

**EAST MONTPELIER CURRENT LAND USE AND DEVELOPMENT REGULATIONS
TECHNICAL REVIEW**

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Prepared for: East Montpelier Planning Commission

This document consists of a technical review of East Montpelier's Land Use and Development Regulations, as amended November 30, 2015. Town Plan references are to the 2018 East Montpelier Town Plan, adopted June 4, 2018.

- 1 **4.8.1** Ensure Land Use and Development Regulations and other actions by the town protect historic structures and settlement patterns.

- 10.1.4** Develop zoning regulations that encourage new developments to reflect historic landscape patterns, such as compact development, a close and positive relationship to the street, and orientation of building and structures parallel or perpendicular to the road and other structures.

- EMV G4** Development will be designed to reflect historic village patterns. Buildings will be oriented parallel or perpendicular to the street and to other buildings. Businesses will be located close to streets and sidewalks and compatible with neighboring residential uses. Building scales will be appropriate to neighboring uses.

2.3(D) Residential-Commercial District Dimensional Standards

Lot Size	1 acre min
Lot Frontage	150 ft min
Front Setback	50 ft min
Side and Rear Setbacks	25 ft min
Height	35 ft max

- 4.3 Adaptive Re-Use of Historic Barns. This provision is intended to enable the continued viability of historic barns that have outlived their original agricultural function, including non-conforming structures, by permitting additional uses within the current dimensions of such structures, subject to conditional use review under Section 5.5 and the provisions of this section.... The proposed use shall not significantly alter the footprint, historic facade, character or immediate context of the barn and shall be in keeping with the essential character of the neighborhood. In reviewing adaptive reuse proposals, the Development Review Board shall determine that the historic character of the barn will be retained to the extent practicable.
- 6.7(E) Natural & Historic Resource Protection. Subdivision boundaries, lot lines, and building envelopes should be located and configured to avoid adverse impacts to significant natural and historic features.... (4) Historic sites and structures should be incorporated in subdivision design and layout; (5) Subdividers may be required to incorporate buffers, landscaping or screening in subdivision design, and/or submit management plans to protect significant natural, scenic and historic resources.
- 6.8(C) (2) Roads shall be laid out to: (e) Attempt to avoid adverse impacts to natural, scenic and historic features.
- 8.2 Compact Settlement/Residential Pattern: Settlement patterns are the manner in which building and other structures are organized on the ground and may include building sizes and orientation and the relationships of parking and open space. Sometimes referred to as "historic settlement patterns," examples of compact settlement/residential pattern include many if not most Vermont towns, villages and hamlets such as East Montpelier Village, East Montpelier Center and North Montpelier. Compact settlement patterns efficiently use the available open space and provide connections with neighboring properties that reduce curb cuts and enhance pedestrian connections. The use of multiple stories, common open space, clustering and a close relationship to the street are characteristics that can distinguish compact settlements from sprawl or strip development.

The dimensional requirements of the adopted regulations do not reflect historic village patterns. The adopted regulations define compact settlement pattern and use the term within the purpose statements of several zoning districts and in review standards. However, minimum lot size, frontage and setbacks in village areas are too large and effectively prevent compact development and new buildings having a close and positive relationship to the street. There are no standards to control building scale beyond a maximum height requirement. The mismatch between the historic settlement pattern and the zoning standards has also caused much of the pre-existing development to become nonconforming, which poses challenges for redevelopment of older properties.

To reflect historic village patterns, minimum lot size cannot be greater than ½ acre and the frontage requirement should be reduced to 90 feet or less (traditional village lots tend to be narrow and deep). If lots are to become narrower, side setbacks will need to be reduced accordingly. Side setbacks of 8 to 12 feet are typical of historic village lots.

To ensure that new buildings have a close and positive relationship to the street, the minimum front setback cannot be more than 16 feet (and should be less if the building will be single-story) and no off-street parking can be allowed between the building and the street.

To maintain an appropriate village scale, there needs to be a maximum building footprint standard. Most historic village buildings have a footprint of 4,000 square feet or less, landmark civic buildings may be somewhat larger. Establishing a maximum building footprint of 4,000 to 6,000 square feet will prevent new development that is out of scale in village areas.

Most historic village buildings are also multi-story. Establishing a minimum height requirement of 20 to 24 feet will prevent development of low, flat-roofed, boxy buildings and encourage roof lines with more architectural interest. The zoning could mandate two-story buildings, but this has the effect of limiting the types of uses that will choose to locate in village areas and often result in businesses looking for sites outside village areas to avoid the two-story requirement.

There are references to avoiding impacts to historic resources within the adopted subdivision standards, but the language is not strong or adequately clear. Provisions that use "should" are advisory only and not legally enforceable like provisions that use "shall" or "must."

The only provisions in the regulations that directly address historic structures are the adaptive re-use standards for barns. Section 4.3 could offer more guidance on the extent to which applicants can alter the exterior of historic barns and how the DRB should interpret "significantly alter."

To implement the goals and policies of the town plan with regard to protecting historic structures, it will be necessary to review proposed exterior modification to such structures to determine whether the change would impact the building's architectural integrity and historic value. This should include consideration of changes to window/door size and placement, addition/removal of porches or similar appurtenances, changes to roof lines, installation of signs and light fixtures, etc. It could also include consideration of building materials and/or colors depending on the level of protection for historic buildings desired.

