
3 DEVELOPMENT STANDARDS

300 General Regulations

The provisions of this subchapter are generally not mandated by statute and the PC has the ability to recommend standards as deemed appropriate. Where there is a statutory requirement or limitation, that is noted below.

3001 APPLICABILITY

3001.A All development must conform to the standards of this subchapter. The Development Review Board may establish more restrictive standards as a conditional of approval in accordance with the development review procedures of Chapter **Error! Reference source not found.**

The standards in this subchapter apply to all applications for proposed development.

3002 ACCESS

3002.A **Applicability.** All land being developed must have vehicular access from a maintained public or private road in accordance with the provisions of this section except that:

- (1) For pre-existing lots without frontage on a maintained public or private road, see Subsection 2005.E; and
- (2) The provisions of this section will not apply to access to undeveloped property used solely for conservation, agricultural or silvicultural purposes, but such access must be brought into conformance with the provisions of this section before it may be used to access any other land use or development.

3002.B **Access Permit.** An applicant for development to be served by a new curb cut on a town road or state highway must provide the Zoning Administrator with a copy of an access permit or letter of intent from the town or state for the curb cut before the Zoning Administrator may issue a zoning permit.

3002.C **Public Works Specifications.** If there is a conflict between a provision of this section and a provision of any Public Works Specifications duly adopted by the Town of East Montpelier, the Public Works Specifications will take precedence.

3002.D **Curb Cuts.** New and modified curb cuts must conform to the following:

- (1) **Number.** A lot must not be served by more than one curb cut except that:
 - (a) The Development Review Board may approve a waiver allowing more than one access on a lot if the applicant can demonstrate that it is necessary to:
 - (i) Accommodate unique physical conditions on the property, including inadequate space to allow turning a vehicle around;
 - (ii) Meet minimum standards for emergency access;

- (iii) Provide access that conforms to the minimum standards of the Americans with Disabilities Act; or
 - (iv) Improve the safety of traffic circulation within the site.
 - (b) The Development Review Board may require a secondary or emergency access for subdivisions or developments when deemed necessary to protect public safety.
 - (c) The Development Review Board may require the elimination, consolidation, redesign or relocation of existing curb cuts to conform to the standards of this section.
- (2) **Width.** Curb cuts must be clearly defined through use of curbing, landscaping or other means to prevent uncontrolled access. The width of a curb cut as measured at the edge of the road right-of-way must not exceed the distance specified below unless otherwise recommended by the East Montpelier Road Foreman or VTrans District Permit Coordinator as applicable (this will include reducing the width of existing nonconforming curb cuts if they are modified or resurfaced):
 - (a) 12 feet for curb cuts serving single- and two-family dwellings
 - (b) 16 feet for curb cuts serving multi-family dwellings
 - (c) 20 feet for curb cuts serving non-residential uses not frequently accessed by trailer trucks
 - (d) 24 feet for curb cuts serving non-residential uses frequently accessed by trailer trucks
- (3) **Sidewalks.** Where a sidewalk exists or will be constructed along the frontage, it must continue across the curb cut (this will include replacement of missing sidewalks across existing nonconforming curb cuts if they are modified or resurfaced).
- (4) **Spacing.** Curb cuts must conform to the standards below unless otherwise recommended by the East Montpelier Road Foreman or VTrans District Permit Coordinator as applicable:
 - (a) A new curb cut must be aligned with any existing curb cut on the opposite side of the road whenever feasible, and if not feasible, the centerlines must be offset by at least 30 feet.
 - (b) A new curb cut must be separated from existing curb cuts on the same side of the road by at least 60 feet (as measured from centerline to centerline).
 - (c) A new curb cut must be separated from an intersection on the same or opposite side of the road by at least 90 feet (as measured from the edge of the road right-of-way to the curb cut centerline).

- 3002.E **Cross Access.** Applicants proposing to subdivide or develop commercial or industrial lots must provide a two-way access connection and access easement to abutting undeveloped, commercial or industrial lots whenever physically feasible (this will not be interpreted to include abutting lots that are in a residential zoning district). As a condition of site plan approval, the Zoning Administrator or Development Review Board may require an applicant to:
- (1) Fully construct the cross access to the edge of his/her property;
 - (2) Partially construct the cross access to the edge of his/her property (ex. install the base but not the final surface); or
 - (3) Provide a legally binding agreement for construction of the access at a later time (when the access would also be constructed on the abutting property).
- 3002.F **Sight Distance.** Trees, shrubs, hedges, fences, walls, signs and similar structures must not obscure vision above a height of 3 feet from any curb cut or intersection. This will not be interpreted to apply to buildings constructed in accordance with district standards.
- 3002.G **Class 4 Roads and other Unimproved Rights-of-Way.** A Class 4 road or other unimproved right-of-way is not a maintained public road and cannot be used to meet the access requirements of these regulations. An applicant may propose to construct, extend, upgrade or maintain a Class 4 road or other unimproved right-of-way to meet Class 3 road standards at his/her expense and in accordance with town policies and specifications so that it may serve to provide access to proposed development under these regulations. No provision of these regulations will be interpreted to require East Montpelier to construct, extend, upgrade or maintain a Class 4 road or other unimproved right-of way so that it may serve to provide access to adjoining property.

Compare to 3.3 of adopted regulations. No change in policy with regard to lots without frontage on a maintained public road and use of Class 4 roads for access. Proposed language more clearly exempts access for conservation, ag and forestry uses. No change in policy regarding limiting lots to one curb cut. Added maximum widths for curb cuts, provisions relating to curb cuts crossing sidewalks, and spacing requirements for curb cuts. Strengthened cross access standard. Added provision related to maintaining sight distance at intersections. Moved driveway standards to Section 3008.

3003 ACCESSORY STRUCTURES

- 3003.A **Applicability.** This section applies to any subordinate structure that is located on the same lot as the related principal structure or use and that is clearly incidental to the principal structure or use. An allowed principal structure or use includes accessory structures in accordance with this section.
- 3003.B **General Standards.** Accessory structures must meet the general standards of Subsection 2005.C.
- 3003.C **Dimensional Standards.** Figure 3-01 establishes specific siting, height and setback standards for certain common accessory structures that will apply in all zoning districts that take precedence over the general standards of Subsection 2005.C.

Figure 3-01. Special Setback and Dimensional Standards for Common Accessory Structures

Structure Type	May Encroach into District Setback			Min Setback <i>lesser of the following or district min setback</i>	Max Height <i>lesser of the following or district max</i>
	Front	Side	Rear		
Arbors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0 ft	12 ft
Berms	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0 ft	4 ft
Driveways	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0 ft if shared 8 ft if not shared	n/a
Fences or gates (see Section 3014)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0 ft	n/a
Fire escapes, handicap ramps or similar structures required to conform to the Americans with Disabilities Act or building codes	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0 ft, but minimum required to conform to ADA or code	n/a
Flag poles	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4 ft	36 ft
Stormwater infrastructure or practices (see Section 3020)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0 ft if shared 4 ft if not shared	n/a
Overhangs, eaves, bay windows, balconies, gutters, cornices, awnings, steps, stoops, window sills, chimneys, projections enclosing habitable space or similar architectural features	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	3 ft beyond the exterior building wall, encroachment into or over a public right-of-way will require approval from the Selectboard	n/a
Porches (unheated space), stoops, awnings or roof overhangs for sheltering people (this does not include carports)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8 ft beyond the exterior building wall, encroachment into or over a public right-of-way will require approval from the Selectboard	n/a
Retaining walls (see Section 3014)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0 ft	n/a
Sidewalks	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0 ft	n/a
Sports, exercise, recreation or play structures (max 200 sf footprint each, larger structures will be subject to district standards)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4 ft	16 ft

Compare to Section 3.8(B) of adopted regulations. Proposed language provides lesser setbacks for certain accessory structures. Accessory structures no longer listed as an allowed use in the use table.

3004 ACCESSORY USES

3004.A **Applicability.** This section applies to any subordinate use that is located on the same lot as the related principal use and that is clearly incidental to the principal use. An allowed principal use includes accessory uses in accordance with this section. If the principal use is discontinued, all related accessory uses must terminate.

3004.B **Exemptions.** The standards of this section do not apply to accessory dwellings, home occupations, home businesses and family childcare homes.

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3004.C **General Standards.** The Zoning Administrator may issue a zoning permit for an accessory use upon finding that the applicant has demonstrated that the proposed accessory use will:

- (1) Support and further the purposes of the related principal use on the same lot;
- (2) Be in common ownership and operation with the related principal use;
- (3) Be subordinate in size and intensity to the related principal use;
- (4) Meet the performance standards of Section 3106; and
- (5) Meet any other standards of these regulations applicable to the proposed use.

Compare to Section 3.8(B) of adopted regulations. Proposed language includes review criteria for accessory uses. Accessory use no longer listed as an allowed use in the use table.

3005 ADAPTIVE REUSE

3005.A **Applicability.** A barn at least 600 square feet in floor area that qualifies as a historic structure (see definition in Subparagraph 5003.H(5)) may be redeveloped and reused for a non-agricultural purpose in accordance with the provisions of this section.

3005.B **Allowed Uses.** A property owner may apply for conditional use approval to use a qualifying barn for one or more of the uses below, irrespective of whether that use is otherwise allowed in the zoning district:

- (1) Any residential use listed in Section 2109 provided that the residential density requirements of the applicable zoning district can be met.
- (2) Retail sales
- (3) Repair service
- (4) Lawn, garden and farm supply sales
- (5) Office, professional, business or administrative service
- (6) Veterinary, pet or animal service
- (7) Restaurant
- (8) Event facility
- (9) Catering or commercial kitchen
- (10) Food or beverage manufacturing
- (11) Wood products, cabinet or furniture manufacturing
- (12) Self-storage services
- (13) Publishing, printing and sign manufacturing
- (14) Media recording or broadcasting studio
- (15) Theater
- (16) Artist gallery or studio
- (17) Museum

- (18) Indoor recreation
- (19) Equestrian facility
- (20) Educational institution
- (21) Specialty school
- (22) Child daycare
- (23) Social club

3005.C General Standards. Adaptive re-use must:

- (1) Occur entirely within the existing structure. Barns may be modified, repaired or re-constructed to accommodate the proposed use provided that:
 - (a) There will be no change in the building footprint, form or massing;
 - (b) The exterior of the barn will retain its historic character and architectural details;
 - (c) Any replacement exterior cladding will be historically appropriate; and
 - (d) The barn will remain eligible for listing as a historic structure under Subparagraph 5003.H(5). The Development Review Board may ask the applicant to obtain a letter from the State Historic Preservation Officer determining whether proposed modifications would affect the building's eligibility for listing on the historic register.
- (2) Meet all other applicable standards of these regulations for the proposed use.

Compare to Section 4.3 of adopted LUDRs. The list of allowed uses has been expanded. The provision that allowed for a barn to be redeveloped with up to four dwelling units irrespective of district densities has been eliminated. Standards for modifying the building have been added.

3006 **CAMPING AND CAMPING UNITS**

3006.A **Applicability.** Any parcel of land that is occupied by or designed to accommodate more than 3 camping units (campers, travel trailers, RVs, cabins, lean-tos, tents, etc.) will be considered a campground and subject to all applicable provisions of these regulations applicable to campgrounds (see Section 3225).

3006.B **General Standards.** A landowner may apply for a zoning permit to locate not more than 3 camping units on a parcel to be used in accordance with the following:

- (1) The applicant must demonstrate that the camping unit(s) conform to the water supply and wastewater disposal standards of Section 3023;
- (2) The camping unit(s) may be stored on the lot year-round, but occupancy of a camping unit must be limited 180 days total in any calendar year; and
- (3) Any camping unit rented out to guests will be considered a short-term rental and must conform to the standards of Section 3211;
- (4) No camping unit may be rented out as a dwelling unit (occupancy for 30 or more consecutive days).

Compare to Section 3.8(B) of adopted regulations. Proposed language increases allowed period of occupancy from 60 to 120 days (covering the summer months for snowbirds) and clarifies that no more than 3 camping units can be located on a property (otherwise it is regulated as a campground). Also includes language referencing short-term rental standards and prohibiting occupancy of camping units as rental units.

3007 CONSTRUCTION-RELATED STRUCTURES AND ACTIVITIES

3007.A **Applicability.** Temporary construction-related structures are permitted in any district on the site of permitted development or in an approved staging area in accordance with the provisions of this section. Construction-related structures and activities may include, but are not limited to, temporary dwelling units, temporary curb cuts and driveways, construction offices, construction trailers, construction dumpsters, storage buildings, portable toilets, fences and signs.

3007.B **Permitting Process.** The permit for the development will include approval of any construction-related structures. Construction-related structures must be removed from the property promptly upon completion of work and before the Zoning Administrator may issue a final certificate of compliance in accordance with Section 4207.

3007.C **Staging Areas.** The Zoning Administrator may issue a zoning permit for the temporary use of land in the *General Business or Rural Business districts as a staging area for an off-site construction project. The Development Review Board may allow the temporary use of a property in any other district as a staging area for an off-site construction project as a conditional use.

Equivalent to Section 3.17 of adopted regulations.

3008 DEMOLITION

3008.A **Applicability.** All demolition must conform to the standards of this section. Any demolition, including demolition activities that do not require a zoning permit under Section 1101, not conforming to the standards of this section will be considered a violation of these regulations.

3008.B **General Standards.** Within 60 days after demolition is complete:

- (1) All structural materials and debris must be removed from the site;
- (2) The site must be restored to a natural grade; and
- (3) Groundcover must be re-established or other appropriate measures taken to prevent erosion.

3008.C **Standards for Historic Structures in Village Districts.** A property owner must obtain a conditional use approval and zoning permit prior to demolishing a historic structure (see Paragraph 5003.H(5)) in the village districts. The applicant must demonstrate at least one of the following:

- (1) The structure is unsafe and blighted to the extent that rehabilitation or relocation is not feasible and that the current condition of the structure is not due to willful neglect;
- (2) The structure has been actively marketed for rent, sale or relocation for at least 6 months at a reasonable rate/price based on the local real estate market and the assessed value of the structure;
- (3) The structure is obsolete and not suitable for any use that would provide a reasonable rate of return; or
- (4) The demolition is part of a redevelopment project that would have a substantial community benefit and further the purposes of the *East Montpelier Town Plan*, *East Montpelier Village Master Plan* and these regulations.

New language. Current regulations do not address demolition.

3009 DRIVEWAYS

3009.A **Applicability.** New, extended or modified driveways serving proposed development must conform to the standards of this section. A driveway must not serve more than 3 lots or principal uses (a vehicular travel way proposed to serve more than 3 lots or principal uses will be considered a road and must conform to the standards of Subsection 3305.A).

3009.B **Public Works Specifications.** If there is a conflict between a provision of this section and a provision of any Public Works Specifications duly adopted by the Town of East Montpelier, the Public Works Specifications will take precedence.

3009.C **Technical Review.** The Zoning Administrator may forward applications for new, extended or modified driveways to the East Montpelier Road Foreman for review and comment. The Development Review Board or Zoning Administrator may condition or deny any approval or permit based on those comments.

3009.D **Design Standards.** Driveways must conform to the standards of Figure 3-02 and the following:

- (1) **B-71 Standard.** The portion of the driveway with the road right-of-way must meet current [VTrans B-71](#) standard.
- (2) **Angle.** Driveways must intersect the road at an angle as close to 90 degrees as feasible given site-specific conditions. Driveways must not intersect the road at an angle of less than 75 degrees if designed for two-way traffic or 60 degrees if designed for one-way traffic.
- (3) **Width.** Driveways must not exceed a maximum width of 24 feet, exclusive of any turnaround area. The Development Review Board may approve a waiver to allow a wider driveway if the applicant can demonstrate that it is necessary to:
 - (a) Accommodate unique physical conditions on the property;
 - (b) Serve trailer trucks;
 - (c) Meet minimum standards for emergency access;

- (d) Meet the minimum standards of the Americans with Disabilities Act; or
 - (e) Provide improved traffic circulation within the site.
- (4) Drainage. Driveways must:
- (a) Be designed to direct run-off to vegetated areas, retention areas, and/or other pervious surfaces in order to promote on-site water retention and filtration (see Section 3019);
 - (b) Not block the flow of drainage in gutters, ditches, catch basins or pipes;
 - (c) Not discharge run-off onto the traveled portion of the road;
 - (d) Not generate run-off that would unreasonably contribute to an accumulation of stormwater or that would exceed the capacity of downstream facilities or infrastructure; and
 - (e) Be installed with culverts, where necessary, designed to carry run-off under the driveway. Such culverts must be sized to convey anticipated peak stormwater flows and be at least 18 inches in diameter, extend at least 2 feet beyond the driveway edges, and installed to minimize erosion damage at the inlet and outlet. It will be the property owner's responsibility to install and maintain such culverts.
- (5) Pull-Offs. A driveway longer than 300 feet and with a width of less than 20 feet must be constructed with pull-off areas not more than 450 feet apart adequately sized and surfaced to accommodate emergency vehicles.
- (6) Turnarounds. A driveway longer than 300 feet must terminate with a parking and turnaround area not more than 50 feet from the principal building that is adequately sized and surfaced to accommodate emergency vehicles.

Figure 3-02. Driveway Design Standards

	Minimum Paved Width	Maximum Grade
Serving 1 lot and not more than 300 ft long	9 ft	12% (average from end to end)
Serving 2-3 lots and not more than 300 ft long	12 ft	10% (average from end to end)
Serving 1 lot and more than 300 ft long	10 ft	12% (average over any 100-ft section)
Serving 2-3 lots and more than 300 ft long	14 ft	10% (average over any 100-ft section)

Compare to Sections 3.3(E) and 6.8(B) of adopted regulations.

Proposed language is consistent with Section 3.3(E). Recommend reducing the length of driveway that triggers requirements for pull-offs and turnarounds to serve emergency vehicles from 500 to 300 feet. May want to confirm with fire department their hose length and ability to stage a response from the road.

Uncertain whether proposed language is consistent with Section 6.8(B). Section 6.8(B) references the Town of East Montpelier Highway Ordinance as a source of standards for driveways. This ordinance does not appear on the town website's list of town ordinances Bruce confirmed that the Highway Ordinance does not exist. Proposed language continues to define a driveway as an access serving not more than 3 lots or principal uses. It includes more specific design standards.

3010 DRIVE-THROUGH FACILITIES

3010.A When drive-through facilities are specifically allowed under these regulations, they must be designed in accordance with the following:

- (1) Stacking lanes (where vehicles queue for service) and service areas must be located to the side or rear of the building.
- (2) Stacking lanes must be clearly signed, marked and separated from travel lanes.
- (3) Stacking lanes must not block access to service drives, parking spaces or loading areas.
- (4) Drive-through traffic must not cause congestion or other unsafe conditions within the site or on the road.
- (5) One or more designated pedestrian crossings must be provided across any stacking lane that separates parking from the building.
- (6) Stacking lanes and service areas must not be located within district setbacks.
- (7) Menu boards must conform to the standards of Paragraph 3108.O.
- (8) Drive-through facilities must be screened to prevent adverse impacts, including but not limited to noise and light trespass, on adjacent properties.

New language. Current regulations do not have standards for drive-throughs.

3011 DWELLING UNITS

3011.A **Applicability.** The standards of this section apply to any structure or portion of a structure used or intended to be used as a dwelling unit.

3011.B **Minimum Unit Size.** The minimum size of a dwelling unit must not be less than:

- (1) 150 square feet for a studio or efficiency unit (one open living area that includes cooking, living and sleeping quarters, as well as sanitation facilities in accordance with Subsection 3011.C);
- (2) 220 square feet for a one-bedroom unit; or
- (3) 220 square feet plus an additional 70 square feet for each additional bedroom (290 sf for two-bedroom, 360 sf for three-bedroom, etc.).

3011.C **Cooking and Sanitation Facilities.** All dwelling units must have safe, functioning cooking and sanitation facilities in accordance with the following:

- (1) A dwelling unit must contain permanent bathroom facilities consisting at a minimum of a toilet, sink, and shower or bathtub. The toilet and shower or bathtub must be within a room or enclosure that is fully separated from other living spaces by walls and one or more doors.
- (2) A dwelling unit must contain permanent kitchen facilities. A kitchen must be a room or portion of a room in which there is a sink, refrigerator, and one or more appliances for heating food.

- (3) Any dwelling unit within a multi-family building must have utility connections for a washing machine and clothes dryer in each unit or must provide a common laundry room in the building with washing machines and clothes dryers accessible to residents.

3011.D **Parking.** All dwelling units must have parking in accordance with Section 3105.

3011.E **Water Supply and Wastewater Disposal.** All dwelling units must have safe, functioning water supply and wastewater disposal systems in accordance with Section 3023.

3011.F **Trash Disposal.** All multi-family dwelling units must have convenient access to trash, recycling and compost storage areas in accordance with Section 3109.

New language. Current regulations do not have standards for dwelling units. The minimum unit size is becoming a more relevant issue in Vermont with growing interest in tiny houses. These are the smallest numbers possible that could conform to international building code standards and you could set higher numbers. Given that the town does not have building codes, this section provides the town with the ability to enforce when it becomes aware of a unit that does not meet minimum housing standards.

3012 ENERGY GENERATION FACILITIES

3012.A **Applicability.** A property owner must obtain a zoning permit prior to installing an energy generation facility not exempted in Subchapter 110 in any district in accordance with the standards of this section. The standards of Subsections A through D apply to energy generation facilities not exempted in Subchapter 110. The standards of Subsection E apply to solar electric generation facilities regulated by the Public Utilities Commission in addition to the standards found in the *East Montpelier Town Plan*.

3012.B **Setbacks.** An energy generation apparatus must be set back a distance equal to its height or more from all property lines or the district minimum setback requirement, whichever is greater, except if it is building mounted.

3012.C **Height.** The height of an energy generation apparatus must conform to the following:

- (1) The height of ground-mounted solar energy generating apparatus must not exceed 24 feet.
- (2) The height of a ground-mounted wind energy generating apparatus must not exceed 150 feet.
- (3) An energy generating apparatus mounted on a building wall must not extend above the lowest portion of the roof.
- (4) An energy generating apparatus mounted on a building roof must not extend more than 12 feet above the roof surface.

