

ARTICLE 3: GENERAL REGULATIONS

Section 3.1 Applicability

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

Section 3.2 Abandonment of Structures

(A) **Abandoned Structures.** Unoccupied structures which remain substantially incomplete ~~after one (1) year of the issuance of a zoning permit, or after one (1) year of being substantially damaged or destroyed,~~ shall be considered abandoned for the purposes of these regulations. For such structures, the owner shall either:

- (1) Apply for a zoning permit under Section 7.1. To resume construction or repair, and thereby confirm the intent not to abandon the structure; or
- (2) Remove all materials from the site and then restore the site to a normal grade.

(B) **Damaged Structures.** No zoning permit shall be required for the stabilization of a damaged structure to prevent hazards to public health and safety, or to adjoining properties, structures or uses, or for the timely repair or reconstruction of a damaged structure to the extent of its prior condition and use. However:

- (1) Repair or reconstruction of a damaged structure must begin within one (1) year and be substantially completed within two (2) years of the date of the event resulting in its damage or destruction.
- (2) A zoning permit shall be required for any repair or reconstruction that results in changes in structural dimensions (e.g., height or footprint), density (e.g., number of units), or use.
- (3) Any repair or restoration of a nonconforming structure that increases the degree of non-compliance is subject to review by the Development Review Board under Section 3.10.

Section 3.3 Access, Driveway & Frontage Requirement

(A) **Frontage.** No development, except for forestry and agriculture, may be permitted on lots which do not have ~~(1) frontage on a maintained public road (state highway or Class I, II or II town highway) or public waters or (2) with the approval of the Development Review Board, access to a public road or water by means of a Class IV road, or (3) a permanent easement or right-of-way of at least 20 feet in width.~~

(B) **Non-frontage Lots.** The Development Review Board may grant approval for access to a lot which does not have the required minimum frontage in accordance with the following:

- (1) The Development Review Board may consider public safety in granting, conditioning or denying approval to access the non-frontage lot. These include, but may not be limited to the following:
 - (a) Right-of-way must be accessible for emergency vehicles year-round;
 - (b) Pubic right-of-way used for a private access shall remain open to the public.
- (2) The Development Review Board may consider local settlement patterns in granting, conditioning or denying approval to access the non-frontage lot. These may include, but may not be limited to the following:
 - (a) Intended use of the property;
 - (b) Traffic, road and site conditions.
- (3) If a Class IV road will be used for development that requires year-round access, the road shall be upgraded and maintained by the property owner in a manner agreed upon by the East Montpelier Selectboard.

