or unit located above the ground floor level of a building, there shall be no more than one building mounted sign.
 - (b) The sign may be a wall or projecting sign.
 - (c) The sign shall be mounted above the ground floor level at the same height and location as the space office or unit occupied by the associated use or building occupant. The preferred mounting location for a projecting sign associated with a use or building occupant with a space, office, or unit located on the second floor level of a building is beside a window for the space, office, or unit occupied by the associated use or building occupant and not higher than the top of that window.
 - (d) The sign may be illuminated in accordance with Subsection 3012.H.

- (e) The total area of all signs for uses or building occupants with a space, office, or unit located above the ground level of a building shall be counted towards the maximum area of building-mounted signs per building specified in Figure 3-16.
 - (f) All signs mounted above the ground floor level of the same building shall be compatible in type, scale, and placement.
- (5) **Ground-mounted signs.** Ground-mounted signs are allowed as specified in Figure 3-15 and in accordance with the following:
- (a) There shall not be more than one ground-mounted sign per parcel, except that a parcel with frontage on more than one street may have one ground-mounted sign located adjacent to each street on which the parcel has frontage.
 - (b) The maximum size and height of a ground-mounted sign is specified in Figure 3-16.
 - (c) Ground mounted signs may be located within required setbacks, but shall be set back at least 3 feet from the parcel line. Signs that exceed 6 feet in height shall be set back from the parcel line a distance equal to no less than 50% of their height.
 - (d) The sign may be illuminated in accordance with Subsection 3012.H.
 - (e) No ground-mounted sign shall be located less than 50 feet from any other ground mounted sign.
 - (f) Ground-mounted signs associated with multiple uses, dwellings and/or businesses located on the same parcel are encouraged to identify only the name of the overall development or project on the parcel, the address of the parcel and the name of each resident or business.
- (6) **Common Scheme Premises Signs.** A site that consists of more than one parcel sharing a common entrance from the street may have one ground-mounted sign associated with all the uses and/or occupants of building and/or land within the site, even though one or more of those uses or building or land occupants are not located on the same parcel as the sign and without regard for the number landowners.
- (7) **Awnings and Similar Accessory Structures.** Signs on awnings or similar attachments to a building shall be considered wall signs for the purposes of determining the total number and area of signs allowed on a parcel or site. Umbrellas or similar accessory structures shall also be considered wall signs if more than 10% of their surface area is covered with one or more signs that are also intended to be legible from off-premises.
- (8) **Instructional and Wayfinding Signs.** Instructional and wayfinding signs not designed to be legible from off the premises or for advertising purposes are allowed without limitation and shall not be counted when determining the total number and area of signs allowed on a parcel or site.
- (9) **Temporary Signs.** Temporary signs are allowed to advertise openings, sales, or similar special events as specified in Figure 3-15 and in accordance with the following:
- (a) There shall not be more than one temporary sign per parcel except parcels or sites that include more than one occupant and/or use in Eastern Gateway Zoning District may have not more than one temporary sign per occupant or use.

- (b) A temporary sign shall be displayed not more than 7 consecutive days nor more than a total of 14 days in any calendar year.
- (c) A temporary sign shall be securely attached to either a building or a permanent ground-mounted sign.
- (d) A temporary sign shall not exceed 20 square feet in area.
- (e) Temporary signs shall not count towards the maximum area of signs allowed under Figure 3-16.
- (f) A temporary sign shall not be illuminated.

3012.H **Sign Lighting.** All sign lighting shall conform to the following:

- (1) **Externally Illuminated Signs.** External illumination for signs shall be considered Class 1 lighting and shall conform to the standards of Subsection 3204.F. All upward directed sign lighting is prohibited.
- (2) **High Intensity Lights.** Any sign that includes the use of laser source lights, searchlights or other high intensity lights is prohibited.
- (3) **Time Limits.** Sign lighting shall be turned off by 9 p.m. within Lighting Zone 1 and by 11 p.m. within Lighting Zone 2, or at the close of business if later. The Development Review Board may further limit the time period when signs may be illuminated as deemed necessary to achieve the purposes of this section and protect the character of the neighborhood.

3012.I **Special Use Signs.** There are special standards for the following uses:

- (1) **Theaters.** In addition to the signs otherwise allowed under this section, a theater may have either:
 - (a) A marquee shall not project more than 6 feet from the building and shall not exceed 4 feet in height and 12 feet in width. Signs may be located on the three faces of the marquee. The marquee shall not count towards the maximum area of signs allowed under Figure 3-16 provided the combined marquee signage does not exceed 12 square feet; or
 - (b) Temporary wall or window signs may be mounted in permanently installed frames. These signs shall not count towards the maximum area of signs allowed under Figure 3-16 or be subject to the limitations of Paragraph 3012.G(9). The total area of these signs shall not exceed 32 square feet except that multiplexes may have an additional 8 square feet of signage per additional theater.
- (2) **Fueling Stations.** In addition to the signs otherwise allowed under this section, a fueling station may have either:
 - (a) One pricing sign affixed to each pump or not more than one pricing sign affixed to each side of the canopy. Such pricing signs shall not count towards the maximum area of signs allowed under Figure 3-16. Each sign shall not exceed 3 square feet in area. Pricing signs may be single-color digital price signs; or
 - (b) One ground-mounted digital pricing sign adjacent to each street upon which the parcel has frontage. The pricing sign shall count towards the maximum area of signs allowed under Figure 3-16. .

- (3) **Farm Stands or Markets.** In addition to the signs otherwise allowed under this section, a farm stand or market may display not more than 4 non-illuminated signs advertising seasonal products. Such signs shall not count towards the maximum area of signs allowed under Figure 3-16. Each sign shall not be more than 4 square feet in area and shall not be displayed more than a total of 90 days in any calendar year.
- 3012.J **Signs in Public Rights-of-Way.** Permission from the Department of Public Works is required before any sign may be placed in a public right-of-way, irrespective of whether or not it requires a zoning permit.
- 3012.K **Sign Removal.** All signs shall be removed within 90 days after its associated use, building, or land occupant changes, closes, or terminates (if the sign is nonconforming see Subsection 3012.L). For lawful, conforming signs, only the message components of the sign associated with the changed, closed, or terminated use, building, or land occupant shall be removed or covered and the support components may remain. If the support components are not going to be reused, they shall be removed before the Administrative Officer may issue a zoning permit for any new signs on the property.
- 3012.L **Nonconforming Signs.** The following applies to any sign that has become a nonconformity:
- (1) A nonconforming sign shall not be altered, modified, or reconstructed unless:
 - (a) The alteration, modification, reconstruction or relocation shall bring the sign into conformance with these regulations; or
 - (b) The alteration, modification, or reconstruction of the sign will not change the area and will be limited to replacement of a sign panel, or replacing individual letters or logos within the same area, or repainting a sign face. No changes beyond normal repair and maintenance shall be allowed to the structure or framing, and the sign shall not be relocated.
 - (2) Otherwise, a nonconforming sign shall be brought into conformance with these regulations when:
 - (a) There is a substantial improvement to the exterior of the building occupied by the use or building occupant associated with the sign.
 - (b) The sign has been damaged to the extent that the cost of repair or restoration exceeds 30% of the replacement value of the sign immediately prior to the damage.
 - (3) A nonconforming sign shall be removed within 90 days after its associated use, building, or land occupant changes, closes, or terminates. Both the message and support elements of the sign shall be removed. The Development Review Board may allow a nonconforming sign to remain after the associated use, building or land occupant closes or terminates upon determining that the nonconforming sign has artistic, historic or landmark value to the city and is an essential component of the unique identity of a neighborhood, site or building.

Figure 3-15. **Sign Types Allowed**

	UC 1,2 & 3	EG	WG, RIV & MUR	All other districts
Wall Sign	Y	Y	Y	Y
Projecting Sign	Y	Y	N	N
Directory Sign	Y	Y	Y	Y
Signs for Uses or Occupants located above Ground Floor	Y	Y	N	N
Ground-Mounted Sign, Multiple Uses	Y	Y	Y	Y
Ground-Mounted Sign, Single Use	Y	Y	Y	Y
Ground-Mounted Sign, Entrance	Y	Y	Y	Y
Temporary Sign	Y	Y	Y	Y

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Figure 3-16. **Maximum Sign Area and Height**

	UC 1,2 & 3	EG	WG, RIV & MUR	All other districts
Building-Mounted Sign Area (per foot of the width of the building facade)	2.0 sf	2.5 sf	0.3 sf	0.2 sf
Building-Mounted Sign Area (building setback >200 ft. from street)	na	3.0 sf	0.6 sf	0.4 sf
Building-Mounted Sign Area (multi-story building)	extra 12 sf for each level or story above ground floor level	extra 18 sf for each level or story above the ground floor level		–
Ground-Mounted Sign Area	12 sf	32 sf	12 sf	8 sf
Ground-Mounted Sign Area (multiple uses, buildings or land occupants)	–	extra 8 sf per use or occupant	–	–
Ground-Mounted Sign Height	8 ft.	12 ft.	12 ft.	8 ft.

Figure 3-17. **Sign Area Adjustment for Nonrectangular Signs**

IF NEGATIVE SPACE COMPRISES:	THEN REDUCE THE CALCULATED SIGN AREA BY:
30% to <50% of the Sign Area Rectangle	15%
50% to <70% of the Sign Area Rectangle	30%
70% or more of the Sign Area Rectangle	45%

Chapter 310. Special Use Standards

- i** *This chapter establishes supplemental regulations that address the unique development challenges of certain development. It includes additional standards, exceptions to the standards or alternative standards for particular uses, structures and facilities.*

Section 3101. Fences and Walls

- 3101.A **Applicability.** All fences and walls shall be designed and located in accordance with the provisions of this section.
- 3101.B **Location.** Fences or walls are not subject to setbacks.
- 3101.C **Orientation.** The support posts shall be placed on and faced towards the inside of the subject property and the finished surface of the fence or wall shall face the abutting property or street.
- 3101.D **Front Yard.** Fences or walls located within a front yard shall not exceed a height of 4½ feet and the applicant shall demonstrate that the fence will not interfere with line of sight of pedestrians, bicycles, or vehicles in the right-of-way.
- 3101.E **Side or Rear Yard.** Fences or walls located within a side or rear yard shall not exceed a height of 6 feet except:
- (1) Where a higher fence is approved by the Development Review Board or required under these regulations for buffer, screening, or security purposes.
 - (2) Where the fence or wall abuts Interstate 89, the maximum height shall be 8 feet.
 - (3) Where the ground floor elevation of the principal building is at least 4 feet higher than the elevation at the base of the fence or wall, the maximum height shall be 8 feet.
- 3101.F **Materials.** A fence or wall shall not be constructed of barbed wire, razor wire, or similar materials capable of inflicting significant physical injury unless required by state or federal regulation.
- 3101.G **As screening.** Fences or walls used as a buffer or screening shall conform to the following:
- (1) The fence or wall shall be opaque between the heights of 1 and 4 feet above the ground.
 - (2) Use of corrugated or galvanized metal sheets and chain link fences with inserts are prohibited.

Section 3102. Temporary Construction-Related Structures and Uses

- 3102.A The Administrative Officer may issue a permit to allow temporary structures and uses in conjunction with and to be located on the site of approved development including, but not limited to, offices, trailers, dumpsters, storage buildings and signs in accordance with this subsection.
- 3102.B A construction dumpster on private property shall:
- (1) Not be located so that it impedes pedestrian or vehicular access to and from adjoining

properties, or otherwise creates an unsafe condition for pedestrian and vehicular traffic;

- (2) Clearly identify the owner's name and telephone number;
- (3) Be clearly labeled for the purpose of collecting construction materials only; and
- (4) Be routinely emptied so it does not create unsightly or dangerous conditions on the property.

3102.C A construction dumpster on public property shall receive approval from the Director of Public Works.

3102.D Temporary permits may be issued by the Administrative Officer for a period not exceeding 120 days provided such permits are conditioned upon removal of the structure or use upon expiration of the permit. Such permits may be renewed for additional periods not exceeding 90 days if the Administrative Officer finds that the construction requires it.

Section 3103. Community Facilities

3103.A Development associated with a community facility requires approval under these regulations but such reviews shall be limited to only those provisions allowed under the Act §4413(a)(1).

3103.B Community facilities include:

- (1) State- or community- owned and operated institutions and facilities;
- (2) Public and private schools and other institutions certified by the 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 under 10 V.S.A. chapter 159;
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. §6606a.

Section 3104. Accessory Dwelling Unit

3104.A Any parcel classified as a single dwelling-unit may have one accessory dwelling unit (ADU) within, or appurtenant to, the primary unit provided the ADU meets all the following:

- (1) The ADU is clearly subordinate to, and distinct from, the primary dwelling and has facilities and provisions for independent living, including sleeping, food preparation and sanitation.
- (2) The ADU does not exceed 900 square feet or 30% of the total habitable floor area of the primary dwelling (prior to creation of the ADU), whichever is greater.
- (3) The single dwelling unit with the ADU meets all other applicable requirements for a single-unit dwelling without an ADU.

Section 3105. Home Office, Home Business and Home Industry

- 3105.A **Purpose.** The purpose of this section is to ensure these regulations do not infringe on the right of any resident to use a minor portion of a dwelling for an occupation which is customary in a residential area and which does not have an undue adverse impact on the character of the area in which it is located. These rules should also provide appropriate guidance for home businesses and industries to allow modest uses of one's dwelling provided the neighborhood is protected from undue impacts.
- 3105.B **Applicability.** The provisions of this section apply to proposed home office, home business, and home industry.
- 3105.C **Home Office.** No zoning permit shall be required for a home office provided:
- (1) All activities occur inside of the principal dwelling;
 - (2) The office only employs residents of the dwelling; and
 - (3) The activity does not involve signs, public access, or any outdoor storage or display.
- 3105.D **Home Business.** Home businesses are considered accessory uses to residential uses and are permitted uses in all zoning districts. Home businesses shall:
- (1) Be conducted by the residents of the dwelling and up to two non-resident employees on-site at any time.
 - (2) Be conducted within the principal dwelling or an accessory structure on the same parcel.
 - (3) Not occupy more than 1,000 square feet of gross floor area.
 - (4) Not generate more than 10 additional vehicle trips per day.
 - (5) Be conforming with respect to parking requirements.
 - (6) Not have commercial vehicles other than passenger vehicles (e.g. cars, vans, pick-up trucks) associated with the business parked on the premises.
 - (7) Not have more than one sign (see Section 3012).
 - (8) Not allow outdoor storage or display.
- 3105.E **Home Industry.** Home industries are considered accessory uses to residential uses and are conditional uses in all zoning districts. Home Industries shall meet the following:
- (1) The business shall be conducted on-site by residents of the dwelling, and up to three non-resident employees on-site at any time.
 - (2) Any exterior storage of materials and equipment associated with the home industry shall be limited to a clearly designated area approved by the Development Review Board. The area shall meet all applicable setbacks and avoid adverse impacts to neighboring properties or the public right-of-way.
 - (a) The Development Review Board may require greater setbacks or require screening as a condition of approval.
 - (3) Commercial vehicles associated with the home industry shall be parked within designated parking areas approved by the Development Review Board.

- (a) The Development Review Board may require greater setbacks or require screening as a condition of approval.
- (4) On-site sales or service are limited to the sales of goods or services produced on premises.
 - (a) The Development Review Board may limit days and hours of operation as a condition of approval.
- (5) The business does not have more than one sign (see Section 3012).

Section 3106. Child Day Care Homes and Facilities

- 3106.A A child day care home is considered, by-right, to be a permitted single unit residential use of property if the applicant meets all of the following:
- (1) A resident of the dwelling operates the family childcare home.
 - (2) The family child care home is registered or licensed by the state.
 - (3) The family child care home serves no more than 6 full-time and 4 part-time children in accordance with statute.
- 3106.B A child day care home that serves more than six full time and four part time children shall be reviewed as listed on Figure 2-15.
- 3106.C All licensed child day care facilities shall be reviewed as listed on Figure 2-15.

Section 3107. Group Homes and Residential Care Homes

- 3107.A A group home or residential care home operated under state licensing or registration that will serve not more than 8 residents who have a handicap or disability as defined in statute is a by-right use of a single-unit dwelling.
- (1) No zoning permit is required for a lawful single-unit dwelling to be used as a group home or residential care home.
 - (2) A zoning permit may be required for other associated development to the same extent as would be required if the property was occupied by any household.
- 3107.B Group homes and residential care homes operated under state licensing or registration that do not meet the requirements above shall be regulated as a Group Home – Major or Residential Care Home – Major, as applicable, as listed on Figure 2-15.

Section 3108. Camping

- 3108.A Camping is allowed on private property in accordance with the following:
- (1) A parcel that is occupied by more than 3 camping units (campers, travel trailers, RVs, cabins, lean-tos, tents, etc.) for more than 7 days shall be considered a campground (see Section 3109).
 - (2) A zoning permit shall be required if one or more camping units shall be located on the premises and occupied for more than 7 consecutive days in accordance with the standards below:

- (a) Camping units shall not be located within required district setbacks.
 - (b) On developed parcels that are less than 2 acres in area, camping units shall be located to the side or rear of the building.
 - (c) Camping units shall not be located on the premises and occupied for more than a total of 90 days in any calendar year. Storage of unoccupied camping units shall conform to the requirements of Section 3205.
 - (d) Camping units shall meet applicable city and state requirements for water supply and wastewater systems.
- (3) No permit shall be required for a camping unit located on a parcel with a dwelling and used by residents of that dwelling for recreational purposes.

Section 3109. Campgrounds

3109.A Campgrounds may be allowed in specified districts in accordance with the following:

- (1) Any parcel of land occupied by or designed to accommodate more than 3 camping units (campers, travel trailers, RVs, cabins, lean-tos, tents, etc.) shall be considered a campground under these regulations.
- (2) No campsite or cabin may be occupied between November 1 and March 31 except for primitive campsites accessory to a lawful park or recreation area.
- (3) A campground shall not exceed a maximum density of 10 campsites or cabins per acre.
- (4) A campground shall have a resident manager. This provision shall not apply to a site that provides primitive campsites as an accessory use to a park or recreation area.
- (5) A campground may include one single-unit dwelling for the campground manager, which may be occupied year-round.

Section 3110. Bed-and-Breakfast or Inn

3110.A **Bed-and-Breakfasts.** A dwelling may be used as a bed-and-breakfast in specified zoning districts in accordance with the following:

- (1) A bed-and-breakfast shall not rent out more than 5 guest bedrooms unless approved by the Development Review Board as a conditional use.
- (2) The maximum occupancy period shall be less than 30 days.
- (3) A resident of the dwelling shall operate the bed-and-breakfast.
- (4) Meals shall not be provided to the general public.
- (5) Guests may be housed in the dwelling and any accessory building on the property.

3110.B **Inns.** Inns are allowed specified districts in accordance with the following:

- (1) An inn shall be residential in scale and character. Guests may be housed in the dwelling or any accessory buildings on the property.
- (2) The number of guest rooms shall not exceed 1 per 400 square feet of gross floor area.
- (3) The maximum occupancy period shall be less than 30 days.

- (4) An inn may include accessory uses such as restaurants, event venues, fitness centers, or spas that are open to the general public and not otherwise allowed in the zoning district upon review and approval by the Development Review Board as a conditional use.
- (5) The inn shall have a resident manager.

Section 3111. Residential Uses

3111.A Residential uses are separated into three groups:

- (1) Those that have independent dwelling units including one dwelling unit (du), two dus, three dus, four dus, and multifamily (see Figure 2-15).
 - (a) The essential provisions of a dwelling unit are those as defined in 5101.D.
 - (b) Dwelling units are limited by the residential density as set by the zoning district in which the parcel is located.
- (2) Those residential use which share at least one essential provision of a dwelling unit (e.g. living, sleeping, eating, cooking, and sanitation) shall be considered congregate living (see Figure 2-15).
 - (a) This could include residential uses as dormitories, rooming and boarding facilities, and certain co-housing arrangements.
 - (b) Congregate living is limited by the FAR as set by the zoning district in which the parcel is located.
- (3) Those uses that are under state registration or licensure include group homes (see Section 3107) and residential care homes (see Section 3107).
 - (a) Group homes and Residential care homes are limited by either the number of dwelling units or FAR, as applicable depending on whether the facility is composed of independent dwelling units or is a congregate living arrangement.

3111.B In the review of residential use the following applies:

- (1) The method of construction is not a consideration in the approval of any dwelling unit or congregate facility.
 - (a) Mobile homes, modular housing, prefabricated housing, tiny homes, or any similar unit or facility shall not be treated differently from conventional housing. This provision does not exempt these units from meeting any design standards, dimensional requirements, or other provisions required of conventional housing.
- (2) Unless expressly stated in a specific provision of the regulations, occupancy type is not a consideration in the approval of any dwelling unit or congregate facility.
 - (a) Occupancy types include owner occupied, rental occupied, condominium, lease, time share, or other occupancy and ownership types.

Section 3112. Hotel or Motel

3112.A The number of guest rooms in a hotel or motel shall not exceed 1 per 400 square feet of gross floor area.

- (1) Guests of hotels or motels are limited to less than 30 consecutive days and not more than 90 days in any 365-day period unless residing in an extended stay unit as described below.
- 3112.B Extended stay rooms shall be allowed after review and approval by the Development Review Board as a conditional use and in accordance with the provisions below.
- (1) Extended stay units shall be furnished apartment type units rented on a short-term basis each with a kitchen (including stove with an oven or microwave oven, minimum 12 cubic foot refrigerator, sink, and cooking and eating utensils), bath, living space, and separate bedroom/sleeping space.
 - (2) Extended stay occupancy shall be defined a guest room that is registered to or occupied by the same guests for a continuous period of 30 or more than days.
 - (3) All guest rooms designed or used for extended stay occupancy shall be a minimum of 220 square feet in area and shall include full bathroom and kitchen facilities.
 - (a) A full bathroom includes a toilet, sink, and a bathtub, shower or bathtub/shower combination.
 - (b) A full kitchen includes a sink, refrigerator, and a stove, range top, or oven.
 - (4) A minimum of 100 square feet of usable open space suitable for passive recreation and accessible to all guests shall be required per extended stay guest room. The open space area shall not be less than 30 feet in any dimension.

Section 3113. Automobile Repair or Service

- 3113.A All automobile repair or service activities, including body work, painting, lubrication, and motor vehicle washing, shall be carried out within an enclosed building.
- 3113.B Automobile repair bays shall not face the street except within the Eastern Gateway district where repair bays may face the street if they are located at least 120 feet from the front parcel line.
- 3113.C The following activities and equipment shall be permitted only behind the building frontline:
- (1) Storage of vehicle parts.
 - (2) Temporary storage of vehicles being repaired.
 - (3) Vacuuming and cleaning equipment.
- 3113.D A non-operable, disabled, wrecked, or partially dismantled vehicle shall not be stored outside an enclosed building for more than 14 days.

Section 3114. Car Wash

- 3114.A The provisions of this section apply to any car wash established as a permanent use. They do not apply to any temporary car-washing fundraising events that occur for no more than 3 consecutive days or the washing of personal vehicles on the owner's property.

- 3114.B All car washing and drying activities shall be carried out within a fully enclosed building except that self-service bays may be open on two sides.
- 3114.C Vacuuming equipment shall be located behind the building frontline.
- 3114.D Cleaning bays shall not face the street except within the Eastern Gateway district where cleaning bays may face the street if they are located at least 120 feet from the front parcel line.
- 3114.E Car washes shall contain all wastewater onsite and prevent it from running off the property or into municipal storm drains.

Section 3115. Drive-Through Facility or Drive-In Establishment

- 3115.A Drive-through facilities or drive-in establishments may be allowed in specified districts in association with specified uses in accordance with the following:
- (1) A drive-through facility is composed of one or more stacking lanes and a service area. The stacking lane is the space occupied by vehicles queuing for drive-through service. The service area includes all the space and elements (menu boards, pick-up windows, transaction windows, speakers, automated teller machines, etc.) used to provide drive-through service.
 - (2) Stacking lanes (where vehicles queue for service) and service areas shall be located to the side or rear of the building.
 - (3) Stacking lanes shall be clearly signed, marked, and separated from travel lanes.
 - (4) Stacking lanes shall not block access to parking, loading, and service areas.
 - (5) One or more designated pedestrian crossings shall be provided across any stacking lane that separates parking from the building.
 - (6) No stacking lane or space may be located within a minimum required setback.
 - (7) Each stacking space within a stacking lane shall be a minimum of 18 feet in length by 9 feet in width.
 - (8) The service area shall incorporate a roof overhang, canopy, awning, or similar structure that provides weather protection.
 - (9) Drive-through facilities and drive-in establishments shall be located a sufficient distance from property lines and screened to prevent adverse impacts, including but not limited to noise and light trespass, on adjacent properties.

Section 3116. Fueling Station

- 3116.A **Parcels.** A fueling station shall be located on a parcel that is at least 20,000 square feet in area with at least 150 feet of frontage.
- 3116.B **Fuel Pumps and Islands.** All fuel pumps and islands shall be set back at least 30 feet or the district minimum from all property lines, whichever is greater. Fuel pumps and islands shall not be located between the principal building and the street.
- 3116.C **Canopies.** Fueling station canopies shall be designed in accordance with the following:

- (1) Canopies shall be set back at least 20 feet from all property lines or the district minimum, if greater.
- (2) Canopies shall not exceed 16 feet in height if flat or 24 feet in height if sloped.
- (3) Canopies shall be architecturally integrated with the principal building on the site through the use of the same or compatible materials, colors, and roof pitch.
- (4) Only the underside of canopies may be illuminated. Light fixtures shall be recessed into the underside of the canopy so as not to protrude below the canopy surface by more than 2 inches. Canopy lighting shall be in accordance with Paragraph 3204.G(3).
- (5) Signage other than pricing and franchise or corporate identification elements shall not be mounted on or incorporated into freestanding canopies.
- (6) Pricing signs shall not extend above the top edge or roofline of the canopy or below the bottom edge or underside of the canopy (see Paragraph 3012.I(2) for further guidance on pricing signs).
- (7) Signs may be mounted on or incorporated into a canopy that is attached to a building to the same extent as otherwise allowed on that building. Canopy frontage shall not be considered building frontage when calculating the maximum sign area of building-mounted signs in accordance with Figure 3-16.

3116.D **Convenience Store.** A convenience store may be an accessory use to a fueling station. The floor area of convenience store shall not exceed 3,500 square feet.

Section 3117. Neighborhood Market

3117.A A neighborhood market is a small retail food store that devotes at least 40% of the selling area to staple foods. Staple foods are food items intended primarily for home preparation and consumption such as meat, poultry, fish, bread, cereals, vegetables, fruits, juices, and dairy products.

3117.B A neighborhood market may include accessory food service.

3117.C Parking requirements for a neighborhood market shall be 1 space per 600 square feet of gross floor area provided that parking is allowed on the street in front of the market and the applicant provides bicycle parking.

3117.D No more than two markets shall be allowed within any neighborhood (as defined on the zoning map).

Section 3118. Mini-Warehouse (Self-Storage Facility)

3118.A A self-storage facility that is not located within a mixed-use development shall be located on a parcel that is at least 2 acres and the facility shall not occupy more than 5 acres on any parcel.