2	6.1.1	Accept new town roads in accordance with the new town roads policy. New roads in East Montpelier Village that meet all the criteria of the new town roads policy should be considered eligible for acceptance.	3.3(G) 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.	The standards for new roads serving subdivisions in Section 6.8 need to be revised to reference town road standards and/or incorporate minimum engineering and construction standards (width, slope, etc.). Road standards should include stormwater management provisions to avoid erosion and run-off from private infrastructure impacting public infrastructure and surface waters. The regulations should also be more clear about the town's road acceptance policy.
			6.8(C) Roads. The following road standards shall apply to all public roads and to private roads serving three (3) or more lots... (3) The maintenance of all private roads and all Class IV town roads shall be the responsibility of the subdivider and subsequent property owners. The subdivider shall provide evidence and assurance that such roads will be adequately maintained by the subdivider and/or an owners' association. In instances involving proposed lots requiring access onto Class IV town highways, a road maintenance agreement approved by the East Montpelier Selectboard shall be required prior to final subdivision approval.	The access standards in Section 3.3 need to address driveway and intersection spacing. In village areas, the default VTrans sight distance standards will not be compatible with a compact development pattern.
3	6.2.2	Provide safe, attractive and convenient pedestrian and bicycle facilities in East Montpelier Village. Priorities are sidewalks and bicycle lanes connecting the Upper Village to the Lower Village, and the Lower Village to East Montpelier Elementary School.	5.4(C) The Board shall consider and may impose conditions and safeguards with respect to the adequacy of traffic and pedestrian access, on-site circulation, parking, landscaping and screening, and other aspects of site development, in accordance with the following... (2) Provision shall be made for adequate and safe on-site vehicular and pedestrian circulation, in relation to the intended use and location of buildings and parking areas. Clearly marked travel lanes, pedestrian crossings, and pedestrian paths connecting buildings, parking areas, may be required to ensure vehicular and pedestrian safety and convenience.	The adopted regulations do not contain specific site design standards for pedestrian and bicycle facilities. To implement the goals and policies of the town plan and the village master plan, the regulations will need to include provisions such as:
	10.6	Promote energy-efficient land use patterns that facilitate walking, bicycling and use of public transportation.		<ul style="list-style-type: none"> • Requiring installation of public sidewalks along in village area as part of any major development (particularly commercial and mixed use projects). • Requiring sidewalks from the street to building entrances for commercial and mixed use buildings. • Requiring bike racks for commercial and mixed use buildings (as a proportion of vehicle parking spaces). • Adopting construction standards for new village streets (subdivision) that include sidewalks. • Establishing minimum construction standards for sidewalks. • Requiring applicants to maintain or re-establish sidewalks across curb cuts
	EMV G5	Development will accommodate pedestrians and bicycles. Sidewalks and bicycle paths will be encouraged along all streets in the village. Buildings and parking lots will be located to encourage connections to sidewalks and bicycle paths. Trails will link village locations and connect with trail networks.	6.8(D) Pedestrian Access. To facilitate pedestrian access from the subdivision to adjoining parcels and roads or to nearby public schools, playgrounds, or public lands, the Development Review Board may require the installation of sidewalks and/or pathways to connect to existing sidewalks on adjoining properties within the Commercial District (Zone A), Industrial District (Zone B) and/or the Residential-Commercial District (Zone C).	
	EMV A3	Pursue opportunities to construct sidewalks, crosswalks, bicycle lanes, and trails that provide safe pedestrian and bicycle transportation throughout the village.		
4	6.2.5	Protect roadside trees and plant additional trees where appropriate.	5.4(C) The Board shall consider and may impose conditions and safeguards with respect to the adequacy of traffic and pedestrian access, on-site circulation, parking, landscaping and screening, and other aspects of site development, in accordance with the following... (4) Site plans may be required to incorporate landscaping and screening.... Conditions may be imposed with regard to the amount, type, size, and location of landscaping and screening materials.	The adopted regulations do not contain specific landscaping or street standards that would require applicants to install street trees. The DRB could require street trees as part of site plan or subdivision approval. The regulations should include a clear standards for either maintaining existing mature vegetation or installing street trees at the edge of the right-of-way for all development requiring site plan approval and along any new streets constructed under a subdivision approval. The common standard is to require 1 large tree for every 50 feet of lot frontage or 1 small or medium tree for every 30 feet of frontage.
	EMV G7	Street trees will be planted along major connecting roads and pedestrian spaces.	6.7(G) Landscaping & Screening. The Development Review Board may require the preservation, planting and maintenance of trees, ground cover, or other vegetation, of a size and type deemed appropriate by the Board in order to... (4) Establish a tree canopy along roads or pedestrian walkways.	

5	6.4	Encourage shared road access to minimize highway congestion and strip development.
	6.4.1	Minimize new curb cuts whenever possible.
	6.4.2	Update Land Use and Development Regulations to encourage shared road access.
	EMV G8	Development will be designed to efficiently share roads, pedestrian and bicycle facilities, wastewater and utility infrastructure.

- 3.3(D) 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... (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. (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.
- 5.4(C) The Board shall consider and may impose conditions and safeguards with respect to the adequacy of traffic and pedestrian access, on-site circulation, parking, landscaping and screening, and other aspects of site development, in accordance with the following... (1) The Board may require that access be shared between adjoining properties and/or uses, and may require the reduction, consolidation, or elimination of non-complying accesses or curb cuts. Requirements for shared access shall be made either at the time of site plan approval if similar provision has been made on contiguous parcels, or contingent upon future development of neighboring properties.
- 6.7(E) Natural & Historic Resource Protection. Subdivision boundaries, lot lines, and building envelopes should be located and configured to avoid adverse impacts to significant natural and historic features identified in the East Montpelier Town Plan or through site investigation.... (2) Roads, driveways and utility corridors, to the extent feasible, should be shared, located to follow existing linear features (e.g., farm roads, stone walls, tree and fence lines), and to avoid significant natural and cultural features.
- 6.8(A) Access. To better manage traffic flow and safety, to avoid congestion, and to preserve the capacity of local roads, the Development Review Board may also... (1) Limit the number of access points onto public roads and highways; (2) Require shared access, driveways, and/or roads to serve multiple lots; (3) Require access from secondary roads, if a proposed subdivision has frontage on both primary and secondary roads; and/or (4) Require rights-of-way for future road extensions to connect to adjoining parcels.
- 6.9(E) Utilities. (2) Utility corridors shall be shared with other utility and/or transportation corridors where feasible...