Juliana 3/23/2015 11:17 AM

Deleted: within

Juliana 3/23/2015 11:17 AM

Deleted: within

Juliana 3/23/2015 11:20 AM

Deleted: either

Juliana 3/23/2015 11:19 AM

Deleted: or state highway

Juliana 3/23/2015 11:21 AM

Deleted: ,

Juliana 3/23/2015 11:23 AM

Deleted: is to

- (4) If a new private road is established to serve three (3) or more lots, each of these lots must have the required frontage for the zone along this road, and front setbacks that are determined from the road. If a driveway accesses one (1) or two (2) non-frontage lots, each lot must meet the requirements as defined in Section 3.8(D).
 - (5) The application for access approval shall be considered by the Development Review Board, at a regular or special meeting, within 45 days of the date of submission. The decision of the Board shall be issued in writing within 45 days of the meeting, to include findings of fact supporting the decision and a statement of the proposed time in which the decision may be appealed under Section 7.5, and shall be recorded in the land records of the town as required under Subsection 7.8(G). The decision shall be sent by certified mail to the applicant, and copies shall be filed with the Zoning Administrator and Town Clerk. No zoning permit for development of a non-frontage lot shall be issued until highway access (curb cut) approval has been granted by the East Montpelier Selectboard under Subsection 3.3(C), followed by access approval by the Development Review Board.
- (C) **Highway Access (Curb Cut) Permit.** Access onto public highways is subject to the approval of the East Montpelier Selectboard, and for state highways, the Vermont Agency of Transportation. For projects in which new or altered access to a public highway is proposed, a copy of such approval (e.g., town access permit) must be submitted to the Zoning Administrator prior to the issuance of a zoning permit. In the event that subdivision or site plan approval and/or conditional use approval from the Development Review Board is required, highway access approval shall be obtained before the issuance of such approvals and prior to the issuance of a zoning permit.
- (D) **Access (Curb Cut) Management Standards.** The following shall apply to all new and altered highway accesses in all districts:
- (1) No lot shall be served by more than one (1) access (curb cut) except for:
 - (a) A temporary or permanent access used only for farming or forestry purposes, as determined and approved by the East Montpelier Selectboard;
 - (b) A temporary access used for construction purposes or special events, as approved by the East Montpelier Selectboard;
 - (c) A lot for which it has been determined, subject to subdivision, site plan or conditional use review by the Development Review Board, that additional access is necessary to ensure vehicular and pedestrian safety; or that given physical site constraints (e.g., streams, wetlands or steep slopes) strict compliance with this requirement would result in a less desirable site layout;
 - (d) Unusual circumstances as determined and approved by the East Montpelier Selectboard.
 - (2) For development subject to review by the Development Review Board, the Board may require, in consultation with the East Montpelier Selectboard, the elimination, consolidation and/or relocation of existing accesses to meet the requirements of these regulations.
 - (3) The width of an access shall be limited to the width as approved, and shall not extend along the length of road frontage. The installation of curbing, landscaping, or other edge-defining features may be required for accesses subject to review by the Development Review Board.
 - (4) Shared access is encouraged and may be required for development subject to review by the Development Review Board. For shared access, the interests of the owner of each lot shall be protected by an easement recorded in the deed of each lot.
 - (5) No access shall be provided to serve a lot located in another zoning district which is to be used for a use that is prohibited within the district in which the access is located.
 - (6) Where a lot has frontage on two roads (e.g., a corner or through lot), access to the lot shall be provided from the secondary (less traveled) road unless otherwise approved by the Development Review Board.

- (E) **Driveways.** All driveways shall meet town driveway standards (B-71) within the town road right-of-way for culverts, grading, ditching and design. In addition:
- (1) Driveways may be located within front, side and/or rear yard setback areas.
 - (2) Driveways 500 feet or more in length should include one pull-off area, at least 10 feet by 30 feet, and a turnaround (e.g., a “Y” or “T”) at the end.
- (F) **Class IV Roads.** The town, in accordance with state law and adopted town road policies, is not required to maintain Class IV roads for year-round use. Upgrade and maintenance of the road as required for development of adjoining parcels, and for emergency vehicle access, shall be the responsibility of the applicant and subsequent landowners under a maintenance agreement approved by the Selectboard. The reclassification of a Class IV road may be considered by the town only in accordance with state statutes and applicable town road policies currently in effect.
- (G) **Private Roads.** For the purposes of these regulations, any access serving three (3) or more lots shall be considered a private road which must meet the requirements of Section 6.8. Private roads may be taken over by the town only in accordance with town road policies and state requirements for the dedication and acceptance of such roads as public highways.

Section 3.4 Conversions & Changes of Use

- (A) A conversion or change in the use of land, existing buildings and other structures is subject to the following requirements:
- (1) A conversion or change of use from one permitted use to another permitted use to another permitted use requires a zoning permit issued by the Zoning Administrator in accordance with Section 7.1. Site plan approval also may be required under Section 5.4 depending upon the type of permitted use.
 - (2) A conversion or change in use from a permitted use to a conditional use, or from one conditional use to another conditional use, requires conditional use approval under Section 5.5 prior to the issuance of a zoning permit. A change of a conditional use to another use shall constitute the discontinuance of the prior conditional use unless the Development Review Board specifically authorizes the continuation of that use as part of its approval. A landowner may not reconvene the discontinued use without Board approval.
- (B) Where a conversion or change of use results in increased wastewater generation, including but not limited to the conversion of a camp, seasonal or accessory dwelling to a single family dwelling; a single family dwelling to a two-family or multi-family dwelling; or a single principal use to a mixed use, a zoning permit shall not be issued by the Zoning Administrator until an approved wastewater system design has been submitted in accordance with Section 3.18.