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3012.D **Removal.** A facility subject to a zoning permit under these regulations that has been out-of-service for more than 180 days will be considered abandoned and the owner must remove it unless he/she can demonstrate to the Zoning Administrator an intent to resume the energy generation within 12 months of the date the facility went out-of-service. It will be the facility owner's responsibility to demonstrate that a facility is not out-of-service.

3012.E **Screening Requirements.** A ground-mounted solar electric generation facility regulated by the Public Utilities Commission must meet the screening requirements of *Subsection 3107.F for utilities and service areas in addition to all applicable siting standards of the *East Montpelier Town Plan*. If an energy-generating facility will be located within ½ mile of and visible from a scenic road as identified in the *East Montpelier Town Plan*, it must also conform to the standards of Paragraph 3102.G and must be sited to minimize its visibility from the road to the greatest extent feasible.

New language. Current regulations do not have standards for energy generation facilities. Remember that only those facilities not connected to the grid will require a zoning permit under this section. This section also contains screening requirements that would be applied through the CPG process to those facilities that are grid-connected.

3013 EROSION CONTROL

3013.A **Purpose.** This section is intended to promote construction practices on development and redevelopment sites that limit soil disturbance and compaction, and minimize erosion and sedimentation of downstream water bodies.

3013.B **Applicability.** All construction activities that will disturb soil must implement appropriate measures to prevent erosion and sedimentation from adversely impacting nearby properties, public infrastructure or downstream water bodies as set forth in the general standards below.

3013.C **Projects Subject to State Permitting.** Development that obtains a state construction general or individual permit will be assumed to have met the requirements of this section. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.

3013.D **Public Works Specifications.** If there is a conflict between a provision of this section and a provision of any Public Works Specifications duly adopted by the Town of East Montpelier, the Public Works Specifications will take precedence.

3013.E **General Standards.** All construction activities that will disturb soil must be undertaken in accordance with the following practices (for further guidance see the Vermont Agency of Natural Resource's *Low Risk Site Handbook for Erosion Prevention and Sediment Control*):

- (1) Limit the size of the construction area to the minimum necessary to accommodate the proposed development.
- (2) Preserve significant existing trees within the construction area where feasible. Trees to be preserved within the construction area should be protected by fencing that at a minimum encloses the area around their drip line.

- (3) Mark site boundaries to identify the limits of construction (including storage and access areas) with flags or fencing. No soil disturbance or compaction should occur outside the delineated construction area.
- (4) Limit the amount of soil exposed at one time to reduce the potential for erosion by phasing construction.
- (5) Stabilize and maintain the construction entrance to prevent mud from being tracked onto streets.
- (6) Install silt fences to intercept runoff and allow suspended sediment to settle out on the downslope side of construction activities and between disturbed soil and any drainage feature, stormwater inlet or water body.
- (7) Divert any stormwater from upslope areas around the disturbed area with appropriately stabilized berms and/or ditches to prevent the runoff from picking up sediment. Untreated stormwater and sediment must not be diverted to neighboring properties, public rights-of-way or water bodies.
- (8) Treat and filter any water pumped out of the construction area before allowing it to flow off the site or to be discharged to a storm drain or water body.
- (9) Slow any concentrated flows of runoff by installing stone check dams in drainage channels.
- (10) Stabilize exposed soil with seed and mulch or erosion control matting promptly when work in an area is complete.
- (11) Monitor the site to ensure that all sediment and erosion control measures are functioning properly. It is particularly important to check erosion control measures just before and after any significant rainfall.
- (12) Periodically clean, replace and maintain all sediment and erosion control measures until vegetation is permanently established on all disturbed areas.
- (13) Till any compacted soil prior to the final seeding and mulching.
- (14) Stockpile the topsoil removed during construction and spread it back onto disturbed areas prior to the final seeding and mulching. If the quality of the site's topsoil is inadequate to support appropriate vegetative cover, it does not need to be stockpiled and it may be replaced with better quality soil or, if it is retained, it should be amended as needed.

3013.F Erosion Control Plan Required. Applicants for major site plan approval proposing construction activities that will disturb more than 10,000 square feet of soil must submit and implement a professionally prepared erosion control plan in accordance with the *Vermont Standards and Specifications for Erosion Prevention and Sediment Control*.

Erosion control is only mentioned in the adopted regulations for subdivisions, landfilling, extraction and it is at the discretion of the DRB to require an erosion control plan. Proposed language would apply to all development that disturbs soil and a professionally prepared plan would be required if more than 10,000 square feet will be disturbed. There is no duplication with state permitting as applicants can just provide their state permit as evidence of meeting these requirements. Town would

have the authority to enforce against any soil disturbance activities that resulted in erosion irrespective of whether a plan was required or not.

3014 FENCES AND WALLS

3014.A **Applicability.** The provisions of this section apply to all fences and walls not exempted in Subchapter 110. For agricultural fences, see Section 1103.

3014.B **Setbacks.** Fences and walls may be located within district setbacks as specified in Figure 3-01.

3014.C **Height.** The maximum height of fences and non-retaining walls will be 6½ feet unless otherwise approved by the Development Review Board in order to provide adequate screening or security. Further:

- (1) A fence or wall must not obscure vision above a height of 3 feet at an intersection.
- (2) The height of a fence will be measured from the highest part of the fence (including any structural or decorative elements) to the grade immediately below at the point along the fence where that distance is the greatest.

3014.D **Retaining Walls.** Retaining walls must be located and designed as follows:

- (1) No individual retaining wall may exceed 10 feet in height except that pre-existing retaining walls more than 10 feet in height may be repaired and reconstructed to their pre-existing height.
- (2) All retaining walls more than 4 feet in height must be designed by a qualified professional, and must be topped by a fence, hedge or similar barrier. For a system of terraced walls, only the uppermost wall will require a barrier provided that the terraced sections below are not readily accessible from other portions of the property.
- (3) The height of a retaining wall will be measured from the grade at the base of the face of the wall to the grade at the back of the wall immediately above at the location along the wall where those two grades are the furthest apart.
- (4) Terracing of retaining walls is encouraged. To be considered separate walls, two retaining walls must be separated by a horizontal distance of at least 8 feet.

3014.E **Materials.** Unless otherwise approved by the Development Review Board, a fence or wall:

- (1) Must be constructed of permanent material such as wood, chain link, stone, rock, concrete, brick, decorative wrought iron or other materials of similar durability;
- (2) Must be constructed so that any support posts are to the inside and the “finished” or “good” side faces out; and
- (3) Must not be constructed of barbed wire, razor wire or similar materials capable of inflicting significant physical injury except as required to meet state or federal regulations.

New language. Current regulations do not have standards for fences or walls.

3015 GRADING, EXCAVATION OR FILL

3015.A **Applicability.** The provisions of this section apply to all grading, excavating or filling of land not exempted in Paragraph 1101.A(7) or associated with an extraction operation as defined under these regulations. A property owner must obtain a zoning permit for such grading, excavating or filling of land in accordance with the provisions of this section.

3015.B **Waterways or Wetlands.** Excavation and fill is prohibited within surface waters, wetlands and any required buffers to surface waters or wetlands unless the proposed fill will be subject to state permitting and the applicant demonstrates that he/she has obtained all required state permits.

3015.C **Fill Material.** The use of any material other than uncontaminated natural soil for fill is prohibited unless the proposed fill will be subject to state permitting, in which case the conditions of the state permit regarding the fill material will prevail.

3015.D **General Standards.** Grading, excavation and fill must conform to the following unless otherwise approved by the Development Review Board as an element of proposed development subject to a development approval:

- (1) Grading, excavation or fill is prohibited within side and rear setbacks;
- (2) Grading, excavation or fill must not alter the pre-existing grade by more than 5 feet;
- (3) Grading, excavation or fill must not result in a slope steeper than a 2:1 (horizontal-to-vertical) ratio; and
- (4) Grading, excavation or fill must not affect existing drainage patterns on adjacent lots or public rights-of-way.

Compare to Section 3.7 of adopted regulations. Proposed language is consistent with current regulations but more detailed.

3016 MANUFACTURED HOUSING

3016.A **Applicability.** The provisions of this section apply to all manufactured homes, as defined in these regulations, whether located on an individual lot or in a manufactured home park.

3016.B **Foundation.** All manufactured homes must be attached to a permanent foundation system in compliance with the International Conference of Building Officials (ICBO) *Guidelines for Manufactured Housing Installation* and the following:

- (1) All wheels, hitches, axles, transporting lights and removable towing apparatus must be permanently removed prior to installation of the manufactured home.

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- (2) The foundation must be excavated and must have continuous skirting or backfill, leaving no uncovered open areas except for vents and crawl spaces. The foundation must be located below grade or must include masonry skirting.
- (3) All manufactured homes must be anchored to the ground by means of anchors attached both to the frame and with straps extending over the top and completely surrounding the sides and roof. If the home will be located within the Flood Hazard Overlay District, see Section *.

3016.C Individual Lots. A manufactured home on an individual lot will be treated the same as any other type of single-family dwelling under these regulations.

3016.D Pre-Existing Manufactured Home Parks. The following standards apply to manufactured home parks in existence as of the effective date of these regulations:

- (1) The manufactured home park, and any proposed development within it, will be subject to all applicable provisions of these regulations;
- (2) If the park or a portion of the park is within the Flood Hazard Overlay District, see Section *;
- (3) All manufactured homes within the park must conform to the standards of Section 3011;
- (4) A lawfully-existing site within a manufactured home park that is vacant or unoccupied will not be considered abandoned or discontinued under these regulations;
- (5) The following will apply when a manufactured home within the park is replaced:
 - (a) If the replacement home will be located within the Flood Hazard Overlay District, see Section *;
 - (b) The replacement manufactured home must be attached to a permanent foundation in accordance with Paragraph 3016.B; and
 - (c) The replacement manufactured home must not be located closer than 20 feet to any other home within the park. If this standard cannot be met because of the pre-existing configuration of homes within the park, the replacement home must not have a footprint in excess of the previous home occupying the site or 400 square feet, whichever is greater.

3016.E New, Expanded or Converted Manufactured Home Parks. The following standards apply to new, expanded or converted manufactured home parks:

- (1) Manufactured home parks are allowed in all districts where multi-family dwellings are allowed;
- (2) Manufactured home parks must conform to the residential density standards of the zoning district in which they are located;
- (3) A manufactured home park or park expansion or conversion must be designed, reviewed and approved as a *planned unit development in accordance with Section *;

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- (4) Manufactured homes may be replaced with other forms of housing provided that there will be no increase in the total number of units and that the new housing will be:
 - (a) Affordable, as defined in Section * except based on median household income within the park rather than within Washing County or Vermont;
 - (b) Made available to park residents prior to being offered for rent or sale to the general public; and
 - (c) Subject to covenants or restrictions that will preserve their affordability in perpetuity.
- (5) Each manufactured home must be located on a delineated site not less than 4,000 square feet in area;
- (6) A manufactured home must not be located closer than 20 feet to any other home within the park; and
- (7) All the homes within a manufactured home park must be accessed from a single curb cut unless otherwise approved by the Development Review Board to provide adequate emergency access or improve traffic safety.

Compare to Section 4.12. This section has been substantially revised to be more consistent with equal treatment of housing provisions. Current best practice is to treat manufactured home parks the same as other types of housing – like a cluster PUD. Added provisions to allow MHPs to be converted to other forms of housing at the same density.

3017 PONDS

3017.A **Applicability.** The provisions of this section apply to any constructed pond with a surface area of more than 200 square feet or a maximum depth of more than 4 feet. A landowner must obtain a zoning permit to construct, expand or modify such a pond in accordance with the provisions of this section.

3017.B **Waterways or Wetlands.** Construction of a pond within wetlands and any required buffers to surface waters or wetlands is prohibited unless the applicant demonstrates that he/she has obtained all required state permits.

3017.C **General Standards.** Ponds must conform to the following unless otherwise approved by the Development Review Board as an element of proposed development subject to a development approval:

- (1) Ponds are prohibited within zoning district setbacks;
- (2) Ponds must have a grassed spillway system capable of handling stormwater overflow from the pond;
- (3) Stormwater overflow must not be discharged in a manner that would adversely impact downslope properties, public rights-of-way or surface waters; and
- (4) Landowners must manage and maintain ponds so as to not create a nuisance or hazard.

New language. Current regulations do not have standards for ponds.

3018 PORTABLE OR TEMPORARY STRUCTURES

3018.A Landowners must obtain a zoning permit to locate portable or temporary structures on their property to the same extent as comparable permanent structures. This specifically includes, but is not limited to:

- (1) Trailers, containers or unregistered vehicles used for storage; and
- (2) Canopies, portable garages or similar shelter structures.

3018.B A zoning permit for a temporary structure will be limited to 1 year. A temporary structure must be removed from the property prior to the expiration of the zoning permit. The Zoning Administrator may renew a permit for a temporary structure for 1 additional year.

Equivalent to Section 3.17(A) of adopted regulations.

3019 STEEP SLOPES

3019.A **Purpose.** This section is intended to avoid property damage, personal injury and infrastructure damage, and minimize the potential for erosion, slope failure, sedimentation of streams, increased runoff, flooding and contamination of surface waters resulting from development on steep slopes.

3019.B **Applicability.** The provisions of this section apply to any development that will clear or disturb steep slopes. For the purposes of these regulations, steep slopes will be defined as 2,000 square feet or more of contiguous land area with a slope of 15% or greater. Slope will be measured using the most recent lidar data available from the Vermont Center for Geographic Information or the applicant may provide a topographic survey stamped by a licensed Vermont surveyor that delineates all steep slopes within the project area.

3019.C **General Standards.** A landowner must obtain a conditional use approval for any development that will clear or disturb steep slopes. In addition to all other applicable criteria, the applicant must demonstrate that the proposed development:

- (1) Cannot reasonably be accommodated on a portion of the lot not characterized by steep slopes;
- (2) Has been sited and designed to avoid and minimize impacts to steep slopes to the maximum extent feasible;
- (3) Has been designed and engineered with appropriate erosion control measures and stormwater management practices so that there will be no off-site water quality or flooding impacts (see Sections 3013 and 3020);
- (4) Conforms to the standards of Section 3015; and
- (5) Has been designed and engineered to provide safe and adequate vehicular access, including for emergency and service vehicles (see Sections 3002, 3009 and 3305 as applicable).

New language. Current regulations do not have standards for steep slopes. There are some limited protections for 25% or greater slopes in the adopted subdivision standards.

3020 STORMWATER MANAGEMENT

3020.A Purpose. This section is intended to:

- (1) Minimize and/or control the quantity and quality of stormwater run-off;
- (2) Promote stormwater management methods that maintain pre-development hydrology and drainage patterns through project layout, site design, and best management practices that manage stormwater run-off as close to the source as possible;
- (3) Limit clearing and grading to the minimum needed for construction and minimize impacts to natural vegetation;
- (4) Prevent soil erosion and sedimentation resulting from non-point source pollution generated by development;
- (5) Protect surface waters and other natural resources from degradation as a result of development;
- (6) Minimize hazards from flooding and streambank erosion; and
- (7) Prevent damage to, and reduce public expenditures associated with maintaining municipal infrastructure resulting from inadequate stormwater controls.

3020.B **Applicability.** The provisions of this section apply to any development that will increase the amount of impervious surface on a lot.

3020.C **Projects Subject to State Permitting.** Development that obtains a state stormwater permit will be assumed to have met the requirements of this section. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.

3020.D **Public Works Specifications.** If there is a conflict between a provision of this section and a provision of any Public Works Specifications duly adopted by the Town of East Montpelier, the Public Works Specifications will take precedence.

3020.E **General Standards.** All proposed development that will increase the amount of impervious surface of a lot must implement appropriate measures to reduce and manage stormwater to prevent run-off from adversely impacting nearby properties, public infrastructure or downslope water bodies.

3020.F **Design and Engineering Requirements.** Applicants must design and engineer proposed development in accordance with low-impact site design (LID) approaches and green stormwater infrastructure (GSI) best management practices to the maximum extent feasible given the site specific conditions including, but not limited to, soil characteristics and slope. Applicants proposing development:

- (1) Not subject to major site plan approval must demonstrate that appropriate stormwater best management practices will be implemented based on the [GSI Simplified Sizing Spreadsheet](#).
- (2) Subject to major site plan approval and that will increase the amount of impervious surface on a lot by:

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- (a) 2,500 square feet to 10,000 square feet must demonstrate that appropriate stormwater best management practices will be implemented based on the [GSI Simplified Sizing Spreadsheet](#).
- (b) 10,000 square feet or more must submit and implement a professionally prepared stormwater management plan in accordance with the Vermont Stormwater Management Manual.

3020.G **Best Management Practices.** Development that will increase the amount of impervious surface on a lot by 2,500 square feet or more must be designed so that stormwater runoff will be routed through one or more appropriate green stormwater management best management practices (BMPs) in accordance with the following:

- (1) BMPs must be sized and designed to capture 90% of the annual storm events, or the first inch of rainfall. (See the *Simplified GSI Sizing Tool* for methods and calculations.)
- (2) Stormwater from on-site impervious roofs, streets, driveways, parking areas, sidewalks and walkways must be guided to vegetated areas, retention areas, and/or other pervious surfaces in order to promote on-site water retention and filtration.
- (3) Applicants must demonstrate that the proposed width of all roads and driveways is the narrowest possible necessary to provide safe access and circulation in accordance with the provisions of these regulations.
- (4) Applicants must demonstrate that the proposed amount of on-site parking is the minimum necessary to meet the parking demand in accordance with the provisions of these regulations.

3020.H **Post-Construction Soil Depth and Quality.** All disturbed areas on a site not covered by impervious surface, incorporated into a structural stormwater treatment practice, or engineered as structural fill or slope once development is complete, must conform to the following:

- (1) The duff layer and topsoil in areas to be disturbed during construction must be removed and stockpiled onsite in a designated, controlled area that is not adjacent to surface waters, wetlands, floodplains, or river corridors. The duff layer and topsoil must be re-applied to the disturbed areas once construction activities are complete.
- (2) At project completion, the soil in disturbed areas must:
 - (a) Include a topsoil layer with a minimum depth of 8 inches except where tree roots limit the depth of incorporation of amendments needed to meet the criteria.
 - (b) Have had the subsoils below the topsoil layer scarified at least 4 inches with some incorporation of the upper material to avoid stratified layers, where feasible.
- (3) If the stockpiled duff layer and topsoil is not sufficient to amend the graded areas, the applicant must import and establish a minimum 8-inch topsoil layer with subsoils below scarified to at least 4 inches to allow for some incorporation of the topsoil layer.

- (4) The resulting soil must be capable of supporting healthy vegetation and infiltrating stormwater.

Stormwater management is only mentioned in the adopted regulations for subdivisions and it is at the discretion of the DRB to require a stormwater management plan. Proposed language would apply to all development that increases impervious surface, the applicant would need to complete the GSI Spreadsheet if creating 2,500 to 10,000 sf of impervious surface, and would need a professionally prepared plan if creating more than 10,000 square feet. There is no duplication with state permitting as applicants can just provide their state permit as evidence of meeting these requirements. Language is consistent with state rules.

3021 SWIMMING POOLS

3021.A **Applicability.** The standards of this section apply to swimming pools not exempted in Subchapter 110.

3021.B **General Standards.** A landowner may apply for a zoning permit to install a swimming pool to be used for non-commercial, recreational purposes in accordance with the following:

- (1) A swimming pool must be completely enclosed to prevent unauthorized access by a wall, fence or other structure not less than 4 feet in height with a self-closing and self-latching gate.
- (2) An above-ground pool will be considered completely enclosed if its exterior walls are smooth and at least 4 feet in height above grade around its entire perimeter, and if either:
 - (a) The ladder access will be enclosed by a wall, fence, or other structure not less than 4 feet in height with a self-closing and self-latching gate; or
 - (b) Entrance to the pool will be possible only through the use of portable steps or stairs that are removed when the pool is not in use.
- (3) A swimming pool must not be located between the principal building and the road unless the applicant can demonstrate that there is no other feasible location on the property.

Equivalent to Section 3.16 of adopted regulations.

3022 UTILITY FACILITIES

3022.A **Applicability.** The standards of this section apply to utility facilities not exempted in Subchapter 110.

3022.B **District Standards.** Minimum lot size and frontage requirements will not apply to lots housing utility facilities.

3022.C **Site Security.** Utility facilities must be designed and maintained to prevent unauthorized access and protect public safety.

3022.D **Screening Requirements.** A site housing a utility facility must meet the screening requirements of Subsection 3107.F for utilities and service areas.

New language. Current regulations do not have standards for non-exempt utility facilities.

3023 WATER SUPPLY AND WASTEWATER DISPOSAL

3023.A All proposed development requiring a zoning permit under these regulations must conform to applicable state regulations regarding the provision of potable water and disposal of wastewater.

Equivalent to Section 3.18 of adopted regulations.

3024 WETLANDS

3024.A **Purpose.** This section is intended to protect and enhance the overall quality, function and ecological health of the town's natural environment by mitigating the impact of development within wetlands and wetland buffers.

3024.B **Applicability.** The provisions of this section apply to all mapped wetlands and wetland buffers, which include land within 100 feet of Class 1 wetlands, 50 feet of Class 2 wetlands and 25 feet of all other wetlands.

3024.C **General Standards.** Development is prohibited and natural vegetation must be maintained or established within wetlands and wetland buffers except that:

- (1) Water-dependent structures or uses, public recreation facilities and public trails or walkways will be allowed to the extent allowed in the applicable zoning district.
- (2) The vegetation within wetland buffers may be used in conjunction with green stormwater infrastructure (GSI) practices provided that such practices will not significantly compromise the existing functions of naturally vegetated wetland buffers.

3024.D **Nonconforming Sites.** Pre-existing development within wetlands or wetland buffers will be regulated in accordance with the following:

- (1) The pre-existing development may continue.
- (2) A pre-existing building, developed site, or portion of a building or site within a wetland or wetland buffer may be used for any purpose allowed in the zoning district provided that there will be no exterior modifications within the wetland or wetland buffer.
- (3) Redevelopment within wetlands or wetland buffers and new development within wetland buffers may be allowed as a conditional use (see Subsection 3024.E).

