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## PART 1. GENERAL

### Chapter 100. Legal Framework

#### Section 1001. Title

1001.A These are the Town of Milton's *Unified Development Regulations* and constitute the town's zoning and subdivision regulations.

**Comment [BS1]:** Equivalent to Section 100 of the adopted zoning.

#### Section 1002. Authority

1002.A The Town of Milton has adopted these regulations in accordance with and as authorized by the *Vermont Municipal and Regional Planning and Development Act*, 24 VSA Chapter 117.

**Comment [BS2]:** Equivalent to Section 100 of the adopted zoning.

#### Section 1003. Purpose

1003.A These regulations implement the goals and policies of the *Town of Milton Comprehensive Plan* and the *Vermont Planning and Development Act*. They are intended to:

**Comment [BS3]:** Equivalent to Section 100 of the adopted zoning but expanded.

- (1) Provide for orderly community growth;
- (2) Protect public health, safety and welfare;
- (3) Ensure that proposed development will be adequately and efficiently served by necessary services, facilities and infrastructure;
- (4) Maintain a rate, scale and pattern of development that will not exceed the town's ability to provide necessary public services, facilities and infrastructure;
- (5) Allow for balanced housing and economic development that meets the needs of the community and region;
- (6) Protect environmental quality and conserve natural, agricultural, scenic and historic resources; and
- (7) Promote approaches to land use and development that are consistent with **smart growth principles** as defined in these regulations.

**Comment [BS4]:** Will be defined in Part 5.

#### Section 1004. Equal Treatment of Housing

1004.A These regulations are intended to allow the development of housing in accordance with statutory requirements. They:

**Comment [BS5]:** Equivalent to Section 100 of the adopted zoning but expanded.

- (1) Allow mobile homes, modular homes and prefabricated homes to the same extent as conventional homes.
- (2) Allow mobile home parks to the same extent as other residential subdivisions or developments.
- (3) Permit accessory dwelling units in all zoning districts that allow single-family homes and as an accessory use to any pre-existing single-family home in accordance with \*Section 3101.
- (4) Allow multi-family housing in appropriate zoning districts.
- (5) Treat group homes the same as any other single-family home (see \*Section 1102).

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**Section 1005. Applicability**

1005.A Unless specifically exempted in \*Chapter 110, all land development within the Town of Milton requires a zoning permit or subdivision approval issued in accordance with these regulations.

**Comment [BS6]:** Equivalent to Section 110 of the adopted zoning.

**Section 1006. Relation with Other Laws or Regulations**

1006.A If any provision of these regulations is more restrictive than any other law or regulation, the provision of these regulations will apply.

1006.B If any provision of another law or regulation is more restrictive than required under these regulations, the provision of the other law or regulation will apply.

1006.C The provisions regulating the special flood hazard area \*Section 2201 will take precedence over any other provision of these regulations.

1006.D The provisions of the Town of Milton's duly adopted Public Works Standards will take precedence in the case of a conflict with provisions of these regulations.

**Comment [BS7]:** Includes language equivalent to Section 180 of the adopted zoning and other standard provisions not clearly stated in the adopted zoning.

**Section 1007. Effective Date**

1007.A Upon adoption by the Town of Milton, these regulations and any subsequent amendments will take effect in accordance with the procedures established in the *Vermont Municipal and Regional Planning and Development Act*.

**Comment [BS8]:** Standard provision that is implied but not clearly stated in the adopted zoning.

**Section 1008. Amendment or Repeal**

1008.A The Town of Milton may amend or repeal these regulations, in whole or part, at any time in accordance with the procedures established in the *Vermont Municipal and Regional Planning and Development Act*.

**Comment [BS9]:** This would replace Article XII. It is not necessary to include the amendment procedures in the text of the regulations, since they are established by the Act.

**Section 1009. Severability**

1009.A If a court of competent jurisdiction invalidates any provisions of these regulations, that decision will not affect the validity, application or enforcement of the remaining provisions of these regulations.

**Comment [BS10]:** Equivalent to Section 1091 of adopted zoning.

**Section 1010. Liability Disclaimer**

1010.A These regulations do not create any liability on the part of the town, its officials, agents, employees, or representatives for alleged damages that result from reliance on these regulations or any lawful administrative action or decision taken under these regulations.

**Comment [BS11]:** Standard provision that is not in the adopted zoning.

## Chapter 110. Exemptions and Limitations

### Section 1101. General Exemptions

- 1101.A Except within the special flood hazard area (see \*), landowners do not need to obtain a zoning permit for:
- (1) Emergency repair and stabilization of a structure damaged by any cause to the extent necessary to protect public health and safety, and to protect the structure from the elements. Landowners must obtain a zoning permit for repair, reconstruction or demolition beyond the minimum necessary to stabilize and secure the structure.
  - (2) Normal maintenance and repair of, or interior alterations to, an existing structure that does not change any of the structure's exterior dimensions or its use. This does not include interior alterations that change the amount of floor area associated with an existing non-residential use or that creates additional tenant spaces or dwelling units.
  - (3) Normal maintenance and repair of essential services.
  - (4) Landscaping, grading and excavating associated with:
    - (a) Normal maintenance and repair of roads, driveways, parking areas, stormwater facilities or essential services; and
    - (b) Yard improvements on one- or two-family residential properties that do not result in more than 30 cubic yards of material being removed from or brought onto the site (typically 2 to 3 dump truck loads) within any calendar year.
  - (5) A home office located on one- or two-family residential property that:
    - (a) Has no non-resident employees;
    - (b) Has no sign;
    - (c) Does not generate regular traffic in excess of what is typical of other residences in the area;
    - (d) Does not include outdoor storage or use areas, except that outdoor parking of registered motor vehicles used for the business is allowed; and
    - (e) Does not alter the residential character of the property.
  - (6) Short-term rental (30 days or less) of one- or two-family residential property provided that:
    - (a) The landowner lives on the property for at least 4 months within any calendar year. Short-term rental of property that does not meet the owner occupancy requirement will be considered a commercial lodging use subject to all applicable provisions of these regulations.
    - (b) All guest parking will be accommodated on the lot and will meet applicable setback and lot coverage requirements for the zoning district.
    - (c) The landowner complies with all applicable state requirements.
  - (7) Not more than one accessory structure per dwelling unit on a one- or two-family residential property that:
    - (a) Is not otherwise exempted under this section;

**Comment [BS12]:** Those exemptions that are equivalent or similar to adopted zoning or are exempted by statute are noted. If no note, then it would be a new exemption.

**Comment [BS13]:** Equivalent to Section 130 (1) and 1000 (1) of adopted zoning.

**Comment [BS14]:** Compare to Section 680 of adopted zoning.

**Comment [BS15]:** Compare to Section 600 of adopted zoning. This differentiates between a home office (no permit) from a home occupation (permit).

**Comment [BS16]:** New provision added to clarify short-term lodging that is not subject to permitting.

**Comment [BS17]:** Equivalent to Section 130 (2) and 1000 (2) of adopted zoning.

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- (b) Has a footprint that does not exceed 120 square feet;
  - (c) Is not more than 10 feet tall;
  - (d) Is located at least 5 feet from any other structure;
  - (e) Does not have a permanent foundation; and
  - (f) Meets applicable setback and lot coverage requirements for the zoning district.
- (8) Any fuel tank serving a one- or two-family residential property that:
- (a) Holds not more than 500 gallons;
  - (b) Meets applicable setback requirements for the zoning district; and
  - (c) Is sited, installed and secured in accordance with state and federal regulations.
- (9) Any ground-mounted HVAC system, back-up generator or similar mechanical equipment serving one- or two-family residential property that:
- (a) Meets applicable setback requirements for the zoning district; and
  - (b) Is sited, installed and secured in accordance with state and federal regulations.
- (10) Not more than one stand-alone, detached, above-ground swimming pool per dwelling unit on a one- or two-family residential property that:
- (a) Has a footprint of 120 square feet or less;
  - (b) Has a diameter of 12 feet or less;
  - (c) Does not have a permanent foundation;
  - (d) Meets applicable setback and lot coverage requirements for the zoning district; and
  - (e) Is installed and secured to prevent unauthorized access.
- (11) Not more than one at-grade patio per dwelling unit on a one-or two-family residential property that:
- (a) Has a footprint of 300 square feet or less; and
  - (b) Meets applicable setback and lot coverage requirements for the zoning district.
- (12) Not more than one unroofed deck per dwelling unit on a one-or two-family residential property that:
- (a) Has a footprint of 300 square feet or less; and
  - (b) Meets applicable setback and lot coverage requirements for the zoning district.
- (13) Wheelchair ramps, uncovered entry stairs, or walkways on a one- or two-family residential property that:
- (a) Are 6 feet or less in width;
  - (b) Do not extend into or obstruct a public right-of-way;
  - (c) Do not interfere with corner visibility or sight distance for vehicular traffic; or
  - (d) Do not result in flooding or ponding of water on abutting property or public rights-of-way.

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- (14) Any fence or wall on a one- or two-family residential property that:
  - (a) Is not more than 4 feet tall, if functioning as a retaining wall;
  - (b) Is not more than 4 feet tall, if located in the front yard;
  - (c) Is not more than 6½ feet tall, if located in the side or rear yard;
  - (d) Does not extend into or obstruct a public right-of-way;
  - (e) Does not interfere with corner visibility or sight distance for vehicular traffic;
  - (f) Does not result in flooding or ponding of water on abutting property or public rights-of-way;
  - (g) Does not pose a safety hazard;
  - (h) Is not designed to inflict physical harm; and
  - (i) Is installed so that any support posts are to the inside and the “finished” or “good” side faces out.
- (15) Outdoor light fixtures on a one- or two-family residential property that:
  - (a) Have an initial output of not more than 3,000 lumens; and
  - (b) Are downward directed and shielded as necessary to prevent glare or light trespass off the property.
- (16) A solar energy device that:
  - (a) Will be installed on and project not more than 10 feet above the surface of a sloped roof; or
  - (b) Will be installed on a flat roof (any roof with a slope of 5% or less).
- (17) A wind energy device that will be installed on a roof and project not more than 10 feet above the roof surface.
- (18) A television antenna, radio antenna, satellite dish or similar device used to provide on-site communication service that:
  - (a) Is not more than 15 square feet in area, if a dish antenna;
  - (b) Does not extend more than 12 feet above the roofline, if attached to a building;
  - (c) Does not extend more than 50 feet above the ground, if a freestanding amateur radio antenna (including any support structure); and
  - (d) Meets applicable setback requirements for the zoning district; and
  - (e) Is installed in the least visible location where it can reasonably function.
- (19) An antenna mounted on an existing structure used for single-use local business radio dispatch purposes or for police, fire, ambulance or similar emergency dispatch purposes.
- (20) Telecommunications equipment and related site development that does not exceed a footprint of 300 square feet and a height of 10 feet.
- (21) Signs listed in Section 3206.
- (22) Public art that:

**Comment [BS18]:** Replaces Section 130 (3) and Section 1000 (3) of adopted zoning, narrowing exemption.

**Comment [BS19]:** Equivalent to Section 130 (4) and Section 1000 (4) of adopted zoning and required by statute (24 V.S.A. § 4413(g) and 24 V.S.A. § 4412(6)).

**Comment [BS20]:** Similar to Section 130 (4) of adopted zoning. Uses a maximum height above the roof surface rather than relying on the maximum height requirement of the zoning district like adopted zoning.

**Comment [BS21]:** Exempted by statute (24 V.S.A. § 4412(8)).

**Comment [BS22]:** Exempted by statute (24 V.S.A. § 4412(8)).

**Comment [BS23]:** Federal law provides protection for ham radio antennas. Essentially, municipal zoning cannot place restrictions that would prevent ham radio use. This 50-foot exemption is not mandated by law, but is common practice and is considered reasonable accommodation.

**Comment [BS24]:** Exempted by statute (24 V.S.A. § 4413(h)(1)).

**Comment [BS25]:** Similar to Section 760 of adopted zoning. Need to be sure to include definition of public art in Part 5.

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- (a) Does not extend into or obstruct a public right-of-way unless otherwise approved by the Town of Milton's authorized agent or VTrans, as applicable;
  - (b) Does not interfere with corner visibility or sight distance for vehicular traffic;
  - (c) Does not result in flooding or ponding of water on abutting property or public rights-of-way; and
  - (d) Does not pose a safety hazard.
- (23) Garage sales, yard sales, tent sales, auctions or similar activities that:
- (a) Do not occur on a property for longer than 5 consecutive days and for more than 14 days in any calendar year; and
  - (b) Do not extend into or obstruct a public right-of-way.
- (24) Sales of vehicles, equipment or similar used personal or business goods owned by the landowner or tenant that:
- (a) Do not occur on a property for more than 60 days in any calendar year; and
  - (b) Do not extend into or obstruct a public right-of-way.
- (25) Use of public or private property for noncommercial hunting, fishing or trapping in accordance with state regulations (any structures with permanent foundations associated with such use may still require a zoning permit).
- (26) Use of public or private property for noncommercial passive outdoor recreation or gardening and customary furnishing (any structures with permanent foundations associated with such use may still require a zoning permit).
- (27) Land development within public road rights-of-way (approval may be required from the Town of Milton's authorized agent or VTrans, as applicable).

**Comment [BS26]:** Equivalent to Section 740 of adopted zoning.

1101.B Portable structures, temporary structures, moveable structures, storage trailers and other similar structures without a foundation will be subject to the same permitting requirements as permanently located structures with foundations under these regulations unless specifically stated otherwise.

**Section 1102. Group Homes**

- 1102.A Landowners do not need to obtain a zoning permit to use a lawful single-family dwelling as a group home that will:
- (1) Not serve more than 8 residents who have a handicap or disability;
  - (2) Not be located closer than 1,000 feet from another existing or permitted group home as measured from property line to property line; and
  - (3) Be operated under state licensing or registration.

**Comment [BS27]:** Required by statute (24 V.S.A. § 4412(1)(G)). Equivalent to part of Section 610 of adopted zoning. Recent case law has affected the interpretation of this statutory requirement, and the language has been adjusted accordingly.

1102.B Landowners must obtain a zoning permit for home construction or other associated land development to the same extent as would be required if the property was occupied by any household.

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**Section 1103. Agriculture and Forestry**

- 1103.A Landowners do not need to obtain a zoning permit to conduct required agricultural practices or accepted silvicultural practices as defined by the State of Vermont Agency of Agriculture.
- 1103.B Landowners do not need to obtain a zoning permit to build a farm structure in accordance with state regulations and the following:
- (1) Landowners must complete a zoning permit application demonstrating that proposed land development qualifies as an exempt farm structure, but they do not have to pay the associated application fee.
  - (2) The Zoning Administrator may request that landowners provide a written determination from the Vermont Agency of Agriculture, Food and Markets as to whether proposed land development qualifies as a required agricultural practice.
  - (3) Farm structures, other than walls or fences used for farming purposes, must meet the setback requirements for the district unless the landowner provides the Zoning Administrator with a written waiver from the Vermont Agency of Agriculture, Food and Markets. Farm structures are not required to meet bulk or height requirements for the district.
  - (4) Upon finding that a proposed structure qualifies as an exempt farm structure, the Zoning Administrator will issue the landowner a letter informing the landowner that he/she may build as use the structure for farming purposes without a zoning permit, but that he/she must obtain a zoning permit before using the structure for a non-farming purpose.
- 1103.C Land uses and development that do not meet the state’s definition of agriculture or forestry are subject to all applicable provisions of these regulations, including but not limited to the provisions related to keeping animals on residential property in \*.

**Comment [BS28]:** Required by statute (24 V.S.A. § 4413(d)).

**Section 1104. Land Development with a Certificate of Public Good**

- 1104.A Landowners do not need to obtain a zoning permit for land development associated with utility, energy or telecommunications facilities that receive a Certificate of Public Good from the Public Service Board.

**Comment [BS29]:** Required by statute (24 V.S.A. § 4413(b)). Equivalent to part of Section 750 of adopted zoning.

**Section 1105. Community Facilities**

- 1105.A Landowners must obtain a zoning permit, and site plan approval if applicable, for land development associated with a community facility, unless otherwise exempted under these regulations.
- 1105.B Land development associated with a community facility must meet the same standards as comparable types of private development, including compliance with the flood hazard regulations of \*Section 2201 if applicable, unless the applicant demonstrates that meeting the standard(s) will interfere with the intended function or use of the community facility.
- 1105.C Community facilities include:
- (1) Institutions or facilities owned and operated by the town or state.
  - (2) Public and private schools or other educational institutions certified by the state.

**Comment [BS30]:** Required by statute (24 V.S.A. § 4413(a)). Equivalent to Section 700 of adopted zoning. This is not the statutory language verbatim, but it is the common interpretation of the meaning of the statutory language.

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- (3) Places of worship or religious institutions.
- (4) Public and private hospitals certified by the state.
- (5) Waste management facilities certified by the state.

**Section 1106. Home Occupations**

- 1106.A A resident must obtain a zoning permit for a home occupation that:
- (1) Is not an exempt home office (see \*Paragraph 1101.A(5));
  - (2) Is customary in residential areas;
  - (3) Does not have an undue adverse effect upon the character of the area;
  - (4) Does not generate regular traffic or off-site impacts such as noise, odors or dust in excess of what is typical of the uses in the area;
  - (5) Has hours of operation that are limited to 7 a.m. to 7 p.m. Monday through Saturday;
  - (6) Is not 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) will be allowed;
  - (7) Occupies a minor portion (<50% of the habitable floor area) of the dwelling and/or not more than 1,000 square feet of floor area in one or more accessory buildings;
  - (8) Does not employ more than 2 people who do not live in the residence; and
  - (9) Does not have outdoor storage or use areas, including parking of heavy equipment outside an enclosed structure; and
  - (10) May park not more than 2 registered motor vehicles used for the business outside and enclosed structure.
- 1106.B A home occupation may have one non-illuminated sign that must not be more than 4 square feet in area.
- 1106.C A home occupation is considered an accessory use of residential property and does not require site plan approval.
- 1106.D Larger or more intensive home businesses may be allowed in specified zoning districts in accordance with \*Section 3103.

**Comment [BS31]:** Required by statute (24 V.S.A. § 4412(4)). Equivalent to Section 600 of adopted zoning with narrowing of outdoor storage allowance, moves it over to home business.