Section 3.5 Equal Treatment of Housing

In accordance with the Act [§4412(1)]:

- (A) No provision of these regulations shall have the effect of excluding mobile homes, modular housing or other forms of prefabricated housing from the Town of East Montpelier except under the same terms and conditions as conventional housing is excluded. A mobile home shall be considered a single family dwelling, and must meet the zoning requirements for such dwelling, except when located in an approved mobile home park [see Section 4.12] or allowed as a temporary structure [see Section 3.17].
- (B) No provision of these regulations shall be construed to prevent the establishment of a mobile home park pursuant to state statute [10 V.S.A. Chapter 153] and local standards within designated zoning districts [see Article 2].
- (C) No provision of these regulations shall be construed to prevent the establishment of multi-family dwellings pursuant to local standards within designated zoning districts [see Article 2].

Juliana 3/15/2015 4:52 PM
Deleted: 3

Juliana 3/15/2015 4:52 PM
Deleted: 4

Juliana 3/28/2015 4:28 PM
Deleted: 11

(D) No provision of these regulations shall have the effect of excluding for review, as a conditional use, one dwelling unit constructed within or attached to a primary single family residence located in a district in which single family residences are a permitted or conditional use, if the accessory unit meets statutory requirements [§4412(1)(E)]. Accessory dwellings are provided for under these regulations in accordance with the requirements of the Act [see Section 4.2].

Section 3.6 Height Requirements

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

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

(B) The Development Review Board may permit structures in excess of the district standard subject to conditional use review under Section 5.4, upon finding that:

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

(C) Notwithstanding these requirements or the district maximum height standards, telecommunications facilities shall meet the standards set forth in Section 4.14, including those standards which relate to maximum height.

Section 3.7 Landfilling

(A) The dumping of refuse and waste materials for landfill is prohibited in all districts. Loam, soil, rock, stone, gravel, sand, cinders, and other inert material may be used for landfill associated with development projects approved as a conditional use under Section 5.5, or granted site plan approval under Section 5.4 or subdivision approval under Section 6.5 by the Development Review Board.

(B) Landfilling not associated with development projects otherwise subject to site plan, subdivision, or conditional use review, and not exempted under Section 7.2, must be approved by the Development Review Board as a conditional use in accordance with Section 5.5 if it will affect a town road or neighboring property. In approving landfilling, the Board may require the preparation and implementation of an erosion control plan, prepared by an appropriate professional during all phases of the project.

Section 3.8 Lot & Yard Requirements

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

- (1) A mixed use [see Section 4.11];

Juliana 3/28/2015 4:29 PM

Deleted: 13

Juliana 3/15/2015 4:52 PM

Deleted: 4

Juliana 3/15/2015 4:52 PM

Deleted: 3

Juliana 3/15/2015 4:52 PM

Deleted: 4

Juliana 3/28/2015 4:29 PM

Deleted: 10

- (2) An adaptive reuse of a historic structure on a lot occupied by a principal dwelling, approved in accordance with Section 4.3;
 - (3) Agricultural and forestry uses on a lot occupied by another use;
 - (4) Otherwise approved by the Development Review Board as part of a Planned Residential Development (PRD) or Planned Unit Development (PUD) in accordance with Section 5.6; or
 - (5) Approved by the Development Review Board, two single family dwellings are permitted on a single lot if they are sited in such a way that they could be subdivided in the future with adequate acreage, lot frontage and setbacks for the district.
- (B) An accessory structure or use must be clearly subordinate in function to the principal structure and use, and conform to all lot, setback, coverage and other dimensional requirements for the district in which it is located, unless specifically exempted from such requirements under Section 7.2 or allowed as a variance under Section 7.6.
- (C) No lot shall be so reduced in area that it cannot conform to area, setback, frontage, coverage and other dimensional requirements as prescribed in these regulations, except as approved by the Development Review Board for PRDs or PUDs in accordance with Section 5.6.
- (D) Any interior lot that does not have frontage on a public or private road or public waters shall meet minimum setback requirements equivalent to the side and rear setback distances for the district in which it is located from all adjacent property boundaries.
- (E) Any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front and side yards.
- (F) Space required under these regulations to satisfy area, yard, or other open space requirements in relation to one structure, use or lot shall not be counted as part of a required open space for any other structure, use or lot.