The adopted regulations contain a number of access management provisions, but most are not clearly stated requirements but rather conditions that the Development Review Board may impose on an application. To implement the goals of the town plan and village master plan, the access management provisions should be strengthened as follows:

- Require nonconforming access to be combined, eliminated, narrowed and/or defined when previously developed sites are being redeveloped (will need to clarify whether re-surfacing of existing driveways/parking areas would trigger a requirement to bring nonconforming access into compliance).
- Set maximum widths for curb cuts of not more than 20 feet for residential driveways and 30 feet for commercial driveways (this may be narrower than what would be required under the VTrans B-71 standard and in that case state requirements will trump local zoning for access onto state highways).
- Require cross access (between adjoining properties) within commercial districts (at a minimum to result in the creation of an easement for a potential future connection).
- Limit subdivisions to a single access point onto state highways and town Class 1 or Class 2 highways (i.e., not one access per lot) and/or require shared driveways unless there is a physical reason for individual driveways.
- Increase minimum lot frontage and/or driveway spacing requirements along state highways and arterial town roads outside village areas to 600 feet or more.

6	6.6.1	Encourage installation of electric vehicle charging stations at businesses and public parking areas.
	EMV G13	Energy goals will be encouraged through energy-efficient design and construction, weatherization retrofits, availability of pedestrian and bicycle infrastructure, availability of public transportation, and renewable energy generation for on-site use.
	EMV A14	Implement strategies for energy efficiency in heating, electricity and transportation. Encourage renewable energy generation scaled for on-site energy demand in the village.

- 5.5(C) The Board will consider whether the proposed development will interfere with the utilization of renewable energy resources by either diminishing their current or future availability, or by interfering with neighboring property owners' access to such resources (e.g., for solar or wind power).
- 5.6(D) The modification of zoning regulations by the Development Review Board may be permitted in accordance with the following standards: (8) The Development Review Board shall encourage energy efficient site planning and layout. For example, east-west orientation of roads to encourage southern exposure of structures, solar access protection and the use of land forms or vegetative wind breaks to the north.
- 6.7(H) Subdivision design and layout, to the extent feasible, will encourage energy efficiency through the siting and orientation of development (e.g., building envelopes) to take advantage of southern exposures and natural vegetative or topographic features.

The adopted zoning incorporates provisions from state statute related to energy efficiency and renewable energy in the conditional use, planned unit development and subdivision review standards. They call upon the Development Review Board to "encourage" or "consider" energy efficiency and utilization of renewable energy, which would need to be strengthened to more actively implement the energy-related goals of the town and village master plans.

While there are some options for promoting energy conservation and efficiency through zoning, building codes would be the more appropriate tool for establishing minimum standards for energy-efficient construction. Options available through zoning include:

- Offering incentives for small homes (<2,000 sf of gross floor area) either through a density bonus or by basing density on square footage of residential space rather than number of units (2,000 sf of residential space per acre rather than 1 dwelling unit per acre, for example).
- Offering a density bonus for homes that qualify for Efficiency Vermont's High Performance certification or an equivalent level of energy efficiency.
- Requiring solar on flat roofed buildings over a certain size (Act 250 requires them for commercial buildings with a footprint of more than 20,000 sf).
- Requiring building envelopes for newly subdivided lots to be oriented for passive solar (oriented so that a house can readily be sited with its longest dimension within 15 degrees of due north-south) unless the applicant can demonstrate that the site is not suitable for passive solar due to physical factors such as terrain or forest cover or to match the traditional settlement pattern in historic village areas.

Renewable energy generation that is grid-tied, which most residential or individual projects will be unless located in a remote area where there is not existing electric service, is not subject to local regulation (it is regulated by the state). The town's regulations should address screening requirements for commercial-scale renewable energy projects because the state will implement those if they are equivalent to screening requirements for other commercial and light industrial uses in the district.

The adopted regulations do not address electric vehicle charging stations. They should be revised to clarify that parking spaces dedicated for electric vehicle charging will count towards meeting minimum parking requirements. The regulations could require a minimum number of electric vehicle charging stations for larger parking lots as a percentage of total number of parking spaces required (one out of every 20-30 parking spaces is typical), but this is a provision that would likely not be frequently triggered due to the scale of development in East Montpelier.

7	7.1	Concentrate commercial growth in East Montpelier Village, with an emphasis on village-scale businesses that support the community and are compatible with residential uses.
	7.1.1	Encourage business retention and expansion, and the location of new village-scaled businesses, in village mixed use areas.
	7.2	Encourage small, community-focused commercial enterprises in North Montpelier.
	7.3	Ensure zoning bylaws allow commercial and industrial business uses in appropriate locations.
	7.3.1	Review and update the East Montpelier Land Use and Development Regulations to ensure that commercial and industrial areas are appropriate and adequate to encourage appropriate business growth.
	10.4	Encourage development of the Industrial District.
	EMV G3	Village-scale businesses that serve the village and provide employment opportunities will be located in mixed-use areas.
	EMV A7	Encourage business retention and expansion, esp. new village-scaled businesses, in village mixed-use areas.