**Section 1107. Accessory Dwellings**

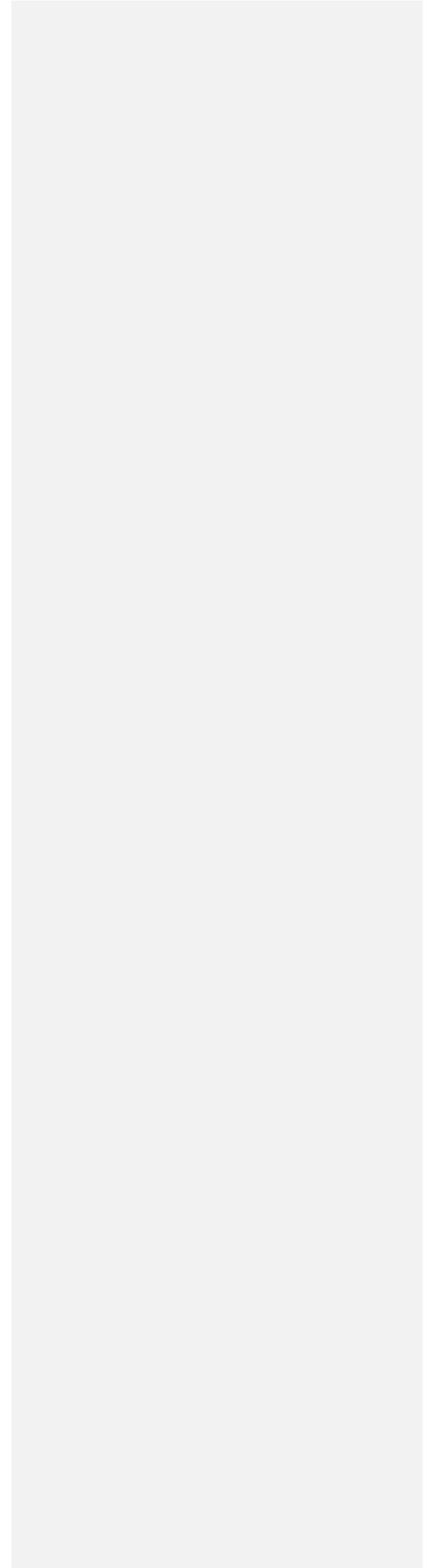
- 1107.A A landowner may obtain a zoning permit for one accessory dwelling unit (ADU) within or associated with any owner-occupied, single-family dwelling that meets all the following:
- (1) The ADU must be clearly subordinate to the primary dwelling and must have facilities and provisions for independent living, including sleeping, food preparation and sanitation.
  - (2) The ADU must not exceed 900 square feet or 30% of the total habitable floor area of the primary dwelling (prior to creation of the ADU), whichever is greater.
  - (3) The ADU must not have more than 2 bedrooms.

**Comment [BS32]:** Required by statute (24 V.S.A. § 4412(1)(E)). Equivalent to Section 880 of adopted zoning but is more generous than required under statute – allowing for a 2-bedroom unit and ADU up to 900 sf no matter the size of the primary DU and then sticking with the 30% for anything larger as per statute. Current zoning allows for 40%.

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- (4) The ADU must meet applicable dimensional standards for the zoning district and parking requirements for residential uses.
- (5) The ADU must share a driveway with the primary dwelling unit.
- (6) The landowner must reside on the property, but may live in either the primary dwelling or the ADU.
- (7) The landowner complies with all applicable state requirements.



## Chapter 120. Prior Applications, Approvals and Uses

### Section 1201. Prior Permits and Approvals

- 1201.A **Zoning Permits Issued Prior to Amendment or Adoption of these Regulations.** If the Zoning Administrator lawfully issued a zoning permit before the Town of Milton adopted or amended these regulations, an applicant will not need a new or amended permit for the project. If such an applicant does not substantially complete the land development or receive an extension before that permit expires, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations as in effect at the time of the new application.
- 1201.B **Prior Zoning Permits for Phased Projects.** If an applicant received approval for a phased project before the Town of Milton adopted or amended this ordinance, the Zoning Administrator will issue permits for the land development as approved irrespective of any change in these regulations. However, if such an applicant does not substantially complete the phased project as a whole within the timeframe specified in the approval, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations as in effect at the time of the new application.
- 1201.C **Development Approvals Received before [EFFECTIVE DATE].** If an applicant does not obtain a zoning permit for proposed land development, other than a subdivision, that the Development Review Board approved before [EFFECTIVE DATE] by [EFFECTIVE DATE + 3 YEARS], the approval will expire and the applicant must apply for a new approval under the regulations as in effect at the time of the new application.
- 1201.D **Development Approvals Received after [EFFECTIVE DATE].** If an applicant does not obtain a zoning permit for proposed land development, other than a subdivision, that the Development Review Board approved on or after [EFFECTIVE DATE] within 3 years of receiving that development approval, the approval will expire and the applicant will need to apply for a new approval under the regulations as in effect at the time of the new application. An amendment to a development approval obtained under \*Section 4204 or \*Section 4305 will not affect the expiration date of that development approval.
- 1201.E **Lawfully Recorded Subdivision Plats.** If an applicant lawfully recorded an approved subdivision plat in the Town of Milton's land records, that plat will remain valid and will not expire irrespective of any change in these regulations.
- 1201.F **Effect of Change in Ownership.** Zoning permits and development approvals remain valid irrespective of any change in ownership of the property.
- 1201.G **Expiration of Permits and Approvals.** Zoning permits and development approvals for nonresidential uses will expire if the landowner discontinues the use in accordance with \*Section 1205.

**Comment [BS33]:** The current regulations lack clarity with regard to how long development approvals are valid so most of the language in this section is new. It is consistent with common practice and legal interpretation of vested rights in Vermont.

**Comment [BS34]:** This is the new provision that would "sunset" old site plan approvals.

**Comment [BS35]:** Section 1020 of adopted regulations states that conditional use approvals expire from one year of issue with the possibility of a 1-year extension. This would increase the period of time the approval would be valid and the applicant could apply for a zoning permit under that approval.

**Comment [BS36]:** Required by statute (24 V.S.A. § 4463(b)). Section 970 of adopted subdivision regulations sets an expiration date of 24 months for a subdivision approval if no development has occurred. That is no longer consistent with state law.

**Comment [BS37]:** This is common law in Vermont. Adopted regulations do not specifically state this.

**Comment [BS38]:** See comments in Section 1203.

**Section 1202. Prior Applications**

1202.A **If** a landowner submitted an application before the Town of Milton adopted or amended these regulations, town staff and the Development Review Board will review that application based on the regulations in effect at the time town staff determined that the filed application was complete.

**Comment [BS39]:** The language related to determining when an application is complete will be in Part 4.

**Section 1203. Change of Use**

1203.A **Change from One Use Definition to Another.** A landowner must obtain a zoning permit, and any development approvals as applicable, for a change of use if the two uses do not fall under the same use definition in \*Chapter 520 (e.g., a “personal service” use like a barber shop to a “restaurant” use like a coffee shop).

1203.B **Change within a Use Definition.** A landowner does not need to obtain a zoning permit or development approval for a change of use if both uses fall under the same use definition in \* (e.g., a “retail” use like a clothing store to a “retail” use like a home furnishings store). Other land development associated with the change of use may require a permit or approval (e.g., new or modified signage).

**Comment [BS40]:** Section 130 of adopted zoning includes “change of use” as one element of “land development” but does not provide further guidance on what constitutes a change of use. Some municipalities do require any change of use to get a zoning permit and any associated development approvals. With the goal to streamline the permitting process, this draft defines a change of use as a change from one defined use to another defined use.

**Section 1204. Expansion of Use**

1204.A **Nonresidential Uses.** A landowner must obtain a zoning permit, and any development approvals as applicable, to expand a nonresidential use to occupy additional space in a building or on a lot.

1204.B **Residential Uses.** A landowner will not need to obtain a zoning permit to expand a residential use to occupy existing space in the building provided the number of dwelling units will not change (e.g., converting an unfinished basement or attic to habitable space). The landowner must obtain a zoning permit, and any development approvals as applicable, to change the number of dwelling units.

**Comment [BS41]:** Section 130 of adopted zoning includes “expansion” as one element of “land development” but does not provide further guidance. This treats residential and nonresidential uses differently with regard to expansion. Nonresidential expansion may trigger site plan review, so it needs a permit. Residential expansion does not trigger any site plan issues and this does not require a permit, provided the number of units is not changing.

**Section 1205. Discontinued Uses**

1205.A **Nonresidential Uses.** A landowner must obtain a zoning permit, and any development approvals as applicable, to use property previously used for a nonresidential purpose for the same or another nonresidential use if the prior nonresidential use has been discontinued for more than 12 months except:

- (1) If the landowner has had to discontinue a nonresidential use as result of damage to the structure in which it is housed, the owner may re-establish the use once the structure has been repaired or rebuilt in accordance with \*Section 1207.
- (2) The Zoning Administrator may extend the period of discontinuance for a conforming use to a total of not more than 3 years if the landowner demonstrates that he/she is actively marketing the property or business for sale or lease. If the use is nonconforming, see \*Section 1303.

1205.B **Residential Uses.** A landowner will not need to obtain a zoning permit to resume the use of a residential property that has not been inhabited for a residential purpose provided the number of dwelling units will not change.

**Comment [BS42]:** Adopted zoning only speaks to discontinued nonconforming uses. This section covers discontinuance of lawful uses as well. It treats residential and nonresidential uses differently with regard to discontinuance. Resumption of a nonresidential expansion may trigger site plan review, so it needs a permit. Resumption of a residential use does not trigger any site plan issues and I recommend not requiring a permit provided the number of units is not changing. Need to add a definition of discontinued that includes criteria for determining whether a use has been discontinued.

**Comment [BS43]:** Requiring a site plan approval if the former use has been discontinued is a way to bring previously developed sites into compliance with current regulations. It creates the opportunity for addressing issues like access management, stormwater, outdoor lighting, landscaping, etc.

**Section 1206. Abandoned Land Development**

1206.A If the land development authorized by a zoning permit is abandoned without being completed, a landowner must demolish or secure any partially completed structures, remove all structural materials from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion prior to or within 6 months after the zoning permit expires.

**Comment [BS44]:** This issue is not addressed in adopted regulations.

**Section 1207. Blighted, Damaged or Destroyed Structures**

1207.A A landowner must act promptly to stabilize and secure a structure blighted, damaged or destroyed by any cause as necessary to protect public health and safety.

**Comment [BS45]:** Adopted zoning only speaks to damaged or destroyed nonconforming structures. This provision applies to lawful structures as well.

1207.B Within 6 months of a structure being damaged or destroyed by any cause or of the Zoning Administrator notifying a landowner that a structure is blighted as defined in these regulations, a landowner must either:

- (1) Stabilize and secure the structure as necessary to protect the structure from the elements and to protect public health and safety, if the structure will be reconstructed; or
- (2) Demolish the structure, remove all structural materials and debris from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion.

1207.C The Zoning Administrator may grant one or more extensions to the 6-month deadline established in \*Subsection 1207.B for a total of not more than 36 months upon the landowner demonstrating that:

- (1) The property does not pose a hazard to public health or safety; and
- (2) He/she has been unable to meet the deadline due to factors beyond his/her control.

1207.D If a nonconforming structure is blighted, damaged or destroyed, a landowner may rebuild and use the structure in accordance with \*Section 1302 and provided that:

- (1) The structure as reconstructed does not exceed the original floor area;
- (2) The structure as reconstructed is not more nonconforming than the original structure; and
- (3) He/she applies for a zoning permit for reconstruction within 12 months of the structure being damaged or destroyed.

1207.E As part of any redevelopment project requiring approval from the Development Review Board, a landowner must rehabilitate, stabilize, remove or demolish any blighted, damaged or destroyed structures located on the subject property.

**Comment [BS46]:** Need to consider the definition of the terms rehabilitate, stabilize, blighted, damaged and destroyed.

## Chapter 130. Nonconformities

### Section 1301. Nonconforming Lots

- 1301.A A nonconforming lot may continue to exist unchanged indefinitely. If a nonconforming lot comes into common ownership with one or more contiguous lots, the Town of Milton will not deem the lot merged with the contiguous lot(s) for the purposes of these regulations (a landowner may choose to merge contiguous lots in accordance with \*Section 4402).
- 1301.B A landowner may develop a lot that does not meet the minimum lot size for the zoning district in accordance with all other applicable provisions of this ordinance provided that the lot:
- (1) Is legally subdivided and able to be conveyed separate from any other lot;
  - (2) Existed as of the effective date of these regulations;
  - (3) Is at least 1/8 acre (5,445 square feet) in area; and
  - (4) Is not less than 40 feet wide or deep.
- 1301.C The side and rear setbacks for single-family residential uses on lot that does not meet the minimum lot size in a zoning district that permits single-family dwellings will be reduced to 15 feet if the setbacks in the applicable district are greater.
- 1301.D A landowner with a lot that does not meet the minimum lot frontage for the zoning district:
- (1) May develop that lot in accordance with all other applicable provisions of these regulations provided that the lot has access to a road over a permanent easement or right-of-way at least 20 feet in width.
  - (2) Must not subdivide that lot unless the lot has access to a road over a permanent easement or right-of-way at least 50 feet in width.

**Comment [BS47]:** There used to be a distinction between noncomplying and nonconforming in Vermont law. The term "noncomplying" was eliminated in statute and "nonconforming" or "nonconformity" is used to describe lots, structures and uses.

**Comment [BS48]:** Adopted zoning is silent on issue of lot merger.

**Comment [BS49]:** Comparable to Section 630. This language more closely mirrors statute than adopted zoning.

**Comment [BS50]:** Comparable to Section 631.

### Section 1302. Nonconforming Structures

- 1302.A A nonconforming structure that lawfully existed when the Town of Milton adopted or amended these regulations may continue to exist unchanged indefinitely.
- 1302.B A landowner may obtain a zoning permit, and any applicable development approvals, to use a nonconforming structure for any use allowed in the zoning district.
- 1302.C A landowner may undertake normal repair and maintenance that does not change any of the exterior dimensions of a nonconforming structure.
- 1302.D The Zoning Administrator may issue a zoning permit for land development that would change the exterior dimensions of a nonconforming residential structure provided that the proposed development:
- (1) Will not result in any portion of the nonconforming structure encroaching further beyond the existing nonconforming building line or height;
  - (2) Will not convert a nonconforming porch, deck or similar feature to enclosed and/or conditioned building space;

**Comment [BS51]:** The language related to mobile home parks in Subsection 520.3 of adopted zoning will be moved to the MHP section.

**Comment [BS52]:** This partially covers Section 516 of adopted zoning.

**Comment [BS53]:** Comparable to Section 515 of adopted zoning.

**Comment [BS54]:** Compare to Subsection 520.1 of adopted zoning.

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- (3) Is not subject to conditions from prior approvals or permits that would otherwise restrict the proposed development; and
- (4) Would not otherwise require a development approval from the Development Review Board.

1302.E The Development Review Board may approve a waiver or variance to allow a change in the exterior dimensions of a nonconforming structure in accordance with \*Section 4604 or Section 4605.

**Comment [BS55]:** Compare to Subsection 520.2 of adopted zoning.

It may be possible that some change to the exterior dimensions of a nonconforming structure could meet the variance criteria – it would be rare, but variances should be.

1302.F Except within the special flood hazard area (see \*Section 2201), a landowner may obtain a zoning permit to repair or reconstruct a nonconforming structure that has been unintentionally damaged or destroyed by any cause provided that:

**Comment [BS56]:** Compare to Subsection 520.4 of adopted zoning. Adopted zoning requires reconstruction be completed within 2 years with the potential for a 1 year extension. I recommend setting a deadline to apply for a permit. Factors like insurance claims and financing may make it impossible to meet the 2-year deadline to complete construction.

- (1) The owner submits a complete zoning permit application or a request for an extension within 18 months of the damage or destruction occurring. The Development Review Board may grant an extension upon the applicant demonstrating that factors beyond his/her control have created an unanticipated delay (e.g., insurance claim or litigation).
- (2) The repair or reconstruction does not change the exterior dimensions of the structure in a manner that would result in the repaired or reconstructed structure or portion of the structure encroaching further beyond the previous nonconforming building line or height.

**Section 1303. Nonconforming Uses**

1303.A A nonconforming use that lawfully existed when the Town of Milton adopted or amended these regulations may continue to exist in its current location and configuration unchanged indefinitely.

**Comment [BS57]:** This partially covers Section 516 of adopted zoning.

1303.B A landowner must not move a nonconforming use from one location to another where it would also be a nonconforming use.

1303.C A landowner must not resume a nonconforming use that he/she discontinued or replaced with another use for more than 12 months except:

**Comment [BS58]:** Comparable to Sections 513 and 514 of adopted zoning. The 18-month time period remains the same. The mobile home park language will be moved to the MHP section.

- (1) The Development Review Board may approve a waiver to extend the period of discontinuance to a total of not more than 3 years if the landowner demonstrates that he/she is actively marketing the property for sale or lease.

1303.D The Zoning Administrator may issue a zoning permit to allow a landowner to extend or expand a nonconforming use to fully occupy space within the associated structure as that structure existed when the use became nonconforming. The Development Review Board may approve a greater extension or expansion of a nonconforming use as a conditional use upon the applicant demonstrating that the proposed extension or expansion will not result in greater adverse impacts on the character of the area.

**Comment [BS59]:** Compare to Section 512 of adopted zoning. Continues to allow expansion of a nonconforming use as a conditional use. Would be a change to allow ZA to approve expansion of a nonconforming use to fully occupy existing space.

1303.E The Development Review Board may approve the change of one nonconforming use to another nonconforming use as a conditional use upon the applicant demonstrating that the proposed nonconforming use will be less intensive in nature and more compatible with the character of the area than the existing nonconforming use.

**Comment [BS60]:** Comparable to Section 511 of adopted zoning.

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**Section 1304. Creation of a Nonconformity**

1304.A The Town of Milton prohibits any land development that would create a nonconformity except as specifically authorized in these regulations.

1304.B The transfer or taking of land for a public purpose (e.g., road widening) may create a nonconformity.

**Comment [BS61]:** Includes provisions of Section 620 in adopted zoning. Need to remember to include the provisions of Section 621 with the language related to boundary line adjustments.

## **PART 2. ZONING DISTRICTS AND STANDARDS**

### **Chapter 200. General Provisions**

#### **Section 2001. Establishment of Base Zoning Districts**

#### **Section 2002. Establishment of Overlay Zoning Districts**

#### **Section 2003. Official Zoning Map**

[placeholder only, no official map proposed]

## Chapter 210. Base Zoning Districts

### Section 2101. Downtown Business (DB1) District

2101.A **Purpose.** The purpose of the Downtown Business District is to designate and reinforce this area as Milton's downtown by:

- (1) Establishing a well-defined, mixed-use, compact and walkable downtown centered around the intersection of Route 7, Railroad Street and Middle Road.
- (2) Featuring the highest density of development and the greatest diversity of land uses in an area that is served by public infrastructure and transit.
- (3) Transforming Route 7, Middle Road, Centre Drive and Bombardier Road into "main streets" defined by sidewalks, crosswalks, street trees and landscaping, and pedestrian-oriented buildings located close to the street and sidewalk.
- (4) Promoting pedestrian-oriented infill along street frontages and within underutilized parcels.
- (5) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (6) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2101.B **Permitted Uses.** The Zoning Administrator may issue a zoning permit for the following uses:

- |                                    |                                      |
|------------------------------------|--------------------------------------|
| (1) Upper floor residential        | (15) Religious institution           |
| (2) <b>Accessory dwelling</b>      | (16) Medical clinic                  |
| (3) <b>Home occupation</b>         | (17) Grade school                    |
| (4) <b>Family childcare home</b>   | (18) College or university           |
| (5) Bed and breakfast              | (19) Trade or technical school       |
| (6) Retail sales                   | (20) Specialty school                |
| (7) Open market                    | (21) Government office or courthouse |
| (8) Office or professional service | (22) Museum                          |
| (9) Personal or business service   | (23) Funeral and cremation service   |
| (10) Restaurant                    | (24) Child day care                  |
| (11) Tavern                        | (25) Transit facility                |
| (12) Media studio                  | (26) <b>Essential services</b>       |
| (13) Indoor recreation             | (27) Communication antenna           |
| (14) Public recreation             |                                      |

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(28) The applicant must receive site plan approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for any of the uses not bolded.