Section 3.9 Nonconforming (Pre-existing) Small Lots

- (A) In accordance with the Act [§4412(2)], any lot in individual and separate and non-affiliated ownership from surrounding properties, lawfully in existence on the effective date of these regulations, may be developed for the purposes permitted in the district in which it is located, if such lot is at least one-eighth of an acre in area with a minimum width or depth of 40 feet. Development of the existing lot shall be subject to all other applicable requirements.
- (B) Existing small lots in affiliated or common ownership, or such lots which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of these regulations. However, such lots shall not be deemed merged, and may be separately conveyed if in accordance with the Act all of the following requirements are met:
- (1) The lots are conveyed in their pre-existing, nonconforming configuration; and
 - (2) Each lot had been developed with a water supply and wastewater disposal system; and
 - (3) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
 - (4) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined by 10 V.S.A. Chapter 64ff.

Section 3.10 Nonconforming Uses & Nonconforming Structures

All actions involving nonconforming uses and nonconforming structures located within the Regulated Flood Hazard Areas must meet the requirements of Article 9.

- (A) **Nonconforming Structures.** Any pre-existing structure or part thereof which is not in compliance with provisions of these regulations concerning density, setbacks, height, lot size or other dimensional

Juliana 3/26/2015 2:32 PM
Deleted: 5

Juliana 3/26/2015 2:33 PM
Deleted: 5

Juliana 3/22/2015 4:30 PM
Deleted: Special

Juliana 3/22/2015 4:30 PM
Deleted: Flood Hazard Area Regulations.

standard, or which does not meet other applicable requirements of these regulations, shall be deemed a nonconforming structure. Nonconforming structures legally in existence on the effective date of these regulations may be allowed to continue indefinitely, but shall be subject to the following provisions. A nonconforming structure:

- (1) May undergo normal repair and maintenance provided that such action does not increase the degree of non-conformance [see definition of degree of non-conformance in Article 8];
- (2) May be restored or reconstructed after damage from fire or other catastrophe, provided that the reconstruction does not increase the degree of non-conformance which existed prior to the damage and that the reconstruction occurs within two years of such damage;
- (3) May be structurally enlarged, expanded or moved, upon approval of the Zoning Administrator, provided the enlargement, expansion or relocation does not increase the degree of non-conformance; and/or
- (4) May, subject to conditional use review under Section 5.5, undergo alteration or expansion which would increase the degree of non-conformance solely for the purpose of meeting mandated state or federal environmental, safety, health or energy regulations (e.g., handicap access ramp in accordance with ADA standards).

Juliana 3/15/2015 4:53 PM

Deleted: 4

(B) **Nonconforming Uses.** Any use of land or a structure that does not conform to the uses allowed for the zoning district in which it is located shall be deemed a nonconforming use. Nonconforming uses that legally exist on the effective date of these regulations may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:

- (1) Shall not be re-established or continued following abandonment or discontinuance resulting from structural damage from fire or other catastrophe, unless the nonconforming use is carried on uninterrupted in the undamaged part of the structure, or the use is reinstated within two years of such damage;
- (2) Shall not be re-established if such use has been changed to, or replaced by, a conforming use, or if such use has been discontinued for a period of one year, regardless of the intent to re-establish such prior use;
- (3) Shall not be changed to another nonconforming use without the approval of the Development Review Board in accordance with Section 5.5, and then only to a use which, in the opinion of the Board, is of the same or a more conforming nature; and/or
- (4) Shall not be moved, enlarged, or increased by any means, except with the approval of the Development Review Board subject to conditional use review under Section 5.5. In no case shall a Nonconforming use be moved to a different lot within the same district in which it is located.

Juliana 3/15/2015 4:54 PM

Deleted: 4

Juliana 3/15/2015 4:54 PM

Deleted: 4

Section 3.11 Parking and Loading Requirements

(A) **Off-street parking spaces** shall be provided in accordance with this section when any use is established or enlarged, unless otherwise approved by the Development Review Board under Section 5.5 or under Section 5.4 or waived under Subsection (C).

- (1) Off-street parking shall be provided to accommodate business-owned vehicles and the vehicles of all owners, occupants, employees, customers or other persons expected to be on the premises in accordance with Table 3.1.
- (2) All required parking spaces shall have a minimum width of nine (9) feet, and a minimum length of eighteen (18) feet, excluding access and maneuvering room.
- (3) Non-residential parking areas shall be located to the side or rear of buildings unless otherwise approved under site plan review under Section 5.4 or conditional use review under Section 5.5. Non-residential parking area shall be screened from adjoining residential properties if required by the Development Review Board.

