

# The Vermont Statutes Online

## **Title 24 : Municipal And County Government**

### **Chapter 117 : Municipal And Regional Planning And Development**

#### **Subchapter 007 : Bylaws**

(Cite as: 24 V.S.A. § 4413)

#### **§ 4413. Limitations on municipal bylaws**

(a)(1) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

(A) State- or community-owned and operated institutions and facilities.

(B) Public and private schools and other educational institutions certified by the Agency of Education.

(C) Churches and other places of worship, convents, and parish houses.

(D) Public and private hospitals.

(E) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.

(F) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

(2) Except for State-owned and -operated institutions and facilities, a municipality may regulate each of the land uses listed in subdivision (1) of this subsection for compliance with the National Flood Insurance Program and for compliance with a municipal ordinance or bylaw regulating development in a flood hazard area or river corridor, consistent with the requirements of subdivision 2291(25) and section 4424 of this title. These regulations shall not have the effect of interfering with the intended functional use.

(b) A bylaw under this chapter shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

(c) Except as otherwise provided by this section and by 10 V.S.A. § 1976, if any bylaw is enacted with respect to any land development that is subject to regulation under State statutes, the more stringent or restrictive regulation applicable shall apply.

(d)(1) A bylaw under this chapter shall not regulate:

(A) required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets;

(B) accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; or

(C) forestry operations.

(2) As used in this section:

(A) "Farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

(B) "Forestry operations" has the same meaning as in 10 V.S.A. § 2602.

(3) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

(4) This subsection does not prevent an appropriate municipal panel, when issuing a decision on an application for land development over which the panel otherwise has jurisdiction under this chapter, from imposing reasonable conditions under subsection 4464(b) of this title to protect wildlife habitat, threatened or endangered species, or other natural, historic, or scenic resources and does not prevent the municipality from enforcing such conditions, provided that the reasonable conditions do not restrict or regulate forestry operations unrelated to land development.

(e) A bylaw enacted under this chapter shall be subject to the restrictions created under section 2295 of this title, with respect to the limits on municipal power to regulate hunting, fishing, trapping, and other activities specified under that section.

(f) This section shall apply in every municipality, notwithstanding any existing bylaw to the contrary.

(g) Notwithstanding any provision of law to the contrary, a bylaw adopted under this chapter shall not:

(1) Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, "flat roof" means a roof having a slope less than or equal to five degrees.

(2) Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (1) of this subsection, clotheslines, or other energy devices based on renewable resources.

(h)(1) Except as necessary to ensure compliance with the National Flood Insurance Program, a bylaw under this chapter shall not regulate any of the following:

(A) An ancillary improvement that does not exceed a footprint of 300 square feet and a height of 10 feet.

(B) The following improvements associated with the construction or installation of a communications line:

(i) The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.

(ii) The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

(2) For purposes of this subsection:

(A) "Ancillary improvement" shall have the same definition as is established in 30 V.S.A. § 248a(b).

(B) "Communications line" means a wireline or fiber-optic cable communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes. (Added 2003, No. 115 (Adj. Sess.), § 95; amended 2009, No. 45, § 15c, eff. May 27, 2009; 2011, No. 53, § 14, eff. May 27, 2011; 2011, No. 170 (Adj. Sess.), § 16f, eff. May 18, 2012; 2013, No. 92 (Adj. Sess.), § 272, eff. Feb. 14, 2014; 2013, No. 107 (Adj. Sess.), § 2, eff. April 18, 2014; 2015, No. 64, § 52; 2015, No. 171 (Adj. Sess.), § 19.)