

**100 Legal Framework**

This subchapter contains the legal requirements necessary to establish and authorize the LUDRs under state statute – the necessary “legalese”.

**1001 TITLE**

Equivalent to Section 1.1 of adopted LUDRs.

**1002 AUTHORITY**

Equivalent to Section 1.1 of adopted LUDRs.

**1003 PURPOSE**

**This is a section the PC should review carefully and has authority to craft as appropriate to the town.** Incorporates and expands upon Section 1.2 of adopted LUDRs. The purpose statement here (and where they show up elsewhere in the LUDRs) are important if your regulations are challenged in court. Purpose statements are not themselves regulatory, but a judge when asked to determine whether a provision of the regulations is valid will look to see if the provision in question is furthering one or more of the stated purposes of the regulations.

**1004 APPLICABILITY**

Equivalent to Section 1.3 of adopted LUDRs.

**1005 RELATIONSHIP WITH OTHER LAWS OR REGULATIONS**

Equivalent to Section 1.3 of adopted LUDRs.

**1006 EFFECTIVE DATE**

Equivalent to Section 1.4 of adopted LUDRs.

**1007 AMENDMENT OR REPEAL**

Equivalent to Section 1.4 of adopted LUDRs.

**1008 SEVERABILITY**

Equivalent to Section 1.5 of adopted LUDRs.

**1009 DISCLAIMER OF LIABILITY**

New section (no equivalent in adopted LUDRs) but is standard practice and language.

**110 Exemptions and Limitations**

This subchapter establishes what does and does not need a permit under the LUDRs, and identifies those land use activities the state has limited the town's authority to regulate.

**1101 GENERAL EXEMPTIONS**

**This is a section the PC should review carefully where the town has fairly broad authority to decide what does and does not need a permit under the regulations.** Replaces Section 7.2 of adopted LUDRs by incorporating, expanding and clarifying existing exemptions. Recommends increasing the size of exempt accessory structures from 80 sf & 10 ft tall to 120 sf & 12 ft tall to better accommodate size of pre-fab structures. Recommends increasing the size of exempt fences to 4½ or 6½ feet to accommodate the installation of pre-fab 4' or 6' fencing. Limits many exemptions to single- and two-family homes because all other uses will have approved site plans that should be updated as physical changes are made to the property. Exemptions 22, 23, 24, 32 and 35 are mandated by state statute, as is the clothesline exemption included in 21 (24 V.S.A. § 4413(e)-(h) and (24 V.S.A. § 4412(6)-(10)).

**1102 DEVELOPMENT WITH A CERTIFICATE OF PUBLIC GOOD**

Equivalent to Sections 7.2 and 4.13 of adopted LUDRs and mandated by statute (24 V.S.A. § 4413(b)).

**1103 AGRICULTURE AND SILVICULTURE**

Equivalent to Section 7.2 of adopted LUDRs and mandated by statute (24 V.S.A. § 4413(d)).

**1104 GOVERNMENT AND COMMUNITY FACILITIES**

Equivalent to Section 4.13 of adopted LUDRs and mandated by statute (24 V.S.A. § 4413(a)).

**1105 GROUP HOMES**

1105.A Equivalent to Section 4.9 of adopted LUDRs and mandated by statute (24 V.S.A. § 4412(1)(G)).

**120 Prior Applications, Approvals and Uses**

This subchapter addresses how to administer the LUDRs to existing land uses and development as they change over time and when the regulations themselves are amended.

**1201 PRIOR APPLICATIONS**

No comparable language in adopted LUDRs, however it's not a change as this is a standard zoning practice and interpretation.

**1202 PRIOR PERMITS AND APPROVALS**

1202.A Includes provisions from Section 7.3 of adopted LUDRs and adds further clarifying provisions. Subsection D is standard zoning practice and Subsection E is mandated by statute (24 V.S.A. § 4463(b)).