Juliana 3/15/2015 4:54 PM

Deleted: 4

Juliana 3/15/2015 4:54 PM

Deleted: 3

Juliana 3/23/2015 11:31 AM

Deleted: 3

Juliana 3/23/2015 11:31 AM

Deleted: 4

Table 3.1 Minimum Off-Street Parking Requirements	
Use	Parking Spaces
Dwelling Unit/ Single or Two-Family	2 per unit
Dwelling Unit/ Accessory	1 per unit
Dwelling Unit/ Multi-Family	4 per every 3 units
Home Occupation/Home-Based Business	2 per dwelling unit & 1 per additional employee
Bed & Breakfast	2 per dwelling unit & 1 per guest room
Lodging Facility (Inn, Motel, Hotel)	1 per lodging unit & 1 per 2 per employees
Office/Personal Service, Medical Clinic	1 per 200 square feet of gross floor area
Residential Care Facility	1 per every employee on the largest shift & 1 per every 2 beds
Restaurant/Bar	1 per every 150 square feet of gross floor area
Retail	1 per 200 square feet of gross floor area
Public Assembly (Church, Theater, etc.)	1 per 3 seats or 1 per every 100 square feet if no seats are provided
Warehouse/Manufacturing/Industry	1 per each employee on the largest shift
Other	As determined by the Development Review Board under site plan review

(B) **Loading and Service Areas.** Off-street loading space shall be provided for commercial, industrial or institutional uses which will receive shipments in vehicles too large for a standard parking space. Space provided shall be specifically for off-street loading and shall be large enough to fully accommodate the maximum number of such vehicles expected to be on the premises at any one time. Service areas will be located without blocking or obstructing access or sight visibility at intersections.

(C) **Waivers.** On-site parking, loading, and/or service area requirements may be reduced or waived by the Development Review Board under site plan review, when due to circumstances unique to the development, the strict application of these standards is unnecessary, based upon a determination under one or more of the following provisions;

- (1) Suitably landscaped vacant land is set aside and maintained as open space for future conversion to parking, loading or services areas in the event that the amount of space initially permitted is deemed inadequate to meet demonstrated need; or
- (2) Shared use of parking, loading and/or service areas on the same or contiguous lots by two or more establishments is proposed; or
- (3) Adequate off-site public parking exists within reasonable walking distance of the establishment; or
- (4) Sufficient off-site parking has been procured (e.g., through lease agreements) in a private or municipal parking lot.

Section 3.12 Protection of Water Resources

Surface Waters and Wetlands. To prevent soil erosion and sedimentation of surface waters, maintain water quality and protect wildlife habitat, the following standards shall apply to all mapped surface waters and wetlands:

(A) All structures shall be setback a minimum of 50 feet from all surface waters designated on the Town's Water Resources map, as measured from the top of the bank. The Development Review Board may, in accordance with conditional use review under Section 5.4, approve the placement of a structure within the 50 foot setback providing it meets the following standards:

- (1) The building placement will better reflect the historic settlement pattern and character of the surrounding area; and

Juliana 3/23/2015 11:35 AM

Deleted: that, due to circumstances unique to the development, the strict application of these standards is unnecessary

- (2) Reasonable provision is made for the protection of water quality such as, but not limited to, the planting of shade trees adjacent to streambanks, the establishment of vegetated buffer areas along streambanks, and/or stormwater management provisions to collect and disperse stormwater away from the mapped surface water.
- (B) An undisturbed, vegetated buffer strip shall be maintained for a minimum of 25 feet from all surface waters designated on the Town's Water Resources map. The 25 foot buffer strip shall be measured beginning from the top of the mapped streambank. No development, excavation, filling, clearing or grading shall occur within the buffer strip, with the exception of clearing or vegetation removal associated with site development necessary to accommodate the following:
- (1) Road, driveway, utility crossings and fire protection access;
 - (2) Streambank stabilization and restoration projects, in accordance with applicable state and federal regulations;
 - (3) Unpaved bicycle and pedestrian paths and trails and bridges associated with trails;
 - (4) Reasonable recreational uses, including structures, associated with surface water access;
 - (5) Agriculture in accordance with Acceptable Agricultural Practices (AAPs) as defined by the Commissioner of Agriculture, Food and Markets, and forestry in accordance with *Acceptable Management Practices (AMPs) for Maintaining Water Quality on Logging Jobs in Vermont*, published by the Vermont Department of Forests, Parks and Recreation;
 - (6) Removal of trees that are dead or hazardous to structures or property; or
 - (7) Any use allowed in Subsection (1) above.
- (C) The expansion or enlargement of the footprint of any structure in existence prior to the effective date of these bylaws, and not in compliance with this section, is permitted with approval of the Development Review Board pursuant to Section 3.10 regarding nonconforming structures.
- (D) No alteration of the natural course of any stream shall be allowed unless a stream alteration permit has been issued by the Vermont Department of Environmental Conservation in accordance with 10 V.S.A. Chapter 41. Such alterations within the Regulated Flood Hazard Areas are subject to requirements under Article 9.