(29) The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a permit for:

- (a) Construction of 6,000 square feet or more of commercial or industrial space;
- (b) A mixed-use development containing 6 or more dwelling units;

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- (c) A use with drive-through or drive-in service (see \*); or
- (d) An adult-oriented use (see \*).

(30) Upper floor residential will only be allowed within mixed-use buildings with at least the ground floor designed for and occupied by commercial uses. If the upper floor residential will be senior housing, the ground level may be used for non-residential purposes accessory to the senior housing such as common areas, support services or offices.

(31) The Town of Milton will treat any single-family or two-family dwelling in existence prior to October 11, 2005 as a permitted use. New single-family or two-family dwellings are prohibited.

2101.C **Conditional Uses.** The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for the following uses:

- |                               |   |
|-------------------------------|---|
| (1) Retirement housing        | (8) Lawn, garden or farm supply             |
| (2) Assisted living           | (9) Light industry                          |
| (3) Skilled nursing services  | (10) Data center or information services    |
| (4) Home business             | (11) Laboratory or research facility        |
| (5) Inn                       | (12) Wholesale trade                        |
| (6) Rooming or boarding house | (13) Supervision or rehabilitative services |
| (7) Hotel or motel            | (14) Parking                                |

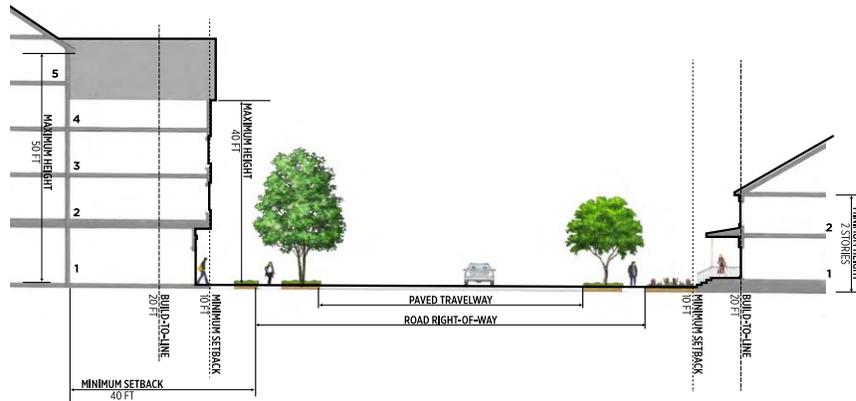
2101.D **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |                          |   |
|--------------------------|---|
| (1) Lot size             | 4,500 sf min  |
| (2) Lot frontage         | 30 ft min   |
| (3) Lot coverage         | 80% max (includes all impervious surfaces)  |
| (4) Front setback        | 10 ft min<br>20 ft min from principal bldg frontline for accessory bldgs  |
| (5) Build-to line (BTL)  | 20 ft   |
| (6) Side setback         | 10 ft min or 0 ft if buildings attached   |
| (7) Rear setback         | 10 ft min   |
| (8) Residential density  | 1 dwelling unit per 3,000 sf of lot area max<br>(also see Paragraph 2101.E(4) below)  |
| (9) Floor area ratio     | 4.0 max   |
| (10) Building footprint  | 6,000 sf max for principal buildings<br>4,000 sf max and less than principal bldg for accessory bldgs.  |
| (11) Building height     | 2 stories min<br>40 ft max within 40 ft of front lot line or district boundary<br>50 ft max beyond 40 ft from front lot line or district boundary<br>35 ft max and less than principal bldg for accessory bldgs |
| (12) Ground floor height | 12 ft min to 18 ft max for principal buildings  |

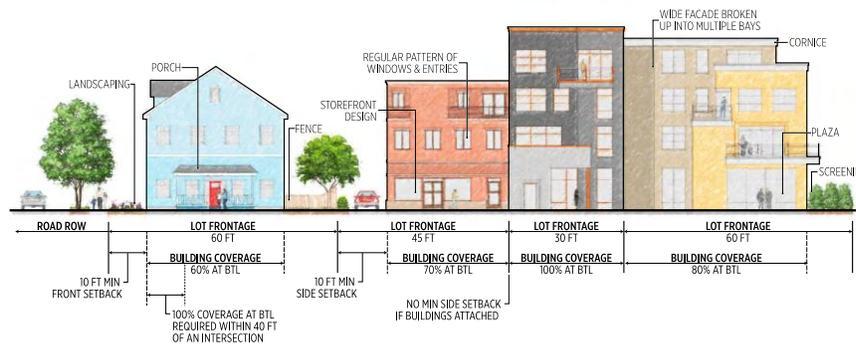
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- (13) Upper floor height 9 ft min to 14 ft max for principal buildings
- (14) Building coverage 60% min of BTL  
30% min of BTL on secondary street (for corner buildings)  
100% min of BTL within 40 ft of a street intersection

**DOWNTOWN BUSINESS DISTRICT**  
PROPOSED DIMENSIONAL STANDARDS



**DOWNTOWN BUSINESS DISTRICT**  
PROPOSED DIMENSIONAL & DEVELOPMENT STANDARDS



2101.E **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must be oriented to the street with facades that incorporate at least one of the following:
  - (a) A storefront design with clear glass windows offering views into the building interior composing a minimum of 60% of the ground level wall area up to 10 feet

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- above the finished grade.
  - (b) An open porch, gallery or arcade at least 6 feet deep. A gallery or arcade must extend the full width of the facade. A porch must extend along at least 40% of the facade.
  - (c) A landscaped patio, terrace, plaza, courtyard or pocket park adjoining the sidewalk offering outdoor seating or dining. The area of this feature must equal or exceed the width of the building facade multiplied by 5 feet.
  - (d) For residential buildings, a decorative fence or wall not more than 4 feet high along the lot frontage, a landscaped front yard and a walkway leading to a front entrance that faces the street.
  - (e) For civic or religious buildings, other distinctive architectural elements characteristics of such building types.
- (2) New or substantially modified principal buildings must:
- (a) Incorporate visible changes in wall plane and roof form that break up wide facades into multiple bays. A bay must not be more than 32 feet wide.
  - (b) Incorporate a cornice or roof overhang.
  - (c) Feature a regular pattern of windows and entries on the facade. Stretches of solid or blank walls between windows or entries must not be more than 20 feet wide.
  - (d) Incorporate at least one ground-level entrance for each 60 feet of building facade width. The distance between ground-level entrances along a single, continuous facade must not be more than 80 feet.
  - (e) Provide pedestrian access from the public sidewalk or street to ground-level entrance(s) on the facade.
  - (f) Locate vehicular and service entrances to the side or rear, except that the DRB may approve front entrances for structured or under-building parking.
- (3) Any land development that requires major site plan approval must:
- (a) Eliminate or relocate any pre-existing parking or vehicular use areas between the street and building to the maximum extent feasible given site-specific conditions. All new parking or vehicular use areas must be located to the side or rear of the principal building.
  - (b) Landscape the area between the street and building so that at least 20% of the ground will be covered with a mix of trees, shrubs, perennial plants and groundcovers (excluding turf grass) within 4 growing seasons.
  - (c) Plant or preserve at least one tree within the front yard setback for each 30 feet of road frontage.
- (4) New mixed-use buildings must:
- (a) Allocate at least 20% of their floor area to non-residential uses.
  - (b) Locate all dwelling units on upper floors.
  - (c) Not contain more than 20 dwelling units per building.

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- (5) Locate and design any structured parking to maintain a pedestrian-oriented streetscape. Structured parking that is not entirely below ground level along the street must be set back at least 20 feet from the building front line and screened by active uses so that parking will not be visible from the street.

**Section 2102. Checkerberry Neighborhood Center (NC1) District**

2102.A **Purpose.** The purpose of the Checkerberry Neighborhood Center District is to foster development of a compact, mixed-use cluster of neighborhood-serving businesses within the Checkerberry area by:

- (1) Accommodating small-scale businesses that will provide basic goods and services and that nearby residents can access by walking or biking.
- (2) Accommodating higher-density and mixed-use development in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (3) Transforming Route 7 into a safe and attractive highway corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (4) Minimizing the amount and visual impact of parking located in front of buildings.
- (5) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of commercial uses do not adversely affect quality of life for nearby residents.
- (6) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (7) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2102.B **Permitted Uses.** The Zoning Administrator may issue a zoning permit for the following uses:

- |                                     |   |
|-------------------------------------|---|
| (1) <b>Accessory dwelling</b>       | (13) Wholesale trade                          |
| (2) <b>Home occupation</b>          | (14) Media studio                             |
| (3) <b>Family childcare home</b>    | (15) Communication antenna                    |
| (4) Upper floor residential         | (16) <b>Essential services</b>                |
| (5) Retail sales                    | (17) Indoor recreation                        |
| (6) Food or beverage store          | (18) Specialty school                         |
| (7) Convenience store               | (19) Medical clinic                           |
| (8) Restaurant                      | (20) Social assistance and charitable service |
| (9) Financial establishment         | (21) Child day care                           |
| (10) Office or professional service | (22) Religious institution                    |
| (11) Veterinary service             | (23) Funeral and cremation service            |
| (12) Personal or business service   | (24) Social and membership organization       |
- 

- (25) The applicant must receive site plan approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for any of the uses not bolded.

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- (26) The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a permit for:
  - (a) Construction of 4,500 square feet or more of commercial or industrial space (includes the total gross floor area of all buildings, and any outdoor storage and display areas);
  - (b) A use with drive-through or drive-in service (see \*); or
  - (c) An adult-oriented use (see \*).
- (27) The Town of Milton will treat any single-family or two-family dwelling in existence prior to October 11, 2005 as a permitted use. New single-family or two-family dwellings are prohibited except as a second principal use on a parcel with a principal nonresidential use.

2102.C **Conditional Uses.** The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for the following uses:

- |  |   |
|--|---|
| (1) Triplex <sup>1</sup>               | (7) Tavern                                  |
| (2) Multi-family dwelling <sup>1</sup> | (8) Pet and animal service                  |
| (3) Repair service                     | (9) Food or beverage manufacturing          |
| (4) Fueling station                    | (10) Handcrafted or artisanal manufacturing |
| (5) Carwash                            | (11) Public recreation                      |
| (6) Lawn, garden or farm supply sales  | (12) Greenhouse or nursery                  |

<sup>1</sup> Must be a second principal use on a parcel with a principal nonresidential use.

2102.D **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |                         |  |
|-------------------------|--|
| (1) Lot size            | 6,000 sf min                                 |
| (2) Lot frontage        | 45 ft min                                    |
| (3) Lot coverage        | 70% max (includes all impervious surfaces)   |
| (4) Front setback       | 10 ft min, 80 ft max                         |
| (5) Side setback        | 10 ft min                                    |
| (6) Rear setback        | 10 ft min                                    |
| (7) Residential density | 1 dwelling unit per 3,000 sf of lot area max |
| (8) Floor area ratio    | 2.0 max                                      |
| (9) Building footprint  | 8,000 sf max                                 |
| (10) Building height    | 20 ft min, 35 ft max                         |

2102.E **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must:
  - (a) Avoid large box-like forms with continuous unrelieved surfaces by incorporating

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- articulation to reduce buildings' perceived bulk.
- (b) Limit overall building size or designing buildings with features to break up building bulk such as changes in wall plane (instead of a long flat wall), changes in roof form and height, or major full-height recesses (typically at least 8 feet deep) along the length of the building that successfully break the building into smaller discrete masses (typically not more than 40 feet wide).
  - (c) Have window recesses, window trim, doorways, columns, overhangs and other architectural elements with depth adequate to create shadow and architectural relief.
  - (d) Have facades that provide a pedestrian scale and orientation through overhangs, eaves, awnings, display windows and architectural ornamentation.
  - (e) Emphasize public building entrances with architectural and landscape treatment.
- (2) Any land development that requires major site plan approval must:
- (a) Eliminate excess paving within the minimum front yard setback (typically any paving in excess of 800 square feet unless additional pavement is necessary to provide access to pre-existing parking).
  - (b) Limit the amount of parking located in front of the building to not more than 2 rows. Where pre-existing front parking in excess of that cannot be eliminated or relocated, it must be screened from the street to the maximum extent feasible given the configuration of development and natural site conditions on the lot.
  - (c) Landscape the area between the street and building so that at least 20% of the ground will be covered with a mix of trees, shrubs, perennial plants and groundcovers (excluding turf grass) within 3 growing seasons.
  - (d) Plant or preserve at least one tree within the front yard setback for each 30 feet of road frontage.
  - (e) Locate new or expanded outdoor storage or display areas to the side or rear of the building.
  - (f) Locate new loading areas or docks, vehicular or service entrances, waste collection areas, dumpsters and similar utilitarian elements to the rear or side of the building and screened from view at the front property line.
  - (g) Locate new mechanical equipment, electrical meter and service components, satellite dishes, heating and cooling units, ventilation equipment and similar utility devices so that they will be screened from view at the front property line to the maximum extent feasible, and if adequate screening is not possible use materials and colors that will camouflage the device.

**Section 2103. Historic Neighborhood Center (NC2) District**

2103.A **Purpose.** The purpose of the Historic Neighborhood Center District is to foster development of a compact, mixed-use cluster of neighborhood-serving businesses and upper floor housing in the historic center of the town core:

- (1) Accommodating small-scale businesses that will provide basic goods and services and that residents in nearby neighborhoods can access by walking or biking.
- (2) Accommodating higher-density, mixed-use development in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (3) Transforming Route 7 into a safe and attractive highway corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (4) Bringing buildings to the street and locating parking to the side or rear of buildings to the maximum extent feasible.
- (5) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of commercial uses do not adversely affect quality of life for nearby residents.
- (6) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (7) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs that are compatible with the historic character of the district and the adjoining Main Street corridor.

2103.B **Permitted Uses.** The Zoning Administrator may issue a zoning permit for the following uses:

- |   |   |
|---|---|
| (1) <b>Accessory dwelling</b>                 | (15) Veterinary service                       |
| (2) <b>Home occupation</b>                    | (16) Personal or business service             |
| (3) <b>Family childcare home</b>              | (17) Wholesale trade                          |
| (4) Single-family dwelling (see Paragraph 31) | (18) Media studio                             |
| (5) Duplex (see Paragraph 31)                 | (19) Communication antenna                    |
| (6) Triplex (see Paragraph 31)                | (20) <b>Essential services</b>                |
| (7) Multi-family dwelling (see Paragraph 31)  | (21) Indoor recreation                        |
| (8) Upper floor residential                   | (22) Specialty school                         |
| (9) Retail sales                              | (23) Medical clinic                           |
| (10) Food or beverage store                   | (24) Social assistance and charitable service |
| (11) Convenience store                        | (25) Child day care                           |
| (12) Restaurant                               | (26) Religious institution                    |
| (13) Financial establishment                  | (27) Funeral and cremation service            |
| (14) Office or professional service           | (28) Social and membership organization       |
- 
- (29) The applicant must receive site plan approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for any of the uses not bolded.

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- (30) The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a permit for:
  - (a) Construction of 3,000 square feet or more of commercial or industrial space (includes the total gross floor area of all buildings, and any outdoor storage and display areas);
  - (b) A use with drive-through or drive-in service (see \*); or
  - (c) An adult-oriented use (see \*).
- (31) The Town of Milton will treat any solely residential building in existence prior to October 11, 2005 as a permitted use. Additional units may be developed within any solely residential building in existence prior to October 11, 2005 in accordance with the density requirements of this district and provided that there will be no increase in the exterior dimensions of the building. New solely residential buildings are prohibited except as a second principal use on a parcel with a principal nonresidential use.

2103.C **Conditional Uses.** The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for the following uses:

- (1) Repair service
- (2) Fueling station
- (3) Carwash
- (4) Lawn, garden or farm supply sales
- (5) Tavern
- (6) Pet and animal service
- (7) Food or beverage manufacturing
- (8) Handcrafted or artisanal manufacturing
- (9) Public recreation
- (10) Greenhouse or nursery

2103.D **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- (1) Lot size 3,000 sf min
- (2) Lot frontage 45 ft min
- (3) Lot coverage 75% max (includes all impervious surfaces)
- (4) Front setback 10 ft min, 30 ft max
- (5) Side setback 10 ft min
- (6) Rear setback 10 ft min
- (7) Residential density 1 dwelling unit per 3,000 sf of lot area max
- (8) Floor area ratio 2.5 max
- (9) Building footprint 4,000 sf max
- (10) Building height 2 stories min, 35 ft max

2103.E **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must:
  - (a) Be compatible with the architectural form, scale, massing and materials of historic buildings found in this district and the adjoining Main Street corridor.