2.1 (B)	Commercial District. Permitted uses include: bank, daycare center, medical clinic, motor vehicle sales and service, personal service, office, recreation facility, restaurant (no drive-through), retail sales, veterinary clinic.
2.1 (C)	Commercial District. Conditional uses include: campground, cultural facility, adaptive re-use, extraction, gas station, hotel/motel, kennel, mixed use, residential care facility, restaurant (with drive-through), any other similar use.
2.2 (B)	Industrial District. Permitted uses include: light industry, manufacturing, office, retail sales, self-storage, warehouse, wholesale sales, motor vehicle sales and service.
2.2 (C)	Industrial District. Conditional uses include: contractors yard, daycare center, adaptive re-use, extraction, mixed use, recreation facility, landfill, transfer station, any other similar use.
2.3 (B)	Residential-Commercial District. Permitted uses include: bank, B&B, funeral home, medical clinic, motor vehicle sales and service, personal service, office, recreation facility, restaurant (without drive-through), retail sales, veterinary clinic.
2.3 (C)	Residential-Commercial District. Conditional uses include: cultural facility, adaptive re-use, extraction, gas station, mixed use, residential care facility, restaurant (with drive-through), any other similar use.
Table 3.1 Minimum Off-Street Parking Requirements. 1 parking space per 200 square feet of office, service or retail floor area and 1 parking space per 150 square feet of restaurant/bar floor area.	

The adopted regulations allow for many of the same commercial and industrial uses in the commercial, industrial and residential-commercial districts without adequate standards to control the scale and intensity of those businesses. The result is little differentiation between the three districts, which extend along the Route 2 corridor and portions of the Route 14 and 214 corridors.

The recommendations made in #1 related to limiting the scale of buildings in village areas is one means of implementing town and village master plan goals related to village-scale businesses. Those goals could also be addressed by:

- Allowing small-scale businesses as a permitted use and making larger-scale businesses conditional (i.e., retail, office or service uses up to 2,000-3,000 square feet would be permitted any if larger would be conditional).
- Establishing additional districts so that businesses can be guided to the appropriate areas (i.e., restaurants in village areas and extraction in rural or industrial areas).
- Not allowing auto-oriented (gas stations, vehicle sales, drive-through restaurants, etc.) or land-consumptive uses (vehicle sales, self-storage, extraction) in village areas.

The minimum parking requirements in the adopted regulations are excessive for businesses in village areas and could have the effect of limiting potential re-use, re-development and improvement of commercial properties in village areas. The Development Review Board may waive or modify off-street parking requirements, but it would be better to provide applicants considering starting or expanding a business in the village area with more certainty about the amount of parking they would need to provide. A minimum requirement of one parking space per 400 square feet of floor area would be more in line with contemporary parking standards, with the possibility of further reducing that where there is public or on-street parking in the vicinity. The regulations should also have a more clear process for approving off-site and shared parking arrangements.

The industrial district as established in the adopted regulations allows for residential uses including new single-family homes. This can have the unintended effect of diverting land intended to be available for economic development to residential development, and if residential development does occur that will likely make it more difficult to gain approval for a new business in the district because it could be viewed by residential neighbors as incompatible. Industrially zoned land that is well-suited for development is not common in Vermont and should be considered a valuable resource for future economic development. Land intended for industrial use should be designated as such and non-compatible uses should not be allowed in those areas.