Section 3.13 Outdoor Storage

- (A) The dumping, burying, disposing, or burning of garbage, refuse, scrap metal, rubber, or similar materials is prohibited except in salvage, disposal or recycling facilities specifically permitted for such use under applicable municipal and state regulations.
- (B) In any district for the purposes of Article 5 review, the outdoor storage of trash or recyclable materials which is incidental to a principal or accessory use shall be screened or hidden from public view and the view of neighboring residential properties. For commercial or industrial uses, such storage shall be screened or located to the rear of buildings.
- (C) In any district, junk, salvage materials, and/or more than three (3) motor vehicles or portions thereof, which are non-operating and not registered with the state shall be stored in an enclosed area or in an area concealed from public roads and neighboring properties. Vehicles or materials used for farming or forestry operations are exempt.
- (D) The outdoor storage of materials and equipment associated with an allowed use may be approved by the Development Review Board under conditional use approval [see Section 5.5] or under site plan review [see Section 5.4], provided that such areas are clearly designated and are adequately screened from public view and neighboring properties. Designated storage areas shall meet the setbacks for the district in which the use is located, although the Board may require greater setbacks to avoid impacts on neighboring properties. The storage of unpermitted hazardous materials anywhere on the

Juliana 3/22/2015 4:34 PM
Deleted: , Section 5

Juliana 3/13/2015 11:06 AM
Deleted: d

Juliana 3/13/2015 11:08 AM
Deleted: with the exception of vehicles or materials used in farming or forestry operations,

Juliana 3/15/2015 4:55 PM
Deleted: 4

Juliana 3/15/2015 4:55 PM
Deleted: 3

premises is prohibited, with the exception of materials customary and characteristic of residential uses (e.g., heating oil).

Section 3.14 Setback Waivers

- (A) Notwithstanding the minimum setback standards for front yards (setback from road centerline) and side and rear yards (setback from parcel boundaries) for various zoning districts as set forth in Article 2, the Development Review Board may allow the modification of building setbacks subject to the following provisions:
- (1) Fire safety, disability accessibility or other regulatory requirements cannot be reasonably satisfied without a waiver, or
 - (2) Energy conservation and renewable energy structures cannot be reasonably developed without a waiver, or
 - (3) The waiver is necessary to allow for reasonable expansion of existing structures and construction of new structures given existing configuration of development on the parcel, irregular lot configurations or restrictions of existing topography.
- (B) In all cases, the waiver:
- (1) Must be found to be in conformance with the municipal plan and the goals set forth in 24 V.S.A. Section 4302, and
 - (2) Shall not change the overall character of the surrounding area or neighborhood, and
 - (3) Shall not exceed one-third (33.3%) of any setback requirements.
- (C) The applicant may propose, or the Development Review Board may require, mitigation of any adverse effect through design, screening or other remedy as part of the waiver approved.