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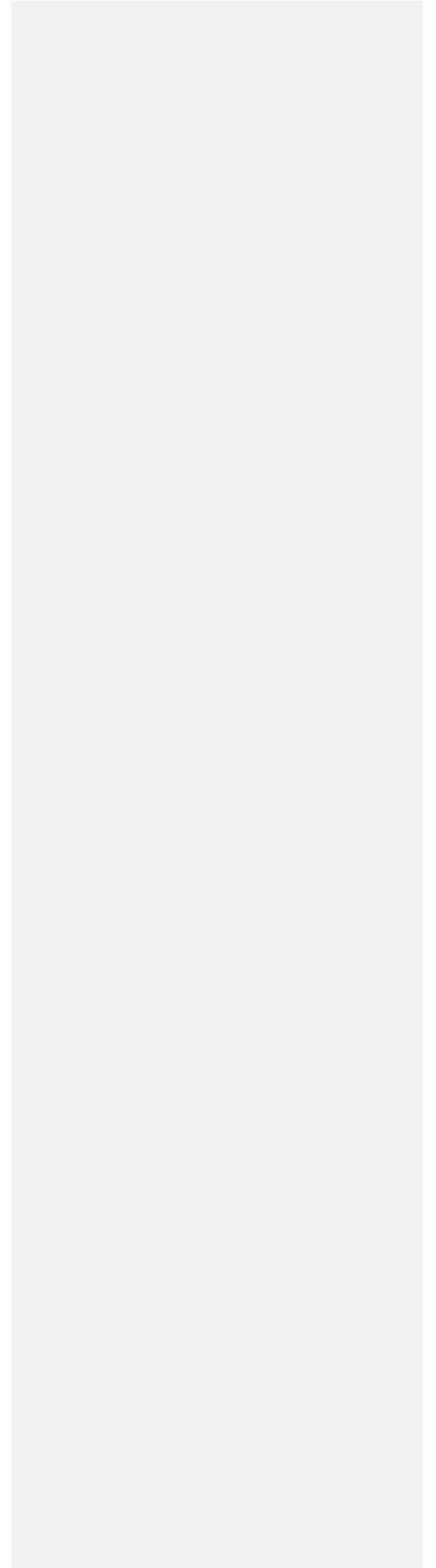
- (b) Not be standardized franchise or corporate architectural designs.
  - (c) Avoid large box-like forms with continuous unrelieved surfaces by incorporating articulation to reduce buildings' perceived bulk.
  - (d) Limit overall building size or designing buildings with features to break up building bulk such as changes in wall plane (instead of a long flat wall), changes in roof form and height, or major full-height recesses (typically at least 8 feet deep) along the length of the building that successfully break the building into smaller discrete masses (typically not more than 40 feet wide).
  - (e) Have window recesses, window trim, doorways, columns, overhangs and other architectural elements with depth adequate to create shadow and architectural relief.
  - (f) Have facades that provide a pedestrian scale and orientation through overhangs, eaves, awnings, display windows and architectural ornamentation.
  - (g) Emphasize public building entrances with architectural and landscape treatment.
  - (h) Incorporate into the building façade either: (i) a storefront design with clear glass windows offering views into the building interior composing a minimum of 60% of the ground-level wall area up to 10 feet above the finished grade; or (ii) an open porch, gallery or arcade at least 6 feet deep that must extend along no less than 50% of the facade.
- (2) Any land development that requires major site plan approval must:
- (a) Eliminate excess paving within the minimum front yard setback (typically any paving in excess of 800 square feet unless additional pavement is necessary to provide access to pre-existing parking).
  - (b) Locate any new parking areas to the side or rear of the building, and eliminate or relocate pre-existing parking in front of buildings whenever feasible. Where pre-existing front parking cannot be eliminated or relocated, it must be screened from the street to the maximum extent feasible given the configuration of development and natural site conditions on the lot.
  - (c) Landscape the area between the street and building so that at least 20% of the ground will be covered with a mix of trees, shrubs, perennial plants and groundcovers (excluding turf grass) within 3 growing seasons.
  - (d) Plant or preserve at least one tree within the front yard setback for each 30 feet of road frontage.
  - (e) Locate new or expanded outdoor storage or display areas to the side or rear of the building.
  - (f) Locate new loading areas or docks, vehicular or service entrances, waste collection areas, dumpsters and similar utilitarian elements to the rear or side of the building and screened from view at the front property line.
  - (g) Locate new mechanical equipment, electrical meter and service components, satellite dishes, heating and cooling units, ventilation equipment and similar utility devices so that they will be screened from view at the front property line to the maximum extent feasible, and if adequate screening is not possible use materials and colors that will camouflage the device.

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**Section 2104. Milton Crossroads Marketplace Center (M1) District**

**Section 2105. Milton Crossroads Marketplace West (M2) District**

**Section 2106. Milton Crossroads Marketplace Municipal/Recreation (M3) District**



**Section 2107. Checkerberry Commercial (M4-C) District**

2107.A **Purpose.** The purpose of the Checkerberry Commercial District is to help strengthen the role of the town core as an employment and service center with a diversity businesses by:

- (1) Accommodating commercial and light industrial uses in an area extending out from the downtown business district that is served by public infrastructure and transit
- (2) Transforming Route 7 into a safe and attractive highway corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (3) Minimizing the amount and visual impact of parking located in front of buildings.
- (4) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of commercial uses do not adversely affect quality of life in nearby residential neighborhoods.
- (5) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (6) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2107.B **Permitted Uses.** The Zoning Administrator may issue a zoning permit for the following uses:

- |   |   |
|---|---|
| (1) <b>Accessory dwelling</b>                 | (15) Light industry                           |
| (2) <b>Home occupation</b>                    | (16) Food or beverage manufacturing           |
| (3) <b>Family childcare home</b>              | (17) Handcrafted or artisanal manufacturing   |
| (4) Retail sales                              | (18) Wholesale trade                          |
| (5) Lawn, garden and farm supply sales        | (19) Publishing and printing                  |
| (6) Lumber yard and building material sales   | (20) Media studio                             |
| (7) Food or beverage store                    | (21) Communication antenna                    |
| (8) Convenience store                         | (22) Data center or information services      |
| (9) Financial establishment                   | (23) <b>Essential service</b>                 |
| (10) Office or professional service           | (24) Indoor recreation                        |
| (11) Laboratory or research facility          | (25) Specialty school                         |
| (12) Veterinary service                       | (26) Medical clinic                           |
| (13) Building or property maintenance service | (27) Child day care (see Paragraph 32, below) |
| (14) Personal or business service             | (28) Funeral and cremation service            |
- 
- (29) The applicant must receive site plan approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for any of the uses not bolded.
- (30) The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a permit for:
- (a) Construction of 6,000 square feet or more of commercial or industrial space (includes the total gross floor area of all buildings, and any outdoor storage and display areas);

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- (b) A use with drive-through or drive-in service (see \*); or
- (c) An adult-oriented use (see \*).

(31) The Town of Milton will treat any single-family or two-family dwelling in existence prior to October 11, 2005 as a permitted use. New single-family or two-family dwellings are prohibited.

(32) Child day care facilities must be located on a site with at least one other principal use or must be an accessory use.

2107.C **Conditional Uses.** The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for the following uses:

- |                                  |   |
|----------------------------------|---|
| (1) Hotel or motel               | (10) Contractor yard                          |
| (2) Restaurant                   | (11) Transit facility                         |
| (3) Sales lot                    | (12) Public recreation                        |
| (4) Repair service               | (13) Park or preserve                         |
| (5) Fueling station              | (14) Trade or technical school                |
| (6) Carwash                      | (15) Supervision and rehabilitative service   |
| (7) Rental or leasing            | (16) Social assistance and charitable service |
| (8) Pet and animal service       | (17) Greenhouse or nursery                    |
| (9) Warehouse or storage service |   |

2107.D **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |                      |  |
|----------------------|--|
| (1) Lot size         | 13,500 sf min  |
| (2) Lot frontage     | 90 ft min  |
| (3) Lot coverage     | 70% max (includes all impervious surfaces)                 |
| (4) Front setback    | 20 ft min<br>90 ft max                                     |
| (5) Side setback     | 10 ft min  |
| (6) Rear setback     | 10 ft min or 20 ft min if abutting another zoning district |
| (7) Floor area ratio | 1.5 max  |
| (8) Building height  | 20 ft min<br>45 ft max                                     |

2107.E **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must:
  - (a) Avoid large box-like forms with continuous unrelieved surfaces by incorporating articulation to reduce buildings' perceived bulk.

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- (b) Limit overall building size or designing buildings with features to break up building bulk such as changes in wall plane (instead of a long flat wall), changes in roof form and height, or major full-height recesses (typically at least 8 feet deep) along the length of the building that successfully break the building into smaller discrete masses (typically not more than 40 feet wide).
  - (c) Have window recesses, window trim, doorways, columns, overhangs and other architectural elements with depth adequate to create shadow and architectural relief.
  - (d) Have facades that provide a pedestrian scale and orientation through overhangs, eaves, awnings, display windows and architectural ornamentation.
  - (e) Emphasize public building entrances with architectural and landscape treatment.
- (2) Any land development that requires major site plan approval must:
- (a) Eliminate excess paving within the minimum front yard setback (typically any paving in excess of 800 square feet unless additional pavement is necessary to provide access to pre-existing parking).
  - (b) Limit the amount of parking located in front of the building to not more than 2 rows. Where pre-existing front parking in excess of that cannot be eliminated or relocated, it must be screened from the street to the maximum extent feasible given the configuration of development and natural site conditions on the lot.
  - (c) Landscape the area between the street and building so that at least 20% of the ground will be covered with a mix of trees, shrubs, perennial plants and groundcovers (excluding turf grass) within 3 growing seasons.
  - (d) Plant or preserve at least one tree within the front yard setback for each 30 feet of road frontage.
  - (e) Locate new or expanded outdoor storage or display areas to the side or rear of the building.
  - (f) Locate loading areas or docks, vehicular or service entrances, waste collection areas, dumpsters and similar utilitarian elements to the rear or side of the building and screened from view at the front property line.
  - (g) Locate mechanical equipment, electrical meter and service components, satellite dishes, heating and cooling units, ventilation equipment and similar utility devices so that they will be screened from view at the front property line to the maximum extent feasible, and if adequate screening is not possible use materials and colors that will camouflage the device.

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**Section 2108. Checkerberry Residential (M4-R) District**

2108.A **Purpose.** The purpose of the Checkerberry Residential District is to foster the development of compact residential neighborhoods that offer a diversity of housing and high quality of life in the town core by:

- (1) Accommodating new residential neighborhoods in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (2) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of nearby commercial uses do not adversely affect residents' quality of life.
- (3) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (4) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (5) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2108.B **Permitted Uses.** The Zoning Administrator may issue a zoning permit for the following uses:

- |  |                                  |
|--|----------------------------------|
| (1) <b>Single-family dwelling</b>            | (7) <b>Family childcare home</b> |
| (2) <b>Duplex</b>                            | (8) Communication antenna        |
| (3) Triplex                                  | (9) <b>Essential services</b>    |
| (4) Multi-family dwelling (see Paragraph 13) | (10) Public recreation           |
| (5) <b>Accessory dwelling</b>                | (11) Park or preserve            |
| (6) <b>Home occupation</b>                   |                                  |
- 

- (12) The applicant must receive site plan approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for any of the uses not bolded.
- (13) Multi-family development will be limited to a maximum of 4 dwelling units within any individual building.

2108.C **Conditional Uses.** The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for the following uses:

- |                        |                               |
|------------------------|-------------------------------|
| (1) Home business      | (4) Rooming or boarding house |
| (2) Retirement housing | (5) Religious institution     |
| (3) Assisted living    |                               |

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2108.D **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- (1) Lot size 6,000 sf min
- (2) Lot frontage 60 ft min
- (3) Lot coverage 50% max (includes all impervious surfaces)
- (4) Front setback 20 ft min
- (5) Side setback 15 ft min or 20 ft min if abutting another zoning district
- (6) Rear setback 30 ft min
- (7) Residential density 1 dwelling unit per 4,500 sf of lot area max
- (9) Building height 40 ft max

2108.E **Development Standards.** The applicant must locate and design multi-family development as follows:

- (1) New multi-family residential buildings must:
  - (a) Not contain more than 15 dwelling units.
  - (b) Incorporate visible changes in wall plane and roof form that break up wide facades into multiple bays. A bay must not be more than 32 feet wide.
  - (c) Incorporate a cornice or roof overhang.
  - (d) Be designed so that windows, porches, balconies and entryways comprise at least 30% of the length of the front elevation on each floor.
- (2) Multi-family development must incorporate amenities as follows:
  - (a) At least 80% of the dwelling units within a multi-family housing development must have a minimum of 60 square feet of private open space such as a porch, deck, balcony, patio, courtyard or atrium with a minimum depth of 6 feet that is contiguous with and accessible from the unit.
  - (b) The development must have a minimum of 400 square feet of common open space usable for community gardens and/or passive outdoor recreation per dwelling unit. The common open space must be accessible to all residents of the development, and must not be less than 30 feet in any dimension.
  - (c) The development must provide each dwelling unit with a secured, bulk storage area so residents do not store bulk goods on outdoor balconies, patios or other places that are visible from public or residential areas.
- (3) Multi-family development must help foster creation of walkable, pedestrian oriented neighborhoods by:
  - (a) Providing pedestrian access from the public sidewalk or street to ground-level entrance(s) on the facade.
  - (b) Locating shared or common vehicular and service areas and entrances to the side or rear of buildings.
  - (c) Orienting entrance to private garages to the side or rear whenever feasible, and if not feasible setting garages back from the building frontline by at least 8 feet and

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using single-wide garage doors that are not more than 10 feet wide.

- (d) Locating and designing any structured or under-building parking so that it will not be visible from the street or sidewalk.
- (4) Multi-family development must provide attractive streetscapes and lot frontages by:
  - (a) Landscaping the area between the street and building so that at least 20% of the ground will be covered with a mix of trees, shrubs, perennial plants and groundcovers (excluding turf grass) within 4 growing seasons.
- (5) Planting or preserving at least one tree within the front yard setback for each 30 feet of road frontage.

**Section 2109. Old Towne Residential/Commercial (M5) District**

**Section 2110. Main Street (M6) District**

**Section 2111. Interstate Commercial (C1) District**

**Section 2112. Light Industrial (I1) District**

**Section 2113. General Industrial (I2) District**

**Section 2114. Industrial Conservation (I3) District**

**Section 2115. Old Towne Residential (R1) District**

**Section 2116. Medium Density Residential (R2) District**

**Section 2117. Low Density Residential (R3) District**

**Section 2118. Transitional Residential (R4) District**

**Section 2119. Agricultural/Rural Residential (R5) District**

**Section 2120. Shoreland Residential (R6) District**

**Section 2121. Beaverbrook Residential (R7) District**

**Section 2122. Forestry/Conservation/Scenic Ridgeline (FC) District**

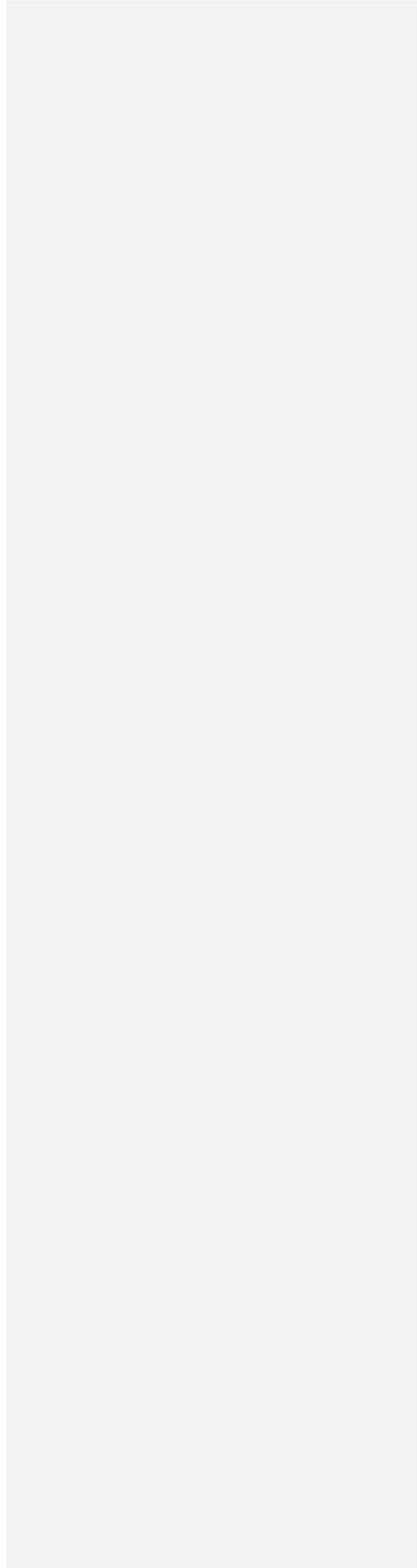
**Section 2123. Summary Use Table**

**Section 2124. Summary Dimensional Table**

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**Chapter 220. Overlay Zoning Districts**

**Section 2201. Flood Hazard (FHO) Overlay District**



## **PART 3. DEVELOPMENT STANDARDS**

### **Chapter 300. Standards that Apply to All Land Development**

**Section 3001. Access and Lot Frontage**

**Section 3002. Number of Structures on a Lot**

**Section 3003. Accessory Structures and Uses**

**Section 3004. Camping Units**

**Section 3005. Use of Setbacks and Yards**

**Section 3006. Reduction of Lot Size**

**Section 3007. Height**

**Section 3008. Excavation and Fill (non-commercial)**

**Section 3009. Sewage Disposal**

**Section 3010. Roads and Driveways**

**Section 3011. Erosion Control**

**Section 3012. Stormwater Management**

**Section 3013. Riparian Buffers**

**Section 3014. Drive-Through Facilities**

**Section 3015. Energy Facilities**

**Section 3016. Utility Facilities**

## **Chapter 310. Standards that Apply to Specific Land Uses**

**Section 3101. Accessory Dwelling Unit**

**Section 3102. Home Occupation**

**Section 3103. Home Business**

**Section 3104. Family Childcare Home**

**Section 3105. Group Home**

**Section 3106. Campground**

**Section 3107. Bed-and-Breakfast or Inn**

**Section 3108. Rooming or Boarding House**

**Section 3109. Hotel or Motel**

**Section 3110. Automobile Repair or Service**

**Section 3111. Fueling Station**

**Section 3112. Mini-Warehouse (Self-Storage Facility)**

**Section 3113. Wireless Communications Facility**

**Section 3114. Extraction**

## **Chapter 320. Site Plan Standards**

**Section 3201. Applicability**

**Section 3202. Parking and Loading Areas**

**Section 3203. Access and Circulation**

**Section 3204. Landscaping and Screening**

**Section 3205. Outdoor Lighting**

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**Section 3206. Signs**

**Section 3207. Outdoor Use Areas**

**Section 3208. Performance Standards**

**Section 3209. Special Provisions Applicable to \* Districts**

**Section 3210. Conformance with these Regulations**

**Chapter 330. Conditional Use Standards**

**Section 3301. Applicability**

**Section 3302. Capacity of Community Facilities and Utilities**

**Section 3303. Traffic**

**Section 3304. Character of the Area**

**Section 3305. Settlement Pattern**

**Section 3306. Natural Resource Protection**

**Section 3307. Energy Conservation**

**Section 3308. Conformance with these Regulations**

**Chapter 340. Subdivision Standards**

**Section 3401. Applicability**

**Section 3402. Capacity of Community Facilities and Utilities**

**Section 3403. Suitability of the Land**

**Section 3404. Design and Configuration of Parcel Boundaries**

**Section 3405. Design and Layout of Necessary Improvements**

**Section 3406. Character of the Area and Settlement Pattern**

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**Section 3407. Renewable Energy and Energy Conservation**

**Section 3408. Natural Resource and Open Space Protection**

**Section 3409. Conformance with these Regulations**

**Chapter 350. Planned Unit Development Standards**

## PART 4. ADMINISTRATIVE PROCEDURES

### Chapter 400. Roles and Responsibilities

#### Section 4001. Zoning Administrator

- 4001.A The Planning Commission will nominate and the Selectboard will appoint a Zoning Administrator in accordance with state statute. The Selectboard may appoint an Acting or Assistant Zoning Administrator to act under the supervision of the Zoning Administrator by written directive, in the Zoning Administrator's absence or if the Zoning Administrator has a conflict of interest. The Acting or Assistant Zoning Administrator will fulfill the duties and responsibilities of the Zoning Administrator in the event of an absence of 5 or more consecutive business days.
- 4001.B The Zoning Administrator will:
- (1) Assist applicants in determining whether and which town permits and/or approvals will be needed for a project;
  - (2) Provide applicants with application forms;
  - (3) Inspect projects during construction as necessary;
  - (4) Maintain records;
  - (5) Respond to complaints and violations; and
  - (6) Perform all other tasks necessary to administer these regulations.
- 4001.C The Zoning Administrator must enforce the provisions of these regulations strictly and may only issue zoning permits for land development that conforms to these regulations.
- 4001.D The Zoning Administrator will refer applications to the Development Review Board as required under these regulations.