3024.E **Conditional Use Criteria.** In addition to all other applicable criteria of these regulations, an applicant seeking conditional use approval for development or redevelopment within wetlands or wetland buffers must demonstrate that:

- (1) The proposed development or redevelopment cannot reasonably be accommodated on any portion of the lot outside the wetland or wetland buffer;

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- (2) The proposed development or redevelopment will not have new or greater (as compared to existing conditions) adverse impact on the natural functions of the wetland and wetland buffer; and
- (3) He/she has contacted the Vermont Department of Environmental Conservation for a determination of whether a state wetland permit is required, and has obtained or intends to obtain a state permit if required. If a state permit is required but has not been obtained, the Development Review Board must condition any approval on the applicant providing a copy of the state permit prior to the Zoning Administrator issuing a zoning permit for the proposed development.

Compare to Section 3.12. Continues to essentially prohibit development in wetlands with some flexibility for recreation and provisions for addressing existing nonconformities.

310 Site Design and Performance Standards

3101 APPLICABILITY

3101.A The provisions of this chapter apply to proposed development as specified in each section. The Development Review Board may establish more restrictive standards as a conditional of approval in accordance with the development review procedures of Chapter **Error! Reference source not found.**

3102 LANDSCAPING

3102.A Purpose. The provisions of this section are intended to:

- (1) Enhance the appearance and quality of development in East Montpelier;
- (2) Provide shade, and reduce heat and glare;
- (3) Control soil erosion and stormwater runoff;
- (4) Screen potentially incompatible land uses and utilitarian site features; and
- (5) Calm traffic, and improve pedestrian safety and comfort.

3102.B **Applicability.** Proposed development subject to major site plan (see Subsection 4304.C) or subdivision approval, including planned unit developments, must provide landscaping in accordance with the provisions of this section.

3102.C **General Standards.** All landscaping required under these regulations must conform to the following:

- (1) **Landscape Plan.** Applicants must submit a landscape plan prepared by a licensed landscape architect or a certified horticulturist if landscaping will be installed. Landscape plans must consist of mixed, layered plantings of trees, shrubs and ornamental plants selected based on site conditions and plant function.
- (2) **Plant Materials.** Plant materials must meet the specifications in Figure 3-03. East Montpelier strongly encourages use of native species and prohibits use of invasive species.
- (3) **Performance Bond.** If landscaping cannot be installed at an appropriate stage in the construction due to time of year or unusual weather conditions, the applicant may install the landscaping within 6 months of the end of construction. The applicant must submit a performance bond to ensure that landscaping will be installed in accordance with the approved plans. The performance bond will be held until the landscaping is completed.
- (4) **Planting and Maintenance.** Landscaping must be:
 - (a) Installed in accordance with accepted nursery and horticultural standards;
 - (b) Watered as necessary for at least one growing season after installation and in drought conditions thereafter;
 - (c) Mulched as appropriate to retain soil moisture and prevent soil erosion or compaction, but not to a depth greater than 3 inches;

- (d) Maintained in an attractive, healthy condition over the life of the associated use and as shown on the approved plans as follows:
 - (i) Dead or dying plants must be replaced within one growing season with a comparable plant (in terms of type, form, size at maturity, etc.) of at least the minimum size requirements specified in Figure 3-03.
 - (ii) Invasive and other “volunteer” plants or weeds must be removed.
 - (iii) Trash and debris must not be allowed to accumulate in landscaped areas.
 - (iv) Plants must be pruned or cut back as called for in the approved plans and in accordance with accepted nursery and horticultural standards.
- (5) **Inspection.** The Development Review Board may require that the Zoning Administrator inspect the site to determine that the plant materials are healthy and that the landscaping is functioning as intended after several growing seasons as a condition of approval. An inspection is recommended when landscaping is integral to ensuring that the proposed development performs as approved (such as within green stormwater infrastructure or riparian buffers, or where there is a specific screening or aesthetic concern, for example).

Figure 3-03. Planting Specifications

Plant Material	Maximum Crown/Spread (at maturity)	Maximum Height (at maturity)	Minimum Caliper (at planting)	Minimum Height (at planting)	Minimum Soil Volume (per plant)	Equivalent Planting Units
Large Tree	40 ft or more	50 ft or more	2.5 inches for single-trunk trees (measured at 6" above grade)	6 ft for multi-trunk trees	1,000 cf	1.0
Medium Tree	30 to <40 ft	30 to <50 ft			500 cf	0.8
Small Tree	<30 ft	<30 ft			250 cf	0.6
Large Shrub	9 ft or more	8 ft or more	n/a	30 in	120 cf	0.5
Medium Shrub	6 to <9 ft	4 to <8 ft	n/a	18 in	60 cf	0.3
Small Shrub	<6 ft	<4 ft	n/a	12 in	15 cf	0.1

Notes

Minimum soil volume will not include any soil below 4 feet in depth (ex. 1,000 cf could equal an area 20' wide by 25' long by 2' deep or an area 10' wide by 25' long by 4' deep).

Minimum soil volume per plant may be reduced by 40% for planting areas landscaped with multiple plants that are not less than 10 ft in any dimension.

Existing, healthy, mature plant materials that will be preserved may be counted towards landscaping requirements at a rate of 120% of the applicable equivalent planting units. When natural vegetation will be used for screening purposes it must be densely branched to the ground and not less than 12 feet in height.

Perennial ornamental plants may be substituted for not more than 30% of the total number of required plants at a rate of 0.1 equivalent planting units. Minimum size at planting must be a #1 container or equivalent.

3102.D **Front Yard Standards.** Proposed development requiring major site plan approval (see Subsection 4304.C) must provide landscaping within the minimum front setback unless the principal building is or will be constructed to the edge of the sidewalk in accordance with the following:

- (1) **Location.** Front yard landscaping must be provided between the edge of the road right-of-way and the frontline of the principal building to:
 - (a) Highlight and enhance entrances to the site and/or free-standing signs located within the front setback;
 - (b) Provide direction to and enhance building entrances;
 - (c) Provide visual breaks along blank building facades;
 - (d) Enhance and shade sidewalks and walkways;
 - (e) Screen parking areas or other utilitarian site elements; and/or
 - (f) Intercept and filter stormwater runoff.
- (2) **Specifications.** Front yard landscaping must conform to the planting specifications in Figure 3-03.
- (3) **Quantity.** Front yards must be landscaped with not less 1.0 equivalent planting unit (EPU) for every 15 feet of lot frontage (exclusive of street trees).
- (4) **Green Stormwater BMPs.** East Montpelier strongly encourages front yard landscaping to also function as green stormwater best management practices (BMPs).

3102.E **Streetscape Standards.** Proposed development must provide street trees along existing and proposed roads in accordance with the following:

- (1) **Location.** Street trees must be planted as follows:
 - (a) Within 5 feet of the edge of the road right-of-way unless otherwise recommended by the Road Foreman or VTrans District Permit Coordinator as applicable; and
 - (b) In a planting strip or a tree well that is not less than 5 feet in any dimension unless otherwise recommended by the Road Foreman or VTrans District Permit Coordinator as applicable.
- (2) **Specification, Size and Spacing.** Street trees must conform to the planting specifications in Figure 3-03, and be sized and spaced as follows:
 - (a) Where there are no existing or proposed overhead utility lines, street trees must be large trees.
 - (b) Where there are existing or proposed overhead utility lines with at least 35 feet of vertical clearance, street trees must be medium trees.
 - (c) Where there are existing or proposed overhead utility lines with less than 35 feet of vertical clearance, street trees must be small trees.
 - (d) Street trees must be planted with a reasonably even, linear spacing as specified below:
 - (i) Large trees must be planted at a minimum ratio of one for every 50 feet of frontage.
 - (ii) Medium or small trees must be planted at a minimum ratio of one for every 30 feet of frontage.
 - (e) The Development Review Board may modify the above requirements

and allow the applicant to:

- (i) Plant medium or small trees if buildings or similar obstructions will conflict with large trees as they mature;
 - (ii) Shift the spacing of street trees to accommodate site features or maintain sight distance.
- (3) **Preservation of Existing Trees.** East Montpelier strongly encourages preservation of existing, healthy, mature trees. The Development Review Board may waive the location, spacing and alignment standards above to allow existing trees within 15 feet of the edge of the road right-of-way to meet street tree requirements.

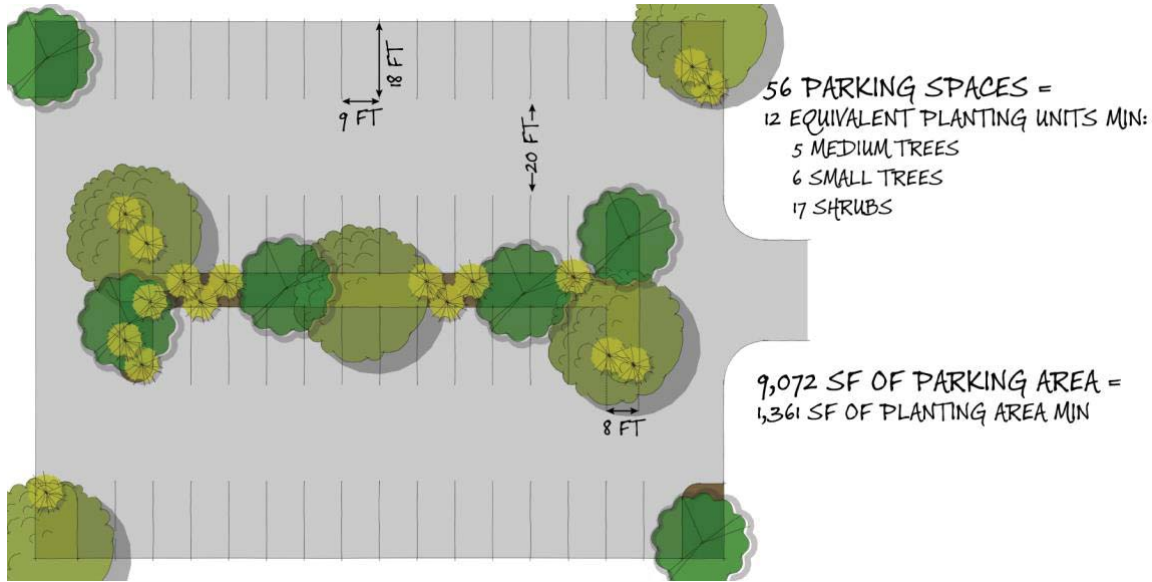
3102.F

Parking Area Standards. Proposed development requiring major site plan approval (see Subsection 4304.C) must landscape existing and proposed off-street surface parking areas in accordance with the following:

- (1) **Small Parking Lots.** Single-loaded parking areas with up to 10 spaces and double-loaded parking areas with up to 20 spaces may be landscaped solely along the perimeter of the parking area provided that the planting area is not less than 8 feet in any dimension.
- (2) **Large Parking Lots.** Single-loaded parking areas with more than 10 spaces and double-loaded parking areas with more than 20 spaces must incorporate landscaped planting islands within the parking area. Parking lot landscaping must be located to:
 - (a) Provide visual breaks within or along rows of parking;
 - (b) Shade parking spaces, sidewalks and walkways;
 - (c) Screen parked vehicles from view at the road and from adjoining properties; and/or
 - (d) Intercept and filter stormwater runoff.
- (3) **Planting Islands.** Planting islands must:
 - (a) Be not less than 8 feet in any dimension; and
 - (b) Equal an area that is not less than 15% of the total area of parking spaces (excluding access aisles).
- (4) **Specifications.** Parking area landscaping must conform to the planting specifications in Figure 3-03.
- (5) **Quantity.** Parking areas located in front of buildings or otherwise visible from public view must be landscaped with not less 1.0 equivalent planting unit (EPU) for every 5 parking spaces. Parking areas located behind buildings or otherwise screened from public view must be landscaped with not less 1.0 EPU for every 8 parking spaces.
- (6) **Expansion of Pre-Existing Parking Areas.** Parking areas that are being expanded must conform to the landscaping requirements of this section as follows:
 - (a) If the increase in the number of spaces and impervious surface will be not more than 30% from what existed prior to [EFFECTIVE DATE], the quantity of landscaping required will be based on the number of new

- spaces.
- (b) If the increase in the number of spaces or impervious surface will be more than 30% from what existed prior to [EFFECTIVE DATE], the quantity of landscaping required will be based on total number of spaces (new + existing).
- (7) Green Stormwater BMPs. East Montpelier strongly encourages parking area landscaping to also function as green stormwater best management practices (BMPs).

Figure 3-04. Illustrated Parking and Parking Lot Landscaping Standards



- 3102.G Scenic Roads. Where proposed development will front on a scenic road as identified in the *East Montpelier Town Plan*, the applicant must:
- (1) Maintain view corridors from the road to the landscape beyond the development site to the greatest extent feasible through use of context-sensitive siting and design techniques to fit the proposed development into the rural landscape;
 - (2) Incorporate existing site elements such as open meadows, tree lines, landmark trees, hedgerows, fence lines and stonewalls into the proposed site design; and
 - (3) Design landscaping to fit into and enhance the site's natural features and settings, and to replicate the appearance of natural vegetation by featuring a mix of plant materials arranged in informally shaped and spaced groupings.

Compare to Sections 5.4(C)(4) and 6.7(G) of adopted LUDRs. Landscaping requirements are largely at the discretion of the DRB under current regulations. Proposed language establishes minimum landscaping requirements for all development subject to major site plan approval. The goal is to ensure consistency in how landscaping requirements are applied to proposed development over time and offer applicants greater certainty with regard to what the landscaping requirements will be.

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Applicants must submit a professionally prepared landscaping plan. The proposed language requires front yards landscaping, street trees and landscaping within parking lots. The PC should consider whether to require landscaping in the General Business district.

3103 OUTDOOR LIGHTING

3103.A Purpose. The provisions of this section are intended to:

- (1) Ensure that outdoor lighting is designed to maintain safety and security;
- (2) Minimize the obtrusive and disruptive aspects of outdoor lighting;
- (3) Reduce energy use by directing appropriate amounts of light where and when it is needed, and using energy-efficient light sources; and
- (4) Prevent light trespass and glare by requiring light fixtures to be shielded and properly aimed.

3103.B **Applicability.** All outdoor lighting must be installed in accordance with the provisions of this section except for public street lights located within rights-of-way (light fixtures mounted on utility poles that are billed to an individual customer are subject to the provisions of this section).

3103.C **General Standards.** All outdoor lighting must conform to the following:

- (1) **Lighting Plan.** Applicants for major site plan approval (see Subsection 4304.C) must submit a lighting plan prepared by a professional lighting engineer or designer if outdoor lighting will be altered or installed.
- (2) **Shielding.** All outdoor light fixtures not exempted in Paragraph 1101.A(18) must be shielded as specified below. All fixtures that are required to be fully shielded must be installed and maintained in such a manner that the shielding is effective.
 - (a) Light fixtures with an initial output greater than 2,000 lumens must be fully shielded; and
 - (b) Light fixtures with an initial output of 2,000 lumens or less:
 - (i) In the Village Business, General Business and Rural Business districts, may be fully or partially shielded; or
 - (ii) In all other districts, must be fully shielded.
- (3) **Total Output.** Total output from:
 - (a) Partially shielded light fixtures on a site must not exceed:
 - (i) 0.25 lumens per square foot of developed lot area max in the Village Business, General Business and Rural Business districts; or
 - (ii) 0.125 lumens per square foot of developed lot area in all other districts.
 - (b) All light fixtures (partially + fully shielded) on a site must not exceed:
 - (i) 2.5 lumens per square foot of developed lot area max in the Village Business, General Business and Rural Business districts; or

- (ii) 1.25 lumens per square foot of developed lot area in all other districts.
 - (c) For lots not more than 2 acres in area, total lot area may be substituted for developed lot area.
- (4) **Uniformity.** Outdoor lighting must be designed to provide a uniform distribution of light in areas regularly traversed by vehicles or pedestrians. Lighting plans that produce a ratio of 3:1 or less between the highest light level and lowest light level within a trafficked area on the site are strongly encouraged and ratios in excess of 10:1 are prohibited.
- (5) **Spot Light Aiming.** Light fixtures containing spot or flood lamps must be aimed no higher than 45° above straight down. When aimed straight down, such light fixtures will be considered fully shielded; when aimed above straight down, they will be considered partially shielded. Use of flood or similar high-intensity lighting is discouraged.
- (6) **Freestanding Lights.** Freestanding light fixtures must not exceed 30 feet in height in the General and Rural Business districts and 24 feet in height in all other districts. Freestanding light fixtures may be located within setbacks. Use of decorative fixtures not more than 12 feet in height is encouraged to light walkways and other pedestrian-oriented spaces.
- (7) **Glare and Light Trespass.** Outdoor light fixtures must be oriented and shielded as necessary to prevent glare and light trespass over adjacent property or rights-of-way.
- (8) **Internally Illuminated Architecture.** The initial lamp output of any architectural element (ex. wall, fascia or canopy edge) that is internally illuminated will be considered partially shielded lighting.
- (9) **Luminous Tube Lighting.** Luminous tube lighting does not require shielding, but it will be considered partially shielded lighting for the purposes of calculating total outdoor light output for the site.
- (10) **Time Limits.** Outdoor lighting must be extinguished by 10 p.m. and not turned back on until the business re-opens unless otherwise approved by the Development Review Board upon finding the lighting necessary to accommodate a use occurring after 10 p.m., protect public safety or secure the property. The Development Review Board may further limit when outdoor lighting may be used as deemed necessary to achieve the purposes of this section and protect the character of the area.

3103.D **Special Use Lighting.** There are additional lighting standards for the following uses:

- (1) **Recreation Facilities.** Lighting for outdoor recreation facilities must conform to the following:
 - (a) Lighting for outdoor recreation facilities will be exempt from the lumens per square foot limit specified in Paragraph 3103.C(3).
 - (b) The facility lighting must be designed to achieve no greater than the minimal levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).

- (c) Light fixtures must be fully-shielded or use internal and/or external louvers or shields to minimize off-site glare and light trespass.
 - (d) Light fixtures must be installed and maintained with aiming angles that permit no greater than 5% of the light emitted by each fixture to project above the horizontal.
 - (e) All field lighting must be extinguished within 30 minutes of the cessation of play. Events must be scheduled so as to complete activity before 10 p.m. Illumination of the facility will be permitted after 10 p.m. only to conclude a scheduled event that did not conclude before the time limit due to unusual circumstances.
- (2) **Sales Lots.** Lighting for the frontage row display area of a sales lot must conform to the following:
- (a) All frontage row lighting must use fully-shielded light fixtures.
 - (b) The total outdoor light output used for illuminating the frontage row display area must not exceed 60 lumens per square foot of the frontage row display area.
 - (c) Lighting for the frontage row will be exempt from the lumens per square foot limit specified in Paragraph 3103.C(3).
 - (d) Any frontage row lighting that exceeds the lumens per square foot limit specified in Paragraph 3103.C(3) must only be turned on when the business is open.
- (3) **Fueling Station Canopies.** Lighting for fueling station canopies must conform to the following:
- (a) All light fixtures mounted on or recessed into the lower surface of the canopy must be fully shielded and use flat lenses.
 - (b) The total light output used for illuminating fueling station canopies must not exceed 60 lumens per square foot of canopy.
 - (c) The total light output used for illuminating fueling station canopies will be counted towards the site's lumens per square foot limit as specified in Paragraph 3103.C(3).

Compare to Section 5.4(C)(6) of adopted LUDRs. Proposed language is more specific and detailed about allowed light levels. It is based on model standards used by other communities in Vermont and around the country. The maximum amount of lighting allowed is based on the size of the development site and the applicant can allocate that "light budget" to illuminate the site as desired.

3104 OUTDOOR USE AREAS

3104.A **Applicability.** Outdoor service, work, display, storage, eating or gathering areas associated with land uses subject to site plan approval must conform to the standards of this section.

3104.B **General Standards.** Outdoor use areas must:

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- (1) Be shown on the site plan and must not be expanded beyond the area depicted unless the site plan is amended in accordance with these regulations;
- (2) Not be located on or extend into public rights-of-way or property except as approved by the East Montpelier Selectboard or the VTrans District Permit Coordinator, as applicable;
- (3) Not be located within required setbacks; and
- (4) Be screened with a fence in accordance with Subsection 3107.G and a vegetated buffer in accordance with Subsection 3107.E. if located within 20 feet of a property line with a residential lot.

3104.C **Conditions of Approval.** The general standards of Subsection 3104.B are minimum requirements. The Development Review Board may place limits or conditions on activities and uses outside an enclosed structure, including but not limited to, hours of operation, lighting, noise, screening and storage, as necessary to maintain the character of the area and further the purposes of these regulations.

Compare to Section 3.13 of adopted LUDRs. Language related to trash and junk moved to Section 3108.

3105 PARKING AND LOADING AREAS

3105.A **Purpose.** The provisions of this section are intended to:

- (1) Ensure that development provides adequate off-street parking and loading areas to avoid congestion on surrounding roads;
- (2) Avoid creating excess parking and loading areas that result in increased flooding and land consumption, and decreased water quality and pedestrian-friendliness;
- (3) Promote quality design and landscaping of parking and loading areas to improve stormwater performance (see Section 3020) and enhance the character of streetscapes and property frontages in East Montpelier.

3105.B **Applicability.** All development must provide off-street parking and all nonresidential or mixed-use development must provide loading areas in accordance with this section.

3105.C **Amount of Parking.** All development must provide an adequate amount of off-street parking to fully meet the needs of the proposed use(s) in accordance with the following:

- (1) **Minimum Number of Spaces.** The minimum number of spaces will be as specified below unless the applicant submits a professionally prepared parking study establishing the amount of parking needed:
 - (a) **Residential Uses:** 2 spaces per detached single-family dwelling or manufactured home and 1 per accessory dwelling. For all other dwellings, 1 per unit plus 0.2 for each bedroom in excess of one (i.e., 1.2 for a two-bedroom unit, 1.4 for a three-bedroom unit, etc.).
 - (b) **Lodging Uses:** 1.2 spaces per guest room.