8	<p>7.4 Promote and support the viability of sustainable agricultural enterprises.</p> <hr/> <p>7.4.2 Ensure zoning bylaws support agricultural enterprises.</p> <hr/> <p>9.1 Support a diverse agricultural community.</p> <hr/> <p>9.10.1 Consider provisions in the Land Use and Development Regulations that accommodate agricultural enterprises, such as tourism and events, farm stands, sales of value-added products, or recreation.</p> <hr/> <p>9.10.2 Ensure that subdivision, access and rights of way preserve the viability of productive farmland.</p>	<p>2.4 (E) (1) A Neighborhood Business in the Rural Residential-Agricultural District shall be approved by the Development Review Board as a conditional use in accordance with Section 5.5 and the following requirements: (a) Neighborhood Businesses (e.g., farm market, grocery stores, antique or craft shop, or other light commercial activity of similar nature) shall be housed in buildings designed to be consistent with the rural-agricultural character of the district...</p> <p>4.3(C) Adaptive Reuse of Historic Barns. The following uses may be allowed, subject to conditional use review under Section 5.5: (2)(a) Agri-business (including sale of agricultural products) and (4) Special events, not to exceed four (4) consecutive weeks in duration, or 12 weeks within any 12 month period.</p> <p>4.10(C) Home industry ... may be allowed as an accessory to a single family dwelling in designated zoning districts ...</p>	<p>The adopted regulations do not list agricultural enterprises as an allowed use although "agri-business" is listed as an allowed adaptive re-use for a historic barn (the term is not defined). It is possible that some of the commercial or industrial activities that would be considered agricultural enterprises could be permitted either as a neighborhood business, a home industry or an adaptive re-use depending on the specifics of the proposed use and the site. It is also possible that an agricultural enterprise could be permitted to the same extent as any other commercial or industrial use in a district, but it would likely have to be as a "mixed use" because the regulations do not allow more than one principal use on a parcel and the agricultural enterprise would be occurring on a property where the principal use is agriculture.</p> <p>A change to state statute will go into effect on July 1, 2018 requiring municipalities to allow for an accessory on-farm business that either engages in (i) the storage, preparation, processing and sale of agricultural products at least 50% of which are produced on the farm; or (ii) hosting educational, recreational or social events that feature agricultural practices or products, including farm stays. These businesses may be subject to site plan review and may be required to meet the same standards as similar non-farm business in the district.</p> <p>Given the new state requirement, which is structurally similar to that for home occupations, the regulations should establish two new uses – the on-farm business which meets the new state minimum requirements and an agricultural enterprise that would be more similar to light industry and would allow for the storage, preparation and processing of agricultural products without the limitation on percentage of product produced on the farm. Both would be treated as commercial or industrial uses and require site plan approval. The agricultural enterprise could be conditional where desired.</p>
9	<p>7.5 Support home businesses while ensuring that rural residential character is preserved.</p>	<p>4.10(B) Home Occupations. In accordance with the Act [§4412(5)], no provision of these regulations may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the surrounding neighborhood or area. No zoning permit is required for a home occupation provided such home occupation complies with the standards below.</p> <p>(1) ...not more than two additional non-residential employees.</p> <p>(2) ...entirely within the principal dwelling or an accessory structure.</p> <p>(5) ...no more than two vehicles may be parked within the front yard area.</p> <p>(7) On-site retail sales, and the service or repair of automobiles, require review under Home Industry under Subsection (C).</p> <p>4.10(C) Home Industry. Home industry, as distinguished from "home occupation" under Subsection (B) may be allowed as an accessory to a single family dwelling in designated zoning districts subject to conditional use review under Section 5.5 (except in Zone B, where it is a permitted use), and the following provisions:</p> <p>(1) ...not more than four additional non-residential employees.</p> <p>(2) ...entirely within the principal dwelling or an accessory structure.</p> <p>(3) Exterior storage areas for materials and equipment associated with the home industry may be approved by the Development Review Board....</p>	<p>The adopted regulations exempt home occupations, so no permit is required. One of the issues with home occupations is the slow expansion or intensification of the use over time until it reaches a point where it causes conflict with neighboring property owners. Requiring a zoning permit for home occupations offers protection to both the business owner and neighboring property owners by more clearly establishing the nature of the business, and the standards and limitations that apply to it. A home office with no non-resident employees and no sign (essentially no outward sign of the business) could still be exempted. The home occupation language could be made more specific to clearly limit the amount of space the business can occupy (25% of the home and 2,000 square feet in one or more accessory buildings, for example) and prohibit storage of commercial vehicles, equipment, parts, materials, etc. outside a building.</p> <p>The home industry language should also have clear standards for how many non-resident employees, amount of space occupied by the business (could be proportional to lot area), location of employee/customer parking, location and screening of outdoor storage and use areas, etc. These standards would make it easier to determine when a business has expanded or intensified beyond a home business and should be considered a principal commercial or industrial use. It also makes sense to consider the class of road serving the subject property and allow for more intensive home businesses on state highways and major town roads than on low-traffic back roads.</p> <p>Allowing for multiple principal uses on a parcel could open another avenue for allowing business activities on rural residential parcels so that a business that grows beyond the scale of a home industry could potentially be permitted as a principal commercial or industrial use if such uses are allowed in the zoning district.</p>

10	8.1	Provide a range of housing opportunities, including single-family, multi-family, mixed use, affordable senior housing.	2.1 (C) Commercial District. Conditional uses include: single-, two- and multi-family dwellings	The minimum lot sizes and allowed uses in adopted zoning do not further the goals of the town and village master plans with regard to concentrating housing in village and growth areas. The regulations are not adequately clear about how residential density is to be measured (one dwelling unit per the minimum lot size acreage so that a three-unit multi-family building would require a lot that is three times the minimum size, or can that three-unit building be located on a lot of the minimum size?). The regulations should separate maximum density from minimum lot size (i.e., minimum lot size of 1 acre and a maximum residential density of 4 dwelling units per acre).
	8.2	Concentrate new residential development in East Montpelier Village or an identified growth area.	2.1 (D) Commercial District. 1 acre minimum lot size	
	EMV G2	A range of housing opportunities will be available throughout the village, including single-family, multi-family, affordable and senior housing.	2.2 (C) Industrial District. Conditional uses include: single-family dwellings 2.2 (D) Industrial District. 1 acre minimum lot size	
	EMV A6	Pursue opportunities to increase the amount and variety of housing opportunities in the village.	2.3 (B) Residential-Commercial District. Permitted uses include: single- and two-family dwellings 2.3 (C) Residential-Commercial District. Conditional uses include: multi-family dwellings 2.3 (D) Residential-Commercial District. 1 acre minimum lot size 2.4 (B) Rural Residential-Agricultural District. Permitted uses include: single- and two-family dwellings, and multi-family dwellings (maximum 6 dwelling units – with minimum area per dwelling unit of 3 acres) 2.4 (C) Rural Residential-Agricultural District. Conditional uses include: multi-family dwellings 2.4 (D) Rural Residential-Agricultural District. 3 acre minimum lot size 2.5 (B) Agricultural-Forest Conservation District. Permitted uses include: single- and two-family dwellings 2.5 (C) Agricultural-Forest Conservation District. Conditional uses include: multi-family dwellings 2.5 (D) Agricultural-Forest Conservation District. 7 acre minimum lot size 5.6 (E) Standards Specific to Planned Residential Developments. In addition to the general standards under Subsection (D), PRDs shall also meet the following specific standards: (1) The Development Review Board may authorize a density increase of as much as twenty five percent (25%) above the number of dwelling units otherwise permitted in the zoning district. The Board may, however, grant a density increase of up to fifty percent (50%) of the allowable number of units in any district in instances in which not less than twenty percent (20%) of the total number of dwelling units created are affordable housing units, as defined in Article 8.	