**Comment [BS62]:** As per statute (24 V.S.A. § 4448).

#### Section 4002. Planning Commission

- 4002.A The Selectboard appoints members to the Planning Commission in accordance with the town charter and state statute.
- 4002.B The Planning Commission does not perform any development review functions under these regulations, but may make recommendations on planning and land development issues in the Town of Milton generally.
- 4002.C The Planning Commission may prepare amendments to these regulations and make recommendations to the Selectboard on the amendment of these regulations.

**Comment [BS63]:** As per statute (24 V.S.A. § 4321-8).

#### Section 4003. Development Review Board

- 4003.A The Selectboard appoints members to the Development Review Board in accordance with the town charter and state statute.
- 4003.B The Development Review Board performs development review functions as specified in these regulations and in accordance with their adopted rules of procedure.

**Comment [BS64]:** As per statute (24 V.S.A. § 4460). Compare to Section 1093 of adopted zoning. Drops the administrative language related to terms so that an amendment to the regulations would not be need to change that policy in the event of Charter Change or other statutory change.

## Chapter 410. Fees and Filing Requirements

### Section 4101. Permit Fees

- 4101.A The Selectboard will establish, by resolution, fees for the Zoning Administrator or other town employees to charge for administering these regulations. These fees may include the cost of posting and publishing notices, holding public hearings, recording documents, and conducting periodic inspections during construction.
- 4101.B An applicant must pay the applicable fee(s) when submitting an application. The Zoning Administrator must not deem an application complete until the applicable fee(s) are paid in full.

**Comment [BS65]:** Most of the sections in this chapter are intended to be authorizing language. They may be unused at this time, but if needed they can be activated without a need to amend the regulations.

**Comment [BS66]:** As per statute (24 V.S.A. § 4440). Equivalent to Section 1040 of adopted zoning.

### Section 4102. Impact Fees

- 4102.A The Town of Milton may require applicants to pay impact fees in accordance with any duly adopted impact fee ordinance.

**Comment [BS67]:** Impact fees are authorized under statute (24 V.S.A. Chapter 131).

### Section 4103. Technical or Legal Review Costs

- 4103.A The Zoning Administrator or Development Review Board may hire qualified professionals to provide an independent technical and/or legal review of an application when deemed necessary to ensure compliance with these regulations or other duly adopted town ordinance or standards governing land development, the cost of which will be paid by the applicant.

**Comment [BS68]:** As per statute (24 V.S.A. § 4440).

### Section 4104. Performance Bonds and Sureties

- 4104.A The Zoning Administrator or Development Review Board may require an applicant to provide a performance bond or similar surety as a condition of approval to insure the completion of required improvements.
- 4104.B The applicant will provide a quote prepared by a qualified professional for the full project cost. The Zoning Administrator or Development Review Board will base the amount of any bond or surety on that quote.
- 4104.C The Town of Milton will only release the bond or surety after certification by the applicant and determination by the Zoning Administrator that the required improvements have been satisfactorily completed.

**Comment [BS69]:** Sureties are authorized under statute (24 V.S.A. § 4464(b)).

### Section 4105. Cost of Monitoring or Inspection

- 4105.A The Zoning Administrator or Development Review Board may condition approval upon monitoring and inspection during construction or once the use has commenced when deemed necessary to ensure compliance with these regulations, the cost of which will be paid in full by the applicant prior to the Zoning Administrator issuing a final certificate of compliance.

**Comment [BS70]:** Authorized under state statute (24 V.S.A. § 4440).

### Section 4106. As-Built Drawings

- 4106.A The Zoning Administrator or Development Review Board may require an applicant to file as-built drawings as a condition of approval.

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- 4106.B The Town of Milton will require as-built drawings for any infrastructure to be built within public rights-of-way or to be turned over to the town.
- 4106.C The Zoning Administrator may require an applicant to file as-built drawings when approved plans are amended under \*Section 4204 or when minor adjustments to approved plans are necessary to respond to unforeseen conditions that arise during construction.

**Section 4107. Other Permits, Approvals and Certifications**

- 4107.A The Zoning Administrator or Development Review Board may condition approval upon the applicant filing other permits, approvals or certifications required by the Town of Milton or other regulatory entities.

**Comment [BS71]:** Authorized under state statute (24 V.S.A. § 4414(13)(A)(ii) and 4449(a)(2)).

**Chapter 420. Zoning Permit Procedures**

**Section 4201. Submitting for a Zoning Permit Application**

- 4201.A **Zoning Administrator.** The Zoning Administrator will assist prospective applicants by:
  - (1) Determining whether a project will require a zoning permit, and any associated development approvals, under these regulations;
  - (2) Providing applicants with the necessary form(s) to apply for the applicable permit(s) and approval(s).
  - (3) Notifying applicants of the fees or other charges that the town may charge in relation to the application or proposed development.
  - (4) **Informing** applicants that state permits may be required and providing contact information for the regional permit specialist.
  - (5) Providing applicants copies of the state energy standards for residential or commercial buildings as applicable.
- 4201.B **Applicant.** The applicant must submit all required forms, supporting materials and fees to the Zoning Administrator to apply for a zoning permit, and any associated development approval, under these regulations.
- 4201.C **Application Requirements.** The Zoning Administrator:
  - (1) May waive an application requirement upon finding the information is not necessary to determine compliance with these regulations.
  - (2) May require an applicant to provide additional information as necessary to determine compliance with these regulations.
  - (3) Must keep written documentation of any application requirement waived or additional material requested as part of his/her office records.
- 4201.D **Determination of Completeness.** The Zoning Administrator must:
  - (1) Determine whether an application is complete promptly after the applicant submits it.
  - (2) Inform the applicant of his/her determination. If the application is incomplete, the Zoning Administrator must inform the applicant in writing of what additional information is required.

**Comment [BS72]:** Compare to Section 1000 of adopted zoning. Recommend dropping application requirements from the regulations. That is an administrative matter that does not need to be included in the regulations and that should be able to be changed without amending the regulations.

**Comment [BS73]:** As per statute (24 V.S.A. § 4448(c)).

**Comment [BS74]:** As per statute (24 V.S.A. § 4448(e)).

**Comment [BS75]:** Statute (24 V.S.A. § 4464(c)) allows the bylaws to delegate authority to the ZA. These regulations are set up so that it is the applicant's responsibility to demonstrate conformance.

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4201.E **Appeal of Administrative Actions.** The applicant or other interested person may appeal any of the Zoning Administrator’s actions or decisions under this section to the Development Review Board as specified in Section \*Section 4601.

**Comment [BS76]:** As per statute (24 V.S.A. § 4465).

**Section 4202. Acting on a Complete Application**

4202.A **Time to Act.** Once the Zoning Administrator determines that an application for a zoning permit is complete, he/she must act within 30 days to approve, deny or refer it to the Development Review Board except that the time period within which the Zoning Administrator must act will not commence for a zoning permit application that requires:

**Comment [BS77]:** Compare to Section 1002 of adopted zoning.

**Comment [BS78]:** As per statute (24 V.S.A. § 4448(d)).

- (1) One or more development approvals under this ordinance until the applicant has obtained all those necessary approvals for the proposed land development.
- (2) **Notification** of a state agency until the agency comments or the comment period elapses, whichever occurs first.

**Comment [BS79]:** The list of state agencies that need to be notified in Section 1002 of adopted zoning is not current and most of those notifications are no longer required by statute.

4202.B **Deemed Approval.** If the Zoning Administrator does not act on a complete application within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator’s failure to act within the 30-day period resulted in a “deemed approval” of the application.

**Comment [BS80]:** As per statute (24 V.S.A. § 4448(d)). Deemed approval is not automatic. The applicant must go to court to obtain a deemed approval. Adopted zoning does not fully explain the process.

4202.C **Decisions.** The Zoning Administrator must approve or deny applications in writing and specifically provide the following information:

- (1) **When** approving an application, the Zoning Administrator must inform the applicant that the applicant must:
  - (a) Post a notice of the zoning permit (to be provided by the Zoning Administrator) in a visible location on the subject property throughout the 15-day appeal period;
  - (b) Not commence the land development until the appeal period has ended;
  - (c) Continue to post the notice of the zoning permit while construction is occurring on the property; and
  - (d) Remove the notice of the zoning permit upon receipt of a final certificate of compliance or the expiration of the zoning permit, whichever comes first.
- (2) When denying an application, the Zoning Administrator must:
  - (a) Inform the applicant that the applicant may appeal the denial to the Development Review Board within 15 days of the date of the decision; and
  - (b) Include a copy of \*Section 4601, which explains the appeal process.

**Comment [BS81]:** As per statute (24 V.S.A. § 4448(b)).

4202.D **Conditions of Approval.** The Zoning Administrator:

- (1) May issue a zoning permit with conditions as necessary to ensure compliance with these regulations.
- (2) **Must** inform applicants when issuing a zoning permit that state permits may be required and provide contact information for the regional permit specialist.

**Comment [BS82]:** As per statute (24 V.S.A. § 4448(e)).

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- (3) **Must** condition any zoning permit for proposed land development that requires the construction, modification or replacement of a potable water supply or wastewater system, or that increases the design flow or modifies the operational requirements of a potable water supply or wastewater system on the applicant obtaining a municipal or state potable water and wastewater permit, as applicable, and providing the Zoning Administrator a copy of that permit prior to the start of construction.
- (4) **Must** condition any zoning permit for proposed land development that is subject to the state's residential or commercial building energy standards on the applicant providing the Zoning Administrator with a copy of an energy certificate for the building when construction is completed.

**Comment [BS83]:** As per statute (24 V.S.A. § 4414(13)(a)).

**Comment [BS84]:** As per statute (24 V.S.A. § 4449(a)(1)).

4202.E **Posting of Permits.** The Zoning Administrator must post a copy of the zoning permit in at least one public place within 3 days after issuing it. The copy must remain posted throughout the 15-day appeal period.

**Comment [BS85]:** As per statute (24 V.S.A. § 4448(b)).

4202.F **Filing of Permits.** The Zoning Administrator must:

**Comment [BS86]:** As per statute (24 V.S.A. § 4448(b)).

- (1) Deliver an original, signed copy of the zoning permit or the notice of zoning permit to the Town Clerk for recording within 30 days after it becomes effective;
- (2) File a copy of the permit as part of his/her office records; and
- (3) Provide a copy of the permit to the Town Assessor.

**Section 4203. Obtaining a Zoning Permit**

4203.A **Permit Takes Effect.** A zoning permit takes effect concurrently with any associated development approvals on the 16<sup>th</sup> day after the Zoning Administrator issues it provided that no appeal is duly filed or that the applicant has not requested a delay. If an interested person files an appeal, the zoning permit and any associated development approvals will not take effect until the appeal is decided.

**Comment [BS87]:** As per statute (24 V.S.A. § 4449(a)(3)). Equivalent to language in Section 1002 of adopted zoning.

4203.B **Delay in Effect.** The applicant may request that a zoning permit and any associated development approvals not take effect until the applicant has obtained all permits and approvals necessary to commence the land development in accordance with the following:

**Comment [BS88]:** This is a new provision not included in adopted zoning.

- (1) The Zoning Administrator may delay the effective date of a permit and any associated development approvals for not more than 24 months due to demonstrated factors beyond the applicant's control (e.g., extended or contested Act 250 proceedings or litigation).
- (2) It will be the applicant's responsibility to notify the Zoning Administrator in writing when the applicant is ready to commence the land development and request that the zoning permit and any associated development approvals take effect.

4203.C **Permit Timeframe and Extension.** Zoning permits and any associated development approvals expire 2 years from the date the permit takes effect unless prior to the permit's expiration, the applicant:

**Comment [BS89]:** This is a change from Section 1020 of adopted zoning, which has the permit expire 1 year after issuance with the potential for a 1-year extension. Recommend increasing to 2 years with a possible 1-year extension.

- (1) Obtains a certificate of compliance in accordance with \*Section 4207; or
- (2) Requests and receives an extension of not more than 1 year from the Zoning Administrator. The Zoning Administrator may only grant one such extension upon the applicant demonstrating that:

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- (a) Any improvements completed to date conform to the conditions of the permit and any associated development approvals; and
- (b) There have been no amendments to these regulations or change in external circumstances that would have caused a material change in the decision(s) on the original application(s).

4203.D **Transfer of Permit.** Zoning permits and any associated development approval remain in effect as specified in this section irrespective of any change in ownership of the subject property. All subsequent landowners, assigns or successors are subject to the requirements and conditions of any zoning permit and associated development approvals.

4203.E **Expired Permits.** If a zoning permit expires before the applicant substantially completes the construction or commences the use authorized by the permit, the applicant must apply for a new zoning permit and any other associated development approvals under these regulations.

**Comment [BS90]:** Compare to Section 1003 of adopted zoning. That language required some modification to be consistent with state law. Zoning permits and development approvals run with the land and when property transfers the new landowner obtains the permits/approvals. The certification called for in Section 1003 is probably not legal.

**Section 4204. Amending Permits or Approvals**

4204.A An applicant may submit a written request for the Zoning Administrator to amend a zoning permit, and any associated development approval, prior to the permit's expiration. The applicant must demonstrate that the proposed changes to the land development:

- (1) Are minor modifications that conform to all applicable provisions of this ordinance, including the special flood hazard area provisions in \* if applicable;
- (2) Are neither material nor substantial changes that would have affected the decision on the original application;
- (3) Do not have the effect of substantively altering any of the finding of fact of the permit and any associated development approval; and
- (4) Do not change the type, character or intensity of the approved land development or use to a greater extent than specified below:
  - (a) Any proposed modification must not result in an increased requirement for parking or loading spaces.
  - (b) Any proposed increase in building footprint must not exceed 10% or 500 square feet, whichever is less.
  - (c) Any proposed substitution of plant materials must not change the overall landscape design concept.

**Comment [BS91]:** Statute (24 V.S.A. § 4464(c)) allows the bylaws to delegate authority to the ZA. Compare to Section 801 of adopted zoning. The proposed language expands the ZA's authority to approve amendments administratively. It also drops the notice requirements of the adopted zoning.

4204.B The scope of the review will be limited to those aspects of the land development affected by the proposed changes.

4204.C The Zoning Administrator may decline to amend a permit, and any associated development approval, and refer the request to the Development Review Board (see \*Section 4305).

4204.D The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

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**Section 4205. Revoking Permits or Approvals**

4205.A The Zoning Administrator may petition the Environmental Division of Superior Court to revoke a zoning permit, and any associated development approvals, in accordance with state statute if an applicant omitted or misrepresented a material fact on an application or at a hearing that would have affected the decision on the original application.

**Comment [BS92]:** Statute (24 V.S.A. § 4455) allows the bylaws to delegate authority to the ZA. Compare to Section 1030 of adopted zoning.

**Section 4206. Inspecting Land Development During Construction**

4206.A The Zoning Administrator may inspect any land development during construction as necessary to ensure compliance with these regulations and any permit or approval conditions.

**Section 4207. Obtaining a Certificate of Compliance**

4207.A **When Required.** An applicant must obtain a certificate of compliance from the Zoning Administrator before he/she occupies or commences the use of any land development.

4207.B **Application.** The Zoning Administrator will provide applicants with the necessary form to apply for a certificate of compliance.

4207.C **Time to Act.** The Zoning Administrator must act on a complete application for a certificate of compliance promptly and in all cases within 30 days. The Zoning Administrator may:

- (1) Require the applicant to submit documentation from a qualified professional certifying that the land development as constructed conforms to the approved plans; and/or
- (2) Inspect the subject property and consult with other town or state personnel as necessary to determine compliance

**Comment [BS93]:** As per statute (24 V.S.A. § 4449(a)(2)). Compare to Section 140 and Section 1010 of adopted zoning. Recommend using the term "certificate of compliance" consistently throughout. Dropped the language related to the "statement of condition" report. That is more of an administrative practice and does not need to be mandated by the regulations.

4207.D **Deemed Approval.** If the Zoning Administrator does not act on a complete application for a certificate of compliance within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator's failure to act within the 30-day period resulted in a "deemed approval" of the application.

4207.E **Criteria.** Before receiving a final certificate of compliance, the applicant must demonstrate to the Zoning Administrator that:

- (1) The land development is complete and conforms to the requirements of the zoning permit, and any associated development approvals, the filed plans, and the applicable provisions of these regulations;
- (2) All commonly-owned or shared improvements (e.g., stormwater facilities or shared parking areas) are complete and conform to the requirements of the zoning permit, and any associated development approvals, the filed plans, and the applicable provisions of these regulations;
- (3) All infrastructure connections are complete and conform to any applicable town specifications, the requirements of the zoning permit, and any associated development approvals, the filed plans, and the applicable provisions of these regulations;

**Comment [BS94]:** Adopted zoning requires an inspection and report within 14 days. Technically, the CC application can be treated the same as a zoning application. It is subject to the same 30-day max time to act. Statute considers a certificate of compliance to be a municipal land use permit and treats it the same as a zoning permit in terms of timelines and procedures.

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- (4) The applicant has filed all required documents with the town including, but not limited to, as-built drawings, floodplain elevation certificate, floodproofing certificate, energy certificate, wastewater and potable water supply permit, access permit, or stormwater permit; and
- (5) The applicant has paid all required fees.

4207.F **Temporary Certificate.** The Zoning Administrator may issue a temporary certificate of compliance that conditions use or occupancy on full completion of all required improvements within not more than 180 days as follows:

- (1) The Zoning Administrator may require the applicant to submit a performance bond in accordance with \*Section 4104 to insure full completion of the outstanding work.
- (2) The Zoning Administrator will require the applicant to submit a performance bond in accordance with \*Section 4104 if any commonly-owned or shared infrastructure or improvements remain incomplete.
- (3) The applicant must apply for a final certificate of compliance prior to the expiration of the temporary certificate.

**Comment [BS95]:** New provision. Can be used to allow a project that is completed during the winter to be occupied even if some of the landscaping or similar site work has to wait until spring to be finished.

4207.G **Partial Certificate.** The Zoning Administrator may issue a partial certificate of compliance for multi-unit buildings, multi-building projects or other types of phased development as individual units, buildings or phases are completed and ready for use or occupancy as follows:

- (1) The Zoning Administrator may require the applicant to submit a performance bond in accordance with \*Section 4104 to insure full completion of the outstanding work.
- (2) The Zoning Administrator will require the applicant to submit a performance bond in accordance with \*Section 4104 if any commonly-owned or shared infrastructure or improvements remain incomplete.

**Comment [BS96]:** Compare to Section 1013 of adopted zoning.

~~(3)~~ (3) The applicant must apply for a final certificate of compliance upon full completion of the project as permitted.

~~4207.H~~ **Decisions.** The Zoning Administrator must approve or deny applications for a certificate of compliance in writing. When denying an application, the Zoning Administrator must:

- (1) State the reasons for the denial;
- (2) Inform the applicant that he/she may appeal the denial to the Development Review Board within 15 days of the date of the decision; and
- (3) Include a copy of \*Section 4601, which explains the appeal process.