- (c) Commercial Uses: 1 space per 500 square feet of gross floor area (does not include outdoor use areas). For uses that entirely or primarily occur outdoors, see (f) below.
 - (d) Industrial Uses: 1 space per 1,000 square feet of gross floor area (does not include outdoor use areas). For uses that entirely or primarily occur outdoors, see (f) below.
 - (e) Arts, Entertainment, Recreation, Civic and Community Uses: 1 space per 5 seats or 1 space per 500 square feet of gross floor area if no seats (does not include outdoor use areas). For uses that entirely or primarily occur outdoors or for uses that do not involve public assembly, see (f) below.
 - (f) All Other Uses. The Zoning Administrator will establish the minimum number of spaces for any use that does not fit into a category above based on consideration of parking use and requirements for the proposed use or a functionally similar use in East Montpelier or elsewhere in Vermont.
- (2) Maximum Number of Spaces. The maximum number of parking spaces will be twice the minimum number of spaces based on the applicable ratio in Paragraph (1), above, unless the applicant submits a professionally prepared parking study establishing the amount of parking needed.
 - (3) Calculation of Number of Spaces. The Zoning Administrator will determine which ratio in Paragraph (1), above, applies to a proposed use. When calculating the total number of spaces, any decimal will be rounded up to the nearest whole number. On lots with multiple units or uses, the number of spaces for all units and/or uses may be added together before rounding up any decimal.
 - (4) Modification of Number of Spaces. The Development Review Board may increase or decrease the amount of off-street parking required if:
 - (a) The applicant submits a parking study prepared by a qualified professional demonstrating the amount of parking that will be needed;
 - (b) The applicant meets the requirements for shared parking in Subsection (D) below; or
 - (c) The applicant demonstrates that there is adequate on-street or public parking available within 1,000 feet (as measured along the sidewalk or walkway) of the proposed development to meet all or a portion of the demand.

3105.D Shared or Off-Site Parking. The Development Review Board may approve a cooperative parking plan to allow parking to be shared by two or more uses and/or to be provided off-site in accordance with the following:

- (1) Calculate the total amount of shared parking required by:
 - (a) Determining the minimum parking requirements for each use as if it were a separate use in accordance with Subsection (C) above.
 - (b) Multiply each amount by the corresponding percentages for each of the five time periods set forth in Figure 3-05. The Zoning Administrator will establish percentages for any unlisted use.

- (c) Calculate the total for each time period.
 - (d) Select the highest total as the required minimum number of shared parking spaces.
- (2) Unless shuttle service is provided:
- (a) The parking area and building(s) served must be connected by a sidewalk and/or pedestrian walkway; and
 - (b) Any shared or off-site parking must be located within 1,000 feet of the associated use (as measured along the sidewalk or walkway).
- (3) The applicant must record a written agreement between the owners and lessees, executed for a minimum of 20 years, in the town’s land records. Should the use(s), parties involved, and/or terms of the agreement change in a manner that would alter the amount of parking provided or required, the agreement must be revised, re-approved and re-recorded in accordance with this section. Should the agreement expire or otherwise terminate, the use(s) for which the shared or off-site parking was provided will be considered in violation of this ordinance unless replacement parking is provided in accordance with this section.
- (4) The applicant must submit plans showing the location of the use(s) or structure(s) for which shared or off-site parking will be provided, the location of the parking, and the schedule of times used by those sharing the parking.

Figure 3-05. Shared Parking Percentages

Land Use	WEEKDAY		WEEKEND		Nighttime (12 am – 6 am)
	Daytime (9 am – 4 pm)	Evening (6 pm – 11 pm)	Daytime (9 am – 4 pm)	Evening (6 pm – 11 pm)	
Office or Industrial	100%	10%	10%	5%	5%
Retail	60%	70%	100%	70%	5%
Lodging	50%	100%	50%	100%	100%
Dining	60%	100%	70%	100%	5%
Other Commercial	60%	80%	100%	90%	5%
Residential	50%	90%	80%	90%	100%

- 3105.E **Location Standards.** Off-street surface parking and loading areas must be located as follows:
- (1) Required parking and loading areas must be located on the same lot as the use or structure they serve unless a cooperative parking plan is approved in accordance with Subsection (D) above.
 - (2) Parking and loading must only occur on those portions of the lot indicated for such use on the approved site plan.
 - (3) Required parking and loading areas must be located on the lot in accordance with the following:
 - (a) Parking areas must meet district minimum setback requirements except that:

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- (i) Shared parking areas may be located within a common side or rear setback provided that a cooperative parking plan is approved in accordance with Subsection (D) above.
- (b) The portion of the lot between the frontline of the principal building and the road may only be used for parking as follows:
 - (i) No additional front parking will be allowed in the village zoning districts. Existing front parking areas may be repaired, maintained, redesigned and/or reconstructed provided that there is no net increase in the number of parking spaces or amount of impervious surface.
 - (ii) Front parking will be allowed in the General Business district.
 - (iii) In all other districts, 1 row of front parking not exceeding 10 spaces will be allowed. Existing front parking areas in excess of 10 spaces may be repaired, maintained, redesigned and/or reconstructed provided that there is no net increase in the number of parking spaces or amount of impervious surface.
- (c) No provisions of these regulations will be interpreted to prohibit parking of registered, operable motor vehicles within a residential driveway.
- (d) Except within the General Business district, loading areas must be located to the side or rear of building they serve.

3105.F

Dimensional Standards. Off-street parking and loading areas must conform to the following:

- (1) **Parking Spaces.** Off-street parking spaces must not be less than 9 feet wide by 18 feet deep. Each space must be accessible from a driveway or access aisle except for:
 - (a) Spaces serving a single-family or two-family home; or
 - (b) Tandem parking (a double-depth parking space with one vehicle blocking the other) approved by the Development Review Board for multi-family housing, religious facilities or employee parking.
- (2) **Access Aisles.** The access aisles within a parking lot or structure must be not less than 20 feet wide except that one-way aisles serving angled parking spaces may be not less than 16 feet wide.
- (3) **Loading Areas.** Loading areas:
 - (a) Serving single-unit trucks must have an overhead clearance of at least 10 feet and must be not less than 10 feet wide and 20 feet long, exclusive of access and maneuvering area.
 - (b) Serving tractor trailer trucks must have an overhead clearance of at least 14 feet and must be not less than 12 feet wide and 50 feet long, exclusive of access and maneuvering area.
 - (c) Located within 100 feet of a dwelling unit in a residential or mixed-use zoning district must not be used between the hours of 8 p.m. and 7 a.m. unless otherwise approved by the Development Review Board.

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- (4) Turnarounds. All off-street parking and loading areas must be designed so that vehicles can enter and exit the property without backing out onto a road right-of-way except for parking that serves a single-family or two-family home and that does not require backing out onto an arterial street.

3105.G Design, Construction and Maintenance Standards. Off-street surface parking and loading areas must conform to the following:

- (1) Surface. Off-street parking and loading areas must provide a level hard surface appropriate for the anticipated level of use in all seasons. New parking areas for more than 10 vehicles, drive-through lanes and loading areas must be surfaced with asphalt or concrete. Existing gravel parking areas with more than 10 spaces may be maintained provided the number of parking spaces will not increase (the applicant must pave the parking area if expanding the number of spaces). The Development Review Board may modify the surfacing requirements:
 - (a) To accommodate green stormwater management practices; or
 - (b) For overflow or special event parking that is not frequently used.
- (2) Layout. Perpendicular (90 degree) parking is required unless the applicant demonstrates that due to site-specific conditions angled parking will allow for more efficient site design and compact development footprint. The Development Review Board may modify the dimensional requirements for angled parking spaces and associated aisles.
- (3) Erosion and Drainage. Off-street parking and loading areas must be surfaced, graded, drained and maintained to properly dispose of all stormwater runoff and minimize erosion in accordance with the provisions of Sections 3013 and 3019. Run-off and/or eroded surface materials must not flow onto adjacent roads or properties.
- (4) Markings. Parking areas with more than 10 spaces must demarcate the parking spaces. The markings must be kept clearly visible and distinct. Accessible parking spaces must be marked and signed in accordance with state and federal requirements.
- (5) Screening. Off-street parking areas and loading areas must be screened as follows:
 - (a) Parking areas located within 20 feet of a property line with a residential lot must be screened with a fence in accordance with Subsection 3107.G and a vegetated buffer in accordance with Subsection 3107.E.
 - (b) Loading areas must be screened in accordance with Subsection 3107.F.
- (6) Landscaping. Off-street parking areas must be landscaped in accordance with Subsection 3102.F.
- (7) Snow Removal. Snow storage areas must be shown on the site plan in accordance with the following:
 - (a) Applicants must demonstrate that adequate area is available on the site for snow storage or, if an adequate area does not exist, that snow will be removed from the site.

- (b) Snow must not be stored within buffers, landscaped areas or stormwater infrastructure unless those features are specifically designed for that purpose.
 - (c) If the parking area has more parking spaces than the minimum required for the use under this section, snow may be stored on the excess spaces.
- (8) **Accessible Parking.** Development must provide accessible parking in accordance with applicable state and federal regulations. Accessible spaces will count towards the minimum parking required under this section. The Development Review Board may waive or modify the standards of this section when necessary to comply with state or federal accessible parking requirements.
- (9) **Electric Vehicle Charging.** Electric vehicle charging stations may be provided within off-street parking areas as an allowed accessory use in any zoning district. Additional parking will not be required when parking spaces are converted and/or reserved for charging vehicles and such spaces will count towards the minimum parking required under this section.
- (10) **Maintenance.** Parking and loading areas must be maintained in good condition, free of weeds, dust, trash and debris, and appropriately surfaced and graded to prevent erosion, sedimentation and runoff.
- (11) **Resurfacing of Pre-Existing Parking Areas.** Parking areas that are being resurfaced must meet the following:
 - (a) The number and width of existing curb cuts must be brought into conformance with Section 3002 unless waived or modified by the Development Review Board upon the applicant demonstrating that the redesign would result in a loss of parking spaces below the number required under Subsection 3105.C or would adversely impact traffic circulation on the site.
 - (b) Parking areas with no stormwater management (i.e., sheet flow to the road or off-site) or with failed stormwater management (i.e., catch basins no longer at proper grade to function as designed) must be brought into conformance with Section 3019 unless waived or modified by the Development Review Board upon the applicant demonstrating that he/she is proposing the best fix feasible given pre-existing site conditions.
 - (c) Front parking areas (between the front line of the building and the road) with no or less landscaping than required under Subsection 3102.F must be brought into conformance with landscaping requirements unless waived or modified by the Development Review Board upon the applicant demonstrating that providing landscaping would result in a loss of parking spaces below the number required under Subsection 3105.C or would adversely impact traffic circulation on the site.

Compare to Section 3.11 of adopted LUDRs. Proposed language would reduce parking requirements for most uses (current requirements are high) and has parking reductions for mixed-use development. It continues to allow DRB to modify required number of spaces and approve off-site parking (a mechanism for this is more clearly defined). Proposed language would eliminate the blanket

prohibition on front parking – it prohibits new front parking in the village districts, allows front parking in General Business district and limits the amount of front parking in all other districts (1 row, max 20 spaces). Proposed language includes provisions to bring nonconforming parking lots into conformance with the access, stormwater and landscaping provisions of the regulations when they are being resurfaced.

3106 PERFORMANCE STANDARDS

- 3106.A Purpose. The provisions of this section are intended to protect the character of and quality of life in East Montpelier by preventing proposed development from creating or contributing to adverse off-site impacts that interfere with the reasonable use and enjoyment of nearby property.
- 3106.B Applicability. The provisions of this section apply to all development unless otherwise specified in the subsections below.
- 3106.C Noise. Noise emanating off-site must be muffled, must not be distinct from the background sound level beyond the property line, and must not interfere with the reasonable use and enjoyment of nearby property. The Development Review Board may place specific limits on noise levels and hours of operation as deemed necessary to protect the character of the area. The provisions of this section do not apply to construction activities associated with lawful land development or use, non-commercial use of single- and two-family residential lots, agriculture or forestry.
- 3106.D Glare. Lighting must not be used in such a manner that it produces glare on roads or nearby property. Arc welding, acetylene torch cutting or similar processes must be performed so as not be visible from any point beyond the property line.
- 3106.E Odors. Emission of odors that are readily detectable without special instruments at any point beyond the property line and that interfere with the reasonable use and enjoyment of nearby property is prohibited.
- 3106.F Vibration. Vibration that is easily discernible without special instruments at any point beyond the property line is prohibited. This will not apply to vibration caused by motor vehicle, train or aircraft traffic or during construction. The Development Review Board may approve greater vibration levels for a specified period, frequency and purpose as appropriate to the proposed development and location.
- 3106.G Electrical or Radio Interference. No use or process must create interference with the operation of electrical or radio apparatus beyond the property line.
- 3106.H Junk and Junk Vehicles. Except as specifically authorized as part of an approved use under these regulations, accumulation of junk or storage of more than 3 junk motor vehicles (see Paragraph * and *definitions) outside an enclosed structure is prohibited. Applicants must show the location of any proposed junk or junk motor vehicle storage areas on the site plan and must screen such facilities in accordance with Subsection 3107.F.

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- 3106.I **Waste and Material Storage.** Storage of wastes or materials that attract insects or rodents, or otherwise create a health hazard is prohibited. Applicants must show the location of waste or materials storage facilities (including, but not limited to dumpsters) on the site plan and must screen such facilities in accordance with Subsection 3107.F.
- 3106.J **Particulate Matter and Airborne Solids.** Generation of dust, dirt, fly ash or other airborne solids that accumulate at any point beyond the property line is prohibited except when related to approved construction or extraction activities. Generation of smoke or particulate matter beyond the property line that interferes with the reasonable use and enjoyment of nearby property is prohibited.
- 3106.K **Flammable, Toxic or Hazardous Substances and Wastes.** Flammable, combustible or explosive materials must be stored and handled in conformance with state and federal regulations. Such materials must be securely stored within an enclosed building or tank. Toxic or hazardous substances or wastes must not be released into the environment so as to cause contamination of any potable water supply, sanitary sewer or septic system, watercourse or water body, soil or air except as specifically permitted by the Vermont Agency of Natural Resources.

Adopted LUDRs do not contain performance standards that apply to all development. There are performance standards in Table 2.2 that apply in the industrial district that are similar. Also, the provisions related to junk and junk vehicles are included in this section.

3107 SCREENING

- 3107.A **Purpose.** The provisions of this section are intended to maintain and improve the character and quality of life in East Montpelier by providing:
- (1) A landscaped buffer between incompatible land uses; and
 - (2) Attractive screening of proposed development and site elements that would create or contribute to visual clutter and distraction.
- 3107.B **Applicability.** The provisions of this section apply to any development that requires major site plan approval (see Subsection 4304.C) and are minimum requirements for screening. The Development Review Board may require additional screening as deemed necessary to protect the character of the area and mitigate the impact of incompatible land uses.
- 3107.C **General Standards.** All landscaping required under this section must also conform to the general standards in Subsection 3102.C and the specifications of Figure 3-03.
- 3107.D **Parking Areas.** Off-street parking areas must be screened in accordance with Paragraph 3105.G(5).
- 3107.E **Side and Rear Yards.** Applicants must maintain or establish a vegetated buffer along the side and rear lot lines, except that no buffer will be required if the abutting property is in the Village Business, General Business or Rural Business district or is under common ownership with the subject lot, as follows:
- (1) The buffer must not be less than 8 feet in any dimension.
 - (2) The buffer must be landscaped with (see Figure 3-03):

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(a) Not less than 1.0 equivalent planting unit (EPU) for every 10 feet, if no fence.

(b) Not less than 1.0 EPU for every 15 feet, if combined with a fence.

3107.F **Utilities and Service Areas.** Except within the General Business district, all utility boxes, pump stations, substations, off-street loading areas, trash storage and recycling areas, outdoor storage areas, antennas and satellite dishes, mechanical equipment, and similar above ground utility or service site elements that will be visible from the road or abutting properties must be screened from view with a vegetated buffer as follows:

(1) The buffer must not be less than 8 feet in any dimension.

(2) The buffer must be landscaped with (see Figure 3-03):

(a) Not less than 1.0 equivalent planting unit (EPU) for every 10 feet, if no fence.

(b) Not less than 1.0 EPU for every 15 feet, if combined with a fence.

3107.G **Fences.** Fences used for screening must conform to Section 3014 and also must:

(1) Be completely opaque between a height of 1 and 5 feet above the ground;

(2) Be made of wood, concrete, masonry, stone or metal; and

(3) Not be made of corrugated or galvanized steel or metal sheets, or be chain link fencing with inserts.

3107.H **Scenic Roads.** Where proposed development will front on a scenic road as identified in the *East Montpelier Town Plan*, any proposed screening must conform to provisions of Paragraph 3101.G.

3107.I **Waiver.** An applicant may request that the Development Review Board waive or modify screening requirements upon demonstrating that physical characteristics of the subject property (e.g. change in grade between development site and neighboring properties or distance between the development site and neighboring properties) are adequate to achieve the purposes of this section.

Compare to Section 5.4(C)(4) of adopted LUDRs. Screening requirements are largely at the discretion of the DRB under current regulations. Proposed language establishes minimum screening requirements for all development subject to major site plan approval. The goal is to ensure consistency in how screening requirements are applied to proposed development over time and offer applicants greater certainty with regard to what the landscaping requirements will be.

3108 SIGNS

3108.A **Purpose.** By encouraging the orderly and appropriate design, scale and placement of signs, the provisions of this section are intended to:

(1) Protect public safety, including but not limited to, safe pedestrian and vehicular travel;

(2) Encourage the use of street graphics that are compatible with the community's rural, small town character;

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

3108.B **Applicability.** All signs must be designed and installed in accordance with the provisions of this section. The Zoning Administrator must issue a permit before any sign is erected, enlarged, replaced, reworded, redesigned or altered in any way except as specifically exempted in Subsection 3108.C.

3108.C **Exempt Signs.** The following signs are not subject to these regulations and do not require a zoning permit provided that they are not designed or installed in a manner that would cause them to be prohibited under Subsection 3108.D:

- (1) Public signs or notices erected or required by a government entity.
- (2) Signs that are exempt from state regulation under 10 V.S.A § 494 (such as welcome signs, official traffic control signs, legal notices, hazard warning signs, and municipal information and guidance signs).
- (3) Political campaign signs that are not:
 - (a) Displayed more than 1 month prior to or more than 1 week following an election or vote;
 - (b) Located within a public right-of-way or mounted on a utility pole;
 - (c) More than 6 square feet in area; and
 - (d) More than 4 feet in height.
- (4) Historic markers approved under Vermont's State Historic Site Marker program.
- (5) Noncommercial signs memorializing the names of buildings and when they were constructed that are:
 - (a) An integral architectural element of the building; and
 - (b) Cut into masonry or constructed of bronze or a material of comparable durability and attached to the wall.
- (6) Noncommercial property identification signs (such as street address, mailbox number, building number, or resident's name) that are not:
 - (a) Free-standing (must be mounted on the building or a related accessory structure such as a mailbox);
 - (b) Located within a public right-of-way or mounted on a utility pole; and
 - (c) More than 2 square feet in area.
- (7) Noncommercial directional, traffic control, parking, instructional or warning signs that are not:
 - (a) Located within a public right-of-way or mounted on a utility pole;
 - (b) More than 4 square feet in area; and
 - (c) More than 6 feet in height.

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- (8) Not more than one temporary, unlit, noncommercial sign per lot that is not:
 - (a) Displayed for more than 2 weeks;
 - (b) Located within a public right-of-way or mounted on a utility pole;
 - (c) More than 6 square feet in area; and
 - (d) More than 4 feet in height.
- (9) Not more than one “open” flag or window sign per business establishment that is not:
 - (a) Displayed when the business is closed (flags must be brought in or window signs must be turned off);
 - (b) Located so that it would project into the public right-of-way or sidewalk within a height of 8 feet from the ground or sidewalk surface if a flag; and
 - (c) More than 15 square feet in area if a flag or more than 6 square feet in area if a window sign.
- (10) Not more than one unlit sign per lot advertising the sale or lease of real estate by the owner or an agent that is not:
 - (a) Located within a public right-of-way or mounted on a utility pole;
 - (b) More than 6 square feet in area; and
 - (c) More than 4 feet in height.
- (11) Signs incorporated into machinery or equipment by a manufacturer or distributor, which provide instruction or identify only the product or service dispensed by the machine or equipment (such as signs customarily affixed to vending machines, newspaper racks, ATMs or fuel pumps).
- (12) Flags and insignia of any government, religious, charitable, fraternal or similar organization (see Section 3003 if installing a flagpole).

3108.D Prohibited Signs. The following signs are prohibited:

- (1) Off-premise signs, except for signs on a common scheme premises in conformance with this section or signs that are exempt from state regulation under 10 V.S.A § 494.
- (2) Abandoned signs (see Paragraph 5003.S(2)).
- (3) Signs applied or attached to trees, utility poles, public benches, streetlights or similar public infrastructure.
- (4) Signs placed on any public property or in any public right-of-way, except for sandwich board signs in conformance with this section.
- (5) Signs that obstruct pedestrian traffic or visibility.
- (6) Signs that limit drivers’ sight distance, that could be confused with official highway signs or signals, that unduly distract drivers’ attention, or that otherwise impair public safety.

- (7) Signs illuminated by, composed of, or containing flashing, intermittent, rotating or moving lights, except for electronic message signs in conformance with this section.
- (8) Signs that are comprised of or incorporate laser source lights, searchlights or other high intensity lights.
- (9) Neon signs.
- (10) Signs that move or that incorporate any pennant, ribbon, streamer, spinner, balloon, inflatable or other similar moving, fluttering or revolving device, including but not limited to feather or whip signs.
- (11) Signs that make noise or emit sound.
- (12) Signs that use obscene, lewd, vulgar or indecent words or images not suitable for a general audience.
- (13) Signs more than 150 square feet in area.
- (14) Signs more than 24 feet in height or, if building mounted, above the building's roofline except as specifically authorized in this section.
- (15) Signs on vehicles or trailers that are parked or located for the primary purpose of displaying the sign.