11 9.2	Protect wetlands and waterways as valued wildlife habitat, and recreational and scenic focal points of the community.	2.6 (A) (1) Wetland Overlay District (Class 2 wetlands plus a 50-foot buffer) (a) Permitted Uses: agriculture and forestry; (b) Prohibited uses: All other uses not identified as permitted or conditional.	The adopted regulations include a wetland overlay district that effectively prevents development in wetlands similar to state regulations. The regulations should be clarified with regard to requiring field delineation rather than relying on state mapping. The relationship between the overlay district and Section 3.12 also needs to be clarified. Section 3.12 is labeled "Surface Waters and Wetlands" but most of the provisions of that section only apply to surface waters. It is not clear whether they are also intended to apply to wetlands.
9.6.1	Review and update the Land Use and Development Regulations to ensure that development conditions address scale, screening, truck traffic, forest and riparian habitat protection, and scenic resource protection.	3.12 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...	
9.7	Protect forest integrity.	5.6(D) (3) The PRD or PUD shall provide for the preservation of stream and streambanks, steep slopes, wetland, soils unsuitable for development, agricultural lands, unique natural and manmade features, watersheds, forest land, wildlife habitat, floodplains, and scenic features.	The PUD and subdivision standards call for protection of natural resources but lack specific, clear provisions to achieve it. A number of provisions are phrased as "shoulds" rather than "musts" and so are not legally enforceable. Requiring the establishment of building envelopes (not to exceed 2 acres if water and septic are included or ½ acre if they will be allowed outside the building envelop) that excludes specified natural resource features (wetlands, floodplains, river corridors, steep slopes, ridge lines, wildlife habitat, forest blocks, agricultural soils/productive farmland, etc.) for all newly created lots is one of the best mechanisms for protecting natural resources from the adverse impacts of development.
9.7.1	Review and update Land Use and Development Regulations to promote protection of priority forest blocks and riparian wildlife connectivity.	6.7(E) Natural & Historic Resource Protection. Subdivision boundaries, lot lines, and building envelopes should be located and configured to avoid adverse impacts to significant natural and historic features identified in the East Montpelier Town Plan or through site investigation. For purposes of these regulations, these shall include wetlands, surface waters, and associated buffer areas [Section 3.12]; flood hazard areas [Article 9]; areas within the Conservation Overlay Districts [Table 2.6]; slopes in excess of 25%; significant wildlife habitat areas; and historic sites and structures. Accordingly: (1) Lot lines and building envelopes should be configured to avoid development on, or the fragmentation of, significant natural or cultural features, including designated buffer areas; (2) Roads, driveways and utility corridors, to the extent feasible, should be shared, located to follow existing linear features (e.g., farm roads, stone walls, tree and fence lines), and to avoid significant natural and cultural features. (3) Lot lines and building envelopes shall be located to ensure that no buildings are placed on steep slopes (in excess of 25%), in wetlands or in flood hazard areas; (5) Subdividers may be required to incorporate buffers, landscaping or screening in subdivision design, and/or submit management plans to protect significant natural, scenic and historic resources.	
9.13	Protect East Montpelier's significant views.	6.7(G) Landscaping & Screening. The Development Review Board may require the preservation, planting and maintenance of trees, ground cover, or other vegetation, of a size and type deemed appropriate by the Board in order to: (1) Preserve existing trees, tree lines, wooded areas of particular natural or aesthetic value to the site, or critical wildlife habitat areas; (2) Provide an undisturbed vegetated buffer between developed and undeveloped portions of the site to protect water quality, or other natural or scenic features...	The overall density of development allowed in some rural areas of town is not consistent with the town plan goals for resource protection. Options include basing density on a parcel's "buildable" rather than total acreage (land that cannot be built upon like wetlands, floodplains, steep slopes are not counted when determining density) or upon other suitability factors such as soil conditions, type of road access, distance from main roads or distance from other homes. Overall density could be reduced and then incentives (in the form of density bonuses) could be offered for clustered development that includes protected open space.
9.13	Development within identified significant viewsheds shall not unduly detract from identified scenic values within the viewshed. Particular attention shall be focused on development within the foreground (within ¼ -½ mile) of the viewpoint. Development siting shall employ all reasonable siting and design techniques to minimize impacts on views, including, but not limited to: siting development at the edge of views; using natural vegetation and/or topography to screen prominent or discordant elements of development, such as parking, storage and private utility structures; limiting the size and scale of structures; and using Planned Unit Development to maintain compact patterns that do not encroach on viewsheds.	6.8(C) Roads. The following road standards shall apply to all public roads and to private roads serving three (3) or more lots: (2) Layout. Roads shall be laid out to: (e) Attempt to avoid adverse impacts to natural, scenic and historic features.	
9.13.2	Provide guidance in the Land Use and Development Regulations for protecting characteristic scenic resources throughout town with particular attention to identified scenic views.	6.9(E) Utilities. All utilities within the subdivision shall be located underground, unless the Development Review Board determines that burial is not necessary to preserve the scenic character of the area, or that it is prohibitively expensive. In addition: (2) Utility corridors shall be shared with other utility and/or transportation corridors where feasible, and be located to minimize site disturbance, adverse impacts to significant natural, cultural and scenic features, and to public health.	Conservation subdivisions (a type of PUD) could be required for all major subdivisions in the rural areas of town. Conservation subdivisions typically include a requirement that 40-60% of the total development site be set aside as permanently protected open space. There are also provisions to protect important natural resources by locating building sites away from those features as described above. Clustering of house lots is usually required as well.
9.14	Retain the scenic rural character of town roadways.		The town plan includes specific policy language related to protecting significant views and scenic resources. However, the town has not undertaken a scenic resource inventory and the plan does not include any mapped scenic resources. The land use regulations could be more effective at protecting significant viewsheds if those resources were identified. Nevertheless, basic design and engineering standards intended to require quality building and site design can go a long way towards protecting rural character, including scenic resources, by ensuring that proposed development is sited and planned to fit into the surrounding landscape. Carefully regulating what is allowed to happen between a building and the road (parking, storage, outdoor display, etc.) can maintain the aesthetic qualities of both rural roadscapes and village streetscapes. Maintaining deeper, vegetated setbacks along rural roads is one technique that can be used to preserve distant views across a property.
9.14.2	Ensure Land Use and Development Regulations encourage compact development that protects scenic and natural resources.		
10.1.5	Include resource protection policies in the Land Use and Development Regulations.		
10.1.6	Protect riparian forests through conservation easements and the Land Use and Development Regulations		Another option is to consider a "menu" of options for commercial building and site design in rural areas and require applicants to meet a minimum number of the standards or achieve a minimum score. This recognizes that some flexibility and compromise is needed to respond to the physical characteristics of the site and the needs of the proposed use.