~~4207.I~~ **Denials.** If the Zoning Administrator denies an application for a certificate of compliance:

- (1) The Zoning Administrator must commence appropriate enforcement action under \*Chapter 470 if he/she finds a violation of these regulations.
- (2) The applicant may re-apply after remedying any conditions identified as the reason for the denial.

## Chapter 430. Site Plan and Conditional Use Review Procedures

### Section 4301. Pre-Application Conference

4301.A A prospective applicant may request a pre-application conference with Planning Department staff prior to submitting a complete application. A pre-application conference is an informal meeting that provides the prospective applicant with an opportunity to consult with and receive advice in order to save time and expense in the preparation of the application. Any comments or recommendations made are intended to provide general direction to the prospective applicant, but will not be deemed binding in the preparation or review of any subsequent application for development approval.

### Section 4302. Site Plan Review

4302.A **Applicability.** All land development other than a single-family or two-family dwelling, and any accessory uses or structures to such a dwelling, requires site plan approval before the Zoning Administrator may issue a zoning permit.

**Comment [BS97]:** Authorized by 24 V.S.A. § 4416. Compare to Section 802 of adopted zoning.

**Comment [BS98]:** Equivalent to Section 800 of adopted zoning.

4302.B **Purpose.** The purpose of site plan review is to ensure that:

**Comment [BS99]:** This is new language not in adopted zoning.

- (1) The physical aspects of proposed land development comply to all applicable provisions of these regulations and are consistent with the goals of the *Milton Town Plan*.
- (2) Proposed land development is of high quality and designed to be visually compatible with its setting through use of landscaping, screening, outdoor lighting, signage, building form and mass, and architectural details.
- (3) Proposed land development is appropriately sited, and is complimentary to and functionally integrated with surrounding development to the greatest extent feasible.
- (4) Roads, access, driveways, parking facilities, utilities and other infrastructure, both on-site and off-site, are adequate and available to support the proposed land development.
- (5) Proposed land development is energy efficient and avoids, mitigates and/or minimizes adverse environmental effects to the greatest extent feasible.

4302.C **Classification.** The Zoning Administrator will classify:

**Comment [BS100]:** Adopted zoning allows ZA to approve minor amendments to site plans. This proposes to expand that authority and allow the ZA to approval new minor site plans. Administrative site plan review is a mechanism for reducing the time and cost of the permitting process. Statute (24 V.S.A. § 4455) allows the bylaws to delegate authority to the ZA.

- (1) Major. A site plan application for proposed land development that includes any of the following is a major site plan:
  - (a) Commencement of a new conditional use.
  - (b) Change of use if the two uses do not share a definition in \*Chapter 520.
  - (c) Construction of a new principal building.
  - (d) Major renovation of an existing principal building.
  - (e) Construction of a new highway access or curb cut.
  - (f) Construction of more than 2,000 square feet of impervious surface.
- (2) Minor. Any other site plan application as a minor site plan.

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- (3) **Effect of Classification.** The Zoning Administrator may review minor site plan applications in accordance with Subsection \*4302.D. The Development Review Board must review major site plan applications in accordance with Subsection \*4302.E.

4302.D **Minor Site Plans.** The Zoning Administrator may review minor site plan applications in accordance with the procedures of \*Chapter 420 and as follows:

- (1) The Zoning Administrator must approve, deny or refer complete minor site plan applications to the Development Review Board within 60 days.
- (2) To approve a minor site plan application, the Zoning Administrator must find that the applicant has demonstrated that the proposed land development conforms to all applicable standards of these regulations including but not limited to the site plan standards in \*Chapter 320.
- (3) The Zoning Administrator may approve a minor site plan application with conditions as necessary to ensure compliance with these regulations.
- (4) The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in \*Section 4601.

4302.E **Major Site Plans.** The Development Review Board will review site plan applications as follows:

- (1) The Development Review Board must hold a public hearing and issue a decision on a complete site plan application in accordance with \*Chapter 450.
- (2) To approve a site plan application, the Development Review Board must find that the applicant has demonstrated that the proposed land development conforms to all applicable standards of these regulations including but not limited to the site plan standards in \*Chapter 320.

4302.F **State Highways.** The applicant must submit a letter of intent from the Vermont Agency of Transportation with any application for proposed land development that involves access to a state highway.

**Comment [BS101]:** As per statute (24 V.S.A. § 4416(b)).

**Section 4303. Conditional Use Review**

4303.A The specific land uses that require conditional use approval from the Development Review Board are listed in \*Part 2 for each zoning district.

4303.B The Development Review Board must hold a public hearing and act on a conditional use application in accordance with \*Chapter 450.

4303.C To obtain a conditional use approval, the applicant must demonstrate that the application conforms to all applicable standards of these regulations including but not limited to the conditional use standards in \*Chapter 330.

**Comment [BS102]:** Authorized in 24 V.S.A. § 4414(3). Compare to Section 120 and Section 500 of adopted zoning.

**Section 4304. Combined Review**

4304.A When land development requires more than one development approval, the applicant may request that the Development Review Board hold a single hearing for the purpose of reviewing and acting on the project.

**Comment [BS103]:** As per statute (24 V.S.A. § 4462).

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- 4304.B The hearing for a combined review must be warned in accordance with \*Chapter 450. The notice must:
- (1) Include a statement that the hearing will be a combined review of the proposed land development; and
  - (2) List each type of review the Development Review Board will conduct.
- 4304.C All hearing and decision requirements, and all deadlines applicable to each review process will apply.
- 4304.D The Development Review Board may issue separate written decisions for each review conducted as part of the combined hearing, but decisions should be coordinated where appropriate.

**Section 4305. Amending Approved Plans**

- 4305.A The Development Review Board must review any request to amend an approved plan that the Zoning Administrator cannot approve under \*Section 4204.
- 4305.B The process for applying for an amendment will be the same as for the original approval.
- 4305.C The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the plan affected by the proposed amendment.
- 4305.D The applicant must demonstrate that the proposed amendment is justified due to changes:
- (1) In factual or regulatory circumstances that were beyond the applicant's control;
  - (2) In the construction or operation of the proposed land development that were not reasonably foreseeable at the time of the original application; or
  - (3) In technology.
- 4305.E The Development Review Board may determine that the proposed amendment would change the approved development to such an extent that it needs to be reviewed as a new application, and may deny the amendment request and require the applicant to apply for a new zoning permit and any associated development approvals.
- 4305.F The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

**Comment [j104]:** Rooted in case law that distinguishes when an approval should be reviewed as if there is no prior permit or when it can be categorized as an amendment.

## Chapter 440. **Subdivision** and PUD Review Procedures

**Comment [BS105]:** As authorized by 24 V.S.A. § 4418 and 4463.

### Section 4401. Applicability

- 4401.A A landowner must not subdivide land without first recording an approved subdivision plat in the town's land records in full conformance with these regulations.
- 4401.B A landowner may file boundary surveys and/or corrective deeds to repair boundary metes and bounds or to correct technical errors with previously recorded surveys or deeds for existing parcels with known boundaries without obtaining subdivision approval under these regulations.
- 4401.C A planned unit development (PUD) will require subdivision approval under these regulations. If a planned unit development will also require site plan and/or conditional use approval, the Development Review Board will conduct those reviews concurrently with subdivision review as authorized in \*Section 4304.

### Section 4402. **Lot Line Adjustment and Lot Merger**

**Comment [BS106]:** Compare to Section 621 of adopted zoning.

- 4402.A The Zoning Administrator may approve the realignment, relocation or elimination of a boundary line between adjoining lots in accordance with the procedures of \*Chapter 420 provided that the proposed change:
- (1) Will not result in an increase in the number of lots.
  - (2) Will not create a new nonconforming lot or structure (it may involve a pre-existing nonconformity).
  - (3) **Will** not substantially increase the degree of nonconformity of a pre-existing nonconforming lot or structure.
  - (4) Will not violate any conditions of a prior permit or approval.
- 4402.B The Zoning Administrator may refer applications to the Development Review Board for review as a minor subdivision.
- 4402.C Within 180 days after the Zoning Administrator approves an application, the applicant must file a final subdivision plat for recording in the town's land records in accordance with \*Section 4408.

**Comment [BS107]:** Provides greater flexibility here for the ZA to approve a boundary adjustment that might slightly increase the degree of nonconformity.

### Section 4403. Pre-Application Conference

- 4403.A The applicant may schedule a pre-application conference with the Zoning Administrator prior to filing an application for subdivision review to discuss the proposed subdivision, application requirements and review process.

### Section 4404. **Sketch Plan Review**

- 4404.A The applicant must file a complete application and sketch plan for review by the Zoning Administrator.
- 4404.B The purpose of sketch plan review is to provide the applicant with an opportunity to consult with and receive feedback from the Zoning Administrator prior to spending time and money preparing detailed plans.

**Comment [BS108]:** Adopted zoning requires the DRB to conduct sketch plan review. This proposes to allow the ZA to review sketch plans. Administrative sketch plan review is a mechanism for reducing the time and cost of the permitting process. Statute (24 V.S.A. § 4455 and 4418(2)(B)) allows the bylaws to delegate this authority to the ZA.

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- 4404.C The Zoning Administrator may forward the sketch plan to other town departments and/or advisory committees for review and comment as appropriate.
- 4404.D The Zoning Administrator must notify the owners of all properties adjoining the subject property (including those across the road) in writing of the applicant's intent to subdivide the subject property. The notification must include a description of the proposed subdivision and must clearly explain to the recipient where to obtain additional information.
- 4404.E The Zoning Administrator must send the applicant a written response to a complete sketch plan application within 60 days of its filing that:
- (1) Indicates whether the subdivision as proposed conforms to the standards of these regulations.
  - (2) Makes recommendations to guide the applicant in preparation of more detailed plans.
  - (3) Requests any additional application materials deemed necessary to determine compliance with these regulations.
  - (4) Determines whether the applicant will be required to file a preliminary plan or may file a final plan for review by the Development Review Board in accordance with \*Section 4405.
- 4404.F The Zoning Administrator's actions under this section will not constitute a formal decision on the subdivision plan.
- 4404.G The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in \*Section 4601.

**Section 4405. Classification**

- 4405.A **Major Subdivision.** The Zoning Administrator will classify a proposed subdivision that includes any of the following as a major subdivision:
- (1) A subdivision that will create 7 or more lots from a parent parcel in any 5-year period (inclusive of the parent parcel).
  - (2) A subdivision that will create 4 or more lots from a parent parcel in any 5-year period if more than two of the resulting lots will be further subdividable under these regulations (inclusive of the parent parcel).
  - (3) A subdivision that will require construction of a new, extended or upgraded road.
  - (4) A planned unit development (PUD) containing 7 or more dwelling units or principal nonresidential uses.
- 4405.B **Minor Subdivision.** The Zoning Administrator will classify any other proposed subdivision as a minor subdivision.

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4405.C **Effect of Classification.** An applicant for a major subdivision approval must submit a preliminary and final plan for review and approval by the Development Review Board in accordance with the provisions of this chapter. The Development Review Board must hold separate hearings on the preliminary and final plan. An applicant for a minor subdivision approval may skip the preliminary approval process and submit a final plan for review and approval by the Development Review Board in accordance with the provisions of this chapter.

**Section 4406. Preliminary Plan Review**

4406.A When required under \*Section 4405, the applicant must file a complete application and preliminary subdivision plan for consideration by the Development Review Board.

4406.B The purpose of preliminary review is to examine the proposed subdivision in detail, take public comment on the plan, evaluate the plan's conformance with the purposes and specific standards of these regulations, and determine whether modifications or conditions will be necessary to ensure that conformance.

4406.C The Development Review Board must hold a public hearing and act on a preliminary subdivision plan in accordance with \*Chapter 450. In the case of a subdivision proposed within 500 feet of the town boundary, the Zoning Administrator must also send a notice to the clerk of the adjacent municipality.

**Comment [BS109]:** As per statute (24 V.S.A. § 4463(a)).

4406.D To approve a preliminary subdivision application, the Development Review Board must find that the applicant has demonstrated that the proposed subdivision conforms to all applicable standards of these regulations including but not limited to the subdivision standards in \*Chapter 340. If the application is for a planned unit development (PUD) that includes proposed land development subject to site plan and/or conditional use approval, the Development Review Board must also find that the applicant has demonstrated that the proposed PUD conforms to the standards in \*Chapter 320 and/or Chapter 330 as applicable.

4406.E The Development Review Board's written decision on the preliminary plan must include:

- (1) Findings of fact that address the applicable standards of these regulations;
- (2) Any conditions of approval;
- (3) Any specific changes required in the final subdivision plan;
- (4) The issues to be analyzed and addressed in the final subdivision application; and
- (5) Any additional application materials deemed necessary to determine compliance with these regulations.

4406.F Copies of the written decision will be:

- (1) Sent to the applicant via certified mail; and
- (2) Forwarded to the Director of Public Works.

4406.G Once the Development Review Board approves a preliminary plan, the applicant will have 6 months to file a complete final subdivision plan.

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**Section 4407. Final Plan Review**

4407.A The applicant must file a complete application and final subdivision plan for consideration by the Development Review Board.

4407.B The purpose of final review is to evaluate the plan's conformance with the purposes and specific standards of these regulations and, if applicable, assure that all conditions imposed on the preliminary plan have been met.

4407.C The Development Review Board must hold a public hearing and act on a final subdivision plan in accordance with \*Chapter 450. In the case of a subdivision proposed within 500 feet of the town boundary, the Zoning Administrator must also send a notice to the clerk of the adjacent municipality.

**Comment [BS110]:** As per statute (24 V.S.A. § 4463(a)).

4407.D To approve a final subdivision application, the Development Review Board must find that the applicant has demonstrated that the proposed subdivision conforms to all applicable standards of these regulations including but not limited to the subdivision standards in \*Chapter 340. If the application is for a planned unit development (PUD) that includes proposed land development subject to site plan and/or conditional use approval, the Development Review Board must also find that the applicant has demonstrated that the proposed PUD conforms to the standards in \*Chapter 320 and/or Chapter 330 as applicable.

4407.E The Development Review Board's approval of a final plan will not constitute the town's acceptance of any road, easement, open space or other feature shown on the plan. Action by the Selectboard is required to accept any road, easement, open space or other feature for public ownership.

**Comment [BS111]:** As per statute (24 V.S.A. § 4463(c)).

**Section 4408. Filing Requirements**

4408.A The applicant must file a final subdivision plat for filing in the town's land records within 180 days of the Development Review Board's final approval except:

- (1) If the subdivision will be phased, the applicant must file a plat for the first phase within 180 days and for subsequent phases in accordance with any schedule or time period established in the decision. If no timeframe is specified in the decision, the applicant must file the plat for all phases within 180 days.
- (2) Upon written request by the applicant prior to the expiration of the 180 days, the Zoning Administrator may grant a written 90-day extension to the filing deadline if other local or state permits are still pending.

**Comment [BS112]:** As per statute (24 V.S.A. § 4463(b)).

4408.B The form and content of the final subdivision plat must meet all town and state requirements (see 27 VSA § 1403).

4408.C Prior to being filed in the land records, the Chair of the Development Review Board must sign the final subdivision plat. If a final plat is recorded without that signature, it will be considered null and void unless re-approved by the Development Review Board. The Zoning Administrator may sign a plat approved under \*Section 4204 or \*Section 4402.

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4408.D No one must make any changes, erasures, modifications or revisions to a final plat after it has been signed except in accordance with \*Section 4409. If a modified plat is recorded in violation of this requirement, it will be considered null and void unless re-approved by the Development Review Board.

4408.E Once properly filed, a final subdivision plat will not expire.

**Section 4409. Modification of Approved Subdivisions**

4409.A The Development Review Board must review any request to amend an approved final plat that the Zoning Administrator cannot approve under \*Section 4204 or \*Section 4402.

4409.B The Director of Public Works may issue a written authorization modifying the design of any public improvement at any time before or during construction provided that the modification would not result in a material change to the approved subdivision. The applicant must submit a copy of any such authorization to the Zoning Administrator.

4409.C The process for applying for an amendment will be the same as for the original approval.

4409.D The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the subdivision affected by the proposed amendment.

## Chapter 450. Notice, Hearing and Decision Procedures

### Section 4501. Notice of Hearing

- 4501.A The Zoning Administrator must notify the public at least 15 days before a hearing for all conditional use, variance, appeal, and final subdivision applications by all of the following:
- (1) Publishing the date, place and purpose of the hearing in a newspaper of general circulation in Milton.
  - (2) Posting the date, place and purpose of the hearing at the town office and at least one other public place within Milton.
  - (3) Providing the applicant with a sign with the date, place and purpose of the hearing to be posted on the subject property within public view.
    - (a) It will be the applicant's responsibility to ensure that the notice remains posted for the entire warning period and to remove the sign within 2 days of the close of public hearing.
  - (4) Notifying the owners of all properties adjoining the subject property (including those across the road) in writing.
    - (a) The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to any subsequent appeal.
- 4501.B The Zoning Administrator must notify the public at least 7 days before a hearing for any other Development Review Board actions under these regulations by all of the following:
- (1) Posting the date, place and purpose of the hearing at the town office and at least two other public places within Milton.
  - (2) Notifying the owners of all properties adjoining the subject property (including those across the road) in writing.
    - (a) The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to any subsequent appeal.
- 4501.C A defect in the form or substance of the public notice requirements will not invalidate any action or decision under these regulations when a reasonable effort has been made to provide adequate posting and notice.

**Comment [BS113]:** As per statute (24 V.S.A. § 4464(a)(1)).

**Comment [BS114]:** As per statute (24 V.S.A. § 4464(a)(2)).

**Comment [BS115]:** As per statute (24 V.S.A. § 4464(a)(5)).

### Section 4502. Conducting Site Visits

- 4502.A The Zoning Administrator or Development Review Board may require an applicant to grant them access to a site prior to making a decision on an application when deemed necessary to ensure compliance with these regulations.
- 4502.B A site visit must be warned and conducted as part of the public hearing on an application in accordance with \*Chapter 450 and open to the public if a quorum of Development Review Board members will be present.

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**Section 4503. Conducting a Hearing and Taking Evidence**

- 4503.A The Development Review Board must hold a public hearing within 60 days of the Zoning Administrator determining that an application is complete unless otherwise specified in these regulations or the applicant agrees to a later hearing date.
- 4503.B The Development Review Board must conduct public hearings, hear testimony and take evidence according to its adopted rules of procedures.
- 4503.C All hearings must be open to the public as follows:
- (1) Any individual or group may appear and participate in a public hearing in person or by authorized representative or counsel, or may submit written testimony in advance of the hearing.
  - (2) The Development Review Board must give all those wishing to participate an opportunity to be heard as is relevant to the proceeding.
- 4503.D The applicant or an authorized representative must be present at any public hearing or meeting when the Development Review Board will be considering his/her application.
- (1) The Development Review Board will continue its consideration of an application to its next regularly scheduled meeting if the applicant or an authorized representative is not present.
  - (2) In the case of such a continuation, the intervening days will not be counted as part of any time period within which the Development Review Board is required to act.
- 4503.E Development Review Board members must not communicate directly or indirectly with any applicant, interested person or their representative regarding a matter that is under consideration except during a properly noticed hearing. Failure to disclose any and all discussion regarding a pending matter occurring outside of the hearing is cause for removal.