3108.E General Standards. All signs must conform to the following:

- (1) Signs must be structurally sound and located so that they do not pose a threat to pedestrian or vehicular traffic.
- (2) Permanent free-standing signs must be self-supporting structures built on and attached to concrete foundations.
- (3) Signs must be designed to withstand a wind pressure of at least 30 pounds per square foot.
- (4) Signs must be constructed of durable, all-weather materials.
- (5) Signs must not be designed or located in a manner that would obstruct access to any fire escape, window or door.
- (6) Building-mounted signs must not be designed or located in a manner that would obscure architectural features such as cornices, arches, columns, etc.

3108.F Wall Signs. A maximum of 1 wall sign is allowed per establishment as follows:

- (1) Externally illuminated and backlit wall signs are allowed in all zoning districts in conformance with the provisions of Paragraph 3108.P.
- (2) Internally illuminated wall signs are only allowed in the General Business and Rural Business districts in conformance with the provisions of Paragraph 3108.R.
- (3) A wall sign must not exceed a sign area of 1 square foot multiplied by the width of the building facade to which it will be attached up to a maximum of 50 square feet for ground floor uses and 20 square feet for upper floor uses. If the use occupies only a portion of the building, the sign area will be based on the width of the façade associated with the establishment being advertised.

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- (4) A wall sign must have a signable area that is at least 12 inches and not more than 36 inches in height.
- (5) A wall sign must not project more than 8 inches from the wall and must not extend above or beyond the wall on which it will be mounted.

3108.G **Awning Signs.** Signs may be painted, printed or applied on any awning over a window or door as follows:

- (1) Awning signs are allowed in all zoning districts.
- (2) Awning signs must not be illuminated.
- (3) Not more than 25% of the sloping plane or 75% of the valence of an awning may be used as signable area.
- (4) Awning sign content must be limited to the business name, logo and/or address.
- (5) Awnings must be mounted so that no portion is less than 8 feet above the ground or sidewalk surface below.

3108.H **Window Signs.** Signs may be painted, applied or placed on the inside of windows or doors as follows:

- (1) Window signs are allowed in all zoning districts.
- (2) No window sign may exceed 12 square feet in signable area.
- (3) Not more than 20% of the glass surface of a window or door may be used for or obscured by signage.

3108.I **Free-Standing Pole or Monument Signs.** A maximum of 1 free-standing pole or monument sign is allowed per lot as follows:

- (1) Free-standing pole or monument signs are allowed in all zoning districts.
- (2) Externally illuminated signs are allowed in conformance with the provisions of Paragraph 3108.P.
- (3) Internally illuminated and electronic message signs are only allowed in the General Business and Rural Business districts in conformance with the provisions of Paragraph 3108.R and Paragraph 3108.Q.
- (4) No free-standing pole or monument sign may exceed 24 square feet in signable area or 12 feet in height.

3108.J **Projecting or Hanging Signs.** A maximum of 1 projecting or hanging sign is allowed per establishment as follows:

- (1) Projecting or hanging signs are allowed in all zoning districts.
- (2) Externally illuminated signs are allowed in conformance with the provisions of Paragraph 3108.P.
- (3) Internally illuminated and electronic message signs are only allowed in the General Business and Rural Business districts in conformance with the provisions of Paragraph 3108.R and Paragraph 3108.Q.

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- (4) No projecting or hanging sign may exceed 12 square feet in signable area.
- (5) Signs must be mounted so that no portion projects more than 4 feet from the building wall to which it is attached.
- (6) Signs must be mounted so that no portion is less than 8 feet above the ground or sidewalk surface below.

3108.K **Sandwich Board Signs.** A maximum of 1 sandwich board sign is allowed per establishment as follows:

- (1) Sandwich board signs are allowed in the Village Business and Village Mixed Use zoning districts.
- (2) Sandwich board signs must not be illuminated.
- (3) No sandwich board sign may exceed 6 square feet in signable area or 3 feet in height.
- (4) Sandwich board signs must not be placed within public rights-of-way, and must not interfere with pedestrian travel or encroach upon the required accessible path.
- (5) Sandwich board signs may only be displayed during business hours and must be removed when the business is closed.

3108.L **Portable Signs.** A maximum of 1 portable sign is allowed per parcel as follows:

- (1) Portable signs are allowed in the Rural Business and General Business zoning districts.
- (2) Portable signs must not be illuminated.
- (3) No portable sign may exceed 24 square feet in signable area or 6 feet in height.
- (4) Portable signs must not be placed within public rights-of-way and must be readily moveable.

3108.M **Common Scheme Premises Signs.** Signage for a single development site that consists of multiple uses, buildings or lots sharing a common entrance from the road must be designed and located in a comprehensive and coordinated manner as set forth in an approved signage master plan in accordance with the following:

- (1) A common scheme premises may use free-standing signs that advertise multiple uses irrespective of whether the advertised uses are located on the same lot as the sign or the ownership of the lots.
- (2) All signs located on a common scheme premises must be consistent with the site's approved signage master plan. The master plan must include proposed sign locations, sign types, and schematic design concepts for each sign type.
- (3) A zoning permit will not be required to replace a panel or reword the message portion of a common scheme premises sign provided that there is only a change in content and there are no changes to the approved sign location, size, type or design.

3108.N **Fuel Pricing Signs.** In addition to the signs otherwise allowed under this section, a fueling station may have pricing signs as follows:

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- (1) Each pump may have a pricing sign mounted on it that is not more than 2 square feet in area.
- (2) A canopy may have not more than 2 pricing signs mounted on it, each of which is not more than 6 square feet in area.
- (3) Pricing signs may be single-color changeable-copy electronic message signs in conformance with Paragraph 3108.Q and will not be subject to the limitation in number of electronic message signs provided that the message does not change more than once per hour.
- (4) Pricing signs must not be illuminated when the station is not open for business.

3108.O **Menu Signs.** In addition to the signs otherwise allowed under this section, a restaurant may have menu signs as follows:

- (1) One menu sign may be mounted on the building near each entrance that is not more than 2 square feet in area. Such signs must not be internally illuminated or electronic message signs.
- (2) One menu sign may be mounted near each service window for restaurants with drive-through or walk-up service that is not more than 24 square feet in area and, if free-standing, 6 feet in height. Such signs may be internally illuminated.
- (3) Menu signs must not be illuminated when the restaurant is not open for business.

3108.P **Sign Lighting.** External lighting of signs must be designed and located to avoid light trespass and glare, and must conform to the following unless otherwise specified in this section:

- (1) The total light output of external fixtures illuminating a sign must not exceed 5 lumens per square foot of sign area.
- (2) Fixtures used to illuminate signs must be fully-shielded, and located and aimed so that the light falls entirely on the sign except as specified in Paragraph (3) below.
- (3) Signs must be lit from above, except that wall signs may be lit from below or be backlit provided that the light falls entirely on the building wall and the light source is shielded to prevent glare.
- (4) Sign lighting must be turned off by 10 p.m., or the close of business if later and must not be turned back on until the start of business. The Development Review Board may further limit when signs may be illuminated as deemed necessary to achieve the purposes of this section and protect the character of the area.

3108.Q **Electronic Message Signs.** Electronic message signs where allowed must conform to the following unless otherwise specified in this section:

- (1) There must not be more than one electronic message sign per lot.
- (2) Electronic message commercial signs must not exceed the lesser of 12 square feet in area or the maximum sign area specified for the sign type (free-standing, wall-mounted, hanging, projecting, etc.) in this section.

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- (3) Electronic message noncommercial signs must not exceed the maximum sign area specified for the applicable sign type (free-standing, wall-mounted, hanging, projecting, etc.) in this section.
- (4) Electronic message signs must be turned off when the associated business is closed.
- (5) Electronic message signs must not flash, scroll, fade, brighten, dim or otherwise be animated or create the effect of movement.
- (6) The sign message must not change more than once every 15 minutes.
- (7) Electronic message signs that will be illuminated after dark must have their brightness adjust in response to ambient light levels. The total light output of the sign must not exceed 20 lumens per square foot of sign area after dark. The Development Review Board may further limit the intensity of the sign's illumination as deemed necessary to achieve the purposes of this section and protect the character of the area.
- (8) Electronic message signs must be programmed so that in the event of a malfunction, the screen goes black and is not illuminated.

3108.R Internally Illuminated Signs. Internally illuminated signs where allowed must conform to the following unless otherwise specified in this section:

- (1) There must not be more than one internally illuminated sign per establishment.
- (2) The total light output of fixtures illuminating the sign must not exceed 10 lumens per square foot of sign area.
- (3) The sign must not be illuminated when the business is closed.
- (4) Internally illuminated commercial signs must not exceed the lesser of 20 square feet in area or the maximum sign area specified for the sign type (free-standing, wall-mounted, hanging, projecting, etc.) in this section.
- (5) Internally illuminated noncommercial signs must not exceed the maximum sign area specified for the applicable sign type (free-standing, wall-mounted, hanging, projecting, etc.) in this section.
- (6) Internally illuminated wall signs must be designed as channel letter signs.
- (7) Internally illuminated signs must be constructed with either: an opaque background and translucent text and symbols; or a colored background that is darker than the text and symbols
- (8) Internally illuminated signs must not flash, brighten, dim, change color or otherwise be designed to appear animated.
- (9) Not more than 30% of the area of an internally illuminated sign may be used for advertising a product(s) available at the establishment.

3108.S Temporary Signs. Temporary signs are allowed to advertise openings, sales or special events in accordance with the following:

- (1) Property or business owners may purchase annual licenses to display temporary signs in accordance with Figure 3-06.

- (2) The Zoning Administrator may only issue one license per establishment in a calendar year.
- (3) The license for a temporary sign authorizes the holder to display one or more signs provided that the total sign area does not exceed the maximum amount allowed.
- (4) The license holder must:
 - (a) Securely attach a temporary sign to a permanent structure (i.e. building or a permanent ground-mounted sign).
 - (b) Not install permanent footings, posts or similar structures to support a temporary sign.
 - (c) Not illuminate a temporary sign.
- (5) East Montpelier will consider temporary signs that are not readily movable to be permanent signs subject to all applicable provisions of this section.

Figure 3-06. Temporary Sign Fee Schedule

DURATION OF DISPLAY	TOTAL SIGN AREA		
	12 sf max	24 sf max	48 sf max
Not to exceed 14 days in the 12-month period	\$50	\$100	\$200
Not to exceed 14 days in any 6-month period	\$100	\$200	\$400
Not to exceed 14 days in any 3-month period	\$200	\$400	N/A
Seasonal use not to exceed 120 days in the 12-month period	\$400	\$800	N/A

3108.T **Sign Area.** Sign area will be determined in accordance with the following:

- (1) The sign area will include all the elements that serve primarily to communicate the sign's message and not the structural elements supporting or serving as a background for the sign. If the support structure will be visually prominent, designed to attract attention, or otherwise integral to communicating the sign's message, it will be included in the calculation of sign area.
- (2) The area of a sign will be calculated by drawing a rectangle around all the elements that serve to communicate the sign's message. The area of signs that consist of multiple elements may be calculated by drawing a separate rectangle around each element and totaling the area.
- (3) Sign area will only include one side of a double-sided sign. The Zoning Administrator or Development Review Board may waive or modify the sign area requirements for three-dimensional signs.
- (4) The calculated signable area of a non-rectangular sign will be adjusted to compensate for the amount of negative space within the sign area rectangle as follows:
 - (a) No adjustment if the amount of negative space within the sign area rectangle is less than 30%;
 - (b) A 15% reduction in the calculated area if the amount of negative space

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within the sign area rectangle is at least 30% and less than 50%;

- (c) A 30% reduction in the calculated area if the amount of negative space within the sign area rectangle is at least 50% and less than 70%; or
- (d) A 45% reduction in the calculated area if the amount of negative space within the sign area rectangle is 70% or greater.

3108.U **Sign Removal.** A sign must be removed within 90 days of its associated use being changed or terminated as follows:

- (1) For conforming signs, only the message components of the sign associated with the changed or terminated use must be removed or covered, and the support components may remain.
- (2) For nonconforming signs, both the message and support components of the sign associated with the changed or terminated use must be removed.

3108.V **Nonconforming Signs.** Nonconforming signs will be regulated as follows:

- (1) A nonconforming sign must not be relocated unless the relocation will bring the sign into greater conformance with these regulations.
- (2) The support components of a nonconforming sign may be repaired or maintained provided that there is no change in materials, dimensions or location except if the alteration will bring the sign into greater conformance with these regulations.
- (3) The message components of a nonconforming sign may be repaired or maintained by replacing or repainting a sign panel, individual letters or graphics within the same sign area provided that there is no change in the sign's primary content except if:
 - (a) The alteration will bring the sign into greater conformance with these regulations;
 - (b) A business with a nonconforming sign undergoes a name change with no other changes in operation of the business, in which case the sign may be altered, modified or reconstructed to update the business name by replacing or repainting a sign panel, individual letters or graphics within the same sign area;
 - (c) A business with a nonconforming sign undergoes a change in affiliation with no other changes in operation of the business, in which case the sign may be altered, modified or reconstructed to update the affiliation by replacing or repainting a sign panel, individual letters or graphics within the same sign area.
- (4) A nonconforming sign must be brought into conformance with these regulations when:
 - (a) There is a change in the primary content of the sign, except as authorized in Paragraph (3) above;
 - (b) An applicant proposes development that requires major site plan approval (see Subsection 4304.C); or
 - (c) The sign is damaged or deteriorated to the extent that the cost of repair

or restoration will exceed 50% of the replacement value of the sign immediately prior to the damage.

Compare to Section 3.15 of adopted LUDRs. Proposed language includes more detailed lists of signs that are exempt and those that are prohibited. It includes general standards for all signs related to structural integrity and public safety. The proposed language has standards for each type of sign including specifying which districts that sign type is allowed in, what size the sign can be, and whether or not it can be illuminated. Proposed language includes provisions for internally illuminated and electronic message signs that the PC will need to decide whether or not to allow. There are also special standards for fueling stations and restaurants. The annual license system for temporary signs is also new and the PC should decide whether to use that. There is also language about nonconforming signs.

3109 TRASH, COMPOSTING AND RECYCLING STORAGE AREAS

3109.A **Applicability.** The provisions of this section apply to storage of trash, composting and recyclables not associated with a single- or two-family residence. No provision of this section will be interpreted to apply to areas or containers used to compost waste generated on-site.

3109.B **General Standards.** All proposed development subject to site plan review must provide trash, composting and recycling storage areas as follows:

- (1) Trash, compost and recycling storage areas must be located:
 - (a) Within the principal or an accessory building or inside an enclosure located to the side or rear of the building; and
 - (b) Outside required setbacks as shown on the approved site plan.
- (2) All outdoor storage areas for trash, compost and recycling must be located on a hard surface (i.e., asphalt or concrete).
- (3) Trash, compost and recycling storage areas must provide adequate space for the maintenance and servicing of containers.
- (4) Enclosures must be at least 5 feet in height and must obscure all materials and/or containers stored inside.
- (5) Enclosures must be constructed of durable materials such as wood, concrete or brick, and must not be constructed of chain link (with or without inserts).
- (6) Any doors or gates to trash, compost and recycling storage areas must remain closed and latched except when being accessed for deposit, maintenance, service or collection.
- (7) Trash, compost and recycling storage areas must be accessible and convenient for building residents/tenants and for collection vehicles.

3109.C

Compare to Section 3.13(B) of adopted LUDRs. The proposed language expands on the existing requirement with more specific standards.

320 Specific Use Standards

3201 APPLICABILITY

3201.A The provisions of this section apply to the specified use. The Development Review Board may establish more restrictive standards as a conditional of approval in accordance with the development review procedures of Chapter **Error! Reference source not found.**

3202 MULTI-FAMILY DWELLINGS

3202.A **Applicability.** The provisions of this section apply to:

- (1) New buildings that will contain 5 or more dwelling units;
- (2) Multi-building developments that will contain a total of 10 or more dwelling units; and
- (3) Existing buildings that will increase the number of dwelling units and result in 5 or more units in the building.

3202.B **Open Space.** Multi-unit residential buildings must provide residents with outdoor space as follows:

- (1) There must be at least 400 square feet of common open space per dwelling unit that meets the standards below. Common open space must:
 - (a) Be located in one or more areas conveniently accessible to building residents, and no area may be less than 30 feet in any dimension;
 - (b) Be designed with seating areas and other passive recreation facilities to be shared by all residents;
 - (c) Be landscaped with trees, shrubs, groundcover and/or ornamental plants; and
 - (d) Include a children's play area if 50% or more of the units have two or more bedrooms.
- (2) At least 50% of the units must include a private or semi-private outdoor living space (ex. patio, courtyard, porch, balcony) to be accessed from the dwelling unit for the exclusive use of unit residents that is at least 60 square feet in area and not less than 6 feet in any dimension.

3202.C **Bulk Storage.** Each dwelling unit must include a secured, enclosed bulk storage area at least 60 square feet in area and not less than 6 feet in any dimension for the exclusive use of unit residents as follows:

- (1) The storage area may be located within or separate from the dwelling unit.
- (2) The storage area may be located within the building or within an accessory building.
- (3) If the storage area will be located within a private garage, it must be in addition to the area necessary to accommodate any required parking.

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3202.D **Bicycle Parking.** Multi-unit residential buildings must provide residents with at least one, conveniently accessible, secure and covered bicycle parking or storage space per unit. Applicants may demonstrate that this requirement will be met by providing bulk storage or structured parking that is adequately sized and configured to accommodate a bicycle.

3202.E **Pedestrian Access.** Multi-unit residential buildings must be designed with pedestrian access from:

- (1) The public sidewalk or road to any street-facing ground-level residential entrances;
- (2) Parking areas to residential entrances; and
- (3) Residential entrances to service areas (ex. trash or recycling areas) and common open space areas.

3202.F **Mixed-Use Buildings.** Multi-unit, mixed-use buildings must be designed so that the:

- (1) Walls and/or floors that separate residential and non-residential portions of the building will be sound-proofed;
- (2) Private entrance(s) to the dwelling units will be separated from the public and service entrance(s) to the non-residential portions of the building;
- (3) Impact on building residents of service and waste collection areas (noise, light, odors, etc.) serving non-residential uses will be minimized; and
- (4) Common open space, as required above, will be separated and screened from areas of the property accessible to the general public and from service areas.

No comparable language in adopted LUDRs. Goal is to promote good quality multi-family housing and mixed-use development.

3203 ACCESSORY DWELLING

3203.A **An accessory dwelling unit (ADU) must:**

- (1) Be located within or associated with an owner-occupied, single-family dwelling;
- (2) Be clearly subordinate to the primary dwelling;
- (3) Share a driveway with the primary dwelling unless a second access already serves the building in which the ADU will be located or is approved in accordance with Paragraph 3002.D(1);
- (4) Have provisions for independent living, including sleeping, food preparation and sanitation in accordance with Section 3011;
- (5) Not exceed 1,200 square feet or 30% of the habitable floor area of the primary dwelling (prior to the creation of the ADU), whichever is greater;
- (6) Not have more than 2 bedrooms;
- (7) Meet the minimum parking requirements for residential uses of Section 3105;
- (8) Meet the applicable dimensional standards of the zoning district; and

- (9) Meet the water supply and wastewater disposal standards of Section 3023.
- 3203.B A lot must not have more than one ADU.
- 3203.C The landowner must reside on the property, but may live in either the primary or accessory dwelling unit.
- 3203.D An ADU will be considered an accessory use of residential property and will not require site plan approval.
- 3203.E The landowner must retain the ADU in common ownership with the primary dwelling.
- 3203.F An ADU will not be included in the calculation of residential density.
- 3203.G Any change in use, configuration, occupancy or ownership of an ADU that does not conform to the provisions of this section is prohibited unless the landowner obtains a permit to convert the dwelling unit to another allowed use (e.g. single- or two-family dwelling) in conformance with all applicable provisions of these regulations.

Compare to Section 4.2 of adopted LUDRs. Proposed language would increase in the maximum unit size from the greater of 600 square feet or 30% of principal dwelling to 900 square feet or 30% of principal dwelling

3204 HOME OCCUPATION

3204.A A home occupation must:

- (1) Not have an adverse effect on the character of the area;
- (2) Not generate regular traffic in excess of what is typical of other uses in the area;
- (3) Meet the performance standards of Section 3106;
- (4) Be open to customer and delivery traffic only between the hours of 7 a.m. to 7 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday;
- (5) Not be primarily retail in nature, except that retail sales of goods manufactured on the premises and ancillary sales of products directly related to the provision of a personal service (e.g. sales of hair care products by a hair stylist) and internet / mail-order businesses that do not generate customer traffic will be allowed;
- (6) Not provide repair services for vehicles, equipment or other larger goods;
- (7) Not occupy more than 50% of the habitable floor area of the dwelling and/or more than 1,000 square feet in one or more accessory buildings;
- (8) Not employ more than 2 people who do not live in the associated dwelling and who work on-site;
- (9) Provide employee and/or customer parking when necessary (in addition to the parking required for the dwelling unit) in accordance with Section 3105 as follows:
 - (i) If there will not be regular customer traffic, 1 parking space for

each non-resident employee; or

- (ii) If there will be regular customer traffic, the number of spaces required under Subsection 3105.C based on the floor area devoted to the home occupation; and

- (10) Not have any outdoor storage or use areas, including product display or parking of heavy vehicles or equipment outside an enclosed structure.

3204.B A home occupation may have not more than 1 sign and must conform to all applicable standards of Section 3107.

3204.C A home occupation will be considered an accessory use of residential property and will not require site plan approval.

3204.D Any change in use, intensity, floor area, configuration, occupancy of the associated dwelling or ownership of a home occupation that does not conform to the provisions of this section is prohibited unless the landowner obtains a permit to convert the home occupation to another allowed use in conformance with all applicable provisions of these regulations.

Compare to Section 4.10(B) of adopted LUDRs. This use is mandated by state law. Proposed language adds standards for amount of space devoted to the home occupation and hours of operation. Other standards remain the same – number of employees, no retail or repair services, performance standards, etc.

