

City of Montpelier Zoning and Subdivision Regulations



Adopted by City Council,
Montpelier City Hall

Adopted August 30, 2006
As Amended through January 26, 2011

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Article 1. ENACTMENT, PURPOSE, AND SEVERABILITY.

101. ENACTMENT AND TITLE.

This ordinance sets forth the text and map constituting the zoning and subdivision regulations of the City of Montpelier. It is enacted in accordance with the Vermont Planning and Development Act (24 VSA §117). The ordinance shall be entitled and cited as the Zoning & Subdivision Regulations.

ADOPTION AND AMENDMENTS.

<u>Article/Section(§)</u>	<u>Description</u>	<u>Adoption</u>	<u>Effective Date</u>
205.D.5	Wheelchair access ramps added	6/14/06	6/14/06
205.F	Minor revisions to Permitted Residential Uses	6/14/06	6/14/06
205.1	Revisions to