Section 3.15 Sign Regulations

- (A) **Applicability.** A zoning permit shall be required prior to the erection, construction or replacement of any outdoor sign, except for signs, which are specifically exempted [Table 3.2], or specifically prohibited from these provisions [Table 3.3].
- (B) **General Standards.** All signs, other than those specified in Table 3.2, shall require a zoning permit issued by the Zoning Administrator in accordance with the following requirements pertaining to all signs:
- (1) No outdoor advertising signs shall be permitted in any district except for the purposes of identifying an existing, on-premise use in those districts where such uses are permitted.
 - (2) There shall be only one freestanding or hanging wall-mounted sign per principal business or service, except that a gasoline station may have one pricing sign which does not exceed 12 square feet in area and/or pump-top pricing signs, each not to exceed two square feet in area. Wall signs (lettering and/or graphics) shall meet the standards set forth in Subsection (5) below. In circumstances where there are multiple businesses on a single lot, each business may have a sign, not to exceed the size allowed in the district, on a common freestanding structure.
 - (3) No sign in the Rural Residential-Agricultural District (Zone D) or the Agricultural-Forest Conservation District (Zone E) shall exceed five (5) square feet per face, unless approved by the Development Review Board with considerations of safety, visibility, design, location, and traffic upon determination that the additional height is necessary to be visible from the nearest road.
 - (4) No freestanding or wall-mounted hanging sign located within the Commercial District (Zone A), Industrial District (Zone B) or the Residential-Commercial District (Zone C) shall exceed 16 square feet per face, excluding wall signs (lettering and/or graphics) allowed in accordance with Subsection (5) below.

- (5) In addition to freestanding and/or wall-mounted hanging signs allowed in the Commercial District (Zone A), Industrial District (Zone B) or the Residential-Commercial District (Zone C), wall signs (lettering and/or graphics) may be affixed or applied directly to the façade of a building, including its wall and windows, within the district specified above, provided the total area of the lettering and/or graphics meets the following:
- (a) The total area of all wall signs (lettering and/or graphics) shall not exceed a maximum of 150 square feet;
 - (b) No single wall sign (lettering and/or graphics) may exceed 50 square feet. In computing the area of a wall sign (lettering and/or graphics), the area shall be the area of the smallest rectangle with a level base line that can contain a sign including the lettering, graphic, panel and frame, if any.
- (6) No sign, including mounted or freestanding supporting structures, shall exceed 20 feet in height.
- (7) No sign shall be placed on the roof of a building, and no sign attached to a building may extend above the eaves of that part and side of the building to which the sign is attached.
- (8) All signs shall be located outside of the highway right-of-way. Signs shall be placed a minimum of 50 feet from the road centerline of the nearest intersection.
- (9) Signs shall not be constructed to include blinking lights, moving parts, or any device capable of emitting noise.
- (10) If illuminated, signs shall be constructed so as not to produce undue glare, hazards, or distractions. A constant, shielded light source may be used for indirect lighting, provided that the light fixture is mounted on the top or side of the sign, is directed onto the sign surface, and does not adversely affect neighboring properties, rights-of-way, or vehicular traffic. The light source shall not be visible from adjacent properties or roads.
- (11) No sign shall be illuminated during hours when the premises are not occupied or open for business, or after 10:00 P.M., whichever is later. Bed & breakfasts, inns and hotels and other lodging accommodations may be considered open for business 24 hours a day.
- (12) All signs shall be maintained in a secure and safe condition. Nothing in these regulations shall prevent normal sign maintenance and repair, including the replacement of broken parts. If the Zoning Administrator is of the opinion that a sign is not secure, safe, or in a good state of repair, a written warning and/or notice of violation under Section 7.7 may be issued with a request that any defect in the sign shall be corrected immediately.
- (13) No nonconforming sign may be replaced, expanded, or the message altered to advertise a different owner, management or brand, unless such altered sign is brought into conformance with these standards.
- (C) **Measurement.** The area of measurement of any sign shall be the total area of the sign face to the outer edge, including any supporting frames or panels. Signs consisting of freestanding characters shall include any intervening spaces (the entire message area) in the calculation of total sign area. The height of the sign shall be measured to the highest point of the supporting structure.

Juliana 3/23/2015 11:42 AM

Deleted: is corrected

Table 3.2
Exempt Signs

The following signs are allowed in all zoning districts and shall not require a zoning permit, but shall be subject to all other requirements of this Section:

1. Signs erected by the town or state on public roads for directional, safety or public service purposes, including Official Business Directional Signs and sign plazas erected in accordance with 10 VSA Chapter 10.
2. One unlit sign advertising a home-based business (e.g., home child care, home occupation, home industry or bed & breakfast) or agricultural operation, which does not exceed five (5) square feet in area per face, and is set back at least 10 feet from the edge of the highway right-of-way.
3. One sign or bulletin board incidental to a school, church, library, public park or other government facility, which does not exceed 20 square feet in area per face.
4. One temporary real estate "for sale" or "for rent" sign per front yard that does not exceed six (6) square feet in area per side, and is removed immediately following property sale or rental. The sign may list the name of an agent.
5. One temporary sign, not exceeding 16 square feet in area per face, promoting the sale of agricultural products for a period not to exceed 120 days in any calendar year.
6. One portable sign displayed during business hours per business not to exceed 16 square feet.
7. Temporary signs providing safety or emergency information to the public.
8. Unlit, non-advertising informational signs which do not exceed four (4) square feet in area, for the direction, instruction, or convenience of the public (e.g., that identify restrooms, public telephones, freight entrances, vacancies, or are related to posted areas, trespassing or hunting).
9. An ornamental sign, flag or banner that is incidental to a residential use, and is not used for advertising purposes.
10. One temporary sign erected for a fair, exposition, or other municipal, philanthropic, or community sponsored special event that does not exceed 25 square feet in area per side, is installed on the premises no more than two weeks prior to the event, and is removed immediately following the event.
11. Temporary auction, lawn or garage or similar sale signs, not exceeding four (4) square feet in area per side, which shall be removed immediately following the sale.
12. One unlit temporary advertising sign, not exceeding 20 square feet per side, for an approved construction project or residential subdivision, which shall be removed when construction is completed or 75% of residential lots have been transferred into individual ownership.
13. Temporary election signs to be posted and removed in accordance with state law.
14. One unlit historic or landmark sign per historic property, not to exceed four square feet in area.
15. Wall murals intended solely for artistic, non-advertising purposes.

Table 3.3
Prohibited Signs

Prohibited Signs. The following signs are specifically prohibited in the Town of East Montpelier:

1. Signs which impair highway safety or obstruct visibility of oncoming traffic or traffic safety signs.
2. Off-premise signs, except for those that conform to state laws.
3. Signs painted on or attached to rock outcrops, trees, or similar natural features, except for posting, trespassing or safety zone signs.
4. Permanent signs which project over public rights-of-way or property lines.
5. Signs identifying businesses that are no longer in existence.

Section 3.16 Swimming Pools

In all zoning districts, swimming pools (above and in-ground) with a water surface in excess of fifty (50) square feet and any permanent structure associated with an above-ground pool, shall be considered an accessory structure and shall meet yard setback standards for the district in which it is located. Such

pools shall be surrounded by a child-proof fence a minimum of four (4) feet in height, with a locking gate. The Zoning Administrator may approve a pool protected by a safety mechanism other than a fence if determined that the structure will prevent open access to the pool.

Section 3.17 Temporary Uses & Structures

- (A) Structures used for temporary office or storage space, including trailers and mobile homes, may be allowed as accessory to permitted construction activity. Such structures shall not be used for dwelling purposes. Temporary structures may be issued a zoning permit by the Zoning Administrator, for a specified period for time not to exceed one year from the date of issuance, with the provision that the structures will be removed upon expiration of the permit. The Zoning Administrator may renew a permit for a temporary structure for a period not to exceed one additional year.
- (B) The Zoning Administrator may issue a zoning permit to allow a temporary shelter, including a mobile home, to be occupied for dwelling purposes for not greater than one year to allow a property owner to reside on a parcel while constructing or rehabilitating a permanent dwelling. Such a temporary shelter shall be removed from the premises within one year of the issuance of the permit, unless the applicant obtains a one-year extension, with the approval of the Development Review Board as a conditional use in accordance with Section 5.5. No structure other than the permitted temporary shelter may be occupied as a dwelling on a single parcel for the period in which the temporary structure is occupied unless approved under Subsection 3.8(B).

Section 3.18 Water Supply & Wastewater Disposal

No building or structure intended for human occupancy shall be erected, altered or converted to another use unless adequate water supply and wastewater disposal systems are provided in compliance with all applicable municipal and state regulations. No construction may be commenced under an East Montpelier Zoning Permit unless and until proof of issuance of any and all required state wastewater and potable water supply permits is submitted to the Zoning Administrator. In situations where a state wastewater permit is required, no Certificate of Compliance may be issued under Section 7.4 of these regulations until a copy of the pre-cover-up inspection report is submitted to the Zoning Administrator.

Juliana 3/15/2015 4:56 PM

Deleted: 4

Juliana 3/19/2015 3:12 PM

Deleted: Article 7