3205 HOME BUSINESS

3205.A A home business must:

- (1) Not have an adverse effect on the character of the area;
- (2) Meet the performance standards of Section 3106;
- (3) Be open to customer and delivery traffic only between the hours of 7 a.m. to 7 p.m. unless otherwise established as a condition of approval;
- (4) Not occupy more than 50% of the habitable floor area of the dwelling, but may occupy any amount of space in one or more accessory buildings;
- (5) Not employ more than 10 people who work on-site (including those residing in the associated dwelling);
- (6) Provide parking in accordance with Section 3105; and
- (7) Design and maintain any outdoor storage or use areas in accordance with all applicable provisions of these regulations and any conditions of approval (see Section 3104).

3205.B A home business may have signage as allowed in Section 3107 for the applicable zoning district.

3205.C The business owner or operator must live in the associated dwelling.

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3205.D A home business will require site plan approval.

3205.E Any change in use, intensity, floor area, configuration, occupancy of the associated dwelling or ownership of a home business that does not conform to the provisions of this section is prohibited unless the landowner obtains a permit to convert the home business to another allowed use in conformance with all applicable provisions of these regulations.

Compare to Section 4.10(C) of adopted LUDRs. Proposed language adds standards for amount of space devoted to the home occupation and hours of operation. It changes the maximum number of employees from 4 non-resident employees to 10 employees (resident and non-resident).

3206 FAMILY CHILDCARE HOME

3206.A A family childcare home must:

- (1) Be operated by a resident of the dwelling;
- (2) Be registered by the state; and
- (3) Not care for more than 6 children on a full-time basis (more than 4 hours per day) and 4 children on a part-time basis (not more than 4 hours per day), not including any children who live in the home.

3206.B A family childcare home may have not more than 1 sign and must conform to all applicable standards of Section 3107.

3206.C A family childcare home will be considered an accessory use of residential property and will not require site plan approval.

3206.D Any change in use, intensity or ownership of a family childcare home that does not conform to the provisions of this section is prohibited unless the landowner obtains a permit to convert the family childcare home to another allowed use (e.g. daycare) in conformance with all applicable provisions of these regulations.

Compare to Section 4.10(A) of adopted LUDRs. This use is mandated by state law. Adopted LUDRs do not require a zoning permit for family childcare homes. Proposed language would require a zoning permit

3207 RESIDENTIAL CARE OR GROUP HOME

3207.A A residential care or group home must:

- (1) Be licensed by the state;
- (2) Not be occupied by more than 8 people with a disability; and
- (3) Not be located within 1,000 feet of another residential care or group home (as measured between the two closest points along the property lines).

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3207.B A residential care or group home will be considered a by-right use of residential property and will require permits to the same extent as a single-family dwelling under these regulations.

3207.C For larger facilities, see Section 3226.

Equivalent to Section 4.9 of adopted LUDRs. This use is mandated by state law.

3208 BED AND BREAKFAST

3208.A A bed and breakfast must:

- (1) Be located within a single-family dwelling and/or accessory building(s) to a single-family dwelling;
- (2) Be operated by a resident of the property;
- (3) Be licensed by the state;
- (4) Not have more than 6 guest rooms;
- (5) Not house any guest for a continuous period of 30 days or more; and
- (6) Not offer meals to the general public.

3208.B A bed and breakfast must provide guest parking in accordance with Section 3105, including meeting the minimum parking requirements for lodging uses. Guest parking must not be located within the driveway and must conform to the standards of Section 3105.

3208.C A bed and breakfast may have not more than 1 sign and must conform to all applicable standards of Section 3107.

3208.D A bed and breakfast will be considered an accessory use of residential property and will not require site plan approval.

Adopted LUDRs define B&B but do not have specific standards. Proposed language is consistent with that definition.

3209 INN

3209.A An inn must:

- (1) Be located within a single-family dwelling and/or accessory building(s) to a single-family dwelling;
- (2) Have a resident manager;
- (3) Be licensed by the state;
- (4) Not have more than 12 guest rooms; and
- (5) Not house any guest for a continuous period of more than 30 days.

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- 3209.B An inn may offer meals or other services (spa, fitness center, meeting rooms, etc.) to the general public as a conditional use.
- 3209.C An inn must provide guest parking in accordance with Section 3105, including meeting the minimum parking requirements for lodging uses. Guest parking must not be located within the driveway or between the road and the dwelling.
- 3209.D An inn may have signage as allowed in Section 3107 for the applicable zoning district.
- 3209.E An inn will require site plan approval.

No comparable language in adopted LUDRs.

3210 ROOMING AND BOARDING HOUSE

3210.A A rooming and board house must:

- (1) Be located within a single-family dwelling and/or accessory building(s) to a single-family dwelling;
- (2) Be operated by a resident of the property;
- (3) Not have more than 12 rental rooms;
- (4) Provide all tenants with a private, secured bedroom for their exclusive use;
- (5) Not house more than two unrelated adults per rental room;
- (6) Rent rooms for a fixed period of not less than 30 days; and
- (7) Provide 2 parking spaces for the single-family dwelling and 1 parking space for each rental room in accordance with Section 3105.

3210.B A rooming and boarding house may have not more than 1 sign and must conform to all applicable standards of Section 3107.

3210.C A rooming and boarding house will require site plan approval.

3210.D A rooming and boarding house will be considered a multi-family dwelling under these regulations if the rental rooms have provisions for independent living, including sleeping, food preparation and sanitation in accordance with Section 3011.

No comparable language in adopted LUDRs (boarding house is listed as a permitted use in current Residential-Commercial district but is not defined and there are no standards for the use).

3211 SHORT-TERM RENTAL

3211.A A short-term rental must:

- (1) Be located within a dwelling and/or accessory building(s) to a dwelling that is occupied by an owner or a tenant with a lease agreement for a period of not less than 12 months;

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- (2) Have the owner or tenant living in the dwelling for not less than 150 days within any calendar year;
- (3) Not be rented for more than 120 days in any calendar year;
- (4) Not house any guest for a continuous period of 30 days or more; and
- (5) Be limited to a maximum number of guests that does not exceed twice the number of bedrooms in the dwelling.

3211.B A short-term rental must not have a commercial sign.

3211.C A short-term rental will be considered an accessory use of residential property and will not require site plan approval.

3211.D A dwelling that is being used as a short-term rental that does not meet the owner/tenant occupancy requirement above will be considered a hotel or motel under these regulations.

No comparable language in adopted LUDRs.

3212 HOTEL OR MOTEL

3212.A A hotel or motel must:

- (1) Be limited to a maximum number of guestrooms that does not exceed 1 per 400 square feet of gross floor area;
- (2) Be licensed by the state;
- (3) Not house any guest/tenant for a continuous period of 30 days or more except in an extended stay room that meets the standards below; and
- (4) Provide at least 50 square feet of common open space for each standard guestroom and 100 square feet for each extended stay room that will be:
 - (a) Located in one or more areas conveniently accessible to guests/tenants with no area being less than 30 feet in any dimension;
 - (b) Designed with seating areas and other passive recreation facilities to be available to all guests/tenants; and
 - (c) Landscaped with trees, shrubs, groundcover and/or ornamental plants.

3212.B Extended stay rooms must:

- (1) Provide guests/tenants with a private, secured space for their exclusive use;
- (2) Not house more than two unrelated adults; and
- (3) Meet the minimum requirements for independent living of Section 3011.

3212.C A hotel or motel may include accessory uses such as restaurants, event facilities, meeting spaces, fitness centers or spas that are open to the general public.

No comparable language in adopted LUDRs.

3213 SALES LOT

3213.A The provisions of this section apply to:

- (1) New sales lots; and
- (2) Existing sales lots that will be modified, resulting in the expansion, redesign or relocation of the display area (this will not be interpreted to include resurfacing of display areas).

3213.B A sales lot must:

- (1) Only display or store merchandise in designated display or storage areas as shown on the approved site plan;
- (2) Not locate display or storage areas within minimum setbacks for the applicable zoning district;
- (3) Not display or store merchandise within travel ways (driveways, parking aisles, sidewalks, etc.), fire lanes, loading areas, service areas, or required customer/employee parking spaces;
- (4) Screen display or storage areas that are located within 20 feet of a property line with a residential lot with a fence and vegetated buffer in accordance with Section 3107;
- (5) Display all merchandise in a static position at ground level (no raised, moving, revolving platforms, pedestals, ramps, mounds, etc.);
- (6) Provide a buffer at least 16 feet deep between the edge of the right-of-way and the display area landscaped with not less than 1.0 equivalent planting unit for every 20 feet of display area frontage (see Section 3101) that conforms to the planting specifications in Figure 3-03;
- (7) Not locate any merchandise or signs within the required buffer except as specifically allowed below:
 - (a) One permanent sign that meets the applicable standards of Section 3107 may be located within the buffer; and
 - (b) One display area not more than 320 square feet in area that meets the minimum front setback requirement for the applicable zoning district may be located within the buffer and may be hard surfaced.

3213.C Any area used for the display or storage of merchandise must be paved. The Development Review Board may waive this requirement upon the applicant demonstrating that a non-paved surface will be suitable to accommodate the type and amount of goods, type, amount and frequency of traffic, and/or time of the year or length of time that the area will be used without causing erosion or other damage. This will include allowing for surfaces designed to function as a green stormwater practices (see Section 3019).

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- 3213.D Any area used for the display or storage of merchandise will be considered an impervious surface and included in the calculation of lot coverage. The Development Review Board may waive this requirement upon the applicant demonstrating that a display or storage area has been specifically designed and will be maintained to function as a pervious surface in accordance with green stormwater practices (see Section 3019).
- 3213.E Any area used for the display or storage of vehicles being offered for sale will not be considered a parking lot and will not be subject to the provisions of Section 3105.
- 3213.F See special lighting standards for sales lots in Paragraph 3103.D(2).
- 3213.G Existing display areas that are being modified must meet the following:
- (1) The number and width of existing curb cuts must be brought into conformance with Section 3002 unless waived or modified by the Development Review Board upon the applicant demonstrating that the redesign would adversely impact traffic circulation on the site.
 - (2) Display areas with no stormwater management (i.e., sheet flow to the road or off-site) or with failed stormwater management (i.e., catch basins no longer at proper grade to function as designed) must be brought into conformance with Section 3019 unless waived or modified by the Development Review Board upon the applicant demonstrating that he/she is proposing the best fix feasible given pre-existing site conditions.
 - (3) Display areas with no or less buffers and landscaping than required under Subsection 3213.B must be brought into conformance with those requirements unless waived or modified by the Development Review Board upon the applicant demonstrating that the display area cannot reasonably be relocated outside the required buffers and that the resulting reduction in display area would adversely impact business operations.
- 3214 **REPAIR SERVICE**
- 3214.A A repair service must:
- (1) Carry out all repair or service activities within an enclosed building;
 - (2) Carry out any body work, painting or other activities that will produce dust, fumes or odors within a building with a properly functioning ventilation system that meets state and federal requirements; and
 - (3) Locate any washing, lubrication, hydraulic or similar equipment within a building with a properly functioning system for collecting and preventing release of oils or other hazardous materials that meets state and federal requirements.
- 3214.B Vehicles or other goods, including those awaiting repair or pick-up, must not be parked or stored within minimum required setbacks for the applicable zoning district.
- 3214.C All outdoor storage associated with the repair service must meet the standards of Section 3104.

No comparable language in adopted LUDRs.

3215 FUELING STATION

3215.A The provisions of this section apply to:

- (1) New fueling stations;
- (2) Existing fueling stations being modified, resulting in the relocation of the fuel storage tanks and/or fuel pumps;
- (3) Existing fueling stations being modified, resulting in a new building or an addition to an existing building of 1,000 square feet or more; and
- (4) Existing fueling stations being expanded, resulting in an increase in the number of fuel pumps.

3215.B Fueling stations must:

- (1) Be located at least 500 feet from any other fueling station as measured between the property lines at their closest point (this will apply only to new fueling stations);
- (2) Be located on a lot that has at least 150 feet of frontage and is at least 20,000 square feet in area;
- (3) Locate all fuel pumps and islands at least 30 feet from side and rear lot lines; and
- (4) Not locate fuel pumps and islands between the frontline of the principal building and the road;
- (5) Not locate accessory equipment such as self-service vacuums or air pumps within minimum required setbacks for the applicable zoning district and within 20 feet of the property line with a residential lot; and
- (6) Screen fueling areas that are located within 20 feet of a property line with a residential lot with a fence and vegetated buffer in accordance with Section 3107.

3215.C New or replacement fuel station canopies must:

- (1) Not extend over minimum required setbacks for the applicable zoning district or public rights-of-way;
- (2) Not incorporate franchise designs or corporate identification elements;
- (3) Be architecturally integrated with the principal building through the use of the same or compatible materials, colors, roof pitch and design features;
- (4) Have illumination only on the underside (illuminated fascia are prohibited) with light fixtures that are recessed into the underside of the canopy so as not to protrude below the canopy surface by more than 2 inches in accordance with Paragraph 3103.D(3).

3215.D Fueling stations may have pricing signs in accordance with Subsection 3108.N.

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3215.E Electric car charging stations located within a parking lot or structure will not be considered a fueling station and will not be subject to the provisions of this section.

Compare to Section 4.8 of adopted LUDRs. Proposed language adds additional details regarding canopy design and electric vehicle charging. It establishes minimum separation distances between fueling stations.

3216 CARWASH

3216.A The provisions of this section apply to any carwash established as a permanent use. They do not apply to any temporary car-washing events or the washing of vehicles on the vehicle owner's property.

3216.B A carwash must:

- (1) Carry out all washing and mechanized drying activities within an enclosed building except that self-service bays may be open on two sides;
- (2) Not operate between the hours of 9 p.m. and 7 a.m.;
- (3) Not locate accessory equipment such as self-service vacuums or air pumps within minimum required setbacks for the applicable zoning district or within 20 feet of the property line with a residential lot;
- (4) Screen vehicular use areas that are located within 20 feet of a property line with a residential lot with a fence and vegetated buffer in accordance with Section 3107;
- (5) Contain all wastewater on-site and prevent it from running off the property or into municipal storm drains or roadside ditches; and
- (6) Have a properly functioning wastewater capture and recycling system.

No comparable language in adopted LUDRs.

3217 LAWN, GARDEN, FARM SUPPLY, BUILDING SUPPLY SALES AND LUMBERYARDS

3217.A Lawn, garden, farm, building supply sales and lumberyards must:

- (1) Only display or store merchandise outside an enclosed structure in designated display or storage areas as shown on the approved site plan;
- (2) Not locate outdoor display or storage areas within minimum setbacks for the applicable zoning district;
- (3) Not display or store merchandise within travel ways (driveways, parking aisles, sidewalks, etc.), fire lanes, loading areas, service areas, or required customer/employee parking spaces;
- (4) Screen display or storage areas that are located within 20 feet of a property line with a residential lot with a fence and vegetated buffer in accordance with Section 3107; and

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- (5) Provide a buffer at least 16 feet deep between the edge of the right-of-way and the display area landscaped with not less than 1.0 equivalent planting unit for every 20 feet of display area frontage (see Section 3101) that conforms to the planting specifications in Figure 3-03.

3217.B Any area used for the display or storage of merchandise will be considered an impervious surface and included in the calculation of lot coverage. The Development Review Board may waive this requirement upon the applicant demonstrating that a display or storage area has been specifically designed and will be maintained to function as a pervious surface in accordance with green stormwater practices (see Section 3019).

No comparable language in adopted LUDRs

3218 OPEN MARKET OR AUCTION HOUSE

3218.A The provisions of this section do not apply to temporary sales or auctions of goods on any property that occur for not more than 3 contiguous days and a total of 12 days in any calendar year in accordance with all other applicable provisions of these regulations.

3218.B Unless otherwise approved by the Development Review Board, an open market or auction house must:

- (1) Indicate all structures (permanent and temporary) and open areas intended to be used for the display or storage of goods being offered for sale on the approved site plan;
- (2) Not store goods being offered for sale outside an enclosed structure when the business is closed to patrons;
- (3) Not use an amplified sound system that will be audible off the premises; and
- (4) Be limited to operating between the hours of 8 a.m. and 9 p.m.

3218.C Open markets or auction houses that will operate on a seasonal basis must remove all goods stored outside an enclosed building, temporary structures, and signs (message component only, support structure may remain in place) during the off-season.

3218.D The Development Review Board may modify the parking requirements of Section 3105 for an open market or auction house that will be operated on a seasonal or limited basis.

3218.E If an applicant requests a modification from the requirements above, the Development Review Board must find that the use as proposed will not result in adverse off-site impacts.

No comparable language in adopted LUDRs

3219 RESTAURANT, BAR, NIGHTCLUB OR EVENT FACILITY

3219.A A restaurant, bar, nightclub or event facility must:

- (1) Be licensed by the state and/or town as applicable;
- (2) Not have outdoor seating or other outdoor areas for patron use except as specifically shown on an approved site plan;
- (3) Not have amplified music playing from outside an enclosed building or from within an open-air structure unless otherwise approved by the Development Review Board; and
- (4) Provide sound-proofing for any wall, ceiling or floor that is shared with a residential use.

3219.B Restaurants may have menu signs in accordance with Subsection 3108.0.

No comparable language in adopted LUDRs

3220 MOBILE FOOD SERVICE

3220.A Mobile food service must:

- (1) Be licensed by the state;
- (2) Not be located within any minimum required setback, buffer or right-of-way unless the East Montpelier Selectboard approves a location within a public right-of-way;
- (3) Be located entirely on private property unless the East Montpelier Selectboard approves a location on public property;
- (4) Not interfere with pedestrian or vehicular access or circulation, or with sight distance at any intersection; and
- (5) Provide appropriate receptacles for trash, recyclables and food waste.

3220.B A mobile food service unit or vehicle must be capable of being moved and remain registered, inspected and insured (if a motor vehicle) otherwise the use will be considered a restaurant (see Section 3219).

3220.C Mobile food service may be located within an off-street parking area provided that it will not reduce the number of parking spaces below the minimum amount needed to accommodate the use(s) intended to be served by the parking.

3220.D There will be no minimum parking requirements for mobile food service. Any parking provided must meet the standards of Section 3105.

3220.E Signs must meet the standards of Section 3108 and will be limited to:

- (1) One or more signs mounted on the vending unit not to exceed a total sign area of 20 square feet, exclusive any menu sign;
- (2) Menu signs in accordance with Subsection 3108.0;
- (3) Awning signs in accordance with Subsection 3108.G; and

- (4) Sandwich board signs in accordance with Subsection 3108.K.

No comparable language in adopted LUDRs

3221 SELF-STORAGE SERVICES

3221.A Self-storage services must:

- (1) Not have outdoor or unenclosed storage unless specifically approved by the Development Review Board in accordance with the standards of Section 3104;
- (2) Not store hazardous materials, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage or waste oil;
- (3) Not have any stored goods displayed for sale except in accordance with Subsection 3221.C;
- (4) Not allow a storage unit renter to engage in retail sales, vehicle maintenance or repair, use of tools or equipment, or any activity other than storage of property on the premises; and
- (5) Provide at least 16 feet of greenspace between the edge of the right-of-way and the storage area/buildings area landscaped with not less than 1.0 equivalent planting unit for every 10 feet of lot frontage (see Section 3101) that conforms to the planting specifications in Figure 3-03;
- (6) Install screening along any property line abutting a residential lot with a fence in accordance with Section 3107.

3221.B Mini-storage buildings must:

- (1) Have sloped roofs with a pitch of not less than 4:12;
- (2) Be oriented with their short side facing the road unless the Development Review Board waives this requirement upon the applicant demonstrating that it is not feasible due to site specific conditions (grade, lot depth, etc.);
- (3) Be compatible in design, materials and colors with one another when there will be multiple buildings on a site; and
- (4) Use dark, muted and/or neutral exterior colors that would help blend the buildings into the surrounding landscape and must not use bright, intense and/or vibrant exterior colors or patterns that would call attention to the buildings.

3221.C Temporary sales or auctions of goods stored on the premises will be allowed as an accessory use for not more than 3 contiguous days and a total of 12 days in any calendar year.

No comparable language in adopted LUDRs

3222 TANK FARM OR FUEL STORAGE AND DISTRIBUTION SERVICES

3222.A Tank farm or fuel storage and distribution services must:

- (1) Be registered with the state and in compliance with all applicable state and federal regulations;
- (2) Not be located within 1,000 feet of a school, daycare facility, skilled nursing facility, hospital, park or other place of public assembly (measured at the closest point between the property lines);
- (3) Not be located within 800 feet of an existing dwelling (measured at the closest point between the property lines) excluding any dwelling in common ownership with the business;
- (4) Locate all aboveground tanks on a hard, level surface;
- (5) Provide a containment system for any aboveground tank that is:
 - (a) Capable of holding at least 125% of the volume of the tank, and
 - (b) Designed to appropriately treat and release any rainwater that accumulates within the containment area;
- (6) Be designed to prevent contact between vehicles and any aboveground tank (i.e., provision of fencing or bollards); and
- (7) Not display any signs on an aboveground tank except for identification and warning signs required by state or federal regulations.

3222.B Pre-existing tank farm or fuel storage and distribution services must not be expanded or redeveloped to increase the total amount of storage capacity on the site or locate storage tanks closer to any lot line unless all the standards of Subsection 3222.A will be met.

3222.C The provisions of this section do not apply to storage of fuels or other materials for on-site use.

No comparable language in adopted LUDRs

3223 COMMUNICATIONS ANTENNAS AND TOWERS

3223.A Purpose. The purpose of this subsection is to:

- (1) Minimize the impacts of communication facilities on surrounding areas by establishing standards for location, structural integrity and compatibility;
- (2) Accommodate the growing need and demand for communications facilities;
- (3) Encourage the location and collocation of communications equipment on existing structures in order to minimize visual, aesthetic, public safety and ecological impacts and reduce the need for additional towers;
- (4) Provide for the replacement and/or removal of nonconforming or discontinued antennas and towers; and
- (5) Respond to the policies of the Telecommunications Act of 1996 by not unreasonably discriminating between providers of functionally equivalent personal wireless service and not effectively prohibiting provision of personal wireless service in East Montpelier.