3118.B Within the Rural District, a self-storage facility shall only be allowed if it will be:

- (1) An adaptive re-use of a historic barn that maintains the architectural integrity of the building exterior as viewed from public vantage points; or

- (2) In a location that is fully screened from public view.
- 3118.C Mini-storage buildings fronting on the street shall be oriented with their short side facing the street to the maximum extent feasible. If storage unit doors shall face the street, the Development Review Board may require additional fencing or screening as deemed necessary to provide a pedestrian-friendly and attractive streetscape.
- 3118.D All mini-storage buildings on the premises shall be compatible in design, materials, and color with one another. The building exteriors shall use muted or neutral colors that would help blend the buildings into the surrounding landscape and shall not use intense or vibrant colors that would call attention to the buildings.
- 3118.E No outside or unenclosed storage shall be permitted.
- 3118.F No storage of hazardous materials, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage, or waste oil shall be permitted.
- 3118.G No business activity other than the rental of storage units may be conducted on the premises unless the self-storage facility is a component of an approved mixed-use development.
- 3118.H No vehicle maintenance or repair, use of tools or equipment, or any activity other than storage of property may be conducted on the premises.

Section 3119. Satellite Dish Antennas

- 3119.A **Applicability.** The standards of this subsection apply to satellite dish antennas not exempted in Section 1101 or Section 1103.
- 3119.B **Location.** To the maximum extent feasible without restricting its operation, a satellite dish antenna shall not be located or mounted:
- (1) In the minimum front or side setback;
 - (2) Between the principal building and the street, except if located on an accessory structure; and
 - (3) On the roof or wall of a building that faces the street.
- 3119.C **Screening.** A ground-mounted satellite dish antenna shall be screened from view from streets and adjacent properties to the maximum extent feasible without restricting its operation.
- 3119.D **Height.** A roof-mounted satellite dish antenna may exceed district height requirements provided that it does not extend more than 10 feet above the roof surface.

Section 3120. Energy Generation Facilities

- 3120.A **Applicability.** The standards of this subsection apply to energy generation facilities not exempted in Section 1101 or Section 1103.

- 3120.B **Setbacks.** An energy generation structure shall be set back a distance equal to the structure's height or more from all property lines or the district minimum setback requirement, whichever is greater, except if it is building mounted.
- 3120.C **Height.** The height of a ground-mounted solar energy generating apparatus shall not exceed 35 feet. The height of a wind energy apparatus shall not exceed 120 feet.
- 3120.D **Removal.** A facility that has been out-of-service for more than 180 days shall be considered abandoned and shall be removed unless the owner can demonstrate to the Administrative Officer an intent to resume the energy generation use within 2 years of abandonment.

Section 3121. Utility Facilities

- 3121.A **Applicability.** The standards of this subsection apply to utility facilities not exempted in Section 1103.
- 3121.B **District Standards.** Minimum parcel size and frontage requirements shall not apply to parcels owned by utilities and used for utility facilities.
- 3121.C **Site Security.** Utility facilities shall be designed and maintained to prevent unauthorized access and protect public safety.
- 3121.D **Buffer.** A landscaped buffer at least 25 feet deep shall be provided around the site perimeter.

Section 3122. Wireless Communications Facilities

- 3122.A **Purpose.** The purpose of this subsection is to:
- (1) Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity and compatibility;
 - (2) Accommodate the growing need and demand for wireless communications facilities;
 - (3) Encourage the location and collocation of wireless communications equipment on existing structures in order to minimize visual, aesthetic, public safety and ecological impacts and reduce the need for additional antenna support structures;
 - (4) Provide for the replacement and removal of nonconforming or discontinued antennas and antenna support structures; and
 - (5) Respond to the policies of the Telecommunications Act of 1996 by not unreasonably discriminating between providers of functionally equivalent personal wireless service and not effectively prohibiting provision of personal wireless service in the City of Montpelier.
- 3122.B **Applicability.** Except as specifically exempted in Section 1103, the standards of this subsection apply to the installation, construction, or modification of the following wireless communications facilities:
- (1) Existing and proposed antennas and supporting structures;
 - (2) Replacement antennas and supporting structures;
 - (3) Broadcast antennas and supporting structures;

- (4) Collocated and combined antennas on existing antenna supporting structures;
- (5) Roof-mounted antennas and supporting structures;
- (6) Surface-mounted antennas;
- (7) Stealth wireless communications facilities; and
- (8) Amateur radio antennas and support structures with an overall height greater than 50 feet.

3122.C **De Minimis Impact.** The Administrative Officer may administratively approve and issue a zoning permit for an application for a wireless communication facility if the Administrative Officer determines that it conforms to all applicable provisions of these regulations and imposes no or de minimis impact on any criteria established in these regulations. The Administrative Officer shall only consider an application to have a de minimis impact if it meets all of the following:

- (1) The height and width of the facility or support structure, excluding equipment, antennas or ancillary improvements, shall not increase;
- (2) The total amount of impervious surface, including access roads, associated with the facility or support structure shall not increase by more than 300 square feet;
- (3) Any addition, modification or replacement of an antenna or other equipment shall not extend vertically more than 10 feet above and horizontally more than 10 feet from the facility or support structure; and
- (4) Any additional or replacement equipment, antennas or ancillary improvements, excluding cabling, shall not increase the aggregate surface area of the faces of the equipment, antennas or ancillary improvements on the facility or support structure by more the 75 square feet.

3122.D **Pre-Application Conference.** Prior to submitting an application for a wireless communication facility under this subsection (excluding applications determined to have de minimis impact), the applicant shall meet with the Administrative Officer for a pre-application conference. Among the matters to be addressed at the pre-application conference are:

- (1) The proposed location, type of facility, overall height and number of antennas;
- (2) The expected date of application and preliminary schedule for development review;
- (3) The ability of any proposed antenna supporting structure to accommodate future collocations;
- (4) Alternative locations or facility configurations that may result in reduced impacts on adjacent properties and the surrounding neighborhood;
- (5) Compatible colors for the proposed facility;
- (6) The vantage points from which any required photo-simulated, post-construction renderings shall be oriented; and
- (7) Application requirements.

3122.E **Application Requirements.** Applicants for a wireless communication facility may be required to submit any the following to determine compliance with the provisions of this subsection:

- (1) A signed statement from the facility's owner or owner's agent state that the radio frequency emissions comply with Federal Communications Commission (FCC) standards for such emissions.
- (2) Proof that the proposed wireless communications facility has been designed to withstand sustained winds of 110 mph and at 15-second wind gust of 130 mph.
- (3) Proof that the proposed antenna supporting structure has been designed so that, in the event of a structural failure, the facility shall collapse within the boundaries of the parcel on which it is located.
- (4) An FCC license, and construction development approval if applicable, to transmit radio signals in the City of Montpelier.
- (5) The name, address and telephone contact information for the owner of any proposed or existing antenna supporting structure, and a statement that such information shall be updated annually or more frequently if there is a change in ownership. Failure to report annually for two consecutive years shall be considered evidence of possible discontinuance.
- (6) A stamped structural analysis of the proposed wireless communications facility prepared by a professional engineer, indicating the proposed and future loading capacity of the facility.
- (7) Photo-simulated post-construction renderings of the proposed wireless communications facility, equipment enclosures, and ancillary appurtenances as they would look after construction from locations determined during the pre-application conference.
- (8) Proof of compliance with Federal Aviation Administration regulations of objects affecting navigable airspace.
- (9) Shared use plan.
- (10) A statement by a qualified professional engineer specifying the design structural failure modes of the proposed facility.
- (11) Antenna heights and power levels of the proposed facility and all other facilities on the subject property.

3122.F **Siting Priorities.** No antenna supporting structure shall be permitted unless the applicant demonstrates that the proposed antenna cannot be accommodated on an existing building or structure or by construction of a stealth facility. In order to justify the construction of an antenna supporting structure, the applicant shall provide a statement of position, qualifications and experience by a licensed radio frequency engineer demonstrating that the alternatives below (listed in order of preference) do not constitute feasible alternatives:

- (1) Collocated or combined antennas;
- (2) Surface-mounted antennas;
- (3) Roof-mounted antenna supporting facility; and
- (4) Stealth wireless communications facility.

3122.G **Collocated or Combined Antennas.** The following standards shall apply to all collocated or combined antennas:

- (1) Collocations shall not increase the overall height of an antenna supporting structure except in accordance with Paragraph 3122.K(1), below.
- (2) Collocations shall be approved only in accordance with the standards for visual impact and antenna type expressed in Paragraph 3122.K(4), below.
- (3) Antenna supporting structures and ancillary appurtenances, including transmission lines, shall maintain a galvanized gray finish or other contextually-compatible color as determined by the Development Review Board, except as otherwise required by the FAA and FCC.

3122.H **Surface-Mounted Antennas.** The following standards shall apply to all surface-mounted antennas:

- (1) Surface-mounted antennas and associated ancillary appurtenances shall maintain a color that is the same as the surface to which they are attached unless the Development Review Board finds that another color shall be more contextually compatible.
- (2) Transmission lines shall be camouflaged or otherwise shielded with an appropriate material that is the same color as, or a color consistent with, the building or structure to which they are attached.
- (3) Surface-mounted antennas shall be placed at least 15 feet above the ground and, where proposed to be placed on a building, shall be placed so that no portion of the antenna is less than 3 feet below the roofline.
- (4) Surface-mounted antennas shall be approved only in accordance with the standards for visual impact and antenna-type expressed in Paragraph 3122.K(4), below.

3122.I **Roof-Mounted Antenna Supporting Facilities.** The following standards shall apply to all roof-mounted antennas:

- (1) Roof-mounted antennas may be placed only on commercial, industrial, institutional or multi-unit buildings at least 35 feet in height.
- (2) The roof-mounted antenna, attachment device, equipment enclosure, and any ancillary appurtenance shall not extend above the roofline of the building to which it is attached by more than 20 feet.
- (3) Roof-mounted structures shall have a monopole-type construction.
- (4) Roof-mounted structures shall be approved only in accordance with the standards for visual impact and antenna type expressed in Paragraph 3122.K(4), below.
- (5) Roof-mounted structures, ancillary appurtenances, and equipment enclosures shall maintain a galvanized gray finish unless the Development Review Board finds that another color shall be more contextually compatible.
- (6) Transmission lines placed on the exterior of a building shall be camouflaged or otherwise shielded with an appropriate material that is the same color as, or a color consistent with, the building or structure to which they are attached.

- (7) No signs may be placed on any roof-mounted structure, ancillary appurtenances, or equipment enclosures.
- (8) Roof-mounted structures shall be screened by a parapet or other device in order to minimize their visual impact from the parcel lines of the subject property. Roof-mounted facilities shall be placed as near to the center of the roof as possible.

3122.J **Stealth Wireless Communications Facilities.** No stealth facility may have antennas or ancillary equipment that is readily identifiable from a public vantage point as wireless communications equipment. Stealth facilities shall be designed so that they are reasonably consistent with the surrounding built or natural environment. In order to determine compliance with this requirement, the Development Review Board shall consider the following:

- (1) Overall height;
- (2) The compatibility of the proposed facility with surrounding built and natural features;
- (3) Scale;
- (4) Color;
- (5) The extent to which the proposed facility blends with the surrounding environment;
- (6) The extent to which the proposed facility has been designed to reasonably replicate a contextually-appropriate non-wireless structure or feature (ex. silo, flagpole, or tree); and
- (7) The extent to which the proposed facility is not readily identifiable as a wireless communications facility.

3122.K **Antenna Supporting Structures.** The following standards shall apply to all antenna-supporting structures:

- (1) Antenna supporting structures shall be set back a distance at least equal to their overall height from all parcel lines (this does not include any guy-wire anchors). A nonconforming replacement structure shall not be placed any closer to a parcel line than the original structure and the height shall not be increased if the minimum setback cannot be met.
- (2) Antenna supporting structures shall have a monopole-type construction except that broadcast structures taller than 200 feet, amateur radio antennas, and AM broadcast antennas may have a lattice-type construction.
- (3) Antenna supporting structures and ancillary appurtenances, including transmission lines, shall maintain a galvanized gray finish or other contextually-compatible color as determined by the Development Review Board, except as otherwise required by the FAA and FCC.

- (4) Antennas shall be configured on antenna supporting structures in a manner that is consistent with the character of neighborhood and that minimizes adverse visual impacts on adjacent properties. Antenna types that may be permitted (in order of preference) include: (i) flush-mounted; (ii) panel; (iii) whip; and (iv) dish. In order to justify the use of an antenna type lower in the ranked listed above, the applicant shall provide a statement of position, qualifications and experience by a licensed radio frequency engineer demonstrating that higher-ranked alternatives cannot be used.
- (5) No lights, signals or other illumination shall be permitted on any antenna supporting structure or ancillary appurtenances unless the applicant demonstrates that lighting is required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC).
- (6) Site lighting may be placed in association with an approved equipment enclosure in accordance with Section 3204 of these regulations. Site lighting shall remain unlit except when authorized personnel are present.
- (7) No signs may be placed on antenna supporting structures, ancillary appurtenances, equipment enclosures, or any fence or wall except for hazard notification signs as required by state or federal law and one required identification sign not larger than 2 square feet attached to the access gate that lists the federal registration number (if applicable), name of the owner or contact person, and an emergency contact number.
- (8) Antenna supporting structures shall be designed to accommodate future collocations. The applicant shall submit a shared use plan that commits the owner of the proposed antenna support structure to accommodate future collocations where reasonable and feasible.
- (9) A fence at least 8 feet in height from the finished grade with a locked gate and a landscaped buffer at least 25 feet deep shall enclose the base of the antenna supporting structure and associated equipment enclosures.

3122.L **Discontinuance.** The following applies to any antennas and antenna supporting structures that have not been legally used for a period of at least 180 days:

- (1) The Administrative Officer may make a preliminary determination of discontinuance and may request documentation from the property owner regarding the structure's usage.
- (2) If the owner does not provide evidence that the structure remains in use or that resumption of its use is eminent, the Administrative Officer may make a final determination that use of the structure has been discontinued. Upon make that determination, the Administrative Officer shall send the property owner a written notice of discontinuance by certified mail.
- (3) If the property owner does not respond to the notice of discontinuance within 90 days and adequately demonstrate that the structure is not discontinued, the Administrative Officer shall send the property owner a declaration of discontinuance by certified mail.
- (4) Within 120 days of the Administrative Officer issuing the declaration of discontinuance, the property owner shall either:
 - (a) Dismantle and remove the facility; or
 - (b) Apply for a permit under this subsection to reactive the use of the structure as a

wireless communications facility in full conformance with all applicable provisions of these regulations

Section 3123. Rural Enterprises

3123.A **Purpose.** This section recognizes that Vermont's rural areas are characterized by working landscapes where resource-based economic activities have traditionally flourished. The purpose of this section is to accommodate rural enterprises that support economically viable farm and forestlands in the city and region by:

- (1) Adding value to local farm or forest products;
- (2) Direct marketing of local farm or forest products;
- (3) Engaging in agritourism or education; and
- (4) Offering goods or services needed for farming or forestry.

3123.B **Applicability.** Rural enterprises not otherwise provided for in these regulations may be allowed in any district following review and approval by the Development Review Board as a conditional use in accordance with the provisions of this section.

3123.C **Standards.** A rural enterprise shall meet the following standards:

- (1) Retail or food service or manufacturing uses shall have the sale or use of locally produced farm or forest products as a core element of the business.
 - (a) Local farm or forest products shall be interpreted to be within the State of Vermont.
- (2) Any agricultural buildings converted, modified, or expanded to accommodate the business shall retain their original form, massing, and style, particularly as viewed from public vantage points.
- (3) If the enterprise is located in the Rural district:
 - (a) New structures shall be similar in form, massing, and style to residential or agricultural buildings typical in the area.
 - (b) The overall character of the property as viewed from public vantage points shall be predominately rural and agricultural and shall not be predominately commercial or industrial.
- (4) Any agricultural land and current or former agricultural buildings may be used or adaptively reused for public assembly uses.

Section 3124. Extraction Operations

3124.A **Applicability.** The provisions of this subsection apply to quarrying and sand or gravel excavation as specified below:

- (1) Quarrying is a development activity principally designed to mine, extract, or remove limestone, minerals or bedrock materials for commercial purposes.
- (2) Sand or gravel excavation is a development activity principally designed to mine, extract, or remove unconsolidated sediments for commercial purposes.

- (3) The provisions of this section do not apply to cut and fill operations associated with approved development.
- 3124.B **Pre-Existing Sites.** An expansion of a pre-existing or previously approved extraction site shall require a complete review of the use as if an original application was being made. The review shall consider the relationship and coordination of activities between the original site and the expanded portion of the site. The additional and cumulative impacts that shall be caused by the combined operations on factors such as the environment, traffic, safety, noise, air pollution, neighborhoods, and adjacent land uses shall be of principal concern during this review.
- 3124.C **Setback Distances.** Figure 3-18 establishes minimum setback distances for specific on-site activities associated with an extraction operation from adjacent property.
- 3124.D **Buffer Yards.** A minimum buffer yard of 100 feet shall be maintained adjacent to all property boundaries and street rights-of-way in accordance with the following:
- (1) No excavation or storage of equipment or materials may occur within the buffer yard.
 - (2) Natural vegetation shall be maintained or supplemented as needed within the buffer yard. The Development Review Board may require additional screening, including berms, to protect adjacent property owners from the impacts of the excavation activity.
 - (3) The Development Review Board may approve the location of vegetated earthen berms for erosion control or stormwater management purposes within the buffer yard.
- 3124.E **Operational Standards.** The following minimum operational standards shall apply to all excavation operations unless otherwise approved by the Development Review Board:
- (1) Any topsoil removed from the surface and retained on the site for reapplication to disturbed areas during reclamation shall be carefully removed and stockpiled to prevent erosion.
 - (2) Extraction activities shall be phased. A new phase shall not begin until at least 50% of the active/current phase is reclaimed in accordance with the approved reclamation plan and the Administrative Officer has verified completion of the reclamation. The Development Review Board may place conditions on the size and sequence of the phases.
 - (3) The applicant shall submit and implement plans for erosion control and stormwater management. The Administrative Officer may periodically inspect the site to ensure compliance with erosion control and stormwater management plans.
 - (4) An excavation operation shall not cause the drainage of a wetland except as permitted by the Vermont Agency of Natural Resources.
 - (5) No excavation activity may occur within riparian areas as established in Subsection 3004.D.
 - (6) Operational activities, including blasting, excavation, processing and hauling are prohibited between the hours 7 p.m. (or dusk if earlier) and 7 a.m. The Development Review Board may further limit hours as deemed necessary to mitigate impacts to adjacent properties and streets.

- (7) Designated truck routes shall be used for all hauling and access to the site to the maximum extent feasible. Upon the recommendation of the Department of Public Works, the Development Review Board may impose weight limits on truck leaving the site if the streets serving the site are not suitable for heavy truck traffic.
- (8) A 6-foot continuous security fence shall be provided around the entire perimeter of the site on which quarrying activity shall take place. The Development Review Board may impose additional fencing requirements on portions of the site abutting residential areas, community facilities, and other public gathering places.
- (9) The applicant shall install warning signs on the property and along haul routes as deemed necessary to protect safety and general welfare in the area.
- (10) Operations shall maintain compliance with local standards for noise, dust, and vibration. All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise, and vibration. Access and haul roads shall be maintained in a dust-free condition by surfacing, watering or other treatment on a regular basis.
- (11) Stockpiles shall not exceed 50 feet in height. The Development Review Board may further restrict the height of stockpiles as necessary to mitigate their visibility from public vantage points and adjacent property.

3124.F **Reclamation Standards.** Sites shall be reclaimed at the completion of extraction activities in accordance with the following:

- (1) No approvals or permits for subsequent development on the extraction site shall be issued prior to reclamation of the site.
- (2) Topsoil capable of sustaining vegetative growth shall be provided and evenly spread on all disturbed areas.
- (3) Disturbed areas shall be stabilized and seeded at the earliest possible time following completion of extraction operations in an area in accordance with the approved erosion control plan. Progressive reclamation practices shall be implemented to continue to reclaim and stabilize disturbed areas prior to moving to a new phase. Final reclamation of each phase shall be completed within 6 months of the completion of each phase of the operation.
- (4) All equipment, stockpiles, debris, signs, and other materials or improvements associated with excavation shall be removed from the site after completion of the activity.
- (5) Erosion control measures shall be kept in place until permanent vegetation has been established on the site and erosion is controlled.
- (6) If the extraction activities will result in the creation of a water body, at the completion of the operation the water body shall have a natural form with variation in shoreline and depth.
- (7) Following reclamation, no slope on the site shall exceed a 30% slope (horizontal to vertical) over a distance of 30 feet. The Development Review Board may require a flatter angle if it is shown that the site will not be stable at a 30% slope or that vegetation cannot be established on the 30% slope. The Development Review Board may waive this requirement for areas of exposed ledge.

- (8) In addition to being seeded to prevent erosion, the reclaimed site shall be landscaped. The applicant shall submit a landscape plan that best suits the ultimate proposed use and design of the site provided that at least 8 deciduous and 8 evergreen large trees are planted for each disturbed acre.
 - (9) The applicant shall submit a master plan for the post reclamation use of the site that demonstrates that the reclaimed site shall be suitable for a use allowed in the district and for development in accordance with the applicable provisions of these regulations.
- 3124.G **Performance Bond.** The Development Review Board may require the applicant to provide a performance bond or other financial security in an amount satisfactory to and approved by the city to ensure that all standards are fully met during operation and that proper site reclamation is completed in a timely manner. Failure to stabilize the site, failure to make necessary repairs and improvements to streets damaged by the excavation activity, failure to reclaim the site as specified in the approved reclamation plan, or any other inconsistencies between the approved operation and reclamation plans and the actual extraction or reclamation activities carried out will be cause for the City of Montpelier to redeem the performance bond or other financial security to make the necessary corrections.
- 3124.H **Inspection and Monitoring.** As a condition of approval, the Development Review Board may require that the Administrative Officer inspect the site at a specified interval to ensure that the extraction activity is being undertaken in accordance with the approved plans. As a condition of approval, the Development Review Board may require on-going monitoring of the operation to ensure that extraction activities are not adversely impacting the natural environment, the surrounding neighborhood or public infrastructure.
- 3124.I **Review Criteria.** The Development Review Board shall find that the proposed extraction activity meets the conditional use criteria and that the development shall:
- (1) Not result in a danger to life or property due to: steep or unstable slopes; unsafe access to the property; excessive traffic; or proximity to existing or planned neighborhoods, parks, and roadways.
 - (2) Adequately mitigate visual, noise, dust and excessive on- or off-site environmental impacts on existing or planned neighborhoods, parks and roadways.
 - (3) Adequately mitigate the effects of the use of trucks and heavy equipment on road safety and maintenance and shall not cause excessive congestion of public roads providing access to the site.
 - (4) Not adversely affect the quality of air, groundwater, or surface water, and shall minimize impacts of significant ecological resources and natural communities.
 - (5) Not result in negative impacts on drainage patterns or stormwater management facilities.
 - (6) Adequately restore the site following completion of the excavation activity so that upon completion any adverse effects to scenic quality, natural landscapes, wildlife, or habitat shall be mitigated.
 - (7) Provide buffers to screen unsightly features of the excavation operation year-round from public vantage points and adjoining properties.

- (8) Be appropriate in intensity and anticipated duration given the size and location of activity.

Figure 3-18. Setback Distances for Extraction Activities

Required Distance from Adjacent Property in the:	EG District	RL District	All Other Districts
Excavation areas with an elevation change >10 ft.	100 ft. min	150 ft. min	250 ft. min
Stockpiles (long-term storage)	100 ft. min	150 ft. min	250 ft. min
Stockpiles (short-term storage) and loading points	100 ft. min	200 ft. min	300 ft. min
Crushing or processing	100 ft. min	500 ft. min	1,000 ft. min
Blasting (from a developed property)	300 ft. min	500 ft. min	1,000 ft. min

Chapter 320. Site Plan Standards

i *The purpose of this chapter is to establish additional standards for proposed development subject to site plan review (development other than one- and two-unit dwellings).*

Section 3201. Applicability and Major/Minor Site Plan Determination

3201.A All development shall meet the requirements of this Chapter except parcels used for one or two dwelling units.

3201.B **Classification.** The Administrative Officer shall classify site plans as specified below:

- (1) The following shall require major site plan review:
 - (a) Construction of new principal buildings.
 - (b) Major renovations of existing principal buildings.
 - (c) Construction of more than 10 new parking spaces or 2,000 square feet of impervious surface.
 - (d) Construction of an accessory structure with a footprint of more than 2,000 square feet or a height of more than 24 feet.
 - (e) Construction of an addition of more than 2,000 square feet to an existing building.
- (2) All other applications shall require minor site plan review.

Section 3202. Bike and Pedestrian - Access and Circulation

3202.A **Bicycle Access.** Bicycle access and storage may be required in accordance with the following:

- (1) If bicycle racks are required, they shall be located within 200 feet of the entrance.
- (2) The Development Review Board may require sites with high traffic volumes to incorporate designated bicycle lanes or paths that provide safe and convenient routes between the street and the bicycle parking area(s) on the site. Bicycle lanes adjacent to vehicular travel lanes shall be at least 4 feet wide. Separated bicycle or multi-use paths shall be at least 8 feet wide.

3202.B **Pedestrian Access.** All development shall provide safe and convenient pedestrian access in accordance with the following:

- (1) **Public Sidewalks.** A sidewalk shall be provided along the street frontage of the subject property if a sidewalk currently terminates at a property abutting the subject property in accordance with the following:
 - (a) Curb ramps and crosswalks shall be provided at intersections and where driveways bisect public sidewalks. The Development Review Board may require a marked crosswalk in accordance with the VTrans Crosswalk Design Guidelines and as recommended by the Department of Public Works.
 - (b) Public sidewalks and crosswalks shall be constructed in accordance with the city's public works specifications.
 - (c) If public sidewalks will not be constructed within the street right-of-way, the

applicant shall provide a maintenance easement.

- (d) An applicant may request a waiver to modify the public sidewalk requirements, but any request shall include a recommendation in support of the waiver from the Director of Public Works.
- (2) **Internal Walkways.** Continuous internal pedestrian walkways shall be provided as follows:
 - (a) Walkways shall connect pedestrians to public sidewalks, transit stops, crosswalks, building entrances, bicycle, and vehicle parking areas, adjacent development, and community spaces on or adjoining the site.
 - (b) Walkways not exceeding 30 feet in length shall be at least 3 feet wide. Walkways more than 30 feet in length shall be at least 4 feet wide.
 - (c) Walkways shall be hard-surfaced.
 - (d) Walkways shall be separated or distinguished from driving and parking surfaces by a landscaped buffer, change in elevation, or change in surface material.
- (3) **Parking Areas.** Walkways shall be provided between the parking area(s) and building entrance(s). Parking lots with more than 40 spaces shall have designated internal walkways that separate pedestrian and vehicular traffic.

Section 3203. Landscaping and Screening

3203.A **Purpose.** The provisions of this section are intended to protect quality of life and community character by:

- (1) Enhancing the appearance of the built environment as viewed from public vantage points;
- (2) Creating shade along sidewalks and walkways, and within parking lots;
- (3) Providing a landscaped buffer between residential and nonresidential land uses; and
- (4) Screening land uses and development that create visual clutter and distraction.