12	<p>9.3 Ensure Land Use and Development Regulations promote water quality protection.</p> <hr/> <p>9.3.1 Review and update Land Use and Development Regulations to adopt of Low Impact Development (LID) techniques.</p>	<p>6.7(F) Stormwater Management & Erosion Control. Subdivisions shall incorporate temporary and permanent stormwater management and erosion control practices appropriate for the type and density of proposed development. Accordingly:</p> <p>(1) All stormwater management systems shall be designed to: (a) Use natural drainage systems to the extent feasible, and minimize the need for maintenance; (b) Maximize on-site infiltration and treatment of stormwater, and minimize surface runoff; (c) Accommodate anticipated storm events; (d) Provide storage areas and treatment to manage flow and protect water quality; and (e) Avoid damage to adjoining or downstream properties.</p> <p>(2) The Development Review Board may require the submission of stormwater management and erosion control plans, prepared by a licensed professional in instances involving a high risk of stormwater impacts on neighboring properties and public facilities (e.g., roads and culverts).</p>	<p>The adopted regulations only address stormwater in the subdivision standards. Erosion control and stormwater management plans need to be mandatory for all development that will be disturbing a minimum amount of soil and/or creating impervious surfaces (2,500 - 10,000 square feet is the typical range of when such standards would be triggered - the state is still only regulating development that disturbs more than 1 acre). With recent changes to Act 64 requiring municipalities to obtain a roads general permit, it is imperative for the town to be able to control stormwater drainage from private properties because once that stormwater flows into the town right-of-way, it becomes the town's problem. The Vermont League of Cities and Towns has an easy-to-use tool for sizing green stormwater practices to manage run-off from residential and similar small development sites. Larger projects can follow the requirements of the new state stormwater manual, which generally also require green stormwater practices.</p>
13	<p>9.6 Any new or expanded earth resources extraction operations will be developed to minimize impacts on the environment and community.</p> <hr/> <p>9.6 Earth resource extraction facilities shall not be located within villages or defined growth areas.</p>	<p>Extraction is listed as a conditional use in the Commercial, Industrial, Residential-Commercial, Rural Residential - Agricultural, and Agricultural - Forest Conservation districts.</p> <p>4.6(A) The extraction or removal of topsoil, sand, gravel, rock, minerals or other similar earth resource may be allowed in designated districts subject to conditional use review under Section 5.5. In addition to the conditional use standards, the Development Review Board shall also require erosion control and site reclamation plans showing: (1) Existing grades, drainage patterns and depths to bedrock and the seasonal height water table; (2) Extent and magnitude of the proposed operation, including proposed phasing; (3) Finished grades at the conclusion of the operation; and (4) A detailed plan for the restoration of the site, including final grading and re-vegetation.</p> <p>4.6(B) ...To ensure compliance with this section, the Board may impose conditions or limits with regard to any of the following factors: (1) Depth of excavation or quarrying and/or slopes created by removal; (2) Effects on surface drainage on and off-site; (3) Storage of equipment and stockpiling of materials on-site; (4) Hours of operation for blasting, trucking, and processing operations; (5) Effects on adjacent properties due to noise, dust, or vibration; (6) Effects on traffic and road conditions, including potential physical damage to public highways; (7) Creation of nuisances or safety hazards; (8) Temporary and permanent erosion control, including project phasing to limit exposed area; (9) Effect on ground and surface water quality, and drinking water supplies; (10) Effect on natural, cultural, historic or scenic resources on-site or in the vicinity of the project.</p>	<p>The adopted regulations allow extraction essentially town-wide as a conditional use. Section 4.6 does not provide adequate clear, consistent technical standards to ensure that such operations will not adversely impact surrounding properties, public infrastructure or environmental quality (buffers, erosion control, phasing, noise, trucking, hours of operation, etc.).</p> <p>Extraction is a traditional resource-based rural land use and as such can be considered an appropriate use in rural areas. It is also considered industrial in nature, particularly when the use involves on-site processing of the materials being extracted, and so should also be considered an appropriate use in industrial areas. It is not a use that is compatible with village or moderate-density residential areas. The areas of town where extraction is allowed should be revised as new districts are considered. Further a minimum lot size of at least 10 acres should be required to ensure adequate buffering of the extraction area is possible.</p>

14	10.1.2	Review and update the site plan review, parking, design and screening standards in the Land Use and Development Regulations.
	10.3	Discourage commercial strip development.
	10.3.1	Update zoning bylaws to prevent strip development.
	EMV G6	Parking will not dominate the site. Parking lots will be located behind or to the side of buildings, unless infeasible. Parking spaces will be based on the minimum needs of the use. Shared parking will be encouraged. When visible from the street, parking lots will be landscaped.
	EMV A12	Review and update site plan review, parking and design standards in the land development regulations.