**Section 4504. Recessing a Hearing**

- 4504.A The Development Review Board may recess a hearing on any application pending submission of additional information necessary to determine compliance with these regulations or upon the applicant's request.
- 4504.B If the Development Review Board recesses a hearing to a specific date and time, the hearing will not have to be warned again when resumed.
- 4504.C In the case of a recess, the intervening days will not be counted as part of any time period within which the Development Review Board is required to act.

**Section 4505. Decisions**

- 4505.A **Deliberations.** Following the closing of a hearing, the Development Review Board may deliberate and make a decision on the application in a closed deliberative session.
- 4505.B **Time to Act.** Within 45 days of closing a hearing, the Development Review Board must issue a written decision to approve, approve with conditions or deny the application.

**Comment [BS116]:** As per statute (24 V.S.A. § 4464(b)).

**Comment [BS117]:** Covers part of Section 502 of adopted zoning.

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4505.C **Deemed Approval.** If the Development Review Board does not issue a decision within 45 days of closing a hearing, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the board's failure to act resulted in a "deemed approval" of the application.

**Comment [BS118]:** Covers part of Section 502 of adopted zoning.

4505.D **Findings.** The written decision must include a statement of the facts upon which the Development Review Board is basing its decisions and a statement of conclusions relating to the applicable review criteria and standards of these regulations.

4505.E **Conditions of Approval.** The Development Review Board:

**Comment [BS119]:** Equivalent to Section 501 of adopted zoning.

- (1) May attach any conditions it deems necessary to an approval to achieve the purposes of these regulations including, but not limited to:
  - (a) Specific performance standards such as limitations on hours of operation, noise, light or other off-site impacts;
  - (b) Required improvements to public facilities or infrastructure to serve the proposed development;
  - (c) Schedule or phasing of development;
  - (d) Inspection or monitoring; and/or
  - (e) Performance bonds.
- (2) Must specifically describe any conditions or limitations in the written decision. Any conditions attached to the Development Review Board's approval will be considered part of any subsequent zoning permit issued by the Zoning Administrator for the approved land development.

4505.F **Submittal of Revised Plans.** If the Development Review Board attaches conditions on an approval that require amendments to a site or subdivision plan, the applicant must submit an amended site or subdivision plan that satisfies those conditions prior to Zoning Administrator issuing a zoning permit.

4505.G **Notification and Filing.** The Development Review Board must:

- (1) Send a copy of the decision to applicant by certified mail;
- (2) Send a copy of the decision to all others who participated in the hearing;
- (3) File a copy of the notice of municipal land use permit with the Town Clerk; and
- (4) File a copy of the decision with the Zoning Administrator.

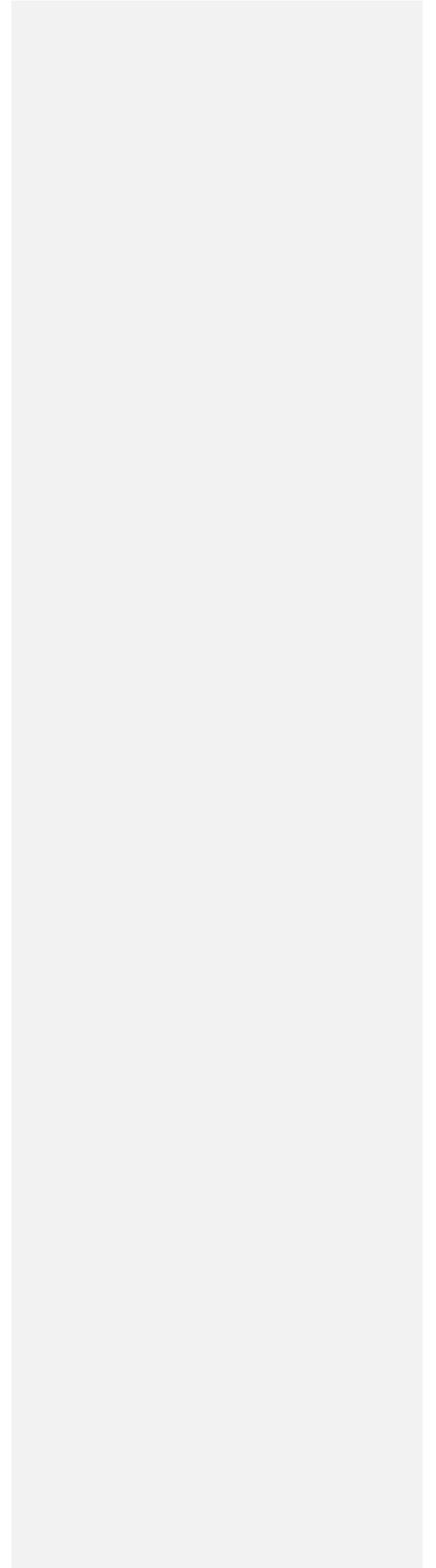
4505.H **Effect and Expiration.** If the approved land development or use is:

- (1) Not substantially completed or commenced before the zoning permit expires as established in \*Section 4203, the development approval will expire with the zoning permit.
- (2) Substantially completed or commenced before the zoning permit expires as established in \*Section 4203, the development approval will remain in effect unless the use is discontinued as established in \*Section 1205. Development Review Board approvals and any related conditions run with the land and remain in effect irrespective of whether the property changes ownership.

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- (3) Amended in accordance with \*Section 4204 or Section 4305, the amendment will not affect the expiration date of the original permit and any related development approval.



## Chapter 460. Appeal Procedures

### Section 4601. Who May Appeal

- 4601.A An interested person may appeal an action taken or decision made under these regulations as specified in this chapter.
- 4601.B For the purposes of these regulations, an interested person is:
- (1) An applicant who alleges that these regulations impose unreasonable or inappropriate restrictions on the existing or future use of his/her property.
  - (2) The Town of Milton or any adjoining municipality.
  - (3) A person owning or occupying property in the immediate neighborhood of proposed land development who can demonstrate:
    - (a) A physical or environmental impact on his/her interests; and
    - (b) That the action taken or decision made under this ordinance is not in accord with the policies, purposes, or terms of these regulations or the *Milton Town Plan*, as most recently adopted.
  - (4) Any any combination of at least 10 voters or landowners in the Town of Milton who by signed petition allege that the relief an applicant is requesting under this chapter is not in accord with the policies, purposes, or terms of these regulations or the *Milton Town Plan*, as most recently adopted.
  - (5) Any department or administrative subdivision of the state that owns property or interest in property in the Town of Milton, and the Vermont Agency of Commerce and Community Development.

**Comment [BS120]:** This chapter includes and expands on the provisions in Section 1060 and 1070 of adopted zoning.

**Comment [BS121]:** As per statute (24 V.S.A. § 4465).

**Comment [BS122]:** Statute simply states "the municipality" in its definition of interested person. I think it can be either the SB or PC that can act.

### Section 4602. Appeals of Zoning Administrator Decisions

- 4602.A An interested person may appeal any act or decision of the Zoning Administrator, including a failure to act, to the Development Review Board by filing two copies of a notice of appeal and any applicable fees with the Planning Director within 15 days of the date of the Zoning Administrator's action or decision. In cases where the Planning Director served as the Zoning Administrator in the matter of the appeal, the interested person may file the appeal with the Town Clerk.
- 4602.B The Planning Director or Town Clerk will forward the notice of appeal to the Development Review Board and the Zoning Administrator.
- 4602.C A notice of appeal must be in writing and must include all of the following information:
- (1) The name and address of the appellant (the person filing the appeal).
  - (2) A copy of the Zoning Administrator's decision or description of the action/inaction (if appealing a zoning permit, also include a copy of the permit application);
  - (3) A brief description of the subject property;
  - (4) A reference to the section(s) of these regulations that the appellant alleges the Zoning Administrator has not properly followed or applied; and

**Comment [BS123]:** As per statute (24 V.S.A. § 4466, 4468, 4470, 4472).

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- (5) A statement of the relief the appellant is requesting and why the appellant believes the requested relief to be appropriate under the circumstances.
- 4602.D If an appeal is filed by a group of interested persons, then the notice of appeal must designate one person to serve as a representative of the group regarding all matters related to the appeal.
- 4602.E Upon receipt of a complete notice of appeal, the Development Review Board must:
  - (1) Hold a public hearing and act on the appeal in accordance with \*Chapter 450.
  - (2) Reject the appeal without a hearing and render a decision within 10 days of the appellant filing the notice, if the Development Review Board determines that it decided the issues in an earlier appeal.
- 4602.F An appeal to the Development Review Board is the exclusive remedy for an interested person with respect to an action or decision of the Zoning Administrator.
- 4602.G If no interested person appeals the Zoning Administrator's action or decision to the Development Review Board within 15 days, the action or decision cannot be contested at a later time.

**Section 4603. Appeals of Development Review Board Decisions**

- 4603.A Any interested person who participated in a hearing on a matter before the Development Review Board may appeal the board's action or decision to the Environmental Division of the Vermont Superior Court within 30 days of the date of the board's action or decision.
- 4603.B The appellant must send a notice of appeal to every interested person who participated in the hearing by certified mail. The Zoning Administrator must provide a prospective appellant with the interested person list upon request.
- 4603.C If the Zoning Administrator has issued a zoning permit based on a Development Review Board approval, the appeal of that approval will be considered an appeal of the zoning permit as well and the applicant must not commence any use or development authorized by the zoning permit until the appeal is resolved. An interested person cannot use the procedures of \*Section 4602 to appeal the Zoning Administrator's issuance of a zoning permit implementing a Development Review Board approval.
- 4603.D An appeal to the Environmental Division of the Vermont Superior Court is the exclusive remedy for an interested person with respect to an action or decision of the Development Review Board except as otherwise provided by state statute.
- 4603.E If no interested person appeals a Development Review Board action or decision to the Environmental Division of the Vermont Superior Court within 30 days, all interested persons will be bound by that action or decision and will not be able to contest it at a later time.

**Comment [BS124]:** As per statute (24 V.S.A. § 4471).

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**Section 4604. Waivers**

4604.A To further the purposes of these regulations in accordance with \*Section 1003, the Development Review Board:

- (1) May approve waivers that authorize an adjustment of up to 10% to a dimensional standard of these regulations.
- (2) May approve waivers that reduce front, side or rear setbacks by not more than 50% and to not less than 10 feet.
- (3) **May** approve waivers that allow expansion of the footprint of pre-existing buildings up to 25% from the footprint that existed on [EFFECTIVE DATE] (including that buildings that have or would have a nonconforming footprint if expanded).
- (4) Must not approve waivers to reduce any riparian or wetland setback or buffer required under these regulations.
- (5) Must not approve waivers for land development within the Flood Hazard Overlay District.
- (6) Must not approve a waiver to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

**Comment [BS125]:** Authorized by 24 V.S.A. § 4414(8)).

**Comment [BS126]:** This is to allow expansion of nonconforming buildings – an example would be the grocery store in the DB1 district. It is a release valve.

4604.B The applicant must file a written request for a waiver and all applicable zoning permit and development approval applications with the Zoning Administrator that includes all of the following:

- (1) A brief description of the subject property and proposed land development;
- (2) A reference to the dimensional standard(s) of these regulations that the applicant is requesting a waiver from;
- (3) The specific modification(s) that the applicant is requesting; and
- (4) A response to each of the applicable criteria in \*Figure 4-01.

4604.C **The** Development Review Board must hold a public hearing and act on the waiver request in accordance with \*Chapter 450. If the applicant is requesting a waiver from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.

**Comment [BS127]:** As per statute (24 V.S.A. § 4464(a)(1)(C)).

4604.D To obtain a waiver, the applicant must demonstrate that all of the applicable criteria specified in \*Figure 4-01 have been met.

**Section 4605. Variances**

4605.A To further the purposes of these regulations in accordance with \*Section 1003, the Development Review Board:

- (1) May approve variances that authorize more substantial adjustments to the standards of these regulations under the specific circumstances described in this section.
- (2) Must not approve a variance to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

**Comment [BS128]:** As per statute (24 V.S.A. § 4469).

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- 4605.B The applicant must file a complete zoning permit application and a written request for a variance with the Zoning Administrator that includes all of the following:
- (1) A brief description of the subject property and proposed land development.
  - (2) A reference to specific provision(s) of these regulations that the applicant is requesting a variance from.
  - (3) The specific modification(s) that the applicant is requesting.
  - (4) A response to each of the criteria in \*Figure 4-01.
- 4605.C The Development Review Board must hold a public hearing and act on the variance request in accordance with \*Chapter 450. If the applicant is requesting a variance from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.
- 4605.D To obtain a variance, the applicant must demonstrate that all of the applicable criteria specified in \*Figure 4-01 have been met as follows:
- (1) If the variance is for a renewable energy structure, only the criteria specific to a renewable energy variance apply.
  - (2) If the variance is for development within the Flood Hazard Overlay District, only the criteria specific to a flood hazard variance apply.
  - (3) For all other variances, the general variance criteria apply.
- 4605.E If the Development Review Board approves a variance for development within the Flood Hazard Overlay District, the written decision must state that *"Building a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums."*

**Comment [BS129]:** As per statute (24 V.S.A. § 4464(a)(1)(C)).

Figure 4-01. Waiver and Variance Review Criteria

CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE	FLOOD HAZARD VARIANCE
1 The proposed land development will not alter the essential character of the area or district in which the property is located.	☐	☐	☐	☐
2 The proposed land development will not substantially or permanently impair the lawful use or development of adjacent property.	☐	☐	☐	☐
3 The proposed land development will not be detrimental to public health, safety or welfare.	☐	☐	☐	☐
4 The proposed land development is beneficial or necessary for the continued reasonable use of the property.	☐	-	-	-
5 The applicant is proposing adequate mitigation of any dimensional encroachment through design, screening or other remedy.	☐	-	-	-
6 The applicant has not created the unnecessary hardship.	-	☐	☐	☐
7 The applicant is proposing the least deviation possible from these regulations that will afford relief.	-	☐	☐	☐
8 There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property. These conditions, and not the circumstances or conditions generally created by the provisions of these regulations in the district in which the property is located,	-	☐	-	☐

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CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE	FLOOD HAZARD VARIANCE
have created an unnecessary hardship for the applicant. These physical circumstances or conditions prevent the property from possibly being developed in strict conformity with these regulations and a variance is necessary to enable reasonable use of the property.				
<b>9</b> The proposed land development meets all applicable federal and state rules for compliance with the National Flood Insurance Program.	-	-	-	□
<b>9</b> It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.	-	-	□	-
<b>10</b> The proposed land development will not reduce access to renewable energy resources on adjacent property.	-	-	□	-
<b>KEY</b>	□ Applicable		- Not Applicable	

## Chapter 470. Enforcement Procedures

### Section 4701. Investigation and Action by the Zoning Administrator

- 4701.A The Zoning Administrator must investigate alleged violations of these regulations. A violation includes, but is not limited to, a landowner:
- (1) Commencing land development for which zoning permit or development approval is required without first obtaining such an approval or permit.
  - (2) Failing to comply with all requirements, representations and conditions of any approved plan or permit.
  - (3) Commencing or continuing land development if the permit or approval authorizing the work has expired.
  - (4) Selling, transferring or offering to sell or transfer land unless a subdivision plat has been approved and filed in full compliance with these regulations.
- 4701.B The Zoning Administrator may enter onto any property as necessary to investigate an alleged violation of these regulations. If a landowner or occupant refuses to allow the Zoning Administrator onto the property, the Zoning Administrator may seek a warrant as authorized by state law.
- 4701.C The Zoning Administrator must take appropriate action in an effort to enforce these regulations including, but not limited to any combination of the following:
- (1) Requiring the applicant to apply for a curative zoning permit.
  - (2) Requiring the immediate removal of a violating structure or cessation of a violating use.
  - (3) Denying a certificate of compliance.
  - (4) Imposing fines and penalties to the maximum extent allowed under state law until the property owner remedies the violation.
- 4701.D Upon determining that a violation of these regulations exists, the Zoning Administrator must either issue a municipal civil complaint ticket (see\*Section 4703) or a notice of violation (see \*Section 4704) as he/she deems appropriate.
- 4701.E The Zoning Administrator must not enforce any violation:
- (1) That has existed for more than 15 years. The burden of proof to demonstrate the date the alleged violation first occurred is the responsibility of the landowner.
  - (2) Of a zoning permit that was issued after July 1, 1998 and was not filed in the town's land records.
- 4701.F Nothing in this chapter will prevent the Town of Milton from exercising its authority to abate or remove public health risks or hazards.

**Comment [BS130]:** This chapter expands of Section 1050 of adopted zoning. It authorizes two avenues for enforcement - the notice of violation (same as adopted zoning) and municipal ticketing (more effective approach for some types of violations like signs or junk vehicles).

**Comment [BS131]:** This time limit is specified in statute (24 V.S.A. § 4454(a))

**Comment [BS132]:** This is a required provision in statute (24 V.S.A. § 4454(b)).

### Section 4702. Liability and Penalties

- 4702.A The landowner will be held responsible for any violation and be subject to any penalties imposed under these regulations.

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- 4702.B A violation of these regulations is a civil offense.
- 4702.C Each day that a violation exists constitutes a separate offense.
- 4702.D If any enforcement action results in the need for the Zoning Administrator or Development Review Board to issue a new zoning permit or associated development approval, penalties that increase the cost of the standard fees may be established in accordance with \*Section 4101.

**Section 4703. Municipal Civil Complaint Ticket**

- 4703.A The Zoning Administrator may issue a municipal complaint ticket for any violation of these regulations in accordance with the Judicial Bureau's procedure for municipal complaint tickets.
- 4703.B A violation ticketed under this section will be punishable by a fine of:
  - (1) \$100 for a first offense, with a waiver fee of \$50.
  - (2) \$250 for a second offense ticketed for the same violation within 1 year, with a waiver fee of \$125.
  - (3) \$500 for a third and any subsequent offense ticketed for the same violation within one year, with a waiver fee of \$250.
- 4703.C Upon the fourth offense, the town may request that the case be transferred from the Judicial Bureau to the Environmental Division of Superior Court or another court of competent jurisdiction.

**Comment [BS133]:** The ticketing option is authorized in statute (24 V.S.A. § 4452).

**Section 4704. Notice of Violation**

- 4704.A The Zoning Administrator may issue a notice of violation for any violation of these regulations.
- 4704.B The Zoning Administrator must:
  - (1) Send a notice of violation to the landowner by certified mail that:
    - (a) Describes the violation;
    - (b) Identifies the specific provision(s) of these regulations being violated;
    - (c) States the specific action required to cure the violation;
    - (d) States that if the violation is not cured within 7 days, the town may institute court proceedings to obtain a court order directing compliance with these regulations and awarding fines up to the maximum amount allowed under state statute for each day that the violation continues from the date of the notice;
    - (e) States that further enforcement may occur without notice and an opportunity to cure if the violation occurs again within the next 12 months; and
    - (f) States that the notice of violation may be appealed as per \*Section 4602.
  - (2) Deliver a copy of a notice of violation to the Town Clerk for recording.
- 4704.C Upon failure of the landowner to cure a violation of these regulations, the Town of Milton may institute appropriate court action.