3203.B **Applicability.** All development requiring site plan approval shall meet the provisions of this section except:

- (1) Changes of use where sites have previously been developed in accordance with an approved site plan and where the proposed development will not change, or be required to change, any landscaping or screening;

3203.C **Application Rules.** A landscaping and screening plan shall be included as a part of any site plan and shall meet the following:

- (1) Be on one or more sheets showing the location of all landscaping and screening elements with a key to identify species of plant materials.
- (2) Applications for major site plan review shall include a landscaping and screening plan prepared by a licensed landscape architect or certified horticulturalist.

3203.D **Administrative Rules.** The following rules shall apply when applying landscaping and screening provisions:

- (1) Plantings shall be defined by their mature or maintained height as identified on Figure 3-20.
- (2) In making calculations regarding minimum plantings, one planting may be counted towards meeting two or more different requirements.
 - (a) For example, a tree that meets the minimum standards for both a street tree and a shade tree for a parking area can be counted towards meeting both requirements.

3203.E **Planting Specifications.** Plantings shall meet the following standards:

- (1) Plantings shall meet the minimum caliper or minimum height specification in Figure 3-20, as appropriate for the specimen.
- (2) Plantings shall be centered in an area meeting the minimum planting area specified in Figure 3-20.
 - (a) Planting areas may be identified as any shape on the landscape and screening plan but shall not be narrower than the minimum planting area width listed in Figure 3-20.
 - (b) Planting areas shall be suitable for rooting of trees and shrubs, as applicable, and be maintained in a pervious condition with cover appropriate for the specimen.
- (3) Plantings shall be in accordance with the ANSI A300 standards.
- (4) Use of invasive plant materials is prohibited (see <https://vtinvasives.org/gallery-of-land-invasives> for a current list or contact the Invasive Plant Coordinator at the Vermont Department of Forests, Parks, and Recreation).
- (5) Use of native plant materials is strongly encouraged.
- (6) Use of a diversity of tree species is strongly encouraged.
- (7) Retention of existing plants on development sites to meet landscaping and screening requirements is strongly encouraged.

3203.F **Landscaping and Screening General Standards.** All landscaping and screening shall meet the following general standards and any specific standards for Street Trees (Subsection 3203.G), Parking Landscaping (Subsection 3203.H), Screening (Subsection 3203.I), and Total Site Landscaping (Subsection 3203.J), as applicable.

- (1) All plantings shall meet the planting specifications of 3203.E.
- (2) Development shall not reduce the minimum planting area or minimum planting area dimension of any existing plantings.
- (3) Where existing plants are retained to meet landscaping and screening requirements, development shall protect the plants as well as the planting area during the construction process.

3203.G **Street Trees.** Applications requiring major site plan approval within any district except the Urban Center-1 and Rural districts are required to meet the following:

- (1) **Administrative Rules.** The following rules apply to the administration and enforcement of the provisions of this section.
 - (a) **Street trees defined.** Street trees are trees located within the road right of way (i.e. on

public property) as well as all trees where the center of the tree trunk is located within ten feet of the frontage line.

- (b) These provisions shall not be used to require applicants to plant street trees in the street right-of-way. Where an applicant chooses to plant one or more street trees in the street right of way, they must receive approval for such plantings through the Montpelier Tree Board prior to applying for site plan approval.
- (2) **Utility standards.** Where overhead utility lines are existing or proposed:
 - (a) Large trees are prohibited where the lowest utility lines are 35 feet or more in height.
 - (b) Large and medium trees are prohibited where the lowest utility lines are less than 35 feet in height.
- (3) **Minimum plantings.** Street trees shall be planted to meet the following:
 - (a) Large trees shall be planted at a minimum ratio of one for every 50 feet of frontage; or
 - (b) Medium or small trees shall be planted at a minimum ratio of one for every 30 feet of frontage.
 - (c) The trees should be evenly spaced but may be shifted to accommodate site features or maintain sight distance.
 - (d) Preservation of existing trees to meet this requirement is strongly encouraged.
- (4) **Nonconformities.** Where a previously developed site is nonconforming with respect to the street tree requirements the site shall be brought into compliance with the street tree requirements unless the applicant requests a waiver and demonstrates:
 - (a) The site lacks suitable area to meet the planting specifications planting area for additional street trees;
 - (b) Compliance with the street tree requirements would diminish the appearance of the built environment from public vantage points; and
 - (c) That the applicant cannot create suitable planting area through the removal of impervious cover.
- (5) **Waivers.** The Development Review Board may waive the street tree standards where an applicant demonstrates that the waiver requested creates the minimum variance from the standard and either:
 - (a) Compliance with the street tree requirements would diminish the appearance of the built environment from public vantage points; or
 - (b) Existing natural features (e.g. streams, ledge, or wetlands) would make compliance with such standards undesirable or impossible.

3203.H **Parking Landscaping.** Applications requiring major site plan approval where there is existing or proposed parking of more than 10 spaces shall be landscaped with shade trees to meet the following:

- (1) **Exception.** Parking landscaping shall not apply to portions of sites used for vehicle sales.

- (2) **Defining shade trees.** Shade trees are medium or large trees that are located within six feet of the edge of pavement when measured to the center of the tree trunk.
 - (3) **Minimum planting requirement.** Shade trees shall be provided equivalent to shade 40% of the parking area, including aisles and driveway, in accordance with the following:
 - (a) Parking areas located to the rear of a principle building that will be screened from view at the street by the principal buildings or other screening may reduce the percentage of landscaping required under this subsection from 40% to 25% for this area.
 - (b) Each large tree shall be considered to provide 1,200 square feet of shade.
 - (c) Each medium tree shall be considered to provide 600 square feet of shade.
 - (4) Incorporating parking lot landscaping into the site's stormwater management system is strongly encouraged.
 - (5) **Nonconformities.** Where an existing parking area is nonconforming with respect to minimum plantings required but lacks sufficient planting area to plant additional trees, the Development Review Board may waive some or all of the parking landscaping requirements provided the applicant demonstrates that the development meets other landscaping and screening requirements to minimize the visual impacts of the parking from the street or abutting properties.
- 3203.1 **Screening.** The following screening standards apply for non-residential applications where the project abuts a residential property; when parking areas, utilities, service areas, or building mounted equipment are proposed or modified; or where the Development Review Board has required screening as a condition of approval for another provision.
- (1) **Performance Standard.** Screening shall be applied to minimize the visibility and impacts of incompatible, disruptive, or visually unappealing aspects of proposed development on the surrounding neighborhood. This is not to be interpreted to mean that all views of the area or element to be screened shall be fully blocked, rather screening should be used to soften and break up views and to create visual interest elsewhere on the site so that the area or element to be screened no longer dominates the view.
 - (2) **Screening materials.** Screening may include natural or manmade elements including landscaped buffers of trees and shrubs, earthen berms, fences, walls, screens, camouflage or similar mechanisms.
 - (a) **Landscaped Buffers.** Vegetative buffers that feature a mix of evergreen and deciduous plant materials arranged in informally shaped and spaced groupings are strongly encouraged. Existing mature vegetation should be retained to provide buffers between adjoining properties.
 - (b) **Fences and Walls.** Where fences or walls are used as screening, the standards of Section 3101 shall also apply.
 - (c) **Berms.** Landscaped berms are encouraged as an effective means of screening parking and loading or other utilitarian site features from view. Berms shall be designed in accordance with the following:
 - (i) Berms shall not have a slope greater than 30%.
 - (ii) The surface of the berm not planted with trees or shrubs shall be covered

with perennial herbaceous or woody ground cover and mulch.

(iii) Berms should have an organic shape that replicates natural landform

- (3) **Parking Lots.** Parking lots shall be screened from view from the street and abutting properties.
- (4) **Utilities.** All utility boxes, pump stations, substations, and similar aboveground utilities shall be screened from view from the street and abutting properties.
- (5) **Service Areas.** Off-street loading areas, refuse and outdoor storage areas, mechanical equipment and similar utilitarian site features areas shall be screened from the street and abutting properties.
- (6) **Building-Mounted Equipment.** Mechanical equipment and utilities mounted on building walls or roofs shall be designed and located to minimize their visibility from the street and adjoining property in accordance with the following:
 - (a) Wall-mounted equipment or utilities shall be painted or otherwise colored to match building materials.
 - (b) Rooftop equipment or utilities shall be enclosed or screen by building walls or parapets that shall be compatible with the form, design and materials of the building.
- (7) **Nonconformities.** Where an existing site is nonconforming with respect to screening requirements, applicants shall be required to come into compliance unless the cost of coming into compliance will exceed 5% of the project cost. In that instance the applicant shall only be required to add screening not to exceed 5% of the total project cost
 - (a) Where total project costs are less than \$2,000, the improvements to nonconforming screening shall be considered de minimis and shall not be required.

3203.J **Total Site Landscaping.** Except within the Urban Center 1 district, sites shall be landscaped in accordance with the following:

- (1) **Administrative rules.** The following rules apply to the administration and enforcement of the provisions of this section.
 - (a) **Calculating planting area-** Where the applicant demonstrates that natural woody vegetation on the parcel furthers the purposes outlined in Section 3203.A, the Administrative Officer or Development Review Board may consider the natural woody vegetation towards landscaping requirements on a 2:1 basis. For example, retaining two square feet of natural forest cover or riparian habitat could be counted towards one square foot of landscaped area.
 - (b) Perennial plantings may be used to meet the landscaping requirement and will be counted 1 square foot for each square foot of perennial plantings
 - (c) To be counted as an existing tree or shrub for the purposes of this subsection, trees and shrubs must be healthy and have suitable planting area to support its long term viability. Unmanaged or unmaintained portions of a site shall not count as landscaping unless the area meets the provisions in Subsection 3203.J(1)(a). Invasive species shall not be counted towards total landscaping.

- (2) **Minimum total planting area.** Plantings shall meet or exceed the minimum total planting area based upon the amount of impervious cover on the property. To determine the square footage of total planting area that will be required, multiply the square footage of the total proposed impervious cover by 0.033.
 - (3) **Placement.** Landscaping shall be placed so as to enhance the appearance of the built environment as viewed from public vantage points. The following guidelines should be used to guide the compliance with the performance standard. Landscaping should:
 - (a) Provide direction to and enhance building entrances;
 - (b) Enhance and shade walkways;
 - (c) Provide visual breaks along blank building facades;
 - (d) Intercept and filter stormwater runoff (ex. rain garden);
 - (e) Plant materials should be planted in groupings and should be distributed around the areas of the site visible from public vantage points;
 - (4) **Nonconformities.** Where an existing site is nonconforming with respect to landscaping requirements, applicants shall be required to come into compliance unless the cost of coming into compliance will exceed 5% of the project cost. In that instance, the applicant shall only be required to add landscaping in an amount not to exceed 5% of the total project cost.
 - (a) Where an existing site is nonconforming with respect to impervious cover and the applicant demonstrates that, as a result of the nonconformity, the site cannot reasonably meet the total landscaping requirement, the Development Review Board may waive some or all of the total landscaping required.
 - (5) **Waivers.** The Development Review Board may waive the amount and placement standards where an applicant demonstrates that the waiver requested creates the minimum variance from the standard and either:
 - (a) Compliance with the total landscaping requirements would diminish the appearance of the built environment from public vantage points; or
 - (b) Existing natural features (e.g. streams, ledge, and wetlands) would make compliance with such standards undesirable or impossible.
- 3203.K **Conditions of Approval.** Landscaping required under this section or as a condition of approval shall be maintained in a healthy condition. Dead or dying plants shall be replaced within 1 growing season with a comparable plant (in terms of type, form, size at maturity, etc.) of at least the minimum size requirements specified in Figure 3-20.

Figure 3-19. Parking Lot Landscaping Illustrated Standards



Figure 3-20. Planting Specifications

Plant Material	Mature or Maintained Height	Minimum Caliper	Minimum Height	Minimum Planting Area	Minimum Planting Area Width
Large Tree	≥50 ft.	1-1/4 inches for single-trunk trees measured at the DBH	6 ft. for multi-trunk trees	100 sf	5 ft.
Medium Tree	30 to <50 ft.			49 sf	4 ft.
Small Tree	<30 ft.			25 sf	3 ft.
Large Shrub	≥6 ft.	–	2 ft.	12 sf	-
Medium Shrub	3 to <6 ft.	–	1 ft.	8 sf	-
Small Shrub	<3 ft.	–	1 ft.	6 sf	-

Section 3204. Outdoor Lighting

3204.A **Purpose.** Outdoor lighting shall be regulated to reduce its obtrusive and disruptive aspects, and shall be limited to the minimum necessary for safety, security, and nighttime use of property. It is the intent of this section to maintain a dark night sky and reduce light trespass, glare, and energy use by encouraging lighting designs that direct appropriate amounts of light where and when it is needed, increasing the use of energy efficient lamps, and discouraging the use of poorly shielded or directed light fixtures.

3204.B **Applicability.** All outdoor lighting shall be installed in accordance with the provisions of this section except for:

- (1) Streetlights.
- (2) Decorative holiday lighting using low-wattage lamps that is illuminated for no more than 90 days in any calendar year.
- (3) Outdoor lighting incidental to permitted construction or the maintenance, repair or construction of public facilities or infrastructure, or to work conducted in the public interest such as law enforcement or emergency response.

3204.C **Lighting Plans.** Applications for major site plan approval shall include a lighting plan prepared by a qualified professional lighting designer or engineer.

3204.D **Previously Developed Sites.** When changes to existing outdoor lighting are proposed on a site

with nonconforming lighting, the applicant shall bring all similar lighting (e.g. all parking lot lighting), including any previously installed and proposed new outdoor lighting, into conformance with this section.

- 3204.E **Lighting Classes and Zones.** This section regulates outdoor lighting based on the following classes and zones:
- (1) **Class 1 Lighting** includes all outdoor lighting used for outdoor dining or food service areas, outdoor assembly or maintenance facilities where regularly scheduled work activities occur after dark, display areas, assembly areas like amphitheaters, recreational facilities, signs or similar applications where color rendition is essential to the illuminated activity or purpose of the lighting.
 - (2) **Class 2 Lighting** includes all outdoor lighting used for illumination of walkways, roadways, equipment yards, parking lots, outdoor security, or similar applications where general illumination for visibility, safety, or security of the grounds is the primary concern.
 - (3) **Class 3 Lighting** includes all outdoor lighting used for decorative effects such as architectural illumination, flag and monument lighting, landscape lighting and similar applications.
 - (4) **Lighting Zone 1** encompasses the Mixed Use Residential, Residential 1500, Residential 3000, Residential 6000, Residential 9000, Residential 24000, Rural and Municipal zoning districts.
 - (5) **Lighting Zone 2** encompasses the Urban Center 1, Urban Center 2, Urban Center 3, Riverfront, Eastern Gateway, and Western Gateway zoning districts.
- 3204.F **General Standards.** All outdoor lighting shall be kept to the minimum required for safety, security, and the intended use in accordance with the following:
- (1) **Shielding.** All nonexempt outdoor light fixtures shall be shielded as specified in Figure 3-21. All fixtures that are required to be fully shielded shall be installed and maintained in such a manner that the shielding is effective.
 - (2) **Total Output.** Total output from all nonexempt outdoor light fixtures on a site shall not exceed the limits specified in Figure 3-22.
 - (3) **Uniformity.** Outdoor lighting shall be designed to provide a uniform distribution of light in areas regularly traversed by vehicles or pedestrians. Lower light levels with more uniformity provide safer and more efficient lighting than higher light levels with less uniformity. Lighting plans that produce a ratio of 3:1 or less between the highest light level and lowest light level within a trafficked area on the site are strongly encouraged and ratios in excess of 10:1 are strongly discouraged.
 - (4) **Allowed Lamp Types.** All lamps shall conform to the types specified in Figure 3-21 and shall be LED lamps or Energy Star certified.
 - (5) **Spot Light Aiming.** Light fixtures containing spot or flood lamps:
 - (a) Shall be aimed no higher than 45° above straight down.
 - (b) Shall be considered fully shielded when aimed straight down.
 - (c) Shall be considered partially shielded when aimed above straight down.

- (d) With high-intensity light output are discouraged.
 - (6) **Light Trespass.** Any outdoor light fixture containing a lamp with an initial output of more than 10,000 lumens that will be located within 50 feet of residential property or a public right-of-way shall use an internal or external “house side” shield. The light fixture and shield shall be oriented to minimize light trespass over the adjacent property or right-of-way.
 - (7) **Freestanding Lights.** Freestanding light fixtures:
 - (a) Shall not exceed 25 feet in height.
 - (b) Should not be more than 12 feet in height when used to light walkways and other pedestrian-oriented spaces.
 - (c) May be located within front setbacks.
 - (d) Shall be set back from side and rear property lines at least a distance equal to their height except if located within a shared parking or loading area, or if the adjoining properties are commonly owned.
 - (8) **Internally Illuminated Architecture.** The initial lamp output of any architectural element (ex. wall, fascia or canopy edge) that is internally illuminated and that is not a sign shall be considered partially shielded, Class 3 lighting.
 - (9) **Luminous Tube Lighting.** Luminous tube lighting does not require shielding but it shall be considered partially shielded lighting for the purposes of calculating total outdoor light output for the site.
 - (10) **Indoor Lighting.** Any indoor light fixture within a non-residential structure containing a lamp with an initial output of 2,000 lumens or more that is mounted such that any part of the fixture is lower than the height of a window or door shall be fully shielded.
 - (11) **Time Limits.** The Development Review Board may limit when outdoor lighting may be used as deemed necessary to achieve the purposes of this section and protect the character of the neighborhood. Use of timers, dimmers, and sensors is encouraged.
- 3204.G **Special Use Lighting.** There are special standards for the following uses:
- (1) **Recreation Facilities.** Lighting for outdoor recreation facilities:
 - (a) Shall be considered Class 1 Lighting and shall be exempt from the lumens per acre limit specified in Figure 3-22.
 - (b) Shall be designed to achieve no greater than the minimal levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).
 - (c) Shall use fixtures that are fully shielded or use internal or external louvers or shields to minimize off-site glare and light trespass.
 - (d) Shall use fixtures that are installed and maintained with aiming angles that permit no greater than 5% of the light emitted by each fixture to project above the horizontal.
 - (e) Shall be extinguished within 30 minutes of the cessation of play.
 - (f) Shall not be illuminated after 11 p.m. Illumination of the facility shall be permitted after 11 p.m. only to conclude a scheduled event that did not conclude before the

time limit due to unusual circumstances.

- (2) **Frontage Row of Vehicle Display Areas.** Lighting for the frontage row of vehicle display areas shall be considered Class 1 Lighting and shall conform to the following:
 - (a) All frontage row vehicle display area lighting shall use properly installed and maintained fully shielded light fixtures.
 - (b) The total outdoor light output for the frontage row of vehicle display areas shall be exempt from the lumens per acre limit specified in Figure 3-22, but shall not exceed 60 lumens per square foot.
 - (c) Any frontage row of vehicle display light that exceeds the lumens per acre limit specified in Figure 3-22 shall be turned off after 9 p.m., or 30 minutes after the close of business if later.
 - (d) Lighting for the frontage row of vehicle display areas remaining on after the time limit shall be considered Class 2 Lighting and shall conform to the standards of Subsection 3204.F.
- (3) **Fueling Station Canopies.** Lighting for fueling station canopies shall be considered Class 1 Lighting and shall conform to the following:
 - (a) All light fixtures mounted on or recessed into the lower surface of fueling station canopies shall be fully shielded and use flat lenses.
 - (b) The total light output used for illuminating fueling station canopies shall not exceed 60 lumens per square foot of canopy.
 - (c) The total light output used for illuminating fueling station canopies shall be counted towards the site's lumens per acre limit as specified in Figure 3-22.

3204.H **Security Lighting.** The Development Review Board may approve security lighting in accordance with the following:

- (1) No provision of this section shall be interpreted to prohibit the minimum security lighting required to meet state or federal code.
- (2) The use of timers and sensors to automatically activate and deactivate security lighting is strongly encouraged.

Figure 3-21. Light Fixture Shielding and Lamp Type

	ZONE 1	ZONE 2	LAMP TYPE
CLASS 1 LIGHTING			
Initial output <2,000 lumens	Fully shielded	Partially shielded	All types
Initial output 2,000 lumens or more	Fully shielded	Fully shielded	All types
CLASS 2 LIGHTING			
Initial output <2,000 lumens	Fully shielded	Partially shielded	All types
Initial output 2,000 lumens or more	Fully shielded	Fully shielded	"warm white" LED High-pressure sodium Low-pressure sodium
CLASS 3 LIGHTING			
Initial output <2,000 lumens	Partially shielded	Partially shielded	All types
Initial output 2,000 lumens or more	Prohibited	Prohibited	—

Figure 3-22. Total Outdoor Light Outputs

	ZONE 1	ZONE 2
Commercial, Industrial or Mixed Use		
Max of all fully shielded light fixtures	50,000 lumens/acre	100,000 lumens/acre
Max of all partially shielded light fixtures	5,000 lumens/acre	10,000 lumens/acre
Multi-Unit Residential		
Max of all fully shielded light fixtures	10,000 lumens/dwelling	10,000 lumens/dwelling
Max of all partially shielded light fixtures	3,000 lumens/dwelling	3,000 lumens/dwelling

Section 3205. Outdoor Seating, Display or Storage

3205.A **Applicability.** The standards of this section apply to outdoor seating and service for patrons, and to keeping any goods, material, or merchandise in an unroofed area for more than 24 hours.

3205.B **Outdoor Seating and Service.** Outdoor seating and service areas for patrons may be permitted as an accessory use in accordance with the following:

- (1) The site plan shall show the location and boundaries of the outdoor seating and service area.
- (2) Outdoor seating and service areas may be located on the sidewalk in the Urban Center 1, Urban Center 2, Urban 3, and Riverfront districts in accordance with applicable city ordinances and in consultation with the Department of Public Works. In all other districts, outdoor seating and service areas shall be located outside required setbacks.
- (3) Outdoor seating and service areas shall not be placed or located where they will interfere with pedestrian or vehicular access and circulation, building entrances, vehicular parking, loading areas, emergency access or egress, utilities or other service areas.
- (4) Outdoor seating and service areas shall be level and surfaced with asphalt, concrete or other suitable all-weather material.
- (5) The Development Review Board may place limits on the hours outdoor seating and service areas may be used and the level of noise that may be generated as necessary to protect the character of the neighborhood.

3205.C **Outdoor Display.** Outdoor display of retail goods, wares, and merchandise may be permitted as an accessory use in accordance with the following:

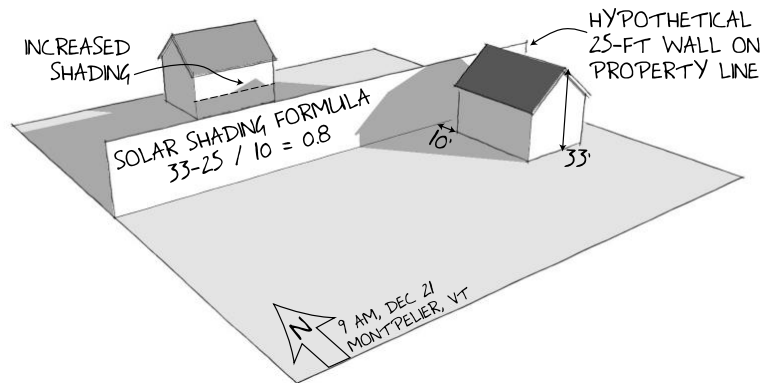
- (1) The site plan shall show the location and boundaries of the outdoor display area.
- (2) Retail goods may be displayed on the sidewalk in the Urban Center 1, Urban Center 2, Urban Center 3 and Riverfront districts in accordance with applicable city ordinances and in consultation with the Department of Public Works. In all other districts, outdoor display areas shall be located outside required setbacks.
- (3) Merchandise shall not be placed or located where it will interfere with pedestrian or vehicular access and circulation, building entrances, vehicular parking, loading areas, emergency access or egress, utilities or other service areas.
- (4) Merchandise shall be placed on a firm, level surface.

- 3205.D **Outdoor Storage.** The keeping any materials, goods, equipment, unregistered vehicles, or other items not for sale in an unroofed area for more than 24 hours may be allowed as an accessory use in accordance with the following:
- (1) The site plan shall show the location and boundaries of the outdoor storage area.
 - (2) Outdoor storage areas shall not be located within required setbacks.
 - (3) Except within the Eastern Gateway district, outdoor storage areas shall not be located between the principal building and the street unless otherwise approved by the Development Review Board upon its determination that the storage area cannot reasonably be located elsewhere on the site and shall not detract from the character of the neighborhood.
 - (4) Outdoor storage areas shall be fenced in or screened from view from the street and surrounding properties.

Section 3206. Solar Access and Shading

- 3206.A **Purpose.** The city's energy goals and policies strongly encourage solar heating and cooling of buildings, solar heated hot water, solar generated electricity, and energy conservation. While the use of solar energy systems is optional, these regulations protect the right to solar access by ensuring that proposed development does not unreasonably reduce the ability to use solar energy on neighboring properties. The provisions of this section are also intended to increase the energy efficiency of proposed development.
- 3206.B **Applicability.** The standards of this section apply to any development requiring major site plan review not located within the Urban Center 1, Urban Center 2, Urban Center 3, or Riverfront districts.
- 3206.C **Solar Access and Shading.** Proposed development shall not shade existing yards, walls, or roofs oriented within 15° of true south on abutting parcels to a greater extent than a hypothetical 25-foot high wall constructed on the property line between the hours of 9 a.m. and 3 p.m. on December 21. Applicants may demonstrate conformance with this standard by either:
- (1) Showing that the building height minus 25 feet and then divided by the distance between the building and the property line equals 0.25 or less; or
 - (2) Submitting a solar shading diagram.
- 3206.D **Nonconforming Shading.** The Development Review Board may waive or modify the provisions of this section for previously developed parcels that already shade abutting property to a greater extent than allowed under this section provided that the amount of shading is not increased further.

Figure 3-23. Solar Shading Diagram



3206.E **Solar Siting.** Unless the Development Review Board determines that use of solar energy is not feasible due to site-specific conditions, the roof surface of new buildings shall:

- (1) Be flat or oriented so that its long axis is within 30° of a true east-west direction.
- (2) Be physically and structurally capable of supporting at least 75 square feet of solar collectors per dwelling unit in the building or, for nonresidential buildings, capable of providing at least ½ the anticipated hot water needs of the building.
- (3) Have unimpeded solar access.

Section 3207. Design and Compatibility

3207.A **Purpose.** This section is intended to ensure that proposed development will:

- (1) Be compatible with and enhance the visual appearance of the street and neighborhood (as defined in Part 2 of these regulations) in which they are located.
- (2) Exhibit consistent design integrity in all building components including, but not limited to, roof forms, windows and entrances (proportion and placement), building materials, facade details, fencing and landscaping.

3207.B **Applicability.** All projects requiring major site plan approval shall meet the requirements of this section.

- (1) Projects reviewed under Section 2201 are exempt from the requirements of this section.

3207.C **Standards.** Application required to meet this section shall meet the following:

- (1) **Architectural Standards**
 - (a) In districts with architectural standards, projects shall meet the standards required in that district.
- (2) **Form and Massing**
 - (a) Appear similar in mass and scale to structures typical of the neighborhood.
 - (b) Match the building and roof forms that are typical of the neighborhood.
 - (c) Avoid large box-like forms with continuous unrelieved surfaces by incorporating articulation to reduce buildings' perceived bulk.