- 3.3(D) 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... (2) ...the Board may require... 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... (4) Shared access is encouraged and may be required for development subject to review by the Development Review Board... (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.
- 3.11(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...(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... Non-residential parking area shall be screened from adjoining residential properties if required by the Development Review Board.
- 3.13(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.
- 3.13(D) The outdoor storage of materials and equipment associated with an allowed use may be approved by the Development Review Board... 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.
- 3.15(B) 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...

The adopted regulations do not include the building and site design standards necessary to prevent commercial strip development. As discussed above, a limitation on building footprint can be an effective tool for avoiding strip development patterns. That basic requirement can be further strengthened with standards that require the mass of large buildings to be broken up by changes in wall plane (ex., facades must be divided into modules not more than 40 feet wide by changes in the wall plane at least 4 feet in depth) and require a minimum amount (typically 40-80%) of the ground level of the building facade to be composed of window or door opening and requiring that windows have transparent glass that allow views into the building. The regulations could also prohibit standardized corporate or franchise architecture, site elements, signs and/or colors.

The adopted parking standards do require parking to the side or rear of buildings, but the Development Review Board has the discretion to waive or modify this requirements and the regulations provide no criteria for that decision. This could result in arbitrary or capricious decisions over time with regard to which applicants are allowed to have front yard parking.

Screening and landscaping is also largely at the discretion of the Development Review Board. The regulations should include specific landscaping requirements tied to number of parking spaces, length of property frontage and/or size of building. The landscaping can serve double-duty if designed to function as part of a green stormwater practice.

There are no standards for outdoor lighting in the adopted regulations, so those should also be added for development requiring site plan approval. The adopted sign standards should also be reviewed once new districts are proposed. Signs can be an attractive site element and have an important function to facilitate safe way-finding. It is important for signs to be sized and designed in response to the setting. In village areas where traffic is moving slowly and buildings are located near the street, signs should be smaller and building-mounted. In rural areas where traffic is moving faster and buildings are set back from the road, signs should be free-standing and large enough to be read by passing motorists. There has been significant case law related to signs that needs to be addressed by the standards as well (non-commercial signs can no longer be regulated differently from one another based on content).

15 EMV G14 Existing uses may continue, regardless of new zoning that may be enacted in the village.

- 3.10 (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.

Once new village district are drafted, there should be an assessment of the number of nonconformities remaining. It may be desirable to provide more flexibility than the adopted regulations to allow a nonconforming use to expand to fully occupy an existing building, to allow a longer period of discontinuance for properties that are actively being offered for sale or rent, or to allow expansions of nonconforming structures – particularly in historically developed village areas.

16 EMV 5.4 Building heights will remain at 35 feet, consistent with the rest of the town. This ensures that the East Montpelier Fire Department can continue to provide fire protection with existing equipment.

8.2 Height: The distance above ground of a structure as measured vertically from the average finished grade at the base of the structure to the highest point of the structure or roof surface, excluding the chimney [see Section 3.6]. See also Grade, Finished.

Under the adopted regulations, the maximum height is the same in all districts (35 feet). Consider changing how height is measured to encourage more creative roof forms by measuring to the eaves rather than the highest point of the roof and adjusting the maximum height to allow for the tallest buildings (3 stories) in village areas and reducing the maximum height in outlying areas to the equivalent of 2 stories.

17	10.1	Ensure that land use patterns retain the values expressed by citizens, including rural development patterns, protection of agricultural land and open space, and the enhancement of East Montpelier's villages.
	10.1.1	Review and update East Montpelier's zoning districts to ensure that the boundaries, purposes and standards are appropriate to meet the goals of the Town Plan.
	10.4.1	Update zoning bylaws to ensure that the boundaries, purposes and standards are appropriate to achieve the goals of the Town Plan.
	10.1.3	Update the Land Use and Development Regulations to make it easier to permit Planned Unit Developments.
	10.2	Focus new development in villages and growth areas.
	10.2.3	Evaluate the potential for a village zone in North Montpelier.
	10.2.4	Evaluate the potential for growth in the Gallison Hill area.
	EMV G1	The village will become more dense and compact, with distinctive mixed-use and residential areas.
	EMV A2	Adopt village--specific land development regulations for the village planning areas identified in this plan.

As detailed elsewhere in this review, the adopted regulations are not adequately implementing the land use development and conservation goals expressed in the town plan both regard to preserving rural character and working lands, and fostering growth and revitalization of village areas. To more effectively implement the plan, the district boundaries, dimensional standards, densities and uses will need to be revised. The town plan and village master plan both provide direction on the changes desired as discussed elsewhere in this review. To summarize the major recommendations presented in this review:

- Develop new mixed-use and high- to moderate-density residential zoning districts for East Montpelier village generally consistent with the recommendations made in the village master plan. Moderate-density residential districts should also be established in other existing settlement and planned growth areas.
- Revise the commercial and industrial zoning along major highways taking into account suitability of the land for such uses, preventing or repairing strip development, access management and protection of rural character. This will likely include re-shaping districts, adjusting dimensional standards and refining the allowed uses.
- Incorporate a complete set of design standards as necessary to ensure quality building and site design. With such standards in place, it would be possible to allow more commercial and light industrial uses to be permitted rather than conditional, particularly in designated districts like the village or industrial areas.
- Select one or more of the mechanisms presented in this review to guide development in rural areas of town and protect natural resources (strongly recommend requiring conservation subdivisions for larger developments as one of those tools).