**Comment [BS134]:** Notice of violation procedures are established in statute (24 V.S.A. § 4451)

## PART 5. DEFINITIONS

### Chapter 500. Interpretation

### Chapter 510. Calculation and Measurements

### Chapter 520. Land Use Descriptions

#### Section 5201. Residential

- (1) **Single-Family Dwelling.** A single-unit structure intended for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (2) **Duplex.** A two-unit structure intended for habitation by two households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, and with each unit having a separate entrance from the outside or through a common vestibule.
- (3) **Triplex.** A three-unit structure intended for habitation by three households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, and with each unit having a separate entrance from the outside or through a common vestibule.
- (4) **Multi-Family Dwelling.** A structure or part of a structure containing four or more dwelling units each intended for habitation by one household and providing complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (5) **Upper Floor Residential.** A dwelling unit that is located above the ground floor of a structure intended for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (6) **Accessory Dwelling.** A second dwelling unit within a single-family dwelling or an accessory building that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation. See \*.
- (7) **Home Office.** A small workspace located within the operator's dwelling as an accessory use of which there is no exterior evidence and that does not alter the residential character of the property. See \*.
- (8) **Home Occupation.** A small business located on the operator's residential property as an accessory use that does not alter the residential character of the property. See \*.
- (9) **Home Business.** A small business located on the operator's residential property as an accessory use that may alter the residential character of the property. See \*.
- (10) **Family Childcare Home.** A small daycare business located on the operator's residential property as an accessory use. See \*.
- (11) **Retirement Housing.** A residential structure or development designed and operated to primarily house people age 55 or older that:
  - (a) Contains multiple dwelling units each intended for habitation by one household

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and providing complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation; and

- (b) May offer minimum convenience services to residents.
- (12) **Assisted Living.** One or more structures intended to provide housing, board and care to residents who need assistance with daily activities such as dressing, grooming, bathing, etc. and that operates under state license. Care providers may also live on-site or provide these services from their home.
- (13) **Skilled-Nursing Services.** One or more structures intended to provide housing and 24-hour skilled nursing care to residents and that operates under state license. This includes nursing and convalescent homes.

### Section 5202. Lodging

- (1) **Bed and Breakfast.** One or more structures intended to provide short-term accommodations for travelers operated primarily in private homes. See \*.
- (2) **Inn.** One or more structures intended to provide short-term accommodations for travelers operated primarily in private homes. Meals and alcoholic beverages may also be provided as a secondary service to guests and other patrons. See \*.
- (3) **Rooming and Boarding House.** One or more structures intended to provide accommodations operated in private homes that will typically serve as the boarder's principal residence, and that commonly includes meals, housekeeping and/or laundry services. See \*.
- (4) **Hotel or Motel.** One or more structures intended to provide short-term accommodations for travelers. They may also offer food services, recreational services, convention hosting, laundry services, etc. See \*.

### Section 5203. Commercial

- (1) **Retail Sales.** An establishment that sells goods to the general public for personal or household consumption primarily from within an enclosed structure, excluding any use specifically defined in this section. It may also provide installation, repair or maintenance services as an accessory use.
- (2) **Sales Lot.** An establishment that sells large items such as vehicles, boats, equipment, machinery, manufactured homes or prefabricated buildings primarily from an open lot. It may also provide installation, repair or maintenance services as an accessory use.
- (3) **Repair Service.** An establishment that maintains, services, repairs or paints large items such as vehicles, boats, equipment or machinery. This definition specifically excludes truck or freight transportation. See \*.
- (4) **Fueling Station.** A specialized establishment for selling gasoline or other vehicle fuels. Commonly combined with other retail uses such as a carwash or convenience store, or with an auto repair and service garage. This definition specifically excludes truck or freight transportation. See \*.
- (5) **Carwash.** A specialized establishment for washing, waxing, polishing and general cleaning of vehicles. This definition specifically excludes truck or freight transportation. See \*.

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- (6) **Lawn, Garden and Farm Supply Sales.** An establishment that sells specialized products and services for lawn, garden or farm use. It may:
  - (a) Sell farm supplies such as feed and seed.
  - (b) Sell nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, soil, compost, mulch, or sod. The live products must be predominately grown elsewhere.
  - (c) Sell lawn, garden or farm equipment or machinery as an accessory use.
  - (d) Provide installation, repair or maintenance services as an accessory use.
- (7) **Lumber Yard and Building Material Sales.** An establishment that sells lumber and heavy building materials, and that typically stores most of its stock outdoors or under open-air structures
- (8) **Open Market.** An establishment that sells goods to the general public for personal or household consumption primarily from outdoor areas or open air structures, excluding any use specifically defined in this section.
- (9) **Food or Beverage Store.** An establishment that sells food or beverage items primarily not for immediate consumption to the general public. It may offer prepared foods or drinks for immediate consumption either on-site or for take-out as an accessory use.
- (10) **Convenience Store.** An establishment that sells a limited line of staple food, packaged food, and convenience items primarily for off-site consumption. It may offer prepared foods or drinks for immediate consumption either on-site or for take-out as an accessory use.
- (11) **Financial Establishment.** An establishment that engages in financial transactions that create, liquidate or change ownership of financial assets such as accepting deposits, making loans and issuing currency.
- (12) **Rental and Leasing.** An establishment that rents or leases tangible goods such as vehicles, boats, equipment or machinery to consumer or business customers.
- (13) **Office or Professional Service.** An establishment that: (a) is used to conduct the affairs of a business, organization or profession; or (b) provides services that are reliant on the specialized training, expertise, skills or knowledge of practitioners. This definition specifically excludes services provided by licensed medical practitioners.
- (14) **Personal or Business Service.** An establishment that provides: (a) services on or closely related to the physical person such as laundry, dry cleaning, tailoring, shoe repair, hair salon, nail salon, spa, massage parlor or tattoo parlor; or (b) support services primarily to other businesses such as billing, collection, advertising, telemarketing, copying, mailing, etc. It may include sales of related personal products as an accessory use.
- (15) **Veterinary Service.** An establishment where licensed practitioners of veterinary medicine, dentistry or surgery treat animals. It may include grooming, boarding or other pet services as an accessory use. It may include sales of pet food, medicines or supplies as an accessory use.
- (16) **Building or Property Maintenance Service.** An establishment that provides building or property maintenance services to consumer or business customers. This definition specifically excludes a contractor's yard.

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- (17) **Restaurant.** An establishment that prepares and serves meals, snacks and beverages primarily for immediate consumption. This definition specifically excludes mobile food and catering service.
- (18) **Tavern.** An establishment that primarily prepares and serves alcoholic beverages for immediate consumption. It may include food service and entertainment as an accessory use.
- (19) **Event Facility.** An establishment used to host conventions, trade shows, corporate meetings, weddings, receptions, reunions and similar special events that typically includes large open spaces such as auditoriums, banquet halls, exhibition halls and meeting rooms.
- (20) **Mobile Food Service.** An establishment that prepares and serves meals, snacks and beverages primarily for immediate consumption from motorized vehicles or non-motorized carts.
- (21) **Catering Service.** An establishment that prepares meals, snacks and beverages to be served at off-premise events.
- (22) **Pet and Animal Service.** An establishment that provides animal and pet care services other than veterinary service such as boarding, grooming, sitting and training, or that breeds, sells or manages adoption of pets. It may include sales of pet food or supplies as an accessory use.

### Section 5204. Industrial

- (1) **Light Industry.** An establishment that produces new products, materials or parts in a facility that generally does not rely on specialized power, water or waste disposal systems for operation. All light industrial operations must occur within an enclosed building, which is typically similar to an office building in its size, appearance and impacts. It may include a retail shop as an accessory use that primarily sells products produced on the premises. This definition excludes any use specifically defined in this section.
- (2) **Food or Beverage Manufacturing.** An establishment that produces food or beverage products that are typically sold to wholesalers or retailers. It may include a retail shop, restaurant or tavern as an accessory use that primarily sells products produced on the premises.
- (3) **Handcrafted or Artisanal Manufacturing.** An establishment that produces artisanal or handcrafted goods that are typically custom-designed and/or produced in small quantities. It may include a retail shop as an accessory use that sells products produced on the premises.
- (4) **Laboratory or Research Facility.** An establishment used for research or analysis in the physical, engineering, cognitive or life sciences.
- (5) **Wholesale Trade.** An establishment that sells or arranges the purchase of goods to other businesses that is typically located in a warehouse or office with little to no display of merchandise.
- (6) **Warehouse and Storage Service.** An establishment that stores, but does not sell, goods and may provide a range of services related to the distribution of goods. This definition specifically excludes self-storage service, tank farm or fuel distributor.

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- (7) **Self-Storage Service.** An establishment that provides individual storage spaces for lease to either commercial or wholesale customers for storage of business goods, or to the general public for storage of household goods. See \*.
- (8) **Tanks Farm or Fuel Distributor.** An establishment with one or more tanks that typically store fuels, oils and similar liquid products. It may include sale and distribution of such products.
- (9) **Contractor Yard.** An establishment that provides storage for vehicles, machinery, equipment and materials used by a contractor in the construction-related trades. It may include a shop for maintaining or repairing the contractor's vehicles, machinery or equipment or the contractor's business office. See \*.
- (10) **Heavy Industry.** An establishment that produces new products, materials or parts from a site and/or structure(s) with specialized power, water or waste disposal systems for operation. Heavy industrial operations may involve processing of raw materials, use of large machinery or other complex operations, some of which may occur outside an enclosed building, and/or operate continuously.

### Section 5205. Transportation, Communication and Utilities

- (1) **Parking.** An establishment that provides short-term storage for registered, operable passenger vehicles as its primary function. See \*.
- (2) **Transit Facility.** An establishment that provides public transportation services.
- (3) **Truck or Freight Transportation.** An establishment that provides over-the-road transportation of cargo using trucks and tractor trailers or that provides services such as maintenance, repair or fuel for heavy vehicles including trucks, tractor trailers or buses.
- (4) **Publishing and Printing.** An establishment that issues copies of works that are usually protected by copyright. It may print, reproduce, distribute, or offer direct access to works such as newspapers, magazines, periodicals, books, databases, calendars, greeting cards, maps, posters, software, sound recordings or video recordings.
- (5) **Media Studio.** An establishment that is used to produce, distribute and/or broadcast sound or video programs or recordings.
- (6) **Communication Antenna.** A device used to transmit or receive radio, television or other wireless communications and related structures and equipment. This definition specifically excludes a communication tower. See \*.
- (7) **Communication Tower.** A structure used to support one or more communication antennas and related structures and equipment. See \*.
- (8) **Data Center or Information Service.** An establishment used to:
  - (a) House computer systems and associated components such as telecommunications and storage systems. It generally includes redundant or back-up power supplies and communications connections, environmental controls and security devices; or
  - (b) Provide electronic data processing services or that supply information including internet access or service providers, and electronic library or archive services.

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- (9) **Essential Service.** An establishment that is necessary to provide or distribute a utility service such as electricity, gas, telephone, cable, water, sewer or stormwater to customers.
- (10) **Waste Service.** An establishment used for collecting, sorting, processing, recycling or composting waste, used or discarded goods or materials. This definition specifically excludes landfill and junkyard.

### **Section 5206. Art, Entertainment and Recreation**

- (1) **Performance Theater.** An establishment that presents live entertainment by actors, singers, dancers, musicians or other performing artists to an audience.
- (2) **Movie Theater.** An establishment that shows movies or other recorded entertainment to an audience.
- (3) **Sports Arena.** An establishment used to present live sporting events to an audience.
- (4) **Museum.** An establishment that preserves and exhibits objects, sites and natural wonders of historical, cultural or educational value.
- (5) **Indoor Recreation.** A commercial establishment that offers physical fitness, sports, games and other leisure-time activities primarily from within an enclosed structure.
- (6) **Outdoor Recreation.** A commercial establishment that offers physical fitness, sports, games and other leisure-time activities primarily outside an enclosed structure. This definition specifically excludes marina and campground.
- (7) **Public Recreation.** A non-commercial establishment that offers physical fitness, sports, games and other leisure-time activities that is open to the general public.
- (8) **Marina.** An establishment that provides docking and storage facilities for pleasure boats. It may sell fuel and marine supplies as an accessory use. It may repair, maintain or rent pleasure boats as an accessory use. It may include a restaurant or bar as an accessory use.
- (9) **Campground.** An establishment designed to accommodate campers and their equipment including tents, tent trailers, and recreational vehicles, or to provide overnight recreation camping or outdoor adventure retreats. It may provide facilities and services such as cabins, sanitary facilities, food services, recreational facilities, and organized recreational or educational activities. See \*.
- (10) **Park or Preserve.** A site maintained in a primarily unimproved natural state for passive recreation and/or conservation purposes.

### **Section 5207. Education, Government, Healthcare and Other Institutions**

- (1) **Grade School.** A state-recognized institution used to educate children from pre-school through grade 12.
- (2) **College or University.** An accredited institution of higher learning that grants undergraduate and/or graduate degrees.
- (3) **Trade or Technical School.** An establishment that offers vocational and technical training typically required for specific trades or occupations, and often leading to job-specific certification.

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- (4) **Specialty School.** A commercial establishment that offers instruction, classes or training such on a specific topic such as cooking, arts, crafts, dance, music, sports or fitness.
- (5) **Government Office or Courthouse.** An establishment used by federal, state or local government agencies to administer, oversee and manage public programs, and to carry-out government functions. This definition specifically excludes public safety facility and highway maintenance facility.
- (6) **Public Safety Facility.** An establishment that provides fire, rescue, police and/or emergency response services.
- (7) **Highway Maintenance Facility.** An establishment used to store, maintain and repair the vehicles, machinery, equipment and materials necessary for public highway repair and maintenance.
- (8) **Medical Clinic.** An establishment from which one or more licensed practitioners provide healthcare services to people primarily as outpatients.
- (9) **Supervision and Rehabilitation Service.** An establishment other than a licensed hospital that provides protective supervision and/or counseling to people with mental illness, substance abuse problems, emotional problems, or physical or mental disabilities or impairments, and that may offer residential or accommodation services.
- (10) **Social Assistance and Charitable Service.** An establishment that provides social assistance services directly to individuals, and that does not offer residential or accommodation services.
- (11) **Child Day Care.** An establishment that cares primarily for infants and preschool-age children, as well as older children when school is not in session.
- (12) **Religious Institution.** An establishment that is primarily designed for worship and religious congregations. It may also include classrooms, residential quarters, and spaces to accommodate social activities as an accessory use.
- (13) **Funeral and Cremation Service.** An establishment intended to prepare deceased people for burial or cremation, to cremate the remains of deceased people, and/or to hold funeral services.
- (14) **Cemetery.** A site designed to inter or otherwise store the remains of deceased people.
- (15) **Social and Membership Organization.** A private establishment that is the premises of a nonprofit organization that meets periodically to promote some social, service, educational, athletic or recreational objectives and that caters exclusively to members and their guests.

### **Section 5208. Mining, Agriculture and Forestry**

- (1) **Mining and Quarrying.** An establishment that dredges, quarries, mines, or develops mine sites for crushed and broken stones, limestone, sand, gravel, clay, topsoil, or other stones and nonmetallic minerals. It may include on-site processing such as crushing, grinding, washing or screening.
- (2) **Agriculture or Forestry.** An establishment that grows crops, raises animals, harvests timber, or harvests plants or animals from their natural habitats.

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- (3) **Greenhouse or Nursery.** A commercial establishment that grows nursery products, nursery stock, trees, shrubs or flowers. It may include retail sale of products grown on-site as an accessory use.
- (4) **Stable or Riding Facility.** An establishment intended to house, train or care for horses.
- (5) **Agriculture Support Service.** An establishment that performs support activities related to raising livestock such as breeding services, livestock sales or auctions, and slaughterhouses or slaughtering services.
- (6) **Firewood Production or Sawmill.** An establishment that processes timber harvested off-site into firewood or wood products such as lumber, plywood, veneer, etc.
- (7) **Fishing and Game Preserves.** An establishment that engages in commercial hunting or trapping, or that operate commercial or recreational game or hunting preserves.
- (8) **Rural Enterprise.** An establishment that engages in agri-tourism, agri-education, direct marketing of locally-produced farm or forest products, or that adds value to locally-produced farm or forest products. See \*.

**Chapter 530. Defined Terms**

5301.A

5301.B

5301.C

(1) **Corner Visibility**

5301.D

5301.E

5301.F

5301.G

5301.H

5301.I

5301.J

5301.K

5301.L

5301.M

5301.N

5301.O

5301.P

(1) **Passive Outdoor Recreation**

5301.Q

5301.R

5301.S

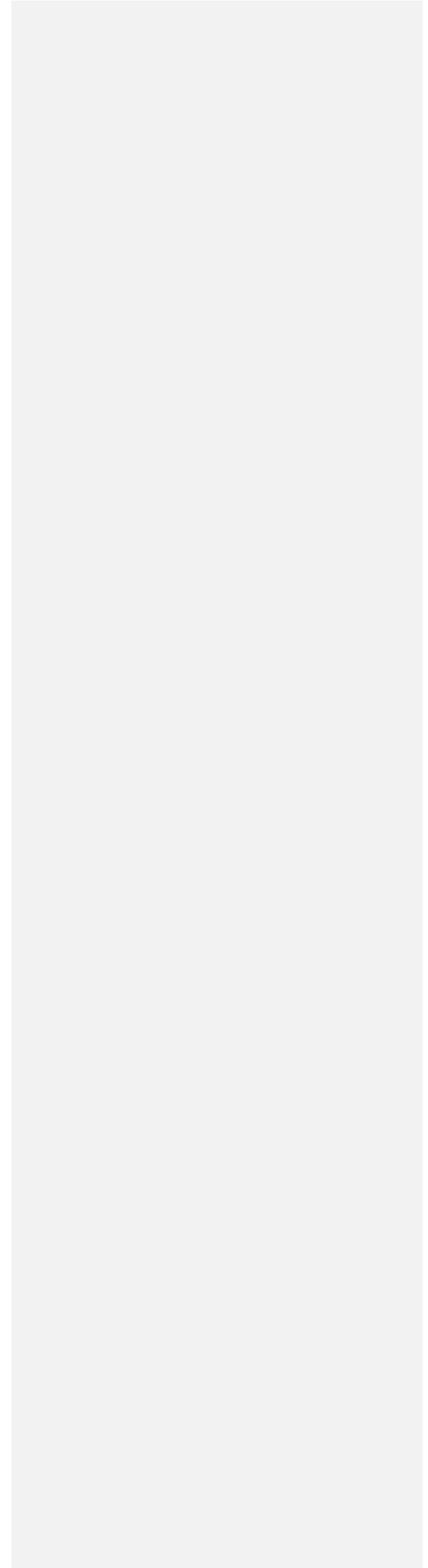
(1) **Smart Growth Principles**

5301.T

5301.U

5301.V

5301.W



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5301.X

5301.Y

- (1) Yard, Front
- (2) Yard, Rear
- (3) Yard, Side

5301.Z