- (d) Limit overall building size or designing buildings with features to break up building bulk such as changes in wall plane (instead of a long flat wall), changes in roof form and height, or major full-height recesses (typically at least 8 feet deep) along the length of the building that successfully break the building into smaller discrete masses.
 - (e) Have window recesses, window trim, doorways, columns, overhangs, and other architectural elements with depth adequate to create shadow and architectural relief.
 - (f) Have facades that provide a pedestrian scale and orientation through overhangs, eaves, awnings, display windows, and architectural ornamentation.
- (3) **Compatibility**
 - (a) Align building facades with the established setbacks on the block.
 - (b) Locate the tallest portions of new buildings away from adjoining residential properties, in order to provide height transitions between taller and lower buildings, and to maximize light, air, and privacy for dwelling units.
 - (c) Reduce the visual and shadow impact of upper stories on adjoining residential properties through means such as stepping back the upper floors from the stories below, tucking the top story inside a pitched roof, using pitched roofs with dormers, etc.
- (4) **Materials**
 - (a) Use high quality building materials.
 - (b) Use a complimentary palette of materials on all sides of buildings.
 - (c) Have material changes located at interior corners or other logical terminations and not at external corners.
- (5) **Windows and Entries**
 - (a) Orient entrances in a manner similar to the established pattern on the block.
 - (b) Consider the overall composition of the building facade when locating and sizing window openings.
 - (c) Emphasize public building entrances with architectural and landscape treatment.
 - (d) Provide access to all dwelling units from private entrances that are separated from public entrances to non-residential portions of the building.
- (6) **Energy**
 - (a) Meet the applicable stretch code for residential or commercial buildings as demonstrated by the applicant submitting an energy certificate in accordance with Subsection 4207.E.
 - (b) Unless the applicant demonstrates that use of solar energy is not feasible due to neighborhood compatibility or site-specific conditions, be sited and designed so that the roof shall be appropriately oriented and structurally capable of accommodating solar collectors.
- (7) **Service Areas**

- (a) Ensure that service areas do not detract from the overall quality of public, common, and residential outdoor use areas.
 - (b) Minimize the impact (noise, light, odors, etc.) of service areas on residents.
 - (c) Locate ancillary facilities (such as trash receptacles and utility meters) within buildings, not along building facades, to the maximum extent feasible. If ancillary facilities cannot be incorporated into a building, locate them at the rear of the site in freestanding, enclosed structures designed to be compatible with the architecture of the principal building.
 - (d) Locate utilities underground to the maximum extent feasible given site-specific conditions.
 - (e) Locate electrical panels to minimize their visibility from the street, in locations such as side yard walls, and behind landscaped areas, and integrate them into the design of the buildings to the maximum extent feasible.
 - (f) Minimize the visibility of loading areas from public and residential areas by screening them with screen walls, landscaping, and other devices.
- 3207.D An applicant may request a waiver to the provisions in this section, including any architectural standards in Part 2, through the process and standards established in Section 4602.

Chapter 330. Conditional Use Standards

Section 3301. Applicability

3301.A All development listed as a conditional use in Part 2 or otherwise identified as requiring conditional use review within these regulations shall conform to the standards of this chapter.

Section 3302. Capacity of Community Facilities and Utilities

3302.A The applicant shall demonstrate that the proposed development shall not cause a disproportionate or unreasonable burden on the city's ability to provide community facilities and utilities including:

- (1) Local schools.
- (2) Police, fire protection and ambulance services.
- (3) Street infrastructure and maintenance.
- (4) Parks and recreation facilities.
- (5) Water supply, sewage disposal and stormwater systems, and infrastructure.

Section 3303. Traffic

3303.A **Standards.** The applicant shall demonstrate that the proposed development will not have an undue adverse effect upon the traffic in the area including:

- (1) That the volume, type, and timing of traffic generated by the proposed development shall not be substantially greater than what would normally occur at nearby uses or at other uses permitted in the neighborhood.
- (2) That reasonable measures have been taken to minimize or mitigate the amount of vehicular traffic generated by the proposed development.

3303.B **Traffic Impact Study.** A traffic impact study prepared by a qualified professional in accordance with VTrans' traffic impact study policy shall be included in any application for proposed development that is expected to generate 75 or more new trips during the a.m. or p.m. peak hour on Class 1 roads, and 50 or more new trips during the a.m. or p.m. peak hours on Class 2 and 3 roads. The Development Review Board may require any applicant to submit a professionally prepared traffic impact study as deemed necessary to determine compliance with this section, particularly if traffic is anticipated to impact an intersection with a level of service of E or F.

3303.C **Mitigation Measures.** The Development Review Board may require the applicant to mitigate transportation impacts as a condition of approval, including paying for all or a portion of off-site improvements deemed necessary to accommodate anticipated traffic resulting from the proposed development.

Section 3304. Character of the Neighborhood

3304.A **Establishment of Neighborhoods.** Neighborhoods are established and their character described in Part 2 of these regulations.

- 3304.B **Character of the Neighborhood.** Neighborhood character is the sum of the elements and qualities that distinguish an area. To be compatible with and enhance neighborhood character, proposed development shall be located and designed in accordance with the following:
- (1) **Architectural Compatibility.** New development shall be architecturally compatible with the neighborhood through relationships of scale, massing, siting, detail, and materials. Architectural compatibility does not mean replicating what already exists. Rather, each project should contribute to the character of the neighborhood by designing a unique, distinctive building that reflects the best qualities of the surrounding neighborhood. The result should be an architecturally diverse neighborhood with shared common qualities. New development shall be designed and located:
 - (a) So that the visible mass conforms to the scale of the neighborhood as viewed from the street.
 - (b) To maintain perceived building heights that are appropriate to the neighborhood in order to avoid interfering with views from nearby properties and buildings, and excessively shading adjoining properties and buildings.
 - (c) With articulated wall planes that create variety and reduce perceived scale.
 - (2) **Yards, Lot Coverage, and Landscaping.** New development shall maintain a sense of open space that is appropriate to the neighborhood by balancing the size of the building's footprint with the mass of the structure and the size of the parcel. This does not mean that new development cannot reduce the total amount of greenspace within the neighborhood. Rather, the balance of building area to open space shall be typical of the neighborhood and the structure shall be sized and located on the site to maintain the pattern of greenspace existing in the neighborhood. New development shall be designed and located:
 - (a) To maintain the neighborhood's existing setback patterns.
 - (b) To incorporate landscaping into required setback areas to maximize the perception of open space, reduce the perceived scale of buildings and create curb appeal.
 - (3) **Use.** The impacts of the use shall be consistent with the neighborhood especially with respect to noise, hours of operation, and other features that define an areas character. The existence of one conditional use in a neighborhood should not necessarily be interpreted as justification for a similar conditional use to be located in that area.
- 3304.C **Standards.** The applicant shall demonstrate that the proposed development shall not have an undue adverse effect on the character of the neighborhood.

Section 3305. Conditions of Approval

- 3305.A The Development Review Board may place conditions on any approval as deemed necessary to further the purposes of these regulations and ensure conformance with all applicable provisions of these regulations (see Subsection 4505.E).
- 3305.B The Development Review Board may require the applicant to mitigate any impacts of proposed development as a condition of approval through measures that may include, but are not limited to:

- (1) Paying for all or a portion of off-site improvements to community facilities and utilities deemed necessary to accommodate the proposed development.
 - (2) Phasing proposed development so that the rate of growth shall not exceed the city's ability to provide community facilities and utilities.
 - (3) Paying for all or a portion of off-site transportation improvements deemed necessary to accommodate anticipated traffic resulting from the proposed development.
 - (4) Setting aside land for recreation purposes such as playgrounds, parks, trails, and multi-use paths.
 - (5) Setting aside land for conservation purposes and protecting it from future development
- 3305.C The Development Review Board may require an applicant to retain or establish a landscaped buffer or fencing along side or rear parcel lines when a more intensive use is proposed to locate adjacent to a less intensive use.

Chapter 340. Planned Unit Development Standards

i *The purpose of this chapter is to provide flexibility for development types and patterns that further the goals of the Montpelier City Plan.*

Section 3401. Infill Housing Development

3401.A **Purpose.** The purpose of this section is to:

- (1) Encourage an increase in the amount of housing generally, and affordable housing in particular, located in downtown and surrounding neighborhoods.
- (2) Allow for further residential development on vacant or underutilized parcels within developed neighborhoods
- (3) Ensure that infill housing development will respect the mass and scale of surrounding development, reflect the character of the existing streetscape, maintain the privacy of adjacent residences and fit comfortably into the existing neighborhood.

3401.B **Applicability.** Infill housing developments are permitted in the Riverfront, Mixed Use Residential, Residential 1500, Residential 3000, Residential 6000 and Residential 9000 districts on parcels not more than 2 acres in size.

3401.C **Density Bonus.** Applicants may apply for a density bonus of up to 25% if each of the additional dwelling units meets at least two of the following criteria or 50% if each of the additional dwelling units meets at least three of the following criteria:

- (1) The unit shall be affordable, as defined in these regulations.
- (2) The unit shall qualify as senior housing, as defined in these regulations.
- (3) The unit shall be visitable or accessible, as defined in these regulations.
- (4) The unit shall have a total habitable floor area of 1,200 square feet or less.
- (5) The unit shall achieve a pre-photovoltaic HERS (home energy rating system) index score of 50 or less.
- (6) The unit shall have direct access to at least 60 square feet of private or semi-private outdoor space such as a porch, deck, balcony, patio, courtyard, or atrium.

3401.D **Dimensional Standards.** Applicants may apply to:

- (1) Modify parcel size, frontage and setback requirements within the site except that the development shall meet:
 - (a) Setback standards for the applicable district around the perimeter of the site; and
 - (b) The water setback standards for the applicable district.
- (2) Increase the maximum building height by up to 10 feet above the district standard.

3401.E **Use Standards.** Any residential uses shall be permitted within an infill housing development whether or not they are allowed within the applicable district. Non-residential uses are not allowed within an infill housing development irrespective of whether they are allowed within the applicable district.

- 3401.F **Common Open Space.** Infill housing development shall provide a minimum of 400 square feet of common open space usable for passive outdoor recreation per dwelling unit in accordance with the following:
- (1) The Development Review Board may waive all or a portion of the common open space requirement if all dwelling units within the proposed development will have private yards.
 - (2) The Development Review Board may waive all or a portion of the common open space requirement if the proposed development will be located within ½-mile walk of a public park, school yard, or the State House Lawn (as measured following publicly accessible paths and walkways).
 - (3) The common open space shall be accessible to all residents of the development.
 - (4) The common open space shall not be less than 30 feet in any dimension.
 - (5) The Development Review Board may waive or modify the requirements of this subsection as necessary to allow for reasonable redevelopment or reuse of previously developed sites.
- 3401.G **Pedestrian Facilities.** Walkways shall be constructed within the site as necessary to connect buildings with each other and with destinations including, but not limited to, parking, adjoining streets and sidewalks, mailboxes, trash disposal, and on-site amenities such as open space and recreation areas.
- 3401.H **Parking.** In addition to all other applicable provisions of these regulations, infill housing development shall provide parking in accordance with the following:
- (1) There shall be no minimum parking requirement for senior or affordable dwelling units.
 - (2) No parking shall be permitted in front yards, except within an approved driveway.

Section 3402. Cottage Cluster Development

- 3402.A **Purpose.** The purpose of this section is to address the need for smaller, more diverse and more affordable housing choices in the city in response to changing household demographics and living preferences.
- 3402.B **Applicability.** Cottage cluster developments are permitted in the Residential 3000, Residential 6000, Residential 9000, Residential 24,000, and Rural districts.
- 3402.C **Density Standards.** The maximum density for a cottage cluster development shall be 200% the residential density allowed in the applicable zoning district.
- 3402.D **Dimensional Standards.** The Development Review Board may:
- (1) Modify parcel size, frontage and setback requirements within the site except that the development shall meet:
 - (a) Setback standards for the applicable district around the perimeter of the site; and
 - (b) The water setback standards for the applicable district.

- (2) May increase the maximum lot coverage to 60% if the standard in the applicable district is less.
- 3402.E **Use Standards.** Nonresidential principal uses are prohibited within a cottage cluster development, irrespective of the standards of the applicable zoning district.
- 3402.F **Cluster Size.** The development shall be designed as one or more clusters composed of 4 to 12 cottages arranged around a common open space.
- 3402.G **Cottage Design.** A cottage as allowed under this section shall be a single-unit detached dwelling that:
 - (1) Is not more than 2 stories high.
 - (a) All portions of the building more than 18 feet above ground shall be within the roof pitch.
 - (b) No portion of the building may exceed 25 feet in height.
 - (2) Has a footprint of not more than 1,600 square feet.
 - (a) Attached garages shall be included in the footprint calculation.
 - (b) Attached garages shall not have a footprint of more than 576 square feet.
 - (3) Has a total floor area that does not exceed 180% of its footprint.
 - (a) Unheated storage or utility space and space under the slope of the roof with a ceiling height of less than 7 feet shall not be included in the floor area calculation.
 - (4) Has a pitched roof with a minimum slope of 6:12.
 - (a) Secondary roofs (porches, sheds, dormers, etc.) may have a lower slope.
 - (5) Has a roofed, open porch at least 80 square feet in size with a minimum dimension of 8 feet on any side that offers a view of a common open space.
 - (6) Has at least 300 square feet of private, contiguous, usable yard area abutting the building with no dimension less than 10 feet.
- 3402.H **Common Open Space.** The development shall include one or more common open spaces in accordance with the following:
 - (1) A minimum of 400 square feet of common open space is required per cottage.
 - (2) Each cottage shall have a principal entryway that faces a common open space and that is not separated from the open space by a street or driveway. Garage doors shall not face the common open space.
 - (3) A minimum of 50% of the cottages shall directly abut a common open space and each cottage shall be connected to a common open space by a walkway not more than 60 feet long.
 - (4) A common open space shall have cottages abutting on at least two sides.
- 3402.I **Accessory Buildings.** Private garages, carports, sheds or similar accessory structures shall have a footprint of not more than 576 square feet and a height of not more than 18 feet except:

- (1) A private, detached carriage house that includes an accessory dwelling unit may have a footprint of not more than 60% of the associated cottage and a height of not more than 18 feet.
- (2) Shared or common accessory buildings shall have a footprint of not more than 1,200 square feet and a height of not more than 18 feet.

3402.J **Community Buildings.** The development may include one or more community buildings that are clearly incidental to the cottages and that would serve residents by providing amenities including, but not limited to, multi-purpose recreation or entertainment, food preparation and dining, laundry, library, daycare, guest quarters, or storage or workshop space as follows:

- (1) A community building shall be commonly owned by the residents.
- (2) A community building shall be compatible in scale, design, and height to the cottages.

3402.K **Vehicular Access and Parking.** The development shall provide vehicular access and parking in accordance with the following:

- (1) Vehicle access shall not be required to, and on-site parking shall not be required on, each parcel or cottage.
 - (a) The development may provide one or more common off-street parking areas or structures with pedestrian walkways connecting the parking and the cottages.
- (2) Vehicular access and parking shall not be located within the front yard or the common open space, or between the cottages and the common open space.
- (3) Vehicular access and parking should be:
 - (a) Located primarily around the periphery of the development or each cottage cluster.
 - (b) Designed to have minimal visibility from the common open space and from public vantage points beyond the development.
- (4) Shared driveways, rear alleys, and narrow lanes should be used to the maximum extent feasible.
- (5) Unless otherwise approved by the Development Review Board, vehicular access and parking shall meet all applicable site design, engineering, setback, buffering and landscaping requirements of these regulations.

Section 3403. Manufactured Home Park

3403.A **Applicability.** The provisions of this subsection apply to all manufactured home parks.

3403.B **Standards.** The following standards apply to manufactured home parks:

- (1) Manufactured home parks shall be allowed in any district where detached single-unit dwellings are a permitted use and where there is not a minimum two-story height requirement.
- (2) A new or expanded manufactured home park shall be approved as a planned unit development in accordance with the provisions of Chapter 440.

- (3) The maximum residential density within a manufactured home park shall be 200% of the density allowed in the applicable zoning district.
- (4) The dimensional standards for parcels, setbacks, and buildings in the applicable zoning district shall not apply within a manufactured home park but:
 - (a) The park shall meet all applicable dimensional standards around its perimeter; and
 - (b) The lot coverage for the park as a whole shall not exceed the maximum amount for the applicable district.
- (5) Each manufactured home shall be located on a delineated site not less than 2,000 square feet in area or 200% of the footprint of the manufactured home, whichever is greater.
- (6) Any manufactured home park with more than 10 homes shall provide a minimum of 400 square feet of common open space suitable for passive recreation use per home.
- (7) A manufactured home shall not be located closer than 20 feet to any other dwelling within the park.
- (8) All the homes within a manufactured home park shall be accessed from a single curb cut unless otherwise approved by the Development Review Board to provide adequate emergency access or improve traffic safety.
- (9) A manufactured home park may include one or more community buildings that are clearly incidental to the homes and that would serve residents by providing amenities including, but not limited to, multi-purpose recreation or entertainment, food preparation and dining, laundry, library, daycare, guest quarters, or storage or workshop space.

Section 3404. New Neighborhood Development

3404.A **Purpose.** The purpose of this section is to encourage development of new neighborhoods in a manner consistent with the traditional development principles and patterns of the neighborhoods built in Montpelier before 1940. Traditional neighborhood developments:

- (1) Combine a variety of housing types in proximity to small-scale commercial and civic uses in a compact, walkable neighborhood setting;
- (2) Feature a highly interconnected street network, sidewalks and building setbacks appropriate to create a public realm built on a human scale;
- (3) Provide parks or open space areas to maximize protection of significant natural resources, enhance neighborhood character and quality of life, and accommodate passive recreation and enjoyment of nature;
- (4) May not be appropriate where severe environmental constraints, such as steep slopes, wetlands or streams, preclude street interconnections and high impervious surface coverage (a conservation subdivision in accordance with Section 3404.J may be more appropriate for such sites); and
- (5) Promote clustering of housing units to preserve recreational areas around open space with an emphasis on creating contiguous area of open space

3404.B **Applicability.** New neighborhood developments are:

- (1) Allowed in the Riverfront, Western Gateway, Mixed Use Residential, Residential 3000, Residential 6000, Residential 9000, and Residential 24,000 districts on parcels that are 2 acres or more in size. If a parcel proposed for a new neighborhood development includes land in the Rural district, that land may be counted when calculating the maximum development potential of the project, but the number of dwelling units developed in the portion of the property in the Rural district shall not exceed the base density of the Rural district (no transfer of density from higher density districts into Rural district and no additional housing through density bonuses).
- (2) Required for any development of either 40 parcels or dwelling units or more in a 10-year period on a parcel that is 10 acres or larger and that is not located in the Riverfront district.

3404.C **Density Bonus.** The Development Review Board may approve a density bonus of up to 25% if each of the additional dwelling units meets at least two of the following criteria or 50% if each of the additional dwelling units meets at least three of the following criteria:

- (1) The unit shall be affordable, as defined in these regulations.
- (2) The unit shall qualify as senior housing, as defined in these regulations.
- (3) The unit shall be visitable or accessible, as defined in these regulations.
- (4) The unit shall have a total habitable floor area of 1,200 square feet or less.
- (5) The unit shall achieve a pre-photovoltaic HERS (home energy rating system) index score of 50 or less.
- (6) The unit shall have direct access to at least 60 square feet of private or semi-private outdoor space such as a porch, deck, balcony, patio, courtyard, or atrium.

3404.D **Dimensional Standards.** The Development Review Board may:

- (1) Modify parcel size, frontage and setback requirements within the site except that the development shall meet:
 - (a) Setback standards for the applicable district around the perimeter of the site; and
 - (b) The water setback standards for the applicable district.
- (2) Modify the maximum coverage requirements on individual parcels provided that the parcel coverage for the development as a whole does not exceed the standard of the applicable district.
- (3) Modify the building height and footprint requirements of the applicable district to allow up to 25% of the total floor area within the development to be located within buildings that may be up to 45 feet in height with a footprint of up to 18,000 square feet.

3404.E **Use.** The uses allowed within a new neighborhood development shall be as established in the applicable zoning district except that:

- (1) All residential uses shall be permitted within a new neighborhood development whether or not they are allowed within the applicable district.

- (2) The development shall include a mix of housing types including both single-unit and multi-unit structures as follows:
 - (a) No more than 75% of the dwelling units may be the same type (ex. duplex, townhouse, apartment, etc.).
- (3) The development may include office, retail, and service uses, as well as any nonresidential uses allowed in the applicable zoning district, as follows:
 - (a) The total nonresidential floor area within the development shall not exceed an amount equal to 300 square feet for each dwelling unit located within the development.
 - (b) An individual office, retail or service use not otherwise allowed in the applicable zoning district shall not occupy more than 3,000 square feet of floor area.
 - (c) At least 60% of the nonresidential floor area within the development shall be located in mixed-use buildings that do not exceed a footprint of 6,000 square feet.

3404.F **Site Design.** A licensed landscape architect shall design and layout the project as follows:

- (1) Blocks shall generally be rectilinear in shape except where topographic or other physical site conditions necessitate a curvilinear or irregular shape.
- (2) Buildings shall define the streetscape through use of uniform setbacks along a build-to line for each block.
- (3) Buildings shall be located to the front of parcels and relate to the street both functionally and visually except:
 - (a) Multiple principal buildings may be grouped and organized around features such as courtyards or greens that encourage walking and incidental social interaction.
- (4) Buildings shall be considered in terms of their relationship to the height and massing of adjacent buildings, as well as in relation to the human scale.

3404.G **Street Design.** Streets within a new neighborhood development shall be designed:

- (1) With a modified grid pattern adapted to the topography and other physical site conditions.
- (2) With cul-de-sacs and other dead-end streets only as necessary to accommodate topographic or other physical site condition, or where future street connections are planned.
- (3) To accommodate future street connections to adjacent neighborhoods or developable land to the maximum extent feasible given topographic or other physical site conditions and pre-existing development patterns.
- (4) To minimize pavement width.
- (5) With sidewalks and street trees.
- (6) To discourage through and high-speed traffic to the maximum extent feasible.

3404.H **Building Design.** Buildings within a new neighborhood development shall be designed in accordance with the following:

- (1) Buildings within the development shall reflect the traditional development patterns of Montpelier's neighborhoods, which include variation in building form, massing, architectural details, colors, and materials.
- (2) All principal buildings shall front on and have an entrance oriented to a street or common open space.
- (3) At least 50% of single-unit dwellings shall have an open front porch at least 60 square feet in size with a minimum dimension of 6 feet on any side.
- (4) Each multi-unit dwelling shall have access to a private or semi-private outdoor living space such as a yard, patio, courtyard, rooftop, terrace, or balcony.

3404.I **Parking and Garages.** Within a new neighborhood development:

- (1) There shall be no minimum parking requirements.
- (2) Garage doors shall not be oriented to the street unless they are located at least 8 feet behind the front line of the principal building.
- (3) No parking shall be permitted between the front of the building and the street except within a driveway serving a single- or two-unit home.
- (4) Loading and service areas shall not be oriented to the street and shall adjoin alleys or parking areas to the rear of the principal building.

3404.J **Open Space.** Applicants shall design a new neighborhood development to include open space areas as follows:

- (1) At a minimum $\frac{1}{4}$ -acre or 40% of the parcel, whichever is greater, shall be set aside as permanently protected open space.
- (2) Land classified as resources identified on the Montpelier Natural Resources Inventory Map adopted with these regulations, or as appears on the Official Map if so adopted, shall be set aside as permanently protected open space up to an amount not to exceed 40% of the parcel. The applicant shall consult with the Montpelier Conservation Commission on what land should be protected if all of the land classified as resources identified on the Montpelier Natural Resources Inventory Map adopted with these regulations, or as appears on the Official Map if so adopted on the parcel shall not be protected open space based on its natural resource values and location.
- (3) Open space shall be contiguous with or connected to open space, conserved land or resources identified on the Montpelier Natural Resources Inventory Map adopted with these regulations, or as appears on the Official Map if so adopted on adjoining parcels to the maximum extent feasible.
- (4) Open space may be used for conservation, agriculture, silviculture, renewable energy production and passive recreation in accordance with the terms of any easement and conditions of approval. Renewable energy production can only be developed to a size that is sufficient to support the development.

Section 3405. Conservation Subdivision

3405.A **Purpose.** The purpose of this section is to provide flexibility in site design for residential subdivisions in order to preserve natural resources, open space, and rural character.

3405.B **Applicability.** Conservation subdivisions are:

- (1) Allowed in the Residential 9000, Residential 24000, and Rural districts.
- (2) Allowed on any site with significant natural resource constraints that preclude reasonable use of the infill housing or new neighborhood development types.
- (3) Required for subdivision of 4 parcels or more in a 10-year period in the Rural district unless the parcels or units are counted as a part of another type of planned unit development. However, if the parcels are counted as a part of another type of planned unit development the number of parcels would otherwise require a conservation Subdivision, the other planned unit development must meet the requirements of Subsection 3405.F for any portion of the development in the Rural district.

3405.C **Density.** The density of a conservation subdivision shall not exceed the maximum density for a conventional subdivision based on the applicable zoning district standards.

3405.D **Dimensional Standards.** The dimensional standards for parcels, setbacks, and buildings in the base zoning district shall not apply within a conservation subdivision. The development shall meet all applicable dimensional standards around its perimeter.

3405.E **Use.** Nonresidential principal uses are prohibited within a conservation subdivision except for community buildings. All forms of residential use and buildings shall be permitted within a conservation subdivision except for multi-unit buildings with 5 or more dwelling units and live-work units.

3405.F **Conservation Areas.** A minimum of 40% and a maximum of 60% of the total area of the conservation subdivision shall be set aside as conservation areas in accordance with the following:

- (1) The following shall be considered primary conservation resources and shall be included in the conservation area:
 - (a) Wetlands and vernal pools as shown on the Montpelier Natural Resources Inventory Map;
 - (b) Mapped flood hazard and river corridor areas; and
 - (c) Severely steep slopes (30% or greater);
- (2) The following shall be considered secondary conservation resources and shall be included in the conservation area to protect them to the maximum extent feasible:
 - (a) Primary agricultural soils;
 - (b) Natural communities as shown on the Montpelier Natural Resources Inventory Map;
 - (c) Riparian buffers (see Section 3005);
 - (d) Moderately steep slopes (15% to <30%); and

- (e) Woodlands that are part of a contiguous forest block at least 50 acres in size.
- (3) Conservation areas shall abut existing conservation areas, parks, open space, or farmland on adjacent parcels to the maximum extent feasible.
- (4) Conservation areas shall be designated as permanent open space, not to be further subdivided, and protected through a condition of approval of the Development Review Board decision, a statement on the site plan or subdivision plat or other legal mechanism including but not limited to deed restrictions or covenants, an open space agreement or a conservation easement held by the city, state or a land trust or conservancy.
- (5) Conservation areas shall not be cleared, graded, filled, or subject to construction except:
 - (a) The Development Review Board may allow streets and above ground utilities to cross conservation areas when reasonable access cannot otherwise be provided to the portions of the conservation subdivision to be developed. Disturbance of the conservation area shall be the minimum necessary to provide adequate access.
 - (b) Underground utilities, including absorption areas for shared septic systems, may be located within conservation areas, if recommended by the Conservation Commission upon their determination that such development shall not result in undue adverse impacts on the conservation resources intended to be protected by inclusion in a conservation area.
 - (c) Trails, community gardens and other passive recreation amenities may be developed within conservation areas in accordance with the approved subdivision plan and terms of the easement.
 - (d) Accepted agricultural practices and construction of farm structures may be allowed within conservation areas intended for agricultural use in accordance with the approved subdivision plan and terms of the easement.
 - (e) Land within conservation areas may be maintained for scenic views and managed for conservation purposes in accordance the approved subdivision plan and terms of the easement.