**1203 CHANGE OF USE**

1203.A Compare to Section 3.4 of adopted LUDRs. Proposed language is a change from adopted. It allows for a change of use within a use definition without requiring a new zoning permit or development approvals for that use. The reason for the recommended change is to promote economic development by streamlining permitting process when businesses change over or evolve on an existing commercial/industrial site.

**1204 EXPANSION OF USE**

Compare to Section 1.3 of adopted LUDRs. Proposed language is a change from adopted. It allows for expansion of habitable space within a dwelling provided the number of bedrooms does not increase (that would trigger state wastewater permitting) without a zoning permit, which a strict interpretation of adopted language would currently require. It continues the requirement that expansion of a nonresidential use would require a permit. The reason for this change is that many residents would not realize that a permit was needed to convert unused space within their home to habitable space, thus creating potential future problems when the home needs to be sold or transferred.

**1205 DISCONTINUED USES**

The adopted LUDRs are largely silent on discontinued uses with the exception of nonconforming uses (Section 3.10) and conditional uses that have been replaced with another use (Section 3.4). Proposed language provides clarity and follows standard zoning practice and interpretation.

**1206 ABANDONED DEVELOPMENT**

1206.A The language in the adopted LUDRs related to abandoned development is internally inconsistent and needs to be clarified. Section 3.2 states that unoccupied structures that are substantially incomplete 1 year after issuance of a zoning permit will be considered abandoned. Section 7.3 suggests that work authorized by a zoning permit only needs to be “substantially commenced” within 1 year. The proposed addition/change of language will tie into a proposed change to the zoning permit provisions to establish a deadline for completion rather than commencement of work. The reason for this change is to provide the town with the ability to enforce against an unsafe or unsightly development site where construction was started and not completed in a timely manner.

**1207 DAMAGED OR DESTROYED STRUCTURES**

Compare to Section 3.2 of adopted LUDRs. Proposed language would require a permit for all reconstruction (currently a permit is only required if there will be a change in

dimensions of the structure). It also extends the period of time the property owner has to commence reconstruction (currently work must commence in one year and be completed in two, which may be difficult for some due to insurance or legal issues) and provides an extension of deadlines for special circumstances like clean-up following a declared disaster. The reason for the changes is keep a paper trail of the work done, which will ultimately benefit the owner when the time comes to sell or transfer the property, and better accommodate the needs of owners having to deal with insurance companies, banks, etc.

## **130 Nonconformities**

This subchapter addresses pre-existing land uses and development that were legal but due to adoption or amendment of the LUDRs are no longer in conformance with current regulations.

### **1301 NONCONFORMING STRUCTURES**

Largely equivalent to Section 3.10 of adopted LUDRs. Proposed language would allow the ZA to approve expansions of a nonconforming structure to meet code requirements rather than requiring the applicant to get a conditional use approval. The reason for this change is to streamline the permitting process and it recognizes that these types of improvements are being imposed by other regulatory entities and are mandatory to allow continued use of the building. The ZA's decision can always be appealed to the DRB.

### **1302 NONCONFORMING USES**

Largely equivalent to Section 3.10 of adopted LUDRs. Proposed language would allow the ZA to approve a minor expansion of a nonconforming use (currently that would require conditional use approval from DRB). The reason for the change is to streamline the permitting process and support business growth and economic development.

### **1303 NONCONFORMING LOTS**

Equivalent to Section 3.9 with additional language currently in Section 3.3 of adopted LUDRs. Subsection C is mandated by statute (24 V.S.A. § 4412(2)). Proposed language would no longer require merger of a nonconforming lot with a contiguous lot under common ownership. This will tie in with provisions related to still requiring setback requirements even where a property line is between two lots under common ownership. The goal is to encourage owners to properly merge lots through a legal merger process rather than simply treating them as merged for zoning purposes when they in fact have not been legally merged. The reason for this change is that treating lots as merged for zoning purposes can result in development that becomes nonconforming in the future if the lots are sold separately.

### **1304 CREATION OF A NONCONFORMITY**

No comparable language in adopted LUDRs, however it's not a change as this is a standard zoning practice and interpretation.