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- 3223.B **Applicability.** Except as specifically exempted in Section 1101 or Section 1102 , the standards of this subsection apply to the installation, construction or modification of the following communications facilities:
- (1) Existing and proposed antennas and towers;
 - (2) Replacement antennas and towers;
 - (3) Broadcast antennas and towers;
 - (4) Collocated and combined antennas on existing towers;
 - (5) Roof-mounted antennas and supporting structures;
 - (6) Surface-mounted antennas;
 - (7) Antennas mounted on utility poles, including utility poles located within public rights-of-way;
 - (8) Stealth wireless communications facilities; and
 - (9) Amateur radio antennas and towers with an overall height greater than 50 feet.
- 3223.C **De Minimis Impact.** The Zoning Administrator may approve and issue a zoning permit for an application for a communication facility if he/she determines that it conforms to all applicable provisions of these regulations and imposes no or de minimis impact on any criteria established in these regulations. The Zoning Administrator will only consider an application to have a de minimis impact if it meets all of the following:
- (1) The height and width of the facility or tower, excluding equipment, antennas or ancillary improvements, will not increase;
 - (2) The total amount of impervious surface, including access roads, associated with the facility or tower will not increase by more than 300 square feet;
 - (3) Any addition, modification or replacement of an antenna or other equipment will not extend vertically more than 10 feet above and horizontally more than 10 feet out from the facility or tower as currently configured; and
 - (4) Any additional or replacement equipment, antennas or ancillary improvements, excluding cabling, will not increase the aggregate surface area of the faces of the equipment, antennas or ancillary improvements on the facility or support structure by more the 75 square feet.
- 3223.D **Application Requirements.** In addition to all other requirements, applicants must submit the following to demonstrate compliance with the provisions of this section:
- (1) A signed statement from the facility’s owner or owner’s agent stating that the radio frequency emissions will comply with Federal Communications Commission (FCC) standards;
 - (2) Proof that the proposed facility has been designed to withstand sustained winds of 110 mph and a 15-second wind gust of 130 mph;
 - (3) Proof that any proposed tower will be designed so that, in the event of a structural failure, it will collapse within the boundaries of the lot on which it is located;

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- (4) An FCC license, and construction development approval if applicable, to transmit radio signals in East Montpelier;
- (5) The name, address and telephone contact information for the owner of any proposed or existing tower, and a statement that such information will be updated if there is a change;
- (6) A stamped structural analysis of the proposed facility prepared by a professional engineer, indicating the proposed and future loading capacity of any tower;
- (7) Proof of compliance with Federal Aviation Administration regulations of objects affecting navigable airspace;
- (8) A description of the coverage area planned for the cell to be served by the proposed facility;
- (9) A description of the search area used to locate the proposed facility;
- (10) A statement by a qualified professional engineer specifying the design structural failure modes of the proposed facility; and
- (11) Antenna heights and power levels of the proposed facility and all other facilities on the subject property.

3223.E

Siting Priorities. The Development Review Board will only approve a new tower upon the applicant demonstrating that the proposed antenna cannot be accommodated on an existing building or structure or by construction of a stealth facility. In order to justify the construction of new tower, the applicant must provide a statement of position, qualifications and experience by a licensed radio frequency engineer demonstrating that the alternatives below (listed in order of preference) do not constitute feasible alternatives:

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

3223.F

Prohibited Locations. A new tower must not be located:

- (1) Closer than 1.5 times its height from all other structures (not including structures accessory to the tower), property lines, roads, railroads, surface waters and overhead utility lines; and
- (2) Within 1,000 feet from any historic district, historic structure or scenic road.

3223.G

Antenna Types. Antennas must be designed and configured in a manner that minimizes adverse visual impacts as follows:

- (1) Antennas must be one of the types below (listed in order of preference):
 - (a) Flush-mounted;
 - (b) Panel;
 - (c) Whip; or

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(d) Dish.

- (2) In order to justify the use of an antenna type lower in the ranked listed above, the applicant must provide a statement of position, qualifications and experience by a licensed radio frequency engineer demonstrating that higher-ranked alternatives cannot be used.

3223.H **Surface-Mounted Antennas.** Surface-mounted antennas (includes associated ancillary appurtenances and transmission lines) must:

- (1) Maintain a color that is the same as the surface to which they are attached unless the Development Review Board finds that another color will be more contextually compatible;
- (2) Be placed at least 15 feet above the ground; and
- (3) Be placed so that no portion of the antenna is less than 3 feet below the roof line, where proposed to be mounted on a building.

3223.I **Roof-Mounted Antenna Supporting Facilities.** Roof-mounted antennas (includes associated ancillary appurtenances and transmission lines) must:

- (1) Be placed only on commercial, industrial or non-residential institutional buildings that are at least 30 feet in height;
- (2) Be placed as near to the center of the roof as possible;
- (3) Not extend above the roof line of the building to which they are attached by more than 20 feet;
- (4) Have a monopole-type construction;
- (5) Maintain a galvanized gray or brown finish unless the Development Review Board finds that another color will be more contextually compatible;
- (6) Be screened by a parapet or other structure in order to minimize their visual impact as viewed from the road; and
- (7) Not have signs.

3223.J **Stealth Wireless Communications Facilities.** A stealth facility must:

- (1) Not have antennas or ancillary equipment that are readily identifiable from a public vantage point as wireless communications equipment; and
- (2) Be designed so that they are reasonably consistent with the surrounding built or natural environment.

3223.K **Towers.** Communication towers must:

- (1) Have a monopole-type construction except that:
 - (a) Broadcast structures taller than 200 feet, amateur radio antennas and AM broadcast antennas may have a lattice-type construction;

- (2) Maintain a galvanized gray or brown finish or other contextually-compatible color as determined by the Development Review Board (this includes ancillary appurtenances and transmission lines), except if otherwise required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC);
- (3) Not have lights, signals or other illumination unless the applicant demonstrates that lighting is required by the FAA or FCC; and
- (4) Not have signs except for hazard notification signs as required by state or federal regulations.

Compare to Section 4.14 of adopted LUDRs. The proposed language is intended to make mounting antennas on existing structures the preferred alternative / easiest option and construction of a new tower only possible if all other options are not feasible. Currently, most communication antenna/tower applications are getting a Certificate of Public Good and are therefore not subject to local regulation

3224 CONTRACTOR'S YARD OR UNENCLOSED STORAGE

3224.A Contractor's yard or unenclosed storage must:

- (1) Not locate storage areas within minimum setbacks for the applicable zoning district;
- (2) Provide at least 16 feet of greenspace between the edge of the right-of-way and the storage area/buildings area landscaped with not less than 1.0 equivalent planting unit for every 10 feet of lot frontage (see Section 3101) that conforms to the planting specifications in Figure 3-03;
- (3) Install a fence to screen any storage area that would otherwise be visible from the road in accordance with Section 3107;
- (4) Install screening along the side and/or rear property lines if outdoor storage would otherwise be visible from abutting properties with a fence in accordance with Section 3107.;
- (5) Control erosion and sediment transport from any materials stored outdoors in accordance with Section 3013;
- (6) Not store hazardous materials, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage or waste oil (such a use will be considered waste storage); and

3224.B The screening requirements in Subsection A above will not apply to:

- (1) Property lines between lots in common ownership;
- (2) Property lines between lots if both lots are located in the General Business or Rural Business zoning districts; and
- (3) Front lot lines within the General Business district.

Compare to Section 3.13 of adopted LUDRs

3225 CAMPGROUND

3225.A Campgrounds must:

- (1) Be licensed by the state;
- (2) Be located on a parcel not less than 5 acres in size;
- (3) Not operate from October 15 to April 15;
- (4) Not exceed a maximum density of 8 campsites for each acre of land within the campground (including common and day use areas);
- (5) Be designed so that no campsite is less than 2,000 square feet in area;
- (6) Be designed so that each campsite is accessed via the internal drive(s) and not directly from a public road;
- (7) Not have any campsite closer than 75 feet to a property line;
- (8) Not have any campsite located within riparian buffers (see Section 2202);
- (9) Not house any campers for a continuous period of 30 or more days except on a seasonal campsite;
- (10) Not have more than 40% of the total number of campsites within the campground designated and used as seasonal campsites;
- (11) Not allow unregistered recreational vehicles or manufactured homes to be occupied or stored on the property;
- (12) Provide lavatory, shower, toilet, trash and recycling facilities in accordance with these regulations and state regulations; and
- (13) Provide at least 2,000 square feet of common open space for each campsite that will be improved and maintained with recreation facilities to be available to all campers.

3225.B The Development Review Board may waive one or more provisions in Subsection 3225.A for designated primitive campsites (tents or lean-tos, no recreational vehicles).

3225.C The provisions of this section will not apply to backcountry camping on land without designated campsites.

Compare to Section 4.5 of adopted LUDRs. Proposed language includes provisions related to seasonal campsites as park model RVs / tiny homes are blurring the line between campground and a seasonal home development.

3226 RESIDENTIAL TREATMENT FACILITY

3226.A A residential treatment facility must:

- (1) Operate under state licensing;
- (2) Be limited to a maximum number of residents that does not exceed 1 per 400 square feet of gross floor area in the facility;
- (3) Not house more than two unrelated residents per room;

- (4) Provide a minimum of 200 square feet of common open space per resident that is designed with seating areas and other passive recreation facilities to be shared by all residents; and
- (5) Not be located within 1,000 feet of another residential treatment facility or group home (measured as the closest distance between the property lines).

No comparable language in adopted LUDRs.

3227

EXTRACTION AND QUARRYING

3227.A

Extraction and quarrying must:

- (1) Be located on a parcel not less than 5 acres in size;
- (2) Maintain or establish a naturally vegetated woody buffer at least 50 feet wide along all property boundaries, public rights-of-way, surface waters and wetlands;
- (3) Retain and stockpile any topsoil removed for reapplication to disturbed areas during reclamation;
- (4) Submit and implement professionally prepared erosion control and stormwater management plans;
- (5) Not cause the permanent lowering of the water table on surrounding properties;
- (6) Not operate at an intensity or during times at which hauling will damage town roads if there is no agreement in place for road repair or impact fees;
- (7) Limit operational activities (blasting, excavation, processing, hauling, etc.) to between the hours of 8 a.m. and 6 p.m. (or dusk if earlier);
- (8) Install warning signs and fencing as necessary to protect public safety;
- (9) Meet the performance standards of Section 3106;
- (10) Obtain all necessary town and state permits.
- (11) Submit and implement a professionally prepared reclamation plan, and reclaim the site progressively as the extraction or quarrying activity advances on the site as follows:
 - (a) Remove all equipment, stockpiles, debris, signs and other materials or improvements associated with the extraction or quarry use as part of the final reclamation effort;
 - (b) Design any water body to be created on the site as a result of the extraction or quarrying use to have a natural form with variation in shoreline and depth;
 - (c) Maintain or establish a final slope that does not exceed a grade of 3:1 (horizontal to vertical) over a distance of 30 feet on all disturbed areas (will not include areas of exposed ledge);
 - (d) Evenly spread topsoil capable of sustaining vegetation on all disturbed areas (will not include areas of exposed ledge);

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- (e) Stabilize and seed disturbed areas at the earliest possible time following completion of extraction or quarrying operations in an area;
- (f) Replant disturbed areas with groundcover and not less than 4.0 equivalent planting units per acre disturbed (see Figure 3-03); and
- (g) Keep erosion control measures in place until permanent vegetation has been established.

Compare to Section 4.6 of adopted LUDRs.

3228 GROUNDWATER WITHDRAWAL

3228.A **Applicability.** The provisions of this section apply to the withdrawal of groundwater, including spring water, in excess of 57,600 gallons in any day or 20,000 gallons per day as averaged over any calendar month. They do not apply to public water supplies as defined and regulated by the state or to the withdrawal of groundwater for agricultural purposes.

3228.B **Notification.** The applicant must notify all property owners within the zone of influence or ½ mile of the point of withdrawal, whichever is greater, of the proposed use. Evidence of the notification must be provided before the Zoning Administrator may determine an application to be complete.

3228.C **Standards.** Groundwater withdrawal must:

- (1) Operate in accordance with a state groundwater withdrawal permit;
- (2) Not have an undue adverse effect on existing sources or uses of water or on mapped wetlands in the area;
- (3) Not operate at an intensity or during times at which hauling will damage town roads if there is no agreement in place for road repair or impact fees; and
- (4) Meet the performance standards of Section 3106.

3228.D **Conditions of Approval.** Any approval for groundwater withdrawal will be conditioned on the operator maintaining all required state permits and approvals, and on providing the town with copies of all monitoring data and reports submitted to the state.

Compare to Section 4.7 of adopted LUDRs.

3229 ON-FARM BUSINESS

3229.A **An on-farm business must be:**

- (1) A small business that forms as a natural extension of the farm (as defined in these regulations) and the ongoing, active agricultural use of the property;
- (2) Subordinate to and integrated with the agricultural operation;

- (3) Located within or adjacent to other developed areas or activity centers on the farm, except that the Development Review Board may waive this requirement upon the applicant demonstrating that the proposed use needs greater separation from agricultural activities or residential areas;
- (4) Sited so that associated development (buildings, parking, etc.) will be located off primary agricultural soils to the maximum extent feasible;
- (5) Appropriate in scale and intensity given the location;
- (6) Sited and designed to maintain a rural and agricultural character, and not a commercial or industrial character;
- (7) Not generate traffic in excess of what would be typical of other commercial, industrial or public assembly uses allowed in the zoning district;
- (8) Meet the performance standards of Section 3106;
- (9) Conform to the standards of Section 3219 if providing meals or hosting events;
- (10) Conform to the applicable specific use standards (for a B&B, inn, campground, etc.) if providing lodging.

3229.B The following will require review and approval as a Level 2 on-farm business:

- (1) A business that will host events or otherwise generate customer/visitor traffic that brings more than:
 - (a) 10 vehicles to a farm accessed from a town or private road, or
 - (b) 40 vehicles to a farm accessed from a state highway.
 - (c) A business that will host outdoor events between the hours of 8 p.m. and 8 a.m.

3229.C In addition to the signs allowed under Section 3107, an on-farm business may:

- (1) Display not more than 6 temporary signs advertising products or activities currently in season as follows:
 - (a) A temporary sign may be mounted on a permanent support structure;
 - (b) Each temporary sign must not be more than 8 square feet in area or more than 8 feet in height;
 - (c) An individual temporary sign must not be displayed for more than 90 days in any calendar year; and
 - (d) Temporary signs may be located on any land farmed by the operator of the on-farm business.
- (2) The provisions of Paragraph 3108.S will not apply to temporary signs that meet the requirements above.

3229.D An on-farm business will require site plan approval.

No comparable language in adopted LUDRs. Proposed language is consistent with recent changes to statute requiring municipalities to allow for accessory on-farm business (24 V.S.A. § 4412(11)).

330 Subdivision Standards

3301 APPLICABILITY

3301.A All subdivision of land must conform to the standards of this chapter.

3302 SUITABILITY OF THE LAND

3302.A The applicant must demonstrate that the land to be subdivided is suitable for development without:

- (1) Endangering public health or safety; and
- (2) Adversely impacting the environment, adjoining properties or the character of the area.

3302.B Land subject to periodic flooding, poor drainage, erosion, landslide, slope instability, inadequate capability to support development or other hazardous conditions must not be subdivided unless the applicant can demonstrate that appropriate measures will be taken to overcome the physical limitations.

3302.C Grading, excavating and/or filling of land to create developable lots must meet the standards of Section 3015.

Equivalent to Section 6.7(A) of adopted LUDRs.

3303 CAPABILITY OF COMMUNITY FACILITIES AND UTILITIES

3303.A The applicant must demonstrate that the proposed subdivision will not cause a disproportionate or unreasonable burden on the community's ability to provide public facilities, services and infrastructure including, but not limited to:

- (1) School facilities and educational services;
- (2) Police, fire protection and ambulance services;
- (3) Road infrastructure and maintenance;
- (4) Parks and recreation facilities; and
- (5) Water supply, sewage disposal and stormwater systems and infrastructure.

Equivalent to Section 6.9(A) of adopted LUDRs.

3304 LOT DESIGN AND CONFIGURATION

3304.A Lot Arrangement. The applicant must design the subdivision:

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

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- (2) To connect to and extend existing road, sidewalk, path, trail, utility, greenway, and open space corridors to the maximum extent feasible given the site's topography and natural features;
- (3) So that there will be no foreseeable difficulties in obtaining zoning permits to build on all lots in accordance with the standards of these regulations (this will not apply to lots intended for conservation purposes);
- (4) So that there will be no foreseeable difficulties in providing access to each lot from an existing or planned road (this will not apply to lots intended for conservation purposes);
- (5) To minimize the number of new curb cuts along arterial streets or state highways;
- (6) So that there will be positive drainage away from building sites and a coordinated stormwater drainage pattern for the subdivision;
- (7) So that there will be no privately-owned reserve strips (a strip of land located between a subdivision and other property that is not dedicated to public use); and
- (8) To allow further subdivision on any remaining undivided land, lots with further subdivision potential and/or adjoining undeveloped parcels in a manner that would result in a logical and coordinated development pattern.

3304.B

Lot Dimensions. The applicant must design the subdivision:

- (1) So that all lots front on a road in accordance with the standards of Subsection 2005.E and Section 3002 (this will not apply to lots intended for conservation purposes);
- (2) So that lot dimensions meet the minimum standards for the zoning district;
- (3) So that side lot lines are at right angles to straight roads or radial to curved roads, except that the Development Review Board may waive or modify this requirement to respond to the site's topography and natural features;
- (4) So that rear lot lines are parallel to front lot lines, except that the Development Review Board may waive or modify this requirement to respond to the site's topography and natural features;
- (5) So that the lot ratio (width-to-depth or depth-to-width) does not exceed 1:4, except that the Development Review Board may waive or modify this requirement to respond to the site's topography and natural features;
- (6) To avoid flag and other irregularly shaped lots, except that the Development Review Board may waive or modify this requirement to respond to the site's topography and natural features or to allow for shared driveways (also see Subsection 2005.E);
- (7) To minimize the number of lots with frontage on more than one road; and
- (8) To minimize the number of lots with a rear lot line that abuts the side lot line of an adjacent lot.

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- 3304.C **Building Envelopes.** The applicant must designate a building envelope on each lot within the subdivision that is more than 2 acres in size in accordance with the following:
- (1) Building envelopes must not include any unbuildable land including, but not limited to setbacks, rights-of-way, easements, wetlands, wetland buffers, surface waters, riparian buffers, flood hazard areas, river corridors and steep slopes;
 - (2) Building envelopes must not be more than 30,000 square feet in area;
 - (3) To the maximum extent feasible, building envelopes must be sited and configured as follows:
 - (a) **Solar.** Passive solar development practices must be accommodated by siting and configuring building envelopes to provide a building site with a southern orientation .
 - (b) **Scenic Views.** Significant views identified in the East Montpelier Town Plan must be protected by siting and configuring building envelopes to prevent new buildings from blocking or degrading views from public roads.
 - (c) **Farmland.** Rural character and agricultural land must be maintained by siting and configuring building envelopes along the edge of fields or meadows visible from public roads or along other site features like hedgerows or fence lines.
 - (d) **Forest.** Forest fragmentation must be minimized by siting and configuring building envelopes so they are close to existing roads and development.
 - (4) All principal buildings and non-agricultural accessory structures with a footprint in excess of 400 square feet must be located within a designated building envelope;
 - (5) Driveways, utilities, water, wastewater and stormwater infrastructure, fences, agricultural structures and small accessory structures may be located outside a designated building envelope;
 - (6) The Development Review Board may limit clearing of healthy, mature trees on all or a portion of the lot outside the designated building lot to protect significant wildlife habitat, forest blocks or scenic resources; and
 - (7) The Development Review Board may require maintenance of open fields or meadows on all or a portion of the lot outside the designated building lot to protect significant wildlife habitat, farmland or scenic resources.
- 3304.D **Screening and Buffers.** The applicant must design the subdivision to maintain existing mature vegetation and/or install additional landscaping as necessary to:
- (1) Preserve existing specimen trees, tree lines or wooded areas of significant ecological or aesthetic value;
 - (2) Provide a buffer between developed and undeveloped portions of the site, or between incompatible uses; and

- (3) Provide screening to protect privacy and mitigate off-site impacts on/from adjacent properties both within the subdivision and between the subdivision and abutting parcels.

Compare to Sections 6.7(C), (E), (G) and (H) of adopted LUDRs. The proposed language includes more detailed standards and requires building envelopes for lots greater than 2 acres in size.

3305 DESIGN AND LAYOUT OF NECESSARY IMPROVEMENTS

3305.A Roads. Applicants must design and construct all new or extended roads within a subdivision in accordance with this subsection.