3405.G Development Areas. Any land not set aside for open space may be developed in accordance with these regulations and the following:

- (1) The development shall be designed as one or more clusters composed of 3 to 12 parcels or dwelling units surrounded by open space.
- (2) At least 40% of the parcels or dwelling units shall abut a conservation area.
- (3) All parcels or dwelling units not directly abutting a conservation area shall have direct pedestrian access to the conservation area(s) from a continuous system of sidewalks, paths, or trails. The Development Review Board may waive the access requirement for conservation areas intended for agricultural use.
- (4) Access to the conservation subdivision shall be from a single curb cut unless otherwise approved by the Development Review Board to provide adequate emergency access or to minimize disturbance of conservation resources.

- (5) All reasonable measures shall be taken to minimize the amount of impervious surface associated with vehicular access and parking (such as shared driveways, narrow lanes, and locating development near existing streets).
- (6) Portions of the development area may be reserved for development at a later time. Those developments shall be required to meet the zoning in effect at the time of application but will not be required to meet additional open space requirements.

3405.H **Community Buildings.** A conservation subdivision may include one or more community buildings that would serve residents by providing amenities including, but not limited to, multi-purpose recreation or entertainment, food preparation and dining, laundry, library, daycare, guest quarters, community gardening or farming, or storage or workshop space.

- (1) The subdivision residents shall commonly own any community building.
- (2) Any community building shall be compatible in scale, design, and height to the other buildings in the Planned Unit Development.

3405.I **Conservation Commission Review.** The application for a conservation subdivision shall require review by the Montpelier Conservation Commission in accordance with Section 4302.

3405.J **Application Requirements.** In addition to all other applicable requirements, the applicant shall submit:

- (1) An existing site conditions map of the subject property showing the location of all primary and secondary conservation resources (see Subsection 3405.F) and delineating the boundary of the proposed conservation areas over an aerial photo base map; and
- (2) A context map of the subject property and surrounding land within 1,500 feet of the property boundary showing the location of all primary and secondary conservation resources (see Subsection 3405.F) and any public or conserved lands over an aerial photo base map.

Section 3406. Campus Development

3406.A **Purpose.** The purpose of this section is to provide flexibility in site design to accommodate the particular needs of manufacturing, office, or institutional uses.

3406.B **Applicability.** Campus developments are permitted in the Urban Center 1, Urban Center 2, Urban Center 3, Riverfront, Mixed Use Residential, Eastern Gateway and Western Gateway districts. For the purposes of this section, a campus is a self-contained development that includes multiple buildings or parcels that:

- (1) Are commonly owned and managed;
- (2) Are located in proximity to and related to one another;
- (3) Are oriented and organized around common open space areas;
- (4) Share access, parking and other facilities or amenities;
- (5) Are connected with pedestrian walkways;

- (6) Accommodate primarily light industrial, office and institutional uses that have a similar, shared or common purpose; and
 - (7) Are a minimum of 5 acres in size.
- 3406.C **Dimensional Standards.** The Development Review Board may waive the dimensional standards for parcels, setbacks, and buildings in the base zoning district within a campus development. The development shall meet all applicable setbacks around its perimeter. Lot coverage for the development as a whole shall not exceed 70% or the district maximum, whichever is less.
- 3406.D **Density of Development.** Floor area ratio and density for the development as a whole shall not exceed the maximum for the applicable district.
- 3406.E **Use.** Uses shall be allowed within a campus development as follows:
- (1) Any use (permitted or conditional) allowed in the base zoning district shall be allowed in a campus development as a permitted use if listed in the Campus Master Plan as incidental to or supportive of the primary purpose of the campus development.
 - (2) The Development Review Board may approve uses in the Campus Master Plan not otherwise allowed in the base zoning district provided the applicant receives conditional use approval and demonstrates that the proposed use is incidental to or supportive of the principal purpose of the campus development.
 - (3) Retail, service, or similar customer-oriented uses that are designed and operated primarily to serve campus residents or employees may also be available for the public.
 - (4) Any use not listed in the Campus Master Plan as incidental to and supportive of the primary use of the campus development shall be regulated as allowed in the based zoning district.
- 3406.F **Building Design.** Buildings within a campus development shall be designed as follows:
- (1) Buildings taller than 3 stories shall be set back a distance equal to or exceeding twice their height from parcels abutting the perimeter of the campus development. The Development Review Board may reduce this setback requirement to the district minimum if the proposed development within the campus shall be compatible in scale and intensity with the existing or planned development pattern on the abutting parcel(s).
 - (2) Buildings shall be oriented to streets, common open space areas, or pedestrian walkways. Buildings shall not be oriented to parking lots.
 - (3) The Development Review Board may waive building massing (footprint and height requirements) provided the increased scale of buildings is balanced appropriately with open space and landscaping.
- 3406.G **Open Space.** At least 30% of the total area of the campus shall be reserved as common open space, including parks, greens, or quads developed for passive recreational use but excluding outdoor areas developed for active recreational use (ex. sports courts or fields).

- 3406.H **Pedestrian Access.** All principal buildings within a campus development shall be connected with a system of sidewalk or paths. The Development Review Board may require the applicant to extend sidewalks along nearby public streets into the campus.
- 3406.I **Vehicular Access.** Vehicular access to a campus development shall be provided in a manner that minimizes traffic impacts on neighborhoods streets. To the maximum extent feasible, vehicular access shall be provided from an arterial street.
- 3406.J **Parking.** Applicants shall provide a shared parking plan consistent with Section 3010 that addresses the parking needs of all uses. Where a campus owns both sides of a street, the applicant may count on-street parking in the supply of available parking although this should not be interpreted to mean that on-street parking is dedicated for use only by the campus.
- 3406.K **Signage.** The campus development shall have an approved common scheme signage plan and the campus shall be considered a “common scheme premises” for the purposes of regulating signage under Section 3012. The campus may have an entrance sign not more than 32 square feet in area and 12 feet in height at its principal street entrance. Any secondary entrance may have a sign that is not more than 32 square feet in area and 12 feet in height. All other signage shall be designed and located so as to be primarily visible from within the campus. The Development Review Board may approve waivers to the standards not to exceed 100% in size and 50% in height provided the additional size shall not negatively affect the character of the neighborhood.
- 3406.L **Campus Master Plan Application Requirements.** In addition to other application requirements, the applicant shall submit a Campus Master Plan that includes:
- (1) A site plan showing boundary lines, existing buildings, open space, pedestrian and vehicular access, parking lots and other impervious cover. If appropriate, a second site plan may be included that identifies the locations for proposed new buildings, open space, pedestrian and vehicular access, parking lots, and other impervious cover shall be located.
 - (2) Within the written text:
 - (a) A statement describing the principal purpose of the campus development;
 - (b) Any request for waivers to dimensional standards consistent with Subsection 3406.C;
 - (c) A description of the amount of residential and non-residential development and how it is consistent with Subsection 3406.D;
 - (d) A list of uses to be approved as a base of principal and accessory uses that can be amended by issuance of a permit consistent with Subsection 3406.E;
 - (e) For any new construction, describe consistency with the requirements of Subsection 3406.F or present any request for waivers consistent with Subsection 3406.F;
 - (f) Description of compliance with the open space standards of Subsection 3406.G;
 - (g) If any supporting information is needed to the site plan on compliance with pedestrian and vehicular access as described in Subsections 3406.H and 3406.I;

- (h) A shared parking plan describing compliance with provisions of Subsection 3406.J;
and
- (i) A sign plan consistent with Subsection 3406.K.

3406.M Permits and Amendments to the Campus Master Plan. Unless otherwise noted in Subsection 3406.E, individual permits for development consistent with the approved Campus Master Plan shall be administrative. Applications for development not consistent with the approved Campus Master Plan shall require an amendment to the master plan as described in Subsection 3406.L.

- (1) Approved campus master plans shall not expire. Proposed developments requiring major site plan approval shall occur within 5 years or such approval shall expire.

Chapter 350. Subdivision Standards

Section 3501. Applicability

3501.A All subdivision of land shall conform to the standards of this chapter.

Section 3502. Capacity of Community Facilities and Utilities

3502.A The applicant shall demonstrate that the proposed subdivision shall not cause a disproportionate or unreasonable burden on the city's ability to provide community facilities and utilities including:

- (1) Local schools.
- (2) Police, fire protection and ambulance services.
- (3) Street infrastructure and maintenance.
- (4) Parks and recreation facilities.
- (5) Water supply, sewage disposal and stormwater systems, and infrastructure.

Section 3503. Suitability of the Land

3503.A The land to be subdivided shall be suitable for use without endangering public health or safety, and causing undue adverse impacts on the environment, neighboring properties, or the character of the area.

3503.B Land subject to periodic flooding, poor drainage, inadequate capability to support development or other hazardous conditions shall not be subdivided unless the applicant can demonstrate that appropriate measures shall be taken to overcome the physical limitations.

3503.C Buildings and building envelopes on recorded plat shall be representative only and be placed only to demonstrate a suitable area for development. Approval of a plat with a house site or building envelope shall not be inferred as a permit to build such structure nor shall it be a limitation to future development outside of the envelope or house site unless included as a condition of approval.

Section 3504. Traffic

3504.A The traffic provision for subdivisions shall be the same as those that apply to conditional use applications in Section 3303 except that the word "subdivision" shall be substituted for "development" where applicable.

Section 3505. Design and Configuration of Parcel Boundaries

3505.A **Parcel Arrangement.** The applicant shall design the subdivision:

- (1) To follow and extend the planned settlement pattern (including parcel size, parcel configuration, street layout and building location) as defined by the purpose and standards of the applicable zoning district to the maximum extent feasible given the site's topography and natural features.

- (2) To connect to and extend existing street, sidewalk, path, trail, utility, greenway, and open space corridors to the maximum extent feasible given the site's topography and natural features.
- (3) So that there shall be no foreseeable difficulties in obtaining zoning permits to build on all parcels not intended for conservation purposes in accordance with the standards of these regulations.
- (4) So that there shall be no foreseeable difficulties in providing access to buildings on parcels not intended for conservation purposes from an approved street.
- (5) To avoid direct access from arterial streets or state or Class 1 highways. The Development Review Board may require shared access or other means to minimize new access points along arterial streets or highways.
- (6) To allow further subdivision on any remaining undivided land and adjoining undeveloped parcels in a manner that would result in a logical and coordinated development pattern.

3505.B Parcel Dimensions. The applicant shall design the subdivision:

- (1) So that all parcels front on a street.
- (2) So that parcel dimensions meet the minimum standards for the zoning district.
- (3) So that generally side parcel lines are at right angles to straight street lines or radial to curved street lines with recognition that some variability may be desirable to respond to the site's topography and natural features.
- (4) So that generally rear parcel lines are parallel to street lines with recognition that some variability may be desirable to respond to the site's topography and natural features.
- (5) To avoid flag and other irregularly shaped parcels except when desirable to respond to the site's topography and natural features.
- (6) To minimize the number of parcels with frontage on more than one street.
- (7) All new parcels shall contain sufficient buildable area to meet minimum density requirements of Subsection 3002.C
- (8) So not to create any nonconforming structures (See section 1203), but may involve an existing nonconformity provided the degree of nonconformity is not increased.

Section 3506. Design and Layout of Necessary Improvements

3506.A Streets. Applicants shall design and construct all new streets within a subdivision in accordance with this subsection.

- (1) **General.** Applicants shall design and construct all new streets within a subdivision to:
 - (a) Safely accommodate all users (including vehicular, bicycle and pedestrian traffic).
 - (b) Provide adequate access and suitable turnarounds, when applicable, for emergency and service vehicles.
 - (c) Provide efficient access to property and avoid congestion on existing streets.
 - (d) Logically extend and improve the connectivity of the city's existing street network.

- (e) Fit into the landscape and follow the natural terrain to the greatest extent feasible.
- (f) Provide for livable neighborhoods and attractive streetscapes.
- (g) Not be excessively wide, in order to calm traffic and minimize impervious surface.
- (2) **Topography and Arrangement.** New streets shall be:
 - (a) Designed to relate appropriately to the pre-existing topography and provide adequate drainage.
 - (b) Graded and laid out to conform as closely as possible to the pre-existing topography.
 - (c) Integrated into the city's existing street network to the maximum extent feasible.
 - (d) Extended to the boundary lines of the parcel(s) being subdivided to facilitate the coordinated development of adjacent undeveloped land unless prevented by topography or other physical conditions.
 - (e) Designed to discourage through and high-speed traffic.
 - (f) Designed to minimize the amount of impervious surface necessary to provide convenient and safe access to property.
 - (g) Designed to minimize the number of stream crossings.
 - (h) Oriented to create parcels that facilitate passive solar design to the maximum extent feasible.
 - (i) Designed to terminate with views of prominent buildings or open spaces to the maximum extent feasible.
- (3) **Connectivity.** Discontinuous street systems are inefficient and cause undue congestion, while a well-connected street system disperses traffic efficiently and improves walkability. Accordingly, cul-de-sac or dead-end streets are prohibited except that the Development Review Board may approve cul-de-sacs or dead-end streets if one of the following applies:
 - (a) As stubs to permit future expansion. The Development Review Board may require construction of street stubs or condition approval on a future agreement to extend streets when adjacent property is developed.
 - (b) Where topography or other physical conditions make construction of through streets impossible or undesirable.
 - (c) To serve not more than 5 parcels.
- (4) **Access Management.** Applicants shall implement proper access management techniques that follow VTrans' Access Management Program Guidelines in the design of new streets.

- (5) **Access Points.** A subdivision with more than 10 parcels or 40 dwelling units shall have at least two access points from public streets. The Development Review Board may waive or modify this requirement as recommended by the Technical Review Committee for sites with physical conditions that make provision of a second access impractical. The Development Review Board may allow the secondary access to be limited to emergency access. The Development Review Board may require a secondary or emergency access for smaller subdivisions or developments when deemed necessary to protect public safety.
- (6) **Design Standards and Construction Specifications.** Applicants shall:
 - (a) Design new streets to the *VTrans A-76 Standards for Town and Development Roads* except as otherwise specified in this section; and
 - (b) Construct new streets in accordance with the city's Public Works Specifications.
- (7) **Design Speed.** Applicants shall design new roads for a speed of 30 miles per hour or less.
- (8) **Width.** Applicants shall design new roads in accordance with the following unless otherwise approved by the Development Review Board to respond to site-specific physical conditions or anticipated traffic flows:
 - (a) For streets with a traffic volume of less than 100 trips per day on average, lane widths shall be at least 8 feet and not more than 9 feet.
 - (b) For streets with a traffic volume of 100 trips per day or more on average, lane widths shall be at least 9 feet and not more than 10 feet with 2-foot shoulders on both sides.
 - (c) For streets intended to accommodate on-street parking, a parking lane at least 7 feet and not more than 9 feet wide may be located on one or both sides.
 - (d) For alleys intended to provide access to rear parking or service areas for parcels that front on another street, a total paved width of at least 10 feet and not more than 18 feet.
- (9) **Intersections.** New streets shall be:
 - (a) Laid out to intersect as close to 90 degrees as physically possible. They shall not intersect at less than 75 degrees or more than 105 degrees.
 - (b) Designed with directly opposed intersections whenever feasible. If not directly opposed, the centerline offset of street intersections shall be at least 150 feet.
 - (c) Designed with an intersection approach that does not exceed a 3% grade for a distance of 20 feet as measured from the edge of the right-of-way of the intersecting street.
 - (d) Designed with a curb radius at the intersection that does not exceed 30 feet as measured from the edge of the traveled way. Applicants are strongly encouraged to use the smallest curb radius that can safely accommodate anticipated vehicular traffic to minimize conflict between vehicles and pedestrians. The Development Review Board may allow a larger curb radius to respond to site-specific physical conditions or uses with heavy truck traffic.
- (10) **Drainage.** New streets shall be designed:

- (a) With drainage facilities to divert run-off to vegetated areas.
 - (b) To maintain or establish a buffer of natural woody vegetation between streets and surface waters at least 50 feet wide. The Development Review Board may waive or modify the buffer requirement to respond to site-specific physical conditions.
 - (c) Not to block the flow of drainage in existing ditches, swales or gutters.
 - (d) Not to unreasonably contribute to an accumulation of stormwater that would exceed the capacity of downstream facilities or infrastructure.
 - (e) With culverts where needed that are sized to convey anticipated peaks stormwater flows and that are not less than 18 inches in diameter.
 - (f) With culverts that extend at least 2 feet beyond the edge of the street and that are installed to minimize erosion damage at the inlet and outlet.
- (11) **Grade.** New streets shall generally conform to the topography and shall not exceed a maximum grade of 10% as measured over any 100-foot section. The Development Review Board may allow short segments to exceed the maximum grade to respond to the site's topography and natural features. The Development Review Board may allow short street segments with steeper grades when recommended by the Department of Public Works.
- (12) **Cross-Slope.** All streets shall have a cross-slope of at least 1% and not more than 3%.
- (13) **Planting Strip.** The planting strip shall be located between the curb or edge of pavement and the sidewalk parallel with the street. Planting strips designed to collect and infiltrate stormwater runoff are encouraged.
- (14) **Street Trees.** The applicant shall plant trees along new streets in accordance with Subsection 3203.G of these regulations.
- (15) **Street Lights.** The applicant:
- (a) Should provide streetlights only as necessary for safety and security.
 - (b) Should consider locating streetlights at intersections, crosswalks, and high-traffic areas.
 - (c) Shall meet the requirements of Section 3204.
- (16) **Street Names and Signs.** The applicant shall name streets and install street signs in accordance with state and city requirements.
- 3506.B **Pedestrian and Bicycle Facilities.** The applicant shall integrate pedestrian and bicycle access into the design of the subdivision in accordance with the following:
- (1) **Sidewalks.** Except within the Rural District, applicants shall install sidewalks along both sides of new streets. The Development Review Board may allow a sidewalk to be constructed on only one side of a street if the density of the subdivision or development shall be less than 4 dwelling units per acre. Sidewalks shall be at least 5 feet wide and constructed of concrete or a similar material with equivalent durability in accordance with city Public Works Specifications.

- (2) **Paths.** Applicants shall install pedestrian and multi-use paths as necessary to provide access within the subdivision to common lands or facilities, parking areas or similar amenities, as well as between buildings and to allow access to public trails and greenways.
 - (3) **Bike Facilities.** The applicant shall provide travel ways for bicycles in conformance with the Vermont Pedestrian and Bicycle Facility Planning and Design Manual.
- 3506.C **Water and Wastewater Facilities.** The applicant shall design the subdivision to provide potable water and wastewater facilities in accordance with the following:
- (1) Any subdivision within the city's water service area shall be connected to the municipal system. The applicant shall provide water service to each parcel not intended for conservation purposes in accordance with the city's Public Works Specifications.
 - (2) Any subdivision within the city's sewer service area shall be connected to the municipal system. The applicant shall provide sewer service to each parcel not intended for conservation purposes in accordance with the city's Public Works Specifications.
 - (3) For any subdivision not within the city's water or sewer service areas, the applicant shall demonstrate compliance with, or the ability to comply with, the state's wastewater system and potable water supply rules.
- 3506.D **Firefighting Facilities.** The applicant shall design the subdivision to provide water for fire protection in accordance with the following:
- (1) Within any subdivision that will be connected to the city's water system, the applicant shall install fire hydrants in accordance with the city's Public Works Specifications.
 - (2) Within any subdivision that will not be connected to the city's water system, the Development Review Board may require the applicant to install a fire pond or make other appropriate provisions to facilitate firefighting.
- 3506.E **Public and Private Utilities.** The applicant shall design the subdivision to provide utility service to each parcel not intended for conservation purposes in accordance with the following:
- (1) All utilities shall be located underground unless prevented by ledge or other physical conditions or where the subdivision is in a section of street with existing above ground utilities and burial would not be practicable.
 - (2) Utilities shall be located within street rights-of-way to the maximum extent feasible. The applicant shall provide the city with a maintenance and access easement for any utilities not located within a street right-of-way.
- 3506.F **Landscaping.** The applicant shall design the subdivision to maximize the preservation of existing mature vegetation and provide additional landscaping (which may be installed when parcels are subsequently developed) as necessary to:
- (1) Maintain and provide privacy both for adjoining property owners and between parcels within the subdivision.
 - (2) Enhance the appearance of street frontages and shade streets and sidewalks.
 - (3) Maintain or establish vegetated buffers along waterways and other natural areas.

- (4) Utilize green stormwater infrastructure practices.

3506.G **Parks and Recreation Areas.** The applicant shall design the subdivision with appropriate areas and facilities for active and passive outdoor recreation in accordance with the following:

- (1) All subdivisions with more than 10 parcels or dwelling units shall provide a minimum of 400 square feet per dwelling unit of common recreation areas or facilities except:
 - (a) No common recreation areas or facilities shall be required for single-unit residential subdivisions with a density of one home per acre or lower.
 - (b) The Development Review Board may waive or modify the requirement for common recreation areas or facilities for subdivisions located within ½-mile walk of a public park, school yard, the Vermont College Green or the Statehouse Lawn (as measured following publicly accessible paths and walkways).
- (2) Land set aside for recreation areas or facilities shall be suitable for active or passive outdoor recreation.
- (3) Each parcel within the subdivision shall have convenient access to the common recreation areas or facilities.

3506.H **Monuments and Parcel Corner Markers.** The applicant shall install:

- (1) Permanent right-of-way monuments at all street intersections and other critical points in street lines in accordance with state statute.
- (2) Parcel corner markers at corners and angle points of all parcels in accordance with state statute.

3506.I **Construction and Maintenance of Necessary Improvements.** The applicant shall:

- (1) Construct the necessary improvements in accordance with all conditions of approval and city specifications before the Administrative Officer may issue any zoning permits for further development within the subdivision.
- (2) Maintain necessary improvements while parcels within the subdivision are being sold or developed in accordance with all conditions of approval.
- (3) Demonstrate how the necessary improvements required under this section shall be maintained once parcels have been sold or developed.
- (4) Establish an owners' association or similar legally enforceable mechanism to ensure continuing maintenance of private streets, shared infrastructure, or other common land or facilities within the subdivision. The Development Review Board may require the applicant to provide drafts of covenants, articles of incorporation, bylaws, maintenance agreements, or other legal documents for review prior to final approval of the subdivision and to record such documents with the city along with the final plat.

Section 3507. Character of the Neighborhood and Settlement Pattern

3507.A **Establishment of Neighborhoods.** Neighborhoods are established and their character described in Part 2 of these regulations.

- 3507.B **Standards.** The applicant shall demonstrate that the proposed subdivision shall:
- (1) Be compatible with or extend the city's traditional settlement pattern as a compact urban center.
 - (2) Not contribute to a pattern of strip development.
 - (3) Be compatible with the character of the neighborhood.

Section 3508. Renewable Energy and Energy Conservation

- 3508.A **Applicability.** The general standards of this section apply to all subdivisions. The solar orientation provisions of this section apply to any subdivision with more than 10 parcels.
- 3508.B **General Standards.** To the maximum extent feasible given topography, orientation, and vegetation, the applicant shall design the subdivision:
- (1) So that the maximum number of parcels shall receive direct sunlight sufficient for using solar energy systems.
 - (2) With streets and parcel lines that shall accommodate buildings oriented with their long axis oriented within 30 degrees of true east west.
 - (3) With the highest densities sited on south-facing slopes and the lowest densities sited on the north facing slopes.
 - (4) With appropriate protections for each parcel's solar access.
- 3508.C **Solar Orientation.** Unless the Development Review Board determines that solar orientation is not feasible due to site-specific conditions such as topography, existing vegetation or other physical limitations, the applicant shall demonstrate that a minimum of 80% of the parcels within a residential subdivision comply with one of the options below:
- (1) The parcel has a:
 - (a) Front parcel line that is oriented within 30 degrees of a true east-west axis; and
 - (b) North-south dimension of at least 90 feet. The north-south dimension shall be measured along a line beginning at the midpoint of northern parcel line and extending in a southerly direction perpendicular to the northern parcel line until it reaches a property boundary.
 - (2) Development envelope that shall allow a typical single-unit home or other residential structure to be built on the parcel with:
 - (a) Its long axis oriented within 30 degrees of a true east-west axis; and
 - (b) At least 80% of its ground floor south wall unshaded by existing structures or vegetation.

Section 3509. Natural Resource Protection

- 3509.A **General.** The applicant shall demonstrate that the proposed subdivision has been designed and located to avoid, or if avoidance is not feasible then to minimize and mitigate, adverse impacts to any natural resource areas identified on the Montpelier Natural Resources Inventory Map in accordance with the following:

- (1) **Conservation Commission Review.** The Administrative Officer shall forward an application for a proposed subdivision that shall include any natural resource areas or their required buffers identified on the Montpelier Natural Resources Inventory Map to the Conservation Commission for review. The Conservation Commission, following the process established in Section 4302 may make recommendations on the application to the Development Review Board. Applicants are strongly encouraged to meet with the Conservation Commission prior to submitting an application for subdivision on a site with or adjoining mapped natural resources.
 - (2) **Natural Resource Assessment.** Where a proposed development shall disturb or otherwise impact a natural resource area on the Montpelier Natural Resources Inventory Map, the applicant shall submit a professionally prepared natural resource assessment. The assessment shall identify the potential impacts of the proposed development on the natural resource areas within or adjacent to the project site and mitigation methods for each.
- 3509.B **River Hazard Areas.** All subdivisions that include lands within the River Hazard Area, as defined by the River Hazard Area Regulations, shall identify the boundaries of all River Hazard Area districts and sub-districts on proposed and final plats.

Section 3510. Parcel Line Adjustment and Parcel Merger

- 3510.A The Administrative Officer may approve the realignment, relocation, or elimination of a boundary line between adjoining parcels provided that the proposed change:
- (1) Shall not result in an increase in the number of parcels;
 - (2) Shall not result in a nonconformity (see Section 1203), but it may involve an existing nonconformity provided that the degree of nonconformity is not increased; and
 - (3) Shall not violate any conditions of a prior permit or approval.
- 3510.B All parcel line adjustments shall meet the requirements of Section 4405 except that the 180 day time period to file plat starts after the Administrative Officer's decision and that the Administrative Officer shall sign the final subdivision plat.

PART 4. ADMINISTRATIVE PROCEDURES

Chapter 400. Functions and Responsibilities

I *The purpose of this chapter is to identify the various city employees, officials and committee members involved in reviewing development applications and administering these regulations.*

Section 4001. Administrative Officer

4001.A The City Manager shall appoint an Administrative Officer to administer these regulations.

4001.B The Administrative Officer shall:

- (1) Assist applicants in determining whether and which city permits or approvals shall be needed for a project;
- (2) Provide applicants with application forms;
- (3) Maintain records;
- (4) Respond to complaints and violations; and
- (5) Perform all other tasks necessary to administer these regulations.

4001.C The Administrative Officer shall enforce the provisions of these regulations literally and may only issue a zoning permit for development that conforms to these regulations.

Section 4002. Development Review Board

4002.A The Development Review Board performs development review functions as specified in these regulations and in accordance with their adopted rules of procedure.

4002.B The City Council appoints members to the Development Review Board as specified in the city charter (see 24 V.S.A. App. § 5-806).

4002.C The Administrative Officer refers applications to the Development Review Board as required under these regulations.

Section 4003. Advisory Committees

4003.A **Design Review Committee.** The City Council appoints members to the Design Review Committee. In accordance with the provisions of Section 2201 and Section 4301, the Design Review Committee reviews applications for development within the Design Review Overlay District as follows:

- (1) The committee shall provide written comments and recommendations to the Administrative Officer regarding design modifications that would further the purposes of these regulations, which the Administrative Officer shall send to the applicant and Development Review Board (as applicable).

- (2) The committee's comments and recommendations are intended to provide general direction to the applicant, Administrative Officer and Development Review Board, but shall not be deemed binding on the applicant unless they are incorporated into the permit or decision.

4003.B **Conservation Commission.** The City Council appoints members to the Conservation Commission. The Conservation Commission shall review applications as specified in these regulations as follows:

- (1) The commission shall provide written comments and recommendations on the natural resource impacts of the application to the Administrative Officer, which the Administrative Officer shall send to the applicant and Development Review Board (as applicable).
- (2) The commission's comments and recommendations are intended to provide general direction to the applicant, Administrative Officer and Development Review Board, but shall not be deemed binding on the applicant unless they are incorporated into the permit or decision.

4003.C **Technical Review Committee.** The Technical Review Committee is an advisory staff committee comprised of representatives from city departments that reviews development applications as requested by the Administrative Officer as follows:

- (1) Committee members may provide written comments and recommendations to the Administrative Officer, which the Administrative Officer shall send to the applicant and Development Review Board (as applicable), indicating all requirements and identifiable impacts of the proposed project.
 - (a) In assessing those impacts, committee members shall consider the cumulative impact of development.
- (2) The committee's comments and recommendations are intended to provide general direction to the applicant, Administrative Officer and Development Review Board, but shall not be deemed binding on the applicant unless they are incorporated into the permit or decision.

Chapter 410. Fees and Filing Requirements

i *The purpose of this chapter is to authorize administrative actions such as charging fees to cover the cost of administering these regulations and requiring performance bonds to ensure compliance with these regulations.*

Section 4101. Fee Schedule

- 4101.A The City Council establishes fees for administering these regulations that may include the cost of:
- (1) Posting and publishing notices, holding public hearings, recording documents and conducting periodic inspections during construction.
 - (2) An independent technical or legal review of an application when deemed necessary to ensure compliance with these regulations.
 - (3) Monitoring and inspection when deemed necessary to ensure compliance with these regulations.

Section 4102. Performance Bonds

- 4102.A The Administrative Officer or Development Review Board may require an applicant to provide a performance bond or similar surety as a condition of approval to insure the completion of required improvements.
- 4102.B The amount, form, manner of execution and period of the bond or surety shall meet statutory requirements (see 24 V.S.A. § 4464(b)) and be satisfactory to the City Attorney.
- 4102.C The City of Montpelier shall only release a bond or surety after certification by the applicant and determination by the Administrative Officer that the required improvements have been satisfactorily completed.

Section 4103. As-Built Drawings

- 4103.A The Development Review Board may require an applicant to file as-built drawings as a condition of approval.
- 4103.B As-built drawings shall be required for any infrastructure to be built within public rights-of-way or to be turned over to the city.

Chapter 420. Zoning Permit Procedures

- i *The purpose of this chapter is to establish the process that applicants shall follow to apply for zoning permits and the process the Administrative Officer shall follow to review and act on zoning permit applications, and issue and administer zoning permits and related development approvals.*

Section 4201. Applying for a Zoning Permit

- 4201.A Prior to applying for a zoning permit or related development approval, applicants are encouraged to meet with the Administrative Officer for a preliminary review of the proposal and a discussion of the applicable provisions of these regulations, permitting requirements, application materials, fees, and review procedures.
- 4201.B The Administrative Officer shall determine whether proposed development will require a zoning permit or any other type of development approval and shall provide applicants with the necessary form(s) to apply for the applicable permit(s) and approval(s).
- 4201.C The Administrative Officer shall notify the prospective applicant of any fees, including impact fees, or other charges that may apply to the proposed development.
- 4201.D The Administrative Officer shall provide the applicant with a copy of the state energy standards for residential or commercial buildings as applicable.
- 4201.E To apply for a zoning permit or related development approval, the applicant shall submit the completed form(s), supporting materials and fees to the Administrative Officer.
- 4201.F The Administrative Officer may:
- (1) Waive an application requirement upon finding the information is not necessary to determine compliance with these regulations.
 - (2) Require an applicant to provide additional information as necessary to determine compliance with these regulations.
- 4201.G The Administrative Officer shall determine whether the application is complete promptly after the applicant submits it and inform the applicant in writing of the determination as follows:
- (1) If the application is incomplete, the Administrative Officer shall inform the applicant of what additional information is required.
- 4201.H If the Administrative Officer does not determine whether an application is complete within 7 days after written request by the applicant, the applicant may file an appeal with the Development Review Board as specified in Section 4601, but shall not be able to file for a “deemed approval” of the application (see Subsection 4202.B).
- 4201.I The applicant or other interested person may appeal any of the Administrative Officer’s actions or decisions under this section to the Development Review Board as specified in Section 4601.

Section 4202. Reviewing and Referring a Zoning Permit Application

- 4202.A Once the Administrative Officer determines that an application is complete, the Administrative Officer shall act within 30 days to approve, deny, or refer it to the Development Review Board.
- (1) If the application will be referred to a state agency or other entity for comment, the 30-day time limit shall not commence until that comment period has elapsed or comments have been submitted, whichever is sooner.
 - (2) If the application requires other permits or approvals before the Administrative Officer may issue a permit, the 30-day time limit shall not commence until the applicant has submitted evidence that he/she has received the necessary permits or approvals.
- 4202.B If the Administrative Officer does not act on a complete application within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Administrative Officer's failure to act within the 30-day period resulted in a "deemed approval" of the application.

Section 4203. Approving or Denying a Zoning Permit Application

- 4203.A The Administrative Officer shall approve or deny applications in writing and specifically provide the following information:
- (1) When approving an application, the Administrative Officer shall inform the applicant that the applicant shall:
 - (a) Post a notice of the zoning permit in a location on the subject property that is within view of the public right-of-way throughout the 15-day period; and
 - (b) Not commence the land use or development until the appeal period has ended.
 - (2) When denying an application, the Administrative Officer shall:
 - (a) Inform the applicant that he/she may appeal the denial to the Development Review Board within 15 days of the date of the decision; and
 - (b) Include a copy of Section 4601, which explains the appeal process.
- 4203.B The Administrative Officer shall:
- (1) Post a copy of the zoning permit in at least one public place within 3 days after issuing it, which shall remain posted throughout the 15-day appeal period;
 - (2) Deliver an original, signed copy of the zoning permit or the notice of zoning permit to the City Clerk for recording within 30 days after it becomes effective;
 - (3) File a copy of the permit as part of the Administrative Officer's office records; and
 - (4) Provide a copy of the permit to the City Assessor.

Section 4204. Zoning Permit Effect, Expiration and Extension

- 4204.A A zoning permit takes effect on the 16th day after the Administrative Officer issues it provided that no appeal is lawfully filed during the previous 15 days.
- (1) If an appeal is filed, the zoning permit shall not take effect until the appeal is decided.

- 4204.B A zoning permit and any associated Development Review Board approvals expire two years from the date the zoning permit takes effect unless:
- (1) The Development Review Board specifies otherwise as a condition of approval;
 - (2) The applicant commences any use and substantially completes any construction authorized by the permit prior to its expiration; or
 - (3) Prior to the zoning permit's expiration, the applicant requests and receives an extension of not more than 12 months from the Administrative Officer.
 - (a) The Administrative Officer may only grant one such extension upon finding that any improvements completed to date conform to the permit requirements and these regulations.
- 4204.C If a zoning permit expires before the applicant substantially completes the construction or commences the use authorized by the permit, the applicant shall apply for a new zoning permit and any other associated development approvals under these regulations.

Section 4205. Amending a Zoning Permit or Site Plan

- 4205.A Upon written request from the applicant, the Administrative Officer may, prior to completion or occupancy, amend a zoning permit or approved site plan upon finding that the proposed change:
- (1) Is not a material change; and
 - (2) Does not affect the type, character, or intensity of the approved development or use to the extent specified below:
 - (a) Any proposed change shall not result in an increased requirement for parking or loading spaces.
 - (b) Any proposed change in building footprint shall not exceed 5% or 100 square feet, whichever is less.
 - (c) Any proposed substitution of planting materials shall not change the overall landscape design concept.

i *A material change means a change in the planned use or development of land or a structure that may have affected the decision made or any conditions placed on the permit if it had been included in the plans as approved.*

- 4205.B The Administrative Officer may:
- (1) Require that the owners of properties adjoining the subject property be notified and have an opportunity to comment prior to acting on the amendment request.
 - (2) Decline to amend an approved site plan and refer the request to the Development Review Board (see Section 4306).
 - (3) Require the applicant to submit an application for a new zoning permit.
- 4205.C Where the Administrative Officer amends a zoning permit or approved site plan, such approval will not change the expiration date of the permit.

4205.D Once development for a permit is complete, a new application is required for any amendments.

Section 4206. Revoking a Zoning Permit

4206.A Any permit issued based on material inaccuracies or misrepresentation in an application, or any supporting documentation to an application, shall be null and void; and any associated development activity commenced under such permit shall constitute a violation of these regulations subject to enforcement.

Section 4207. Certificate of Compliance

4207.A Where required by the Development Review Board as a condition of approval, an applicant shall receive a certificate of compliance from the Administrative Officer before any such development may be occupied or used.

4207.B The Administrative Officer shall act on a complete application for a certificate of compliance promptly and in all cases within 30 days.

4207.C The Administrative Officer may inspect the subject property and consult with other city departments or state agencies as necessary to determine compliance.

4207.D If the Administrative Officer does not act on a complete application for a certificate of compliance within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Administrative Officer's failure to act within the 30-day period resulted in a "deemed approval" of the application.

4207.E The Administrative Officer may only issue a certificate of compliance upon finding that:

- (1) The fully completed development conforms to the requirements of the zoning permit and filed plans, any associated approvals and development conditions, and the applicable provisions of these regulations;
- (2) All infrastructure connections are fully complete and conform to Department of Public Works Specifications, permit requirements and filed plans, any associated approvals and development conditions, and the applicable provisions of these regulations;
- (3) The applicant has filed any required documents with the city including, but not limited to, as-built drawings, floodplain elevation certificate, floodproofing certificate, energy certificate, wastewater permit or allocation, access permit, or stormwater permit; and
- (4) The applicant has paid all required fees, including impact fees if applicable.

4207.F The Administrative Officer shall approve or deny applications for a certificate of compliance in writing.

4207.G If denying an application, the Administrative Officer shall:

- (1) State the reasons for the denial;
- (2) Inform the applicant that he/she may appeal the denial to the Development Review Board within 15 days of the date of the decision; and
- (3) Include a copy of Section 4601, which explains the appeal process.

- 4207.H If the Administrative Officer denies the application for a certificate of compliance, the applicant may re-apply after remedying any conditions identified as the reason for the denial and prior to the expiration of the zoning permit.
- 4207.I If the Administrative Officer denies the application for a certificate of compliance and finds a violation of these regulations, the Administrative Officer shall commence appropriate enforcement action under Chapter 470.
- 4207.J The Administrative Officer may issue a temporary certificate of compliance that conditions use or occupancy on full completion of all required improvements within not more than 180 days as follows:
- (1) The Administrative Officer may require the applicant to submit a performance bond in accordance with Section 4102 to insure full completion of the outstanding required improvements.
 - (2) The applicant shall apply for a permanent certificate of compliance prior to the temporary certificate expiring.
- 4207.K Unless a certificate of compliance was required as a condition of approval by the Development Review Board, certificates of compliance for permits issued under previous bylaws will no longer be required to be applied for or approved.

Chapter 430. Development Review Procedures

Section 4301. Design Review

- 4301.A The Administrative Officer shall review any applications for development within the Design Review Overlay District to determine the degree of review required per Subsection 2201.G. For development requiring review under Section 2201.G, the Administrative Officer shall either: (i) conduct the review Administratively per Section 2201.G(5); or (ii) refer the application to the Design Review Committee prior to any review by the Development Review Board or to the Administrative Officer issuing a zoning permit per Section 2201.G(6)
- 4301.B Design plans shall be reviewed per the standards of Section 2201.
- 4301.C Any Design Review Committee meeting shall be noticed in accordance with the Open Meeting Law.
- 4301.D The Design Review Committee or Administrative Officer may recommend specific modifications to the proposed plans based on the standards and criteria in Section 2201.
- 4301.E Where the applicant agrees with the recommendations of the Design Review Committee or Administrative Officer, and the application otherwise does not need review by the Development Review Board for other approvals, the Administrative Officer shall make the final decision on the approval or denial of the application.
- 4301.F Where an applicant does not agree with the recommendations of the Design Review Committee or Administrative Officer, the applicant may, within 15 days, appeal the recommendation to the Development Review Board. Additional fees may apply based on the fee schedule.
- 4301.G The Development Review Board or Administrative Officer may deny or condition approval of an application based on the Design Review Committee's recommendations.
- 4301.H The applicant or other interested person may appeal any of the Administrative Officer's actions or decisions under this section to the Development Review Board as specified in Section 4601.

Section 4302. Conservation Commission Review

- 4302.A **Applicability.** Where Conservation Commission review is required under these regulations, the following process applies.
- 4302.B The Administrative Officer shall notify the chair of the Conservation Commission of any application requiring Conservation Commission review. The Conservation Commission shall hold a hearing within 21 days of the Administrative Officer's notification.
- 4302.C The meeting shall be noticed in accordance with Open Meeting Law.

- 4302.D The Conservation Commission shall review the proposal based on the criteria and standards of the applicable provisions of these regulations where the commission has jurisdiction to comment.
- 4302.E The Conservation Commission shall provide written recommendations to the Administrative Officer within seven days of the close of the meeting. The Administrative Officer shall forward such recommendation to the applicant, interested persons appearing at the meeting and, if applicable, the Development Review Board for consideration.
- 4302.F The Conservation Commissions comments and recommendations are intended to provide general direction to the applicant, Administrative Officer and Development Review Board, but shall not be considered binding on the applicant unless incorporated into the permit or decision.

Section 4303. Site Plan Review

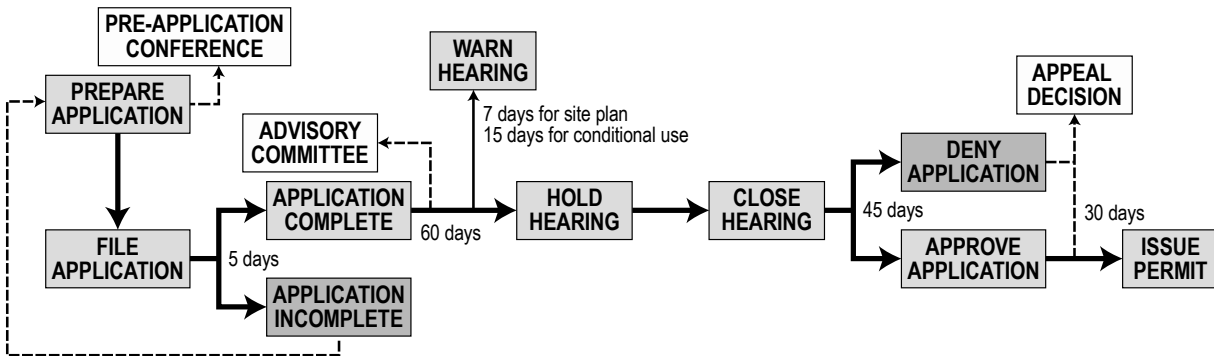
- 4303.A **Applicability.** All development other than single-unit and two-unit uses requires site plan approval.
- 4303.B **Minor Site Plan Review.** The Administrative Officer shall review minor site plans in accordance with the following:
- (1) The Administrative Officer shall forward the application to the Technical Review Committee, Design Review Committee or other advisory committee as applicable.
 - (2) The Administrative Officer shall approve or deny a complete site plan application within 30 days.
 - (3) To approve a site plan, the Administrative Officer shall find that it conforms to the applicable site plan standards in Chapter 320.
 - (4) The applicant or other interested person may appeal any of the Administrative Officer's actions or decisions under this section to the Development Review Board as specified in Section 4601.
- 4303.C **Major Site Plan Review.** The Development Review Board shall review major site plans in accordance with the following:
- (1) The Development Review Board shall hold a public hearing and act on a site plan application in accordance with Section 4501 and Section 4505.
 - (2) To approve a site plan, the Development Review Board shall find that the site plan conforms to the site plan standards in Chapter 320.

Section 4304. Conditional Use Review

- 4304.A The specific land uses that require conditional use approval from the Development Review Board are listed in Chapter 210 for each zoning district.
- 4304.B The Development Review Board shall hold a public hearing and act on a conditional use application in accordance with Section 4501 and Section 4505.

4304.C To approve a conditional use, the Development Review Board shall find that the application conforms to the conditional use standards in Chapter 330.

Figure 4-01. **Major Site Plan and Conditional Use Review Flow Chart**



Section 4305. Combined Review

4305.A When development requires more than one approval, the Development Review Board may warn and hold a single hearing for the purpose of reviewing and acting on the application.

4305.B The hearing for a combined review shall be warned as per Section 4501. The notice shall:

- (1) Include a statement that the hearing shall be a combined review of the proposed development; and
- (2) List each type of review the Development Review Board shall conduct.

4305.C All hearing and decision requirements, and all deadlines applicable to each review process shall apply.

4305.D The Development Review Board may issue separate written decisions for each review conducted as part of the combined hearing, but decisions should be coordinated where appropriate.

4305.E The Development Review Board shall review site plans (major and minor) during a conditional use review hearing.

Section 4306. Modification of Approved Plans

4306.A The Development Review Board shall review any request to amend an approved plan that the Administrative Officer cannot approve under Section 4205.

4306.B The process for applying for an amendment shall be the same as for the original approval.

4306.C The process for reviewing and issuing a decision on an amendment shall be the same as for the original approval except that the scope of the review shall be limited to those aspects of the plan affected by the proposed amendment.

Chapter 440. Subdivision and PUD Review Procedures

i *The purpose of this chapter is to establish the requirements for applicants seeking approval to subdivide land or undertake a planned unit development (PUD) and the procedures the city shall use review subdivision applications.*

Section 4401. Applicability

- 4401.A A planned unit development (PUD) shall require approval as a subdivision in accordance with the provisions of this chapter.
- (1) If a planned unit development requires site plan or conditional use approval, the Development Review Board shall conduct that review concurrently with subdivision review as authorized in Section 4305.
- 4401.B A landowner shall not lay out, construct, open or dedicate any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or sell, transfer or agree to sell any land in a subdivision or development whether by reference to or other use of a plat of that subdivision or development or otherwise, or erect any structure on that land, unless final plat has been prepared in full compliance with these regulations and said plat recorded in the land records of the City of Montpelier. [§4451(b)]
- 4401.C A landowner may file boundary surveys and corrective deeds to repair boundary metes and bounds or to correct technical errors with previously recorded surveys or deeds for existing parcels with known boundaries without obtaining approval under this chapter.

Section 4402. Pre-Application Conference

- 4402.A The applicant shall schedule a pre-application conference with the Administrative Officer prior to filing an application for subdivision review to discuss the proposed subdivision, application requirements and review process.

Section 4403. Sketch Plan Review

- 4403.A The applicant shall file a complete application and sketch plan for consideration by the Development Review Board.
- 4403.B The purpose of sketch plan review is to provide the applicant with an opportunity to consult with and receive feedback from the Development Review Board prior to spending time and money preparing detailed plans.
- 4403.C The Administrative Officer may forward the sketch plan to the Technical Review Committee or other advisory committee for comment as appropriate prior to the sketch plan meeting with the Development Review Board.
- 4403.D The Development Review Board shall hold a meeting to review the sketch plan within 60 days of its filing.
- 4403.E The sketch plan meeting shall be warned as specified in Section 4501.
- 4403.F Following the sketch plan meeting, the Development Review Board shall:

- (1) Make recommendations to guide the applicant in preparation of more detailed plans.
 - (2) Request any additional application materials deemed necessary to determine compliance with these regulations.
 - (3) Request that advisory committees review and make recommendations on the application as appropriate.
- 4403.G The Development Review Board's determinations and recommendations shall be recorded in the minutes and provided to the applicant, but those actions shall not constitute a formal decision on the subdivision plan.
- 4403.H After the Development Review Board has concluded its meeting on sketch plan and provided comments to the applicant, the applicant shall have one year to file the materials required for final plan review.

Section 4404. Final Plan Review

- 4404.A The applicant shall file a complete application and final subdivision plan for consideration by the Development Review Board.
- 4404.B The purpose of final review is to evaluate the plan's conformance with the purposes and specific standards of these regulations and assure that all conditions imposed on the sketch plan have been met.
- 4404.C The Development Review Board shall hold a public hearing and act on a final subdivision in accordance with Section 4501 and Section 4505.
- 4404.D The Development Review Board's approval of a final plan shall not constitute the city's acceptance of any street, easement, open space or other feature shown on the plan. Action by the City Council is required to accept any street, easement, open space or other feature.

Section 4405. Subdivision Plat Filing

- 4405.A After the Development Review Board approves the final plan, the applicant shall file a final subdivision plat for filing in the city's land records within 180 days except:
- (1) If the subdivision shall be phased, the applicant shall file a plat for the first phase within 180 days and for subsequent phases in accordance with any schedule or time period established in the decision.
 - (2) Upon written request by the applicant prior to the expiration of the 180 days, the Administrative Officer may grant a 90-day extension to the filing deadline if other local or state permits are still pending.
- 4405.B The form and content of the final subdivision plat shall meet all city and state requirements (see 27 VSA § 1403).
- 4405.C Prior to being filed in the land records, the Chair of the Development Review Board shall sign the final subdivision plat.

- (1) If a final plat is recorded without that signature, it shall be considered null and void unless re-approved by the Development Review Board.
- 4405.D No one shall make any changes, erasures, modifications, or revisions to a final plat after it has been signed except in accordance with Section 4406.
 - (1) If a modified plat is recorded in violation of this requirement, it shall be considered null and void unless re-approved by the Development Review Board.
- 4405.E Once properly filed, a final subdivision plat shall not expire.

Section 4406. Modification of Approved Plats

- 4406.A The Development Review Board shall review any request to amend an approved plat except:
 - (1) The Director of Public Works may issue a written authorization modifying the design of any public improvement at any time before or during construction provided that the modification would not result in a material change to the approved development.
 - (a) A copy of any such authorization shall be sent to the Administrative Officer.
- 4406.B The process for applying for an amendment shall be the same as for the original approval.
- 4406.C The process for reviewing and issuing a decision on an amendment shall be the same as for the original approval except that the scope of the review shall be limited to those aspects of the plat affected by the proposed amendment.

Chapter 450. Notice, Hearing & Decision Procedures

Section 4501. Notifying the Public about a Hearing

- 4501.A The Administrative Officer shall notify the public at least 15 days before a hearing for all conditional use, variance, appeal, and final subdivision applications by all of the following:
- (1) Publishing the date, place and purpose of the hearing in a newspaper of general circulation in Montpelier.
 - (2) Posting the date, place and purpose of the hearing at City Hall and at least two other public places within Montpelier.
 - (3) Providing the applicant with a sign with the date, place, and purpose of the hearing to be posted on the subject property within public view.
 - (a) It shall be the applicant's responsibility to ensure that the notice remains posted for the entire warning period and to remove the sign within 2 days of the close of public hearing.
 - (4) Notifying the owners of all properties adjoining the subject property subject (including those across the road) in writing.
 - (a) The notification shall include a description of the proposed project and shall clearly explain to the recipient where to obtain additional information and that he/she shall participate in the hearing in order to have the right to any subsequent appeal.
- 4501.B The Administrative Officer shall notify the public at least 7 days before a hearing for any other Development Review Board actions by all of the following:
- (1) Posting the date, place and purpose of the hearing at City Hall and at least two other public places within Montpelier.
 - (2) Notifying the owners of all properties adjoining the subject property subject (including those across the road) in writing.
 - (a) The notification shall include a description of the proposed project and shall clearly explain to the recipient where to obtain additional information and that he/she shall participate in the hearing in order to have the right to any subsequent appeal.
- 4501.C A defect in the form or substance of the public notice requirements shall not invalidate any Development Review Board action or decision when a reasonable effort has been made to provide adequate posting and notice.

Section 4502. Site Visits

- 4502.A The Administrative Officer or Development Review Board may require an applicant to grant them access to the subject property prior to making a decision on an application when deemed necessary to ensure compliance with these regulations.
- 4502.B A site visit shall be warned as a public meeting in accordance with Section 4501 and open to the public if a quorum of the Development Review Board will be present.

Section 4503. Conducting a Hearing and Taking Evidence

- 4503.A The Development Review Board shall hold a public hearing within 60 days of the Administrative Officer determining that an application is complete unless otherwise specified in these regulations.
- 4503.B The Development Review Board shall conduct public hearings, hear testimony, and take evidence according to its adopted rules of procedures.
- 4503.C All hearings shall be open to the public as follows:
- (1) Any individual or group may appear and participate in a public hearing in person (or by authorized representative or counsel) or may submit written testimony in advance of the hearing.
 - (2) The Development Review Board shall give all those wishing to participate an opportunity to be heard as is relevant to the proceeding.
- 4503.D The applicant (or an authorized representative) is strongly encouraged to be present at any public hearing or meeting when the Development Review Board shall be considering the application.
- (1) The Development Review Board may continue its consideration of an application to its next regularly scheduled meeting if the applicant or an authorized representative is not present.
 - (2) In the case of such a continuation, the intervening days shall not be counted as part of any time period within which the Development Review Board is required to act.
- 4503.E Development Review Board members shall not communicate directly or indirectly with any applicant, interested person or their representative regarding a matter that is under consideration except during a properly noticed hearing.

Section 4504. Recessing a Hearing

- 4504.A The Development Review Board may recess a hearing on any application pending submission of additional information necessary to determine compliance with these regulations or upon the applicant's request.
- 4504.B If the Development Review Board recesses a hearing to a specific date and time, the hearing shall not have to be warned again when resumed.

Section 4505. Issuing a Decision

- 4505.A Within 45 days of closing a hearing, the Development Review Board shall issue a written decision to approve, approve with conditions, or deny the application.
- 4505.B The Development Review Board may discuss and make a decision on the application either in open public session or in a closed deliberative session.