- (1) **Applicability.** Any vehicular way that will be used to provide access to more than 3 lots or principal buildings will be considered a road and must conform to the standards of this section irrespective of whether the road will be public or private. (A vehicular way that provides access to not more than 3 lots or principal buildings is a driveway and must conform to the standards of Section 3009.)
- (2) **Public Works Specifications.** Applicants must construct new or extended roads in accordance with any public works specifications duly adopted by the Town of East Montpelier. In the case of a conflict between a provision of these regulations and a provision of the public works specifications, the public works specifications will take precedence.
- (3) **Technical Review.** The Zoning Administrator will forward all applications for new or extended roads to the Road Foreman and Fire Chief for review and comment upon receipt of a complete application. The Development Review Board or Zoning Administrator may condition or deny any approval or permit based on those comments.
- (4) **Engineering Requirements.** A professional engineer must certify that all new or extended roads were designed and constructed in accordance with all applicable public works specifications, provisions of these regulations and any conditions of approval prior to the Zoning Administrator granting a final certificate of compliance.
- (5) **General Standards.** Applicants must design and construct all new or extended roads within a subdivision to:
 - (a) Safely accommodate all users (including vehicular, bicycle and pedestrian traffic);
 - (b) Calm traffic and discourage travel speeds in excess of the posted speed limit;
 - (c) Avoid congestion on existing roads;
 - (d) Provide adequate access and suitable turnarounds, when applicable, for emergency and service vehicles;
 - (e) Logically extend and improve the connectivity of the town's existing road network;
 - (f) Provide efficient access to property;

- (g) Minimize the amount of impervious surface necessary to provide convenient and safe access to property;
 - (h) Be graded and laid out to conform as closely as possible to the pre-existing topography;
 - (i) Provide adequate drainage;
 - (j) Be located the maximum distance feasible from surface waters (at least 150 feet is preferred and additional stormwater management practices may be required if that separation distance cannot be achieved) and meet the riparian buffer standards of Section 2202 as applicable; and
 - (k) Minimize the number of stream crossings.
- (6) **Connectivity.** New cul-de-sac or dead-end roads:
- (a) Must not to exceed 600 feet in length (this will not include stubs); and
 - (b) Will only be approved if the applicant demonstrates one of the following applies:
 - (i) The proposed road includes a stub designed to be extended or interconnected when adjacent property is subdivided or developed;
 - (ii) Pre-existing development patterns on adjacent property, topography or other physical conditions make construction of a through street impractical or undesirable; or
 - (iii) The proposed road will serve not more than 6 lots or principal buildings.
- (7) **Access Management.** Applicants must implement proper access management techniques in the design of new or extended roads and driveways. All accesses must be designed to:
- (a) Have sight distances that are not less than 150 feet unless otherwise recommended by the Road Foreman or *VTrans District Permit Officer;
 - (b) Restrict access to the permitted location and prevent uncontrolled access along the property frontage;
 - (c) Facilitate the movement of vehicles off the road and to prevent vehicles from queuing on the road;
 - (d) Not require backing maneuvers within the road right-of-way;
 - (e) Provide facilities for safe crossing and use by pedestrians and bicyclists, including meeting Americans with Disabilities Act standards;
 - (f) Not cause water to enter onto intersecting roads;
 - (g) Not interfere with the drainage system of any intersecting roads; and
 - (h) Meet the standards of Section 3002 and Section 3009 as applicable.
- (8) **Design Speed.** Applicants must design new or extended roads for a speed of 25 miles per hour or less.
- (9) **Right-of-Way.** A road must:

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- (a) Have a right-of-way at least 60 feet in width if new;
 - (b) Have a right-of-way at least 50 feet in width if an extension of an existing road with less than a 60-foot right-of-way; and
 - (c) Be located in the center of the right-of-way.
- (10) **Travel Lane Width.** Applicants must design new or extended roads in accordance with the following unless otherwise approved by the Development Review Board to respond to site-specific physical conditions or anticipated traffic flows:
- (a) For roads with a traffic volume of not more than 100 trips per day on average (equivalent to 10 dwelling units), travel lane widths must be not more than 10 feet; or
 - (b) For roads with a traffic volume in excess of 100 trips per day on average, travel lane widths must be at least 9 feet and not more than 10 feet with 2-foot shoulders or parking lanes on both sides.
- (11) **Parking Lane Width.** Any parking lanes must be at least 8 feet and not more than 9 feet wide.
- (12) **Intersections.** Applicants must design new or extended roads in accordance with the following unless otherwise approved by the Development Review Board to respond to site-specific physical conditions or anticipated traffic flows:
- (a) To intersect as close to 90 degrees as physically possible and not at less than 75 degrees or more than 105 degrees;
 - (b) With directly opposed intersections whenever feasible (if not directly opposed, the centerline offset of the intersections must be at least 125 feet);
 - (c) With an intersection approach that does not exceed a 3% average grade for a distance of 20 feet as measured from the edge of the right-of-way of the intersecting road; and
 - (d) With a curb radius at the intersection that does not exceed 20 feet as measured from the edge of the traveled way, except that the Development Review Board upon the recommendation of the Road Foreman or VTrans District Permit Coordinator may approve a curb radius of up to 40 feet for roads designed to accommodate significant truck traffic.
- (13) **Drainage.** Applicants must design new or extended roads:
- (a) With green stormwater practices consistent with the *Vermont Stormwater Manual* to the maximum extent feasible given the physical characteristics of the property (ex., soils and slopes);
 - (b) To not block or restrict the flow of drainage in existing ditches, swales or gutters;
 - (c) To not contribute to an accumulation of stormwater that would exceed the capacity of downstream facilities or infrastructure;
 - (d) With culverts that are sized to convey anticipated peaks stormwater

flows; and

- (e) With culverts that are installed to minimize erosion damage at the inlet and outlet.
- (14) **Grade.** New or extended roads must generally conform to the topography and must not exceed a maximum grade of 8% as measured over any 100-foot section. The Development Review Board may allow segments less than 100 linear feet in length to exceed the maximum grade to respond to the site's topography and natural features when recommended by the Road Foreman and Fire Chief.
- (15) **Cross-Slope.** All new or extended roads must have a cross-slope of at least 1% and not more than 3%.
- (16) **Road Names and Signs.** The applicant must name new or extended roads and install road signs in accordance with state and town requirements.

3305.B **Pedestrian and Bicycle Facilities.** The applicant must integrate pedestrian and bicycle access into the design of the subdivision in accordance with the following:

- (1) **Public Sidewalks.** The applicant must install sidewalks along both sides of a new or extended road in the village districts.
- (2) **Internal Walkways.** The applicant must install internal walkways as necessary to provide access within the subdivision to common lands or facilities, parking areas or similar amenities, as well as between buildings and the road.
- (3) **Sidewalk Design and Construction.** Sidewalks must:
 - (a) Be at least 5 feet wide;
 - (b) Be surfaced with concrete;
 - (c) Meet Americans with Disabilities Act standards, including provision of curb ramps with a tactile warning surface;
 - (d) Be separated from the street either vertically with at least a 6-inch curb or horizontally with at least a 5-foot tree belt;
 - (e) Terminate at a crosswalk when there is a connecting sidewalk on the other side of the road.

3305.C **Street Trees.** The applicant must install street trees in accordance with Subsection 3102.E.

3305.D **Firefighting Facilities.** The applicant must provide water for fire protection. The Development Review Board may waive this requirement upon the applicant providing evidence that the Fire Department agrees water provision is not necessary.

3305.E **Public and Private Utilities.** The applicant must design the subdivision to provide utility service to each lot in accordance with the following:

- (1) All utilities must be located underground unless prevented by ledge or other physical conditions that make burying lines impractical;
- (2) Utilities must be located within road rights-of-way to the maximum extent feasible;

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- (3) Utility and service areas must be screened in accordance with Section 3107;
and
 - (4) The applicant must provide the town with a maintenance and access easement for any utilities not located within a public right-of-way.
- 3305.F Water and Wastewater. The applicant must demonstrate that the proposed subdivision conforms to the Vermont Wastewater System and Potable Water Supply Rules (see Section 3023).
- 3305.G Erosion Control. The applicant must design and undertake construction within the subdivision in accordance with the standards of Section 3013.
- 3305.H Soil Preservation. The applicant must:
- (1) Stockpile any topsoil removed during the course of construction on-site;
 - (2) Redistribute stockpiled topsoil to provide even cover on all disturbed areas to be seeded or planted;
 - (3) Make reasonable efforts to repair any soil compaction prior to seeding or planting such as tilling, subsoiling, plug aeration and/or organic amendments;
and
 - (4) Not remove any topsoil, sand, gravel, rock or other earth resources from the site for any purpose other than the minimum necessary and authorized to meet the construction needs of the subdivision.
- 3305.I Debris Removal. The applicant must remove any debris generated during the course of construction from the site in accordance with state regulations. Burying debris on-site or using it as fill is prohibited.
- 3305.J Stormwater Management. The applicant must design the subdivision or development with adequate drainage and stormwater infrastructure in accordance with Section 3019.
- 3305.K Monuments and Lot Corner Markers. The applicant must:
- (1) Show the locations of all right-of-way monuments and lot corner markers on the final subdivision plat;
 - (2) Install permanent right-of-way monuments at all road intersections and other critical points in street lines in accordance with state statutes and rules; and
 - (3) Install lot corner markers at corners and angle points of all lots in accordance with state statutes and rules.
- 3305.L Construction and Maintenance of Necessary Improvements. The applicant must:
- (1) Construct the necessary improvements in accordance with all conditions of approval under these regulations and the town's public works specifications before the Zoning Administrator may issue any zoning permits for further development within the subdivision.
 - (2) Maintain necessary improvements while lots or units within the subdivision are being sold and/or developed in accordance with all conditions of approval.

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- (3) Demonstrate how the necessary improvements required under this section will be maintained once lots or units have been sold and/or developed.
- (4) Establish an owners' association or similar legally enforceable mechanism to ensure continuing maintenance of private streets, shared infrastructure, or other common land or facilities within the subdivision. The Development Review Board may require the applicant to provide drafts of covenants, articles of incorporation, bylaws, maintenance agreements, easements or other legal documents for review prior to final approval of the subdivision and to record such documents with the town along with the final plat.

Compare to Sections 6.7(C), (D) and (F), Section 6.8 and Section 6.9 of adopted LUDRs. The proposed language includes more detailed road standards that should be reviewed by the Road Foreman and Fire Chief. Sidewalks would be required on any new roads in village areas. New provisions related to soil preservation and debris removal.

340 Planned Unit Development Standards

Compare to Section 5.6 of adopted LUDRs. The proposed language completely replaces the existing language, which is out-of-date and no longer consistent with state statute. Proposed language takes a different approach than adopted language. Rather than broadly authorizing PUDs/PRDs, the draft establishes three specific types of PUDs and specific standards for each.

3401 APPLICABILITY

3401.A Applicants may propose development that deviates from the standards of the base zoning district(s) in accordance with the provisions of this chapter.

3402 CAMPUS DEVELOPMENT

3402.A **Purpose.** The purpose of this section is to provide flexibility in site design to accommodate the particular needs of multi-lot, multi-building and/or multi-use sites.

3402.B **Applicability.** Campus developments are permitted in all zoning districts. For the purposes of this section, a campus is a self-contained development that includes multiple buildings and/or lots that:

- (1) Are commonly owned and/or managed;
- (2) Are located in proximity to and related to one another;
- (3) Share common facilities, amenities and/or infrastructure; and
- (4) Are connected with pedestrian walkways.

3402.C **Dimensional Standards.** The following will apply to campus developments:

- (1) The development must meet all setback requirements of the base zoning district (see Section 2110) around the perimeter of the campus;
- (2) The dimensional standards for lots, setbacks and buildings in the base zoning district (see Section 2110) will not apply internally within the campus; and
- (3) The lot coverage for the campus as a whole must not exceed 60% in the village and business districts and 30% in the rural districts.

3402.D **Residential Density.** The maximum residential density within a campus development will be 200% of the residential density allowed in the base zoning district. Multi-family residential development within a campus must conform to the standards of Section 3202.

3402.E **Use.** The uses allowed within a campus development will be as established in the base zoning district and as follows:

- (1) Any institutional, office, light industrial or residential use (permitted or conditional) allowed in the base zoning district will be allowed in a campus development as a permitted use;
- (2) Residential uses must not occupy more than 40% of the total floor area within the campus;

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- (3) Retail uses must not occupy more than 40% of the total floor area within the campus; and
 - (4) The Development Review Board may approve uses not otherwise allowed in the base zoning district within a campus development as a conditional use upon determining that:
 - (a) Such uses are incidental to or supportive of the principal purpose of the campus; and
 - (b) Such uses will not exceed 20% of the total floor area within the campus.
- 3402.F **Common Open Space.** At least 20% of the total lot area of the campus must be reserved as common open space in accordance with the following:
- (1) A common open space must not be less than 20 feet in any dimension;
 - (2) A common open space must be landscaped and designed with amenities that will make the space suitable for passive recreational use or community gardening;
 - (3) Outdoor areas developed for active recreation use (ex. sports courts or fields) must not be included in the calculation of common open space;
 - (4) A common open space must not be used for parking, utility, trash collection or other service functions; and
 - (5) Green stormwater and renewable energy infrastructure may be located within a common open space provided that such functions will not prevent the space from being used for passive recreation.
- 3402.G **Pedestrian Access.** All principal buildings within a campus must be connected with a system of sidewalks or multi-use paths. The Development Review Board may require the applicant to extend sidewalks along nearby public roads into the campus.
- 3402.H **Vehicular Access and Parking.** The campus must provide vehicular access and parking in accordance with the following:
- (1) Vehicular access and on-site parking will not be required to each principal building or on each lot if the campus provides common off-street parking areas or structures with pedestrian walkways connecting the parking and the buildings served;
 - (2) Vehicular access and surface parking must be located around the perimeter of the campus to the maximum extent feasible; and
 - (3) Vehicular access and parking must meet all applicable site design, engineering, setback, buffering and landscaping requirements of these regulations.
- 3402.I **Signs.** The campus must have an approved common scheme signage plan in accordance with Subsection 3108.M and the following:
- (1) The campus may have an entrance sign not more than 40 square feet in area and 18 feet in height at its principal road entrance;
 - (2) Any secondary entrance may have a sign that is not more than 20 square feet in area and 12 feet in height; and

- (3) All other signage must be designed and located in accordance with the standards of with Section 3108 and so as to be primarily visible from within the campus.

This is similar in concept to the adopted PUD language in that it allows for commercial, industrial or mixed-use campus-style developments. Like the adopted LUDRs, the development would need to meet minimum dimensional standards like setbacks around the perimeter of the site but then the internal design and layout would be flexible. Proposed language grants a substantial density bonus for residential development but limits the total floor area within the development that may be devoted to residential use because the intent is for a campus to be primarily commercial, industrial or institutional rather than residential.

3403 CLUSTER HOUSING

3403.A **Purpose.** The purpose of this section is to address the need for smaller and more affordable housing choices in response to changing household demographics and living preferences. The intent is to encourage development of pocket neighborhoods composed of small footprint homes sited around common open space.

3403.B **Applicability.** Cluster housing is permitted in all zoning districts where single-family dwellings are a permitted use except for the Rural Agricultural and Rural Conservation districts (conservation subdivisions are allowed in those districts, see Section 3404).

3403.C **Density.** The maximum density for cluster housing will be 200% of the residential density allowed in the base zoning district.

3403.D **Dimensional Standards.** The following will apply to cluster housing:

- (1) The development must meet all setback requirements of the base zoning district (see Section 2110) around the perimeter of the development site;
- (2) The dimensional standards for lots, setbacks and buildings in the base zoning district (see Section 2110) will not apply internally within the development site; and
- (3) The lot coverage for the development as a whole must not exceed 60%.

3403.E **Use.** Nonresidential principal uses are prohibited within a cluster housing development.

3403.F **Cluster Size.** Cluster housing must consist of at least 3 and not more than 18 buildings arranged around a common open space.

3403.G **Number of Clusters.** Multiple clusters may be located on a single site provided that they are separated by a landscaped buffer not less than 80 feet in any dimension.

3403.H **Dwelling Unit Standards.** Cluster housing must consist of either:

- (1) Single- or two-family detached dwellings that:
 - (a) Have a footprint of not more than 1,200 square feet if single-family or 1,600 square feet if two-family (attached garages will be included in the footprint calculation);
 - (b) Are not more than 24 feet in height and have all portions of the building

- more than 18 feet above ground within the roof pitch;
 - (c) Have at least 400 square feet of private, contiguous, usable yard area per unit abutting the building with no dimension less than 10 feet; and
 - (d) Meet the minimum requirements for a dwelling unit of Section 3011.
 - (2) Single-family attached dwellings (townhomes) or multi-family dwellings that:
 - (a) Have units with 1,200 square feet or less of habitable floor space;
 - (b) Have a footprint of not more than 4,800 square feet (attached or under-building garages will be included in the footprint calculation);
 - (c) Are not more than 32 feet in height and have all portions of the building more than 24 feet above the ground within the roof pitch;
 - (d) Have at least 400 square feet of private, contiguous, usable yard area per unit abutting the building with no dimension less than 10 feet; and
 - (e) Meet the minimum requirements for a dwelling unit of Section 3011.
- 3403.I Common Open Space. Cluster housing must be arranged around a common open space in accordance with the following:
- (1) A minimum of 400 square feet of common open space suitable for community gardens and/or passive outdoor recreation is required per dwelling unit;
 - (2) The common open space must have buildings abutting on at least two sides;
 - (3) Each principal building must face and have direct access to the common open space (the building must not be separated from the open space by a road or driveway);
 - (4) The common open space must be landscaped and must not be used for parking, utility, trash collection or other service functions; and
 - (5) Green stormwater and renewable energy infrastructure may be located within the common open space provided that such functions will not prevent residents from using the common open space for passive recreation.
- 3403.J Accessory Structures. Private garages, carports, sheds or similar accessory structures must have a footprint of not more than 600 square feet and a height of not more than 18 feet. Shared or common accessory structures must have a footprint of not more than 2,400 square feet and a height of not more than 24 feet.
- 3403.K Community Buildings. The development may include one or more community buildings that are clearly incidental to the homes and that would serve residents by providing amenities such as multi-purpose recreation or entertainment, food preparation and dining, library, daycare, guest quarters or storage. A community building must be:
- (1) Commonly-owned by the residents; and
 - (2) Compatible in scale, design and height to the residential structures.
- 3403.L Vehicular Access and Parking. The development must provide vehicular access and parking in accordance with the following:

- (1) Vehicular access and on-site parking will not be required to each unit or on each lot if the development provides common off-street parking areas or structures with pedestrian walkways connecting the parking and the dwelling units;
- (2) Vehicular access and parking must not be located within front yards, the common open space, or between dwelling units and the common open space;
- (3) Vehicular access and parking must be located around the perimeter of the housing cluster to the maximum extent feasible; and
- (4) Vehicular access and parking must meet all applicable site design, engineering, setback, buffering and landscaping requirements of these regulations.

This would be a residential PUD. It could be used for a variety of housing types including cottages, tiny houses, manufactured homes, townhomes, co-housing, etc. There is a substantial density bonus, which is why this type of PUD is not suitable for the lower-density rural districts and why there is a limit on building/unit footprint (bonus is to create incentive for smaller housing units for reasons of affordability, energy efficiency and diversification of the town's housing stock).

3404 CONSERVATION SUBDIVISION

3404.A **Purpose.** The purpose of this section is to provide flexibility in site design for rural residential subdivisions in order to preserve natural resources and open space.

3404.B **Applicability.** Conservation subdivisions are allowed in the rural zoning districts.

3404.C **Density.** The density of a conservation subdivision must not exceed the maximum density as determined based on the applicable zoning district standards (total area to be subdivided divided by the residential density).

3404.D **Dimensional Standards.** The following will apply to conservation subdivisions:

- (1) The development must meet all setback requirements of the base zoning district (see Section 2110) around the perimeter of the development site;
- (2) The dimensional standards for lots, setbacks and buildings in the base zoning district (see Section 2110) will not apply internally within the development site;
- (3) The footprint of any residential building within the development must not exceed 4,800 square feet (attached or under-building garages will be included in the footprint calculation);
- (4) The height of any residential building within the development must not exceed 32 feet; and
- (5) The lot coverage for the development as a whole must not exceed 30%.

3404.E **Use.** All single-family, two-family and multi-family dwellings will be permitted uses within a conservation subdivision.

3404.F **Conservation Areas.** A minimum of 60% of the total area of the conservation subdivision must be set aside as conservation areas in accordance with the following:

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- (1) The following will be considered primary conservation resources and must be included in the conservation area:
 - (a) Wetlands;
 - (b) Mapped flood hazard and river corridor areas; and
 - (c) Severely steep slopes (25% or greater);
- (2) The following will be considered secondary conservation resources and must be included in the conservation area to the maximum extent feasible:
 - (a) Primary agricultural soils;
 - (b) Riparian buffers (see Section **Error! Reference source not found.**);
 - (c) Moderately steep slopes (15% to <25%); and
 - (d) Woodlands that are part of a contiguous forest block at least 50 acres in size.
- (3) Conservation areas must abut existing conservation areas, parks, open space or farmland on adjacent parcels to the maximum extent feasible.
- (4) Conservation areas must be designated as permanent open space, not to be further subdivided, and protected through a conservation easement:
 - (a) Held by the town, state and/or a land trust or conservancy; and
 - (b) That prohibits further development in the conservation areas and may establish other standards to safeguard or maintain the conservation resources.
- (5) Conservation areas must not be cleared, graded, filled or subject to construction except as follows and in accordance with the terms of the easement:
 - (a) The Development Review Board may allow roads and above ground utilities to cross conservation areas when reasonable access cannot otherwise be provided to the portions of the site to be developed provided that disturbance of the conservation will be the minimum necessary to provide adequate access;
 - (b) Underground utilities may be located within conservation areas provided that the Development Review Board finds that such development will not adversely impact the conservation resources intended to be protected by inclusion in a conservation area;
 - (c) Community gardens, trails and passive recreation amenities may be developed within conservation areas;
 - (d) Green stormwater and renewable energy infrastructure may be allowed within conservation areas; and
 - (e) Required agricultural practices and construction of farm structures may be allowed within conservation areas intended for agricultural use.

3404.G Development Areas. A maximum of 40% of the total area of the conservation subdivision may be developed for residential use in accordance with the following:

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- (1) The development must be designed as one or more clusters composed of 3 to 18 lots or buildings separated by open space;
- (2) All lots or buildings must have direct pedestrian access to conservation area(s) intended to accommodate passive recreational use from a continuous system of sidewalks, paths or trails;
- (3) Access to the conservation subdivision must be from a single curb cut unless otherwise approved by the Development Review Board to provide adequate emergency access or to minimize disturbance of conservation resources; and
- (4) All reasonable measures must be taken to minimize the amount of impervious surface associated with vehicular access and parking (such as shared driveways, narrow lanes, and locating development near existing roads).

3404.H

Community Buildings. A conservation subdivision may include one or more community buildings that would serve residents by providing amenities such as multi-purpose recreation or entertainment, food preparation and dining, library, daycare, guest quarters or storage. The subdivision residents must commonly own any community building.

This would be a residential PUD. It is intended to allow for rural subdivisions where homes are clustered and open space is set aside for farming, forestry or conservation purposes. There is no density bonus because the town's policy is to encourage housing in village rather than rural areas of town. There is a minimum open space requirement of 60% and a maximum building footprint to prevent out-of-scale multi-family buildings in a rural setting.