- 4505.C If the Development Review Board does not issue a decision within 45 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the board's failure to act resulted in a "deemed approval" of the application.
- 4505.D The written decision shall include a statement of the facts upon which the Development Review Board is basing its decisions and a statement of conclusions relating to the applicable review criteria and standards of these regulations.
- 4505.E The Development Review Board may attach any conditions it deems necessary to an approval to achieve the purposes of these regulations including, but not limited to:
- (1) Specific performance standards such as limitations on hours of operation, noise, light or other off-site impacts;
 - (2) Required improvements to public facilities or infrastructure to serve the proposed development;
 - (3) Paying for all or a portion of off-site improvements to community facilities and utilities deemed necessary to accommodate the proposed development;
 - (4) Paying for all or a portion of off-site transportation improvements deemed necessary to accommodate anticipated traffic resulting from the proposed development;
 - (5) Schedule or phasing of development, so that the rate of growth shall not exceed the city's ability to provide community facilities and utilities;
 - (6) Inspection or monitoring; and
 - (7) Performance bonds.
- 4505.F Any conditions or limitations shall be specifically described in the Development Review Board's written decision.
- 4505.G If the Development Review Board attaches conditions on an approval that require amendments to a site or subdivision plan, the applicant shall submit an amended site or subdivision plan that satisfies those conditions prior to Administrative Officer issuing a zoning permit.
- 4505.H The Development Review Board shall:
- (1) Send a copy of the decision to applicant (by certified mail) and all others who participated in the hearing;
 - (2) File a copy of the decision with the Administrative Officer; and
 - (3) Record its decision in the City Land Records.
- 4505.I Following Development Review Board approval of a waiver, variance, site plan, or conditional use application, the Administrative Officer shall issue a zoning permit.
- (1) Any conditions attached to the Development Review Board's approval shall be considered part of that zoning permit.

PART 4. ADMINISTRATIVE PROCEDURES
Chapter 450. Notice, Hearing & Notice Procedures

- 4505.J If the approved development is not substantially completed or the use commenced before the zoning permit expires (see Section 4204), the development approval shall expire with the zoning permit.
- 4505.K If the approved development is substantially completed or the use commenced before the zoning permit expires (see Section 4204), the development approval shall remain in effect unless the use or development is abandoned or discontinued (see Section 1204).

Chapter 460. Appeal Procedures

- i** *The purpose of this chapter is to establish the procedures for appealing an action taken or decision made under these regulations.*

Section 4601. Appeal of an Administrative Action or Decision

4601.A An interested person may appeal any action or decision of the Administrative Officer to the Development Review Board.

- i** *An interested person includes the applicant, a person owning property in the immediate neighborhood who can demonstrate a physical or environmental impact on the person's property, or a group of 10 people voting or owning property in the city. The full definition is found in Paragraph 5101.I(5).*

4601.B To appeal, an interested person shall file a notice of appeal and any applicable fees with the Administrative Officer within 15 days of the date the Administrative Officer's action or decision.

4601.C A notice of appeal shall be in writing and shall include all of the following information:

- (1) The name and address of the appellant (the person filing the appeal);
- (2) A copy of the Administrative Officer's decision or description of the action (if appealing a zoning permit, also include a copy of the permit application);
- (3) A brief description of the subject property;
- (4) A reference to the section(s) of these regulations that the appellant alleges the Administrative Officer has not properly followed or applied; and
- (5) A statement of the relief the appellant is requesting and why the appellant believes the requested relief to be appropriate under the circumstances.

4601.D The Administrative Officer shall forward a copy of the notice of appeal to the Development Review Board.

4601.E The Development Review Board shall either:

- (1) Hold a public hearing and act on the appeal in accordance with Section 4501 and Section 4505; or
- (2) Reject the appeal without a hearing and render a decision within 10 days of the notice being filed, if the Development Review Board determines that it decided the issues in an earlier appeal.

4601.F An appeal to the Development Review Board is the exclusive remedy for an interested person with respect to an action taken or decision made by the Administrative Officer.

4601.G If no person appeals a decision of the Administrative Officer within 15 days of the decision, that decision is deemed final.

Section 4602. Waivers

- 4602.A Where authorized in these regulations, the Development Review Board may approve waivers that authorize adjustments to the standards of these regulations as specified in these regulations except:
- (1) The Development Review Board shall not approve a waiver to allow a subdivision that shall create a parcel that does not conform to the applicable provisions of these regulations.
- 4602.B The applicant shall file a complete zoning permit application and a written request for a waiver with the Administrative Officer that includes all of the following:
- (1) A brief description of the subject property and project.
 - (2) A reference to specific dimensional standard(s) of these regulations that the applicant is requesting a waiver from.
 - (3) The specific modification(s) that the applicant is requesting.
 - (4) A response to each of the criteria that the Development Review Board shall use to decide whether to approve the waiver.
- 4602.C To approve a waiver, the Development Review Board shall find that all of the applicable criteria specified in Figure 4-02 for waivers have been met.
- 4602.D The Development Review Board shall hold a public hearing and act on the waiver request in accordance with Section 4501 and Section 4505.
- (1) If the applicant is requesting a waiver from the required setback from a state highway, notice shall also be sent to the Vermont Secretary of Transportation.

Section 4603. Variances

- 4603.A The Development Review Board:
- (1) May approve variances that authorize more substantial adjustments to the standards of these regulations under the specific circumstances described below.
 - (2) Shall not approve a variance to allow a prohibited use.
 - (3) Shall not approve a variance to allow the subdivision of a parcel that does not conform to the applicable provisions of these regulations.
- 4603.B The applicant shall file a complete zoning permit application and a written request for a variance with the Administrative Officer that includes all of the following:
- (1) A brief description of the subject property and project.
 - (2) A reference to specific provision(s) of these regulations that the applicant is requesting a variance from.
 - (3) The specific modification(s) that the applicant is requesting.
 - (4) A response to each of the criteria that the Development Review Board shall use to decide whether to approve the variance.

4603.C The Development Review Board shall hold a public hearing and act on the variance request in accordance with Section 4501 and Section 4505.

- (1) If the applicant is requesting a variance from the required setback from a state highway, notice shall also be sent to the Vermont Secretary of Transportation.

4603.D To approve a variance, the Development Review Board shall find that all of the applicable criteria specified in Figure 4-02 have been met.

- (1) There are specific variance criteria that apply to renewable energy structures.
- (2) For all other variance requests, the general variance criteria apply.

Figure 4-02. **Waiver and Variance Review Criteria**

CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE
1 There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of parcel size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.		✓	
2 Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.		✓	
3 Unnecessary hardship has not been created by the appellant.		✓	✓
4 The variance, if authorized shall not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the lawful use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.	✓	✓	✓
5 The applicant is proposing the least deviation possible from these regulations that shall afford relief.		✓	✓
6 It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.			✓
7 The proposed development shall not reduce access to renewable energy resources on adjacent property.			✓
8 The proposed development is beneficial or necessary for the continued reasonable use of the property.	✓		

Section 4604. Appealing of a Development Review Board Decision

4604.A Any interested person who participated in a hearing on a matter before the Development Review Board may appeal the board's action or decision to the Environmental Division of the Vermont Superior Court within 30 days.

- i An interested person includes the applicant, a person owning property in the immediate neighborhood who can demonstrate a physical or environmental impact on the person's property, or a group of 10 people voting or owning property in the city. The full definition is found in Paragraph 5101.I(1).*

4604.B The appellant shall send a notice of appeal to every interested person who participated in the hearing. The interested person list shall be available from the Administrative Officer.

- 4604.C When the Administrative Officer issues a zoning permit to implement the Development Review Board approval, it is a ministerial action that cannot be appealed under Section 4601.
- 4604.D If the Administrative Officer has issued a zoning permit based on a Development Review Board approval, the appeal of that approval shall be considered an appeal of the zoning permit as well and the applicant shall not commence any use or development authorized by the zoning permit until the appeal is resolved.
- 4604.E Except as otherwise provided by state statute, an appeal to the Environmental Division of the Vermont Superior Court is the exclusive remedy for an interested person with respect to an action taken or decision made by the Development Review Board.
- 4604.F If no person appeals a decision of the Development Review Board within 30 days of the decision, that decision is deemed final.

Chapter 470. Enforcement Procedures

Section 4701. Violations, Investigation and Initiation of the Notice of Violation by the Administrative Officer

- 4701.A The commencement or continuation of any development that is not in conformance with the provisions of these regulations shall constitute a violation.
- 4701.B Violations of these regulations shall be prosecuted in accordance with the Act including any penalties, remedies, and limitations established therein [24 V.S.A. §§4451, 4452, and 4454].
- 4701.C Whether through direct observation, written or oral complaint, site visit, or notification of the violation from the landowner, the discovery of a violation must be pursued by the Administrative Officer. The Administrative Officer is required, by law, to enforce all violations of these regulations [24 V.S.A. §4448].
- 4701.D The Administrative Officer may not enter upon any private property for the purposes of inspection and investigation except by permission of the landowner or per a search warrant duly issued by a court (13 V.S.A. §4701).
- 4701.E Upon discovery of a violation, the Administrative Officer shall send to the property owner a notice of violation as described in Section 4702. Any notice of violation shall be sent by certified mail, be recorded in the City Land Records, and a copy placed in the zoning files.

Section 4702. Notice of Violation

- 4702.A The notice of violation shall:
- (1) State a violation exists;
 - (2) Identify the specific provision(s) of these regulations being violated;
 - (3) State the facts supporting the determination that a violation exists;
 - (4) Provide possible action(s) that would cure the violation;
 - (5) State that if the violation is not cured within 7 days, the city may institute enforcement actions including but not limited to potential fines up to the maximum amount allowed under state statute for each day that the violation continues from the date of the notice;
 - (6) State that the alleged offender will not be entitled to another warning notice after the seven day period. Further enforcement may occur without notice and without an opportunity to cure if the violation occurs again within the next 12 months; and
 - (7) State that the applicant has the right to appeal, that the appeal must be filed with the Administrative Officer who will pass the appeal to the Development Review Board for consideration, and that notice of violation must be appealed within 15 days of the notice. If there are any other provisions of Section 4601 that the alleged offender should be made aware of, then the Administrative Officer should pass that information along.
- 4702.B Because state statute allows for 15 days to appeal the notice of violation, the City will generally not pursue enforcement actions until the property owner's appeal rights have expired.

Section 4703. Curing Violations and Enforcement Actions

- 4703.A Where a landowner is cooperating with the Administrative Officer in finding a cure for the violation, the Administrative Officer has the authority to enter written agreements to resolve violations.
- 4703.B The Administrative Officer is under no obligation to enter into any agreement; these agreements are not required under statute and are provided by the City as an alternative means of resolving violations.
- 4703.C The Administrative Officer is prohibited from making any agreement allowing a violation to continue even if the violation is minimal, inadvertent, and/or the violator agrees to pay a fine.
- (1) Acceptable reasons for providing time to cure may include winter weather (e.g. unable to plant landscaping until spring).
- 4703.D At a minimum, any agreement:
- (1) Shall be in writing and be signed by both the alleged violator and the Administrative Officer;
- (2) Must establish the minimum reasonable timeline for curing the violation;
- (3) Give written authorization that will allow the Administrative Officer to inspect the premises upon completion (or the agreed upon date of completion) to ensure compliance.
- 4703.E Where a property owner fails to remedy the situation within the 7 day period, or timetable agreed to under an agreement, the Administrative Officer, in the name of the City of Montpelier, shall bring appropriate action to enforce the provisions of this regulation
- 4703.F Enforcement actions may be by any means established under the Act [§4454] including but not limited to:
- (1) The Administrative Officer may issue a Municipal Complaint and pursue enforcement before the Judicial Bureau in accordance with 24 V.S.A. §§1974a and 1977 and Section 4704 below.
- (2) The Administrative Officer may notify the City Attorney of the violation who will take action in the Environmental Division of Superior Court, as appropriate, with penalties as prescribed below:
- (a) Any person who violates these regulations shall be fined not more than the amount prescribed by the Act [§4451(a)] which at the time of the development of these regulations is \$200 per day.
- 4703.G The property owner shall be held responsible for the violation and be subject to any penalties imposed under this chapter.
- 4703.H A violation of these regulations is a civil offense.
- 4703.I Each day that a violation exists constitutes a separate offense.

Section 4704. Municipal Civil Complaint Ticket

- 4704.A The Administrative Officer may issue a municipal complaint ticket for any violation of these regulations in accordance with the Judicial Bureau's procedure for municipal complaint tickets.
- 4704.B A violation ticketed under this section shall be punishable by a fine of:
- (1) \$75 for a first offense, with a waiver fee of \$50.
 - (2) \$200 for a second offense ticketed for the same violation within 1 year, with a waiver fee of \$150.
 - (3) \$500 for a third and any subsequent offense ticketed for the same violation within 1 year, with a waiver fee of \$250.
- 4704.C Upon the fourth offense, the city may request that the case be transferred from the Judicial Bureau to the Environmental Division of Superior Court or another court of competent jurisdiction.

PART 5. DEFINITIONS

Chapter 500. Interpretation

Section 5001. General

- 5001.A The words used in these regulations have their standard dictionary meaning unless they are specifically defined in this chapter or elsewhere within these regulations.
- 5001.B The words defined in these regulations have the specific meaning stated unless the context clearly indicates that they have another meaning.
- 5001.C The definitions identified as being from state statute are intended to be consistent with that statute.
- 5001.D These regulations use “shall” to express that something is required. They use “shall not” to express that something is prohibited. They use “may” and “may not” for discretionary actions. They use “should” and “should not” when something is encouraged or discouraged.
- 5001.E These regulations use “parcel” and “lot” interchangeably to refer to areas of land delineated in a recorded subdivision plat or deed.
- 5001.F These regulations use “site” or “property” to refer to an area of land subject to a development project, regardless of whether it is an entire parcel, a portion of a parcel, or multiple parcels.
- 5001.G These regulations use “landowner,” “applicant,” “subdivider” and “developer” to refer to the party responsible or authorized to act under these regulations. Those terms may include any individual designated to act on behalf of the landowner or applicant.
- 5001.H These regulations use “business” to refer generally to any nonresidential land use, regardless of whether it is a for-profit or non-profit enterprise.
- 5001.I These regulations use “home,” “residence” or “dwelling” to refer to a dwelling unit that is intended for occupancy by a single household regardless of structure type or tenure (owned or rented).

Chapter 510. Defined Terms

5101.A

- (1) **ABANDON** means to cease from actively using land or any premises for its intended use in accordance with the provisions of Chapter 120.
- (2) **ABANDONED SIGN** (see definition of **SIGN, ABANDONED**).
- (3) **ACADEMIC INSTITUTION** means an institution of higher learning that grants undergraduate and/or graduate degrees, or an institution that provides vocational, technical, or specialized education that trains students for a particular job or teaches particular skills.
- (4) **ACCESSIBLE or ACCESSIBILITY** means a site, building, dwelling, or other facility that complies with the standards of the Americans with Disabilities Act (ADA) and that can be approached, entered, and used by people with physical disabilities or impairments.
- (5) **ACCEPTABLE MANAGEMENT PRACTICES** mean the most recently adopted state laws and regulations governing timber harvesting in Vermont.
- (6) **ACCEPTED AGRICULTURAL PRACTICES** means the most recently adopted state laws and regulations governing farming in Vermont.
- (7) **AFFORDABLE HOUSING** as defined in state law means ownership or rental housing with a total housing cost that does not exceed 30% of the household income of a household earning 80% of the median income in Washington County, and that is subject to covenants or restrictions that shall preserve that affordability for at least 15 years
- (8) **AGRICULTURE** (see definition of **FARMING**).
- (9) **AMPHITHEATER** means a site or open-air structure designed to present performances typically with spectators sitting out on a sloping lawn around a stage. A roofed, but open-walled structure may be built over the stage and seating area.
- (10) **ARTERIAL STREET** means a major, high-capacity street that connects minor, low-capacity residential streets to highways and major destinations. For the purposes of these regulations, all state highways, and Class 1 and 2 city streets shall be considered arterial streets.
- (11) **ATTIC** means the space immediately below the roof of a building. For the purposes of determining height, an attic shall be considered a full story if more than 50% of the floor area has a height of 7 feet or more between the top of the joists and the bottom of the rafters.
- (12) **AUTOMOBILE REPAIR AND SERVICE** means a specialized structure or part of a structure with bays intended for automobile repair and service. See Section 3113.
- (13) **AUTOMOBILE SALES OR RENTAL ESTABLISHMENT** means a retail establishment that sells motor vehicles from a showroom and/or an open lot, or that provides tangible goods such as vehicles, equipment, or machinery to consumer or business customers in return for periodic rental or lease payments.

5101.B

- (1) **BANK** means the use of a structure or part of a structure for the custody, loan, exchange, issue, managing money, for the extension of credit, or for facilitating the transmission of funds.
- (2) **BAR OR NIGHTCLUB** means an establishment that primarily prepares and serves alcoholic beverages for immediate consumption. It may also offer limited food and live entertainment.
- (3) **BASEMENT** means a part of a building that is entirely or partly below ground. For the purposes of determining height, a basement will be considered a full story if its ceiling height shall be at least 7 feet above the average grade along one of the building's walls.
- (4) **BAY** means a principal division of a wall or other portion of a building marked off by vertical or traverse supports.
- (5) **BED AND BREAKFAST** means one or more structures intended to provide short-term accommodations for travelers operated primarily in owner-occupied private homes. May include serving breakfast to guests only. See Section 3110.
- (6) **BICYCLE RACK** means a metal frame securely anchored to the ground that is designed to accommodate at least 2 bicycles, allows the bicycles to be locked to the frame with standard user-supplied locks, and is sufficiently separated from vehicular use areas to protect parked bicycles from damage.
- (7) **BUILDING** means a structure with a roof that is supported by walls or columns, which is intended for the shelter, housing, or enclosure of people, animals, vehicles, equipment, processes, goods, or materials of any kind.
- (8) **BUILDING, ACCESSORY** means a building that is clearly and customarily incidental and subordinate to the principal building on the parcel.
- (9) **BUILDING, ATTACHED** means a building that has at least part of a wall in common with another building or that is connected to another building by a roof.
- (10) **BUILDING, DETACHED** means a building that is freestanding and structurally separated from other buildings.
- (11) **BUILDING, PRINCIPAL** means the main or predominate building in which the principal use on the parcel is located.
- (12) **BUILDING FACADE** means the front of a building or any of its sides facing a street or other public space.
- (13) **BUILDING FOOTPRINT** means the area encompassed by a building's exterior walls at ground level.
- (14) **BUILDING FRONTLINE** means a line extending parallel from the exterior front wall of a building.
- (15) **BUILDING PERIMETER** means the total length of a building's exterior walls at ground level.
- (16) **BUS MAINTENANCE FACILITY** means a site or structure intended for the storage, dispatching, maintaining and/repairing buses.

- (17) **BUS STOP SHELTER** means a roofed structure for people to wait under at a bus stop.

5101.C

- (1) **CALIPER** means the minimum diameter of a tree measured 4½ feet above the ground.
- (2) **CAMPS, CAMPING AND RELATED ESTABLISHMENTS** means a site designed to accommodate campers and their equipment including tents, tent trailers, and recreational vehicle, or to provide overnight recreation camping or outdoor adventure retreats. These establishments may provide facilities and services such as cabins, sanitary facilities, food services, recreational facilities, and organized recreational or educational activities. See Section 3108.
- (3) **CAMPSITE** means a designated area within a campground that is designed to accommodate one camping unit including, but not limited to, a tent, lean-to, camping cabin, recreational vehicle, motor home, travel trailer, or camper.
- (4) **CAMPSITE, PRIMITIVE** means a designated area for camping that generally is not accessible to motor vehicles and does not provide utilities or facilities such as electricity, water, or wastewater connections.
- (5) **CARWASH** means a specialized establishment for washing, waxing, polishing, and general cleaning of vehicles.
- (6) **CEMETERY** means a site or structure intended to inter or otherwise store the remains of deceased people or animals.
- (7) **CENTERLINE RADIUS** means the minimum radius of a circle formed by a curve that is tangent to the centerline of the street.
- (8) **CHANGE OF (or IN) USE** means:
- (a) An increase in the intensity of an existing use or an increase in intensity beyond a limit established under an existing permit including the addition of a dwelling unit;
 - (b) The expansion of a use into space previously not dedicated to that use;
 - (c) The replacement of an existing or permitted use with a new use; or
 - (d) The addition of a use to a structure or land.
- (9) **CHILD DAY CARE HOME, REGISTERED** means the accessory use of a dwelling to provide care primarily for infants and preschool-age children, as well as older children when school is not in session. See 3105.E(5).
- (10) **CHILD DAY CARE FACILITY, LICENSED** means a licensed establishment that cares primarily for infants and preschool-age children, as well as older children when school is not in session.
- (11) **COMMUNICATION ANTENNA** means devices used to transmit or receive radio, television or other wireless communications and related structures and equipment, but excludes support structures. See Section 3122.
- (12) **COMMUNICATION TOWER** means structures used to support communication antennas and related structures and equipment. See Section 3122.
- (13) **COMPATIBILITY** means the characteristics of proposed land uses or development that

allows it to be located near or adjacent to other land uses or development in harmony. Compatibility does not mean “the same as.” It is not about maintaining the existing density on a street or replicating the architectural styles of nearby buildings. Rather, compatibility is about responding to neighborhood patterns so that change can be accommodated while maintaining or enhancing neighborhood character.

- (14) **COMPOSTING FACILITY** means a facility for composting animal and vegetable wastes.
- (15) **COMPUTER DATA CENTER** means a structure or part of a structure intended to house computer systems and associated components such as telecommunications and storage systems. It generally includes redundant or back-up power supplies and communications connections, environmental controls, and security devices.
- (16) **CONGREGATE LIVING** means one or more structures intended to provide housing and where one of the living facilities for residents such as living, sleeping, eating, cooking, or sanitation is either provided to or are shared by the residents.
- (17) **CONTRACTOR’S YARD** means an establishment that provides storage for vehicles, machinery, equipment, and materials used by a contractor in the construction, building maintenance or property maintenance trades. It may include a shop for maintaining or repairing the contractor’s vehicles, machinery or equipment or the contractor’s business office. A contractor is a person who builds, demolishes, or performs additions, alterations, reconstruction, installation, and repairs to structures.
- (18) **CORNER RADIUS** means the minimum radius of the curb or edge of pavement at a street intersection.

5101.D

- (1) **DAMAGED STRUCTURE** means a structure that has suffered an unintentional partial loss that is feasible to repair.
- (2) **DECK** means an unroofed platform, either freestanding or attached to a building, which is raised above ground level and supported by pillars or posts.
- (3) **DEMOLISH** means to intentionally remove all or part of a structure.
- (4) **DEMOLITION** means the intentional destruction and physical removal of a structure or portion of a structure from a parcel.
- (5) **DEMOLITION BY NEGLECT** means a failure to perform the normal repair and maintenance needed to prevent deterioration of a structure that has, or shall if sustained, result in structural damage, and render the structure hazardous or unsafe.
- (6) **DESTROYED STRUCTURE** means a structure that has suffered an unintentional total loss that is not feasible to repair.
- (7) **DEVELOPMENT**. See Section 1004.
- (8) **DEVELOPMENT ENVELOPE** means a specific area of a parcel, delineated on a recorded subdivision plat, within which development shall be located and outside of which no development may be located, unless otherwise provided.

- (9) **DRIVE-IN ESTABLISHMENT** means a business designed and operated to primarily provide products or service to customers who remain in their motor vehicles, which are located in a designated parking space, and who typically consume the product or service on-site.
- (10) **DRIVE-THROUGH FACILITY** means a building opening or a mechanical device through which a business provides products or services to customers who remain in their motor vehicles, which are not located in a designated parking space, and who typically do not consume the product or service on-site.
- (11) **DRIVEWAY** means a vehicular way that provides access from a street to a parking space, loading area, garage, or other structure on private property, and that serves not more than 2 parcels.
- (12) **DWELLING OR DWELLING UNIT** means a structure or portion of a structure intended for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking, and sanitation
- (13) **DWELLING, ACCESSORY** means a secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or within an accessory structure on the same parcel (see Section 3104).
- (14) **DWELLING, ONE OR TWO UNITS** means one or two dwelling units on a parcel each intended for habitation by one household.
- (15) **DWELLING, THREE OR FOUR UNITS** means three or four dwelling units on a parcel each intended for habitation by one household.
- (16) **DWELLING, MULTI-UNIT (5+ UNITS)** means a parcel containing five or more dwelling units each intended for habitation by one household.

5101.E

- (1) **EXHIBITION, CONVENTION OR CONFERENCE STRUCTURE** means a structure or part of a structure that includes large, flat open spaces such as auditoriums, banquet halls, exhibition halls, and meeting rooms typically used to host special events, trade shows, conventions, receptions, and similar activities.

5101.F

- (1) **FACADE** (see definition of **BUILDING FACADE**).
- (2) **FARM** means one or more parcels of land managed as a unit and primarily devoted to farming.
- (3) **FARM STAND** means a building or structure located on a farm and used for the sale of agricultural products produced primarily on that farm.
- (4) **FARM STRUCTURE** (as defined in 24 V.S.A. § 4413(d)) means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, storing crops or livestock feed, or carrying out other practices associated with farming in accordance with accepted agricultural practices, but specifically excluding any dwelling for human habitation, and that is used for agricultural production that meets one or more of the following (from the Vermont Agency of Agriculture, Food and Markets Accepted

Agricultural Practice Regulations):

- (a) Is used in connection with the sale of \$1,000 or more of agricultural products in a normal year;
 - (b) Is used in connection with the raising, feeding, and management of at least the following number of adult animals: 4 equines; 5 cattle or American bison; 15 swine; 15 goats; 15 sheep; 15 fallow deer; 15 red deer; 50 turkeys; 50 geese; 100 laying hens; 250 broilers, pheasant, Chukar partridge, or Coturnix quail; 3 camelids; 4 ratites (ostriches, rheas, and emus); 30 rabbits; 100 ducks; or 1,000 pounds of cultured trout;
 - (c) Is used by a farmer filing with the Internal Revenue Service a 1040 (F) income tax statement in at least one of the past two years; or
 - (d) Is on a farm with a business and farm management plan approved by the Secretary of the Vermont Agency of Agriculture, Food, and Markets.
- (5) **FARMING** (as defined in 10 V.S.A. § 6001(22)) means the:
- (a) Cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops;
 - (b) Raising, feeding, or management of livestock, poultry, fish, or bees; or the operation of greenhouses;
 - (c) Production of maple syrup;
 - (d) On-site storage, preparation and sale of agricultural products principally produced on the farm;
 - (e) On-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or
 - (f) Raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.
- (6) **FITNESS, RECREATIONAL SPORTS, GYM OR ATHLETIC FACILITY** means an establishment that offers fitness or recreational sports facilities and services such as fitness clubs, gyms, and sports courts.
- (7) **FLAT ROOF** means any roof with a slope of not more than 5% (or 0.6:12 pitch).
- (8) **FLOOR AREA RATIO** means the ratio of gross floor area to the total parcel area.
- (9) **FOOD SERVICE CONTRACTOR** means an establishment that provides food services to institutional, governmental, commercial, or industrial clients. It may be co-located on its client's site or may be based off-site. Includes catering kitchens and commercial kitchens that may be leased to multiple food service providers.
- (10) **FORESTRY** as defined by the Vermont Department of Forests, Parks, and Recreation means growing and harvesting trees or timber under proper forest management for purposes other than their fruit.
- (11) **FRANCHISE OR CORPORATE ARCHITECTURE** means a standardized design that is trademarked or identified with a particular chain or corporation and that is replicated in multiple locations with minimal variation.

- (12) **FRANCHISE OR CORPORATE IDENTIFICATION ELEMENTS** means the visual elements that are trademarked or identified with a particular chain or corporation and that are used in various applications to identify or promote that chain or corporation including, but not limited to: logos, wordmarks, symbols, graphics, images, color palettes, typefaces, or typographic treatments.
- (13) **FUELING STATION** means sites and structures that are specialized for selling gasoline or other vehicle fuels. Commonly combined with other retail uses such as a carwash or convenience store, or with an auto repair and service garage. See Section 3116.
- (14) **FUNERAL HOME OR CREMATION FACILITY** means a structure or part of a structure intended to prepare deceased people or animals for burial or cremation, to cremate the remains of deceased people or animals, and to hold funeral services.

5101.G

- (1) **GAME AND FISHING RETREATS AND RESERVES** means establishments that engage in commercial hunting or trapping, or that operate commercial or recreational game or hunting preserves.
- (2) **GLARE** means light entering the eye directly from a light source or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.
- (3) **GOLF COURSE** means a site designed for playing golf. These establishments may provide facilities and services such as a clubhouse, restrooms, locker rooms, equipment sales or rental, instruction, food and beverage service, maintenance or storage facilities, and practice or driving ranges.
- (4) **GOVERNMENT FACILITY, OFFICE OR COURTHOUSE** means a structure designed for the assembly of public officials and employees to conduct public discourse and to administer government programs and activities, excludes public safety facility.
- (5) **GREEN STORMWATER INFRASTRUCTURE (GSI)** means a range of soil-water-plant systems and practices that intercept and capture stormwater near the source in order to infiltrate a portion of it into the ground, evaporate a portion of it into the air, and in some cases release a portion of it slowly back into municipal or community stormwater systems (as compared to conventional stormwater systems that are designed to divert water away from a site quickly).
- (6) **GREENHOUSE** means an enclosed structure with or without climate control facilities for growing, displaying, and selling plants in a controlled environment.
- (7) **GROSS FLOOR AREA** means the sum of the total horizontal area of all enclosed floors of a building as measured from the exterior face of the exterior walls or the centerline of a common wall between attached buildings including any heated space in a basement, attic, or mezzanine with a floor-to-ceiling height of 7 feet or more.

5101.H

- (1) **HANDICAP OR DISABILITY** (as defined in 9 V.S.A. § 4501) means a physical or mental impairment that limits one or more major life activities. This definition specifically excludes a person who is an alcoholic or drug abuser and who constitutes a direct threat to property or the safety of others due to current alcohol or drug use.

- (2) **HAZARDOUS MATERIAL** means any substance or material that by reason of its form, quantity, toxic, caustic, corrosive, abrasive or otherwise injurious properties may pose a risk to health, safety or property including, but not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, compressed gasses, or any substance defined in Section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.
- (3) **HAZARDOUS WASTE** (as defined in 10 V.S.A. § 6602(4)) means any waste or combination of wastes of a solid, liquid, contained gaseous or semi-solid form, including, but not limited to, those which are toxic, corrosive, ignitable, reactive, strong sensitizers or which generate pressure through decomposition, heat or other means, which in the judgment of the Secretary of the Vermont Agency of Natural Resources may cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the state. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition.
- (4) **HISTORIC SITE OR STRUCTURE** (as defined in 10 V.S.A. § 6601(9)) means a site or structure listed, either individually or as a contributing structure within a historic district, in the National Register of Historic Places or the Vermont Register of Historic Properties, or a site or structure that the State Historic Preservation Officer or the Vermont Advisory Council on Historic Preservation determines to be historically significant and eligible for such listing.
- (5) **HOLIDAY LIGHTS** mean outdoor lighting used for temporary decorative purposes to celebrate a specific holiday.
- (6) **HOSPITAL** means an institution used to provide healthcare services to people primarily as inpatients that is operated under a state license.
- (7) **HOTEL OR MOTEL** means one or more structures intended to provide short-term accommodations for travelers. They may also offer food services, recreational services, convention hosting, laundry services, etc. See Section 3112.
- (8) **HOUSEHOLD** means one or more people living together in a dwelling unit. People living in congregate living arrangements are not considered to be part of a household.

5101.I

- (1) **IMPERVIOUS SURFACE** means a surface composed of a material that impedes or prevents the natural infiltration of water into the soil including, but not limited to, rooftops, streets, driveways, sidewalks, walkways, patios and similar hard-surfaced areas whether constructed of concrete, asphalt, stone, brick, gravel or compacted earth, unless they are specifically designed, constructed and maintained to be pervious.

- (2) **INDOOR GAMES FACILITY** means the use of a structure or site to accommodate a large number of people playing within the facility such as a bowling alley or skating rink, which typically does not provide much seating for spectators.
- (3) **INFORMATION SERVICES OR DATA PROCESSING INDUSTRIES** means an establishment that provides electronic data processing services or that supply information to the news media including internet access or service providers, and electronic library or archive services.
- (4) **INN** means one or more structures intended to provide short-term accommodations for travelers operated primarily in private homes. Meals and alcoholic beverages may also be provided as a secondary service to guests and other patrons. See Section 3110.
- (5) **INTERESTED PERSON** (as defined in 24 V.S.A. § 4465(b)) means:
 - (a) The applicant;
 - (b) The City of Montpelier or any adjoining municipality;
 - (c) A person owning or occupying property in the immediate neighborhood who can demonstrate a physical or environmental impact on his or her property, and who alleges that a decision made under these regulations is not or will not be in accord with the *Montpelier Master Plan* or these regulations.
 - (d) Any 10 people, who may be any combination of Montpelier voters or landowners, who allege that a decision or act made under these regulations is not or will not be in accord with the *Montpelier Master Plan* or these regulations by a signed petition. The petition will designate one person to serve as the group's representative.
 - (e) Any department and administrative subdivision of the state owning property or any interest in property in Montpelier; or
 - (f) The Vermont Agency of Commerce and Community Development
- (6) **IRREGULARLY SHAPED PARCEL** means either a triangular parcel with 3 sides or a multi-sided parcel with more than 4 sides.

5101.J

- (1) **JUNK** (as defined in 24 V.S.A. § 2241(5)) means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or motor vehicle parts.
- (2) **JUNK MOTOR VEHICLE** (as defined in 24 V.S.A. § 2241(6)) means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or motor vehicle parts, or a motor vehicle, other than an on-premises utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days.

5101.K

- (1) **KENNEL** means a site or structure where dogs, cats or other domestic animals are bred, raised, and boarded.

5101.L

- (1) **LABORATORY OR TECHNICAL FACILITY** means the use of a structure or part of a structure: for scientific, medical, pharmaceutical, engineering, electronic or similar technical research, investigation, testing or experimentation; used for the production, recording, broadcast and distribution of radio, television, sound, movie and similar media products and programs; to house computer systems and associated components such as telecommunications and storage systems (it generally includes redundant or back-up power supplies and communications connections, environmental controls and security devices); or to provide electronic data processing services or that supply information to the news media including internet access or service providers, and electronic library or archive services.
- (2) **LIBRARY** means a structure or portion of structure containing collections of books, periodicals, films, recorded music, or similar media for people to use, borrow, or refer to.
- (3) **LIGHT FIXTURE, FULLY SHIELDED** means a light fixture constructed, installed and used in such a manner that all light the fixture emits (either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any of the fixture) is projected below the horizontal (downward). Spot or flood lamps are fully shielded if they are aimed straight down.
- (4) **LIGHT FIXTURE, LUMINOUS TUBE** means a light fixture created by or containing gas discharge tubes that emit light or glow when electric voltage is applied.
- (5) **LIGHT FIXTURE, PARTIALLY SHIELDED** means a light fixture constructed, installed and used in such a manner that most of the light the fixture emits (either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any of the fixture) is projected below the horizontal (downwards). Light is emitted at or above the horizontal direction (outwards or upwards) only from decorative elements or through strongly colored or diffusing materials. Spot or flood lamps are partially shielded if they are aimed no higher than 45° above straight down.
- (6) **LOCALLY PRODUCED** means agricultural or silvicultural products that are raised, grown, or harvested within Vermont plus 30 miles.
- (7) **LOW IMPACT DEVELOPMENT (LID)** means land planning and design approaches that seek to maintain a site's pre-development ecological and hydrological functions by protecting, enhancing, or mimicking natural processes. LID approaches include a range of non-structural practices that guide and minimize the impact of development such as following conservation design principles, minimizing soil disturbance and compaction, preserving natural drainage and water flow patterns, protecting riparian and other sensitive areas, reducing impervious surface area, disconnecting untreated stormwater run-off from waterways and storm drains.
- (8) **LUMBER YARD AND BUILDING MATERIAL SALES** means a retail establishment that sells lumber and heavy building materials, and that typically stores most of its stock outdoors or under open-air structures.

5101.M

- (1) **MAJOR RENOVATION** means extensive alteration work on the exterior shell of the building, and may include additional work on primary structural components, mechanical, electric, and plumbing systems, or site work. Typically, the extent and nature of the work is such that the building cannot be used for its intended purpose while the work is in progress.
- (2) **MALLS, SHOPPING CENTERS OR COLLECTIONS OF SHOPS** means a site with one or more structures intended to house a group of retail establishments.
- (3) **MANUFACTURED HOME** (as defined in 10 V.S.A. § 6201(1)) means a structure that is:
 - (a) Built on a permanent chassis;
 - (b) Designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities;
 - (c) Transportable in one or more sections; and
 - (d) Certified as complying with the construction and safety standards established under Title 24 of the U.S. Code by the federal Department of Housing and Urban Development.
- (4) **MANUFACTURED HOME PARK** (as defined in 10 V.S.A. § 6201(2)) means any parcel or development site that contains or is designed to accommodate more than two manufactured homes. This definition specifically excludes the use of manufactured homes as farm worker housing and the retail sales or storage of manufactured homes.
- (5) **MANUFACTURING** means creation of goods entirely within an enclosed structure that does rely on special power, water, or waste disposal systems for operation (ex. brewery, distillery, ice cream manufacturing, etc.).
- (6) **MANUFACTURING, LIGHT** means creation of goods entirely within an enclosed structure that does not rely on special power, water, or waste disposal systems for operation (ex. bakery or small wood shop). This includes art studios except that painting studios are treated separately.
- (7) **MANUFACTURING, HEAVY** means large, specialized sites and structures intended for heavy industrial uses such as manufacturing or processing plants that commonly house complex operations and operate continuously.
- (8) **MATERIAL CHANGE** means a change in the planned use or development of land or a structure that may have changed the decision made or any conditions placed on the permit if it had been included in the plans as approved.
- (9) **MEDIA BROADCAST FACILITY OR STUDIO** means the use of a structure or part of a structure for the production, recording, broadcast, and distribution of radio, television, sound, movie and similar media products and programs.
- (10) **MEDICAL CLINIC** means the use of a structure or part of a structure to provide healthcare services to people primarily as outpatients.

- (11) **MINING, EXTRACTING, QUARRYING AND STONE CUTTING** means establishments that dredge, quarry, mine, or develop mine sites for crushed and broken stones, limestone, sand, gravel, clay, topsoil, or other stones and nonmetallic minerals. May include on-site processing such as crushing, grinding, washing, or screening. See Section 3124.
- (12) **MIXED USE** means development that includes more than one principal uses.
- (13) **MOTOR VEHICLE** means any self-propelled conveyance used to transport people, animals, goods, or materials.
- (14) **MULTIPLE USE** means a building or site developed with more than one principal use.
- (15) **MUSEUM, GALLERY OR EXHIBITION HALL OR PAVILION** means an institution where objects of historical, scientific, artistic, or cultural interest are stored, studied, and exhibited.

5101.N

- (1) **NATURE OR RECREATIONAL PARK** means a site designed to accommodate primarily passive recreation and appreciation of nature with a minimum of improvements or structures.
- (2) **NEIGHBORHOOD MARKET** means a small retail food store that offers staple and convenience food items, and may include accessory sale of prepared food for on-site consumption or take-out.
- (3) **NONCONFORMITY** means a structure, use, or parcel that lawfully existed prior to the adoption or revision of these regulations, but now does not conform to one or more standards of these regulations.
- (4) **NORMAL REPAIR AND MAINTENANCE** means the regular upkeep of property to avoid deterioration, fix damage caused by normal wear and tear, and replace worn out components, which does not result in a change in the use or dimension of any structure, or in a structural alteration.

5101.O

- (1) **OFFICE** means an establishment that provides support services primarily to other businesses such as billing, collection, advertising, telemarketing, copying, mailing, etc., or that provides social assistance services directly to individuals other than residential or accommodation services.
- (2) **OPEN MARKET OR MARKET SHOP** means retail sales conducted primarily from outdoor areas, open air structures, and buildings with stalls. Includes farmers' markets and flea markets.
- (3) **OTHER COMMUNITY CENTERS** mean any structure designed for mass assembly not otherwise defined in this chapter such as community centers, senior centers, reception halls and wedding halls, or an establishment that provides services other than residential or accommodation services to the elderly and disabled such as group support, companionship, day care, homemaker services, etc.
- (4) **OUTDOOR DISPLAY** means the placement of merchandise, goods, materials, vehicles, or equipment for sale, rental, lease, or advertising in an unenclosed area.

- (5) **OUTDOOR STORAGE** means the keeping of any merchandise, goods, materials, vehicles, equipment, junk, or waste in an unenclosed area and in the same place for more than 24 hours.

5101.P

- (1) **PAINTING STUDIO** means a use of land or structure for the creation of art through the application of paint, pigments, color, or other medium to a solid surface. All other art studios are considered light manufacturing.
- (2) **PARCEL** means an area of land with identifiable boundaries and dimensions that is formally described and recorded in the town land records and that can be lawfully owned and conveyed separately from any other land.
- (3) **PARCEL AREA** means the total horizontal area within a parcel's property lines, including land over which easements have been granted but excluding any land within a street right-of-way.
- (4) **PARKING STRUCTURE OR GARAGE** means a structure or part of a structure intended to store passenger vehicles typically in multiple levels traversed via ramps and within or below a building.
- (5) **PARKING, SURFACE** means an outdoor site used to store passenger vehicles or site intended to store passenger vehicles at ground level under a roofed, open-air structure.
- (6) **PAVE** means to cover the ground with asphalt, concrete, brick, or other material of similar character and durability.
- (7) **PAVEMENT** means asphalt, concrete, brick, or other material of similar character and durability.
- (8) **PERSONAL OR PROFESSIONAL SERVICES** means an establishment that sells specialized skills or knowledge, performs scientific, technical or professional services, that offers personal services such as laundry, dry cleaning drop-off, hair or nail care, diet centers, spas, tailoring, shoe repair, etc. or that provides services such as landscaping, pest control, janitorial activities, carpet cleaning, and similar services for buildings and dwellings. Excludes veterinary services.
- (9) **PREVIOUSLY DEVELOPED PARCEL** means a parcel that has been altered by land use, construction or paving that would, if undertaken anew, require a permit under these regulations. Land that has been altered for agriculture, forestry, or conservation purposes shall not be considered previously developed. A parcel for which a permit has been issued, but the development has not commenced, shall not be considered previously developed.
- (10) **PUBLIC ART** means a fountain, monument, sculpture, painting, mural or similar art object that:
- (a) Is accessible to public view;
 - (b) Is intended for the enjoyment of the general public; and
 - (c) Does not identify or draw attention to a business, profession, or industry, to the type of products sold, manufactured, or assembled, or to the type of services or entertainment offered or available on the premises.

- (11) **PUBLIC SAFETY FACILITY** means the use of a structure or part of a structure to provide public safety services such as a fire station, ambulance station, police station, or emergency operation center.
- (12) **PUBLISHING** means an establishment that issues copies of works such as newspapers, books, periodicals, maps, posters, databases and software in one or more formats including traditional print formats, digital media formats and online formats.

5101.Q

5101.R

- (1) **RAIL TRANSPORTATION FACILITY** means an establishment that provides rail passenger or freight transportation, or rail transportation support.
- (2) **RELIGIOUS FACILITY** means a structure that is primarily designed for worship and religious congregations. It may also include classrooms, residential quarters, and spaces to accommodate social activities.
- (3) **RESTAURANT** means an establishment that prepares meals, snacks, and beverages primarily for consumption on the premises.
- (4) **RESTAURANT, TAKE-OUT** means an establishment that prepares meals, snacks, and beverages primarily for consumption off the premises.
- (5) **RETAIL SALES AND SERVICE (INDOORS)** means a structure or part of a structure intended for the sale of products to consumers, primarily for off-site consumption or use, excluding any use specifically defined this chapter.
- (6) **RETAIL SALES AND SERVICE (OUTDOORS)** means a site intended for the sale of products to consumers, primarily for off-site consumption or use, where the inventory is primarily stored or displayed outside an enclosed structure, excluding any use specifically defined in this chapter.
- (7) **ROAD PASSENGER AND TRANSIT SERVICES** means an establishment that provides passenger transportation such as public transit, school bus, and taxi services.
- (8) **RURAL ENTERPRISE** means a business that supports economically viable farm and forest lands in the city and region by adding value to local farm or forest products. Direct marketing of local farm or forest products, engaging in agritourism or agri-education, or offering goods and services needed for farming or forestry. See Section 3123.

5101.S

- (1) **SCHOOL, GRADE** means an institution used to educate children from pre-school through grade 12 that is operated under a state license.
- (2) **SENIOR HOUSING** means one or more structures intended to provide housing for older adults (commonly limited to those age 55 or older, but may also include some younger residents with disabilities), and which may also provide services to residents such as meals, housekeeping, laundry, transportation, recreation, and assistance with daily activities such as dressing, grooming, bathing. At least 80% of the occupied units within a senior housing community or facility shall be occupied by at least one person age 55 or older.

- (3) **SEWER RELATED FACILITY** means facilities for storing, pumping, and treating sewage.
- (4) **SHRUB, LARGE** means a shrub with a mature or maintained height of at least 6 feet.
- (5) **SHRUB, MEDIUM** means a shrub with a mature or maintained height of at least 3 and less than 6 feet.
- (6) **SHRUB, SMALL** means a shrub with a mature or maintained height of less than 3 feet.
- (7) **SIGN** means any device (including but not limited to letters, words, numerals, figures, emblems, symbols, pictures, flags, streamers, balloons, lights, or any part or combination) used for visual communication for commercial purposes intended to attract the attention of the public and visible from public rights-of-way or other properties. This definition specifically excludes merchandise normally displayed in a storefront window, merchandise displayed or stored outside as approved under these regulations, and public art.
- (8) **SIGN, ABANDONED** means:
 - (a) A commercial sign whose message describes the availability of goods or services at a location where such goods and services are no longer available and have ceased to be available for at least 90 days;
 - (b) A non-commercial sign whose message pertains to a time, event or purpose that has elapsed or expired in the preceding 30 days; or
 - (c) A sign that has not been maintained.
- (9) **SIGN, ELECTRONIC MESSAGE** means a sign whose message may be changed by electronic means.
- (10) **SIGN BAND** means the flat, horizontal area on a building facade usually located immediately above the storefront and below the second story window sill where signs may be attached.
- (11) **SITE PLAN** means a map and any supporting graphics or documentation drawn to scale that depicts proposed development including, but not limited to the location and relationship of the structures, streets, driveways, parking areas, sidewalks, paths, walkways, utilities, open space, landscaping, grading, waterways, outdoor lighting, outdoor use areas, signage and other site or development features.
- (12) **SOLAR ENERGY DEVICE** means a device that transforms direct solar energy into thermal, chemical, or electrical energy including, but not limited to, solar hot water systems and solar photovoltaic systems.
- (13) **SPORTS ARENA** means a structure or site designed to accommodate a large number of spectators typically watching a sports event although arenas may also host other types of performances or activities.
- (14) **STABLE OR EQUINE FACILITY** means a site or structure intended to house, train or care for horses. May include horse trot tracks or other training facilities, and veterinary facilities.
- (15) **STREET** means any vehicular way that serves as the principal means of providing access to abutting property and that is not a driveway.

- (16) **STRIP DEVELOPMENT** means a linear development pattern along an arterial street or highway that is generally characterized by:
 - (a) Broad street frontage;
 - (b) Predominance of single-story buildings;
 - (c) Predominance of single-use buildings and properties;
 - (d) Predominance of parking and auto-oriented features visible from the frontage;
 - (e) Limited provision for shared or cross access;
 - (f) Limited provision for access by walking, biking or transit; and
 - (g) Lack of coordination with and connections to surrounding neighborhoods and land uses except by vehicle and by the street.
- (17) **STRUCTURAL ALTERATION** means a change in the dimension or configuration of a structure's roof, or any exterior walls or other supporting members, including but not limited to, any change in the dimension, location, or number of windows or doors.
- (18) **STRUCTURE** (as defined in as defined in 24 V.S.A. § 4303(27)) means an assembly of materials for occupancy or use.
- (19) **STRUCTURE, ACCESSORY** means a subordinate structure, the use of which is clearly and customarily incidental to that of a principal structure or use.
- (20) **STRUCTURE, DAMAGED**. See definition of **DAMAGED STRUCTURE**.
- (21) **STRUCTURE, DESTROYED**. See definition of **DESTROYED STRUCTURE**.
- (22) **STRUCTURE, PRINCIPAL** means the structure on a parcel from which the principal use is conducted. On a parcel with a single- or two-unit dwelling, the dwelling shall be considered the principal structure.
- (23) **SUBDIVISION** means any land, vacant or improved, that is divided or proposed to be divided into two or more parcels or interests for the purpose of offer, sale, lease, or development. The term includes amended subdivisions and resubdivisions. The term also includes the development of a parcel of land as a planned unit development.
- (24) **SUBSTANTIAL MODIFICATIONS**. See definition of **MAJOR RENOVATION**.
- (25) **SUBSTANTIALLY COMPLETE** means that construction or development has been completed to a point where a structure or site can be safely used for its intended purpose.
- (26) **SUPPORT FUNCTIONS FOR ANIMAL PRODUCTION** means establishments that perform support activities related to raising livestock such as breeding services, livestock sales or auctions, and slaughterhouses or slaughtering services.
- (27) **SURFACE WATER, MAPPED** means a river, stream (whether perennial or intermittent), lake or pond included in the Montpelier Natural Resources Inventory Map.

5101.T

- (1) **TANK FARMS** mean a site developed with one or more tanks that typically store fuels, oils, and similar liquid products. Includes sale and distribution of such products.

- (2) **TEMPORARY** means a use or structure that shall be occurring or located on a parcel for a limited and fixed period of time after which there shall be no evidence remaining of the use or structure.
- (3) **TEMPORARY HOUSING** means emergency shelters or homeless shelters.
- (4) **THEATER, MOVIE** means the use of a structure or part of a structure to show movies or motion pictures typically designed with a protection screen and fixed seats arranged on a sloping or stepped floor. Also includes cineplexes containing two or more movie theaters.
- (5) **THEATER, PERFORMANCE** means the use of a structure or part of a structure to house dramatic presentations, stage entertainments, concerts typically designed with a stage and fixed seats arranged on a sloping or stepped floor.
- (6) **TRAILER** means a conveyance used to transport people, animals, goods, or materials that is not self-propelled and that is designed to be pulled or moved by a motor vehicle.
- (7) **TREE, LARGE** means a tree with a mature height of at least 50 feet.
- (8) **TREE, MEDIUM** means a tree with a mature height of at least 30 and less than 50 feet.
- (9) **TREE, SMALL** means a tree with a mature height of less than 30 feet.
- (10) **TRUCK AND FREIGHT TRANSPORTATION SERVICES** means an establishment that accommodates or supports over-the-road transportation of cargo using motor vehicles such as trucks and tractor-trailers.

5101.U

- (1) **UNDERUTILIZED PARCEL** means a developed parcel that could be redeveloped or further developed under the standards of these regulations in a manner that would result in an increase in the number of dwelling units per acre and a higher floor area ratio on the parcel.
- (2) **USE** means the purpose or activity that a parcel or structure (or a portion of a parcel or structure) is intended, designed, or arranged to house, accommodate, support, or facilitate.
- (3) **USE, ACCESSORY** means a use of a parcel or structure (or a portion of a parcel or structure) that is clearly and customarily incidental and subordinate to the principal use.
- (4) **USE, PRINCIPAL** means the main or predominate use of a parcel or structure (or a portion of a parcel or structure).
- (5) **UTILITY FACILITY** means electric lines and distribution facilities, phone lines, cable lines, gas lines and distribution facilities, water supply lines, steam and air conditioning lines, and sewer and stormwater lines, and also includes substations, pump stations, and other related unmanned systems.

5101.V

- (1) **VEHICLE.** See definition of **MOTOR VEHICLE.**

- (2) **VERNACULAR ARCHITECTURE** means the ordinary residential and agricultural building styles common in 18th and 19th century Vermont, that were designed and constructed by local builders, usually with very simple architectural details and ornamentation, and that evolved over time based on local needs, climate, construction materials, customs, and traditions.
- (3) **VETERINARY AND ANIMAL SERVICES** means establishments with licensed practitioners of veterinary medicine for animals that provide testing services for licensed veterinary practitioners, that sell pets or pet supplies, and that offer animal services such as grooming or training.
- (4) **VISITABLE** means a dwelling unit designed to make it easier for people with physical disabilities and impairments to live in and visit. Such units shall have at least one zero-step entrance approached by an accessible route, wide passage doors (at least 32 inches clear space), and a half bath (and preferably a full bath) on the main floor.

5101.W

- (1) **WAREHOUSE OR STORAGE** means a site, structure, or part of a structure intended for storage and distribution uses. Excludes mini-warehouse, large area distribution or transit warehouse and tank farm.
- (2) **WAREHOUSE, LARGE AREA DISTRIBUTION OR TRANSIT** means one or more large structures used to store, repack, and distribute goods.
- (3) **WAREHOUSE, MINI** means a site, structure or part of a structure intended to provide individual storage spaces for lease to either commercial or wholesale customers for storage of business goods, or to the general public for storage of household goods (commonly called self-storage facilities). See Section 3118.
- (4) **WATER DEPENDENT STRUCTURE OR USE** means a structure or use that requires access to the water or a location adjacent to, extending over or extending into the water as a necessary component of its purpose or function.
- (5) **WATER SUPPLY RELATED FACILITY** means water supply pump stations, dams, water tanks, wells, water treatment and purification facilities and reservoirs.
- (6) **WETLAND** (as defined in 24 V.S.A. § 4303(32)) means an area that is inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depends on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include, but are not limited to, marshes, swamps, sloughs, potholes, fens, river and lake overflows, mudflats, bogs and ponds.
- (7) **WETLAND, MAPPED** means a wetland included in the Montpelier Natural Resources Inventory Map.
- (8) **WHOLESALE TRADE ESTABLISHMENT** means an establishment that sells to or arranges the purchase of goods by other businesses, and that normally operates from a warehouse or office and has little to no display of merchandise.

5101.X

5101.Y

- (1) **YARD** means an at-grade, pervious open space on a developed parcel that is unoccupied by any structure except for encroachments specifically authorized under these regulations.
- (2) **YARD, FRONT** means the yard that is located between the street and the nearest line of the principal building on the parcel and extends across the full width of the parcel. A corner parcel shall be considered to have two front yards.
- (3) **YARD, REAR** means the yard that is located between the rear parcel line and the nearest line of the principal building on the parcel and extends across the full width of the parcel. A corner parcel shall be considered to have no rear yard.
- (4) **YARD, REQUIRED** means a yard or portion of a yard that is the depth required by the minimum setback established in the zoning district.
- (5) **YARD, SIDE** means a yard that is located between the side parcel line and the nearest line of the principal building on the parcel and extends between the front and rear yards.

5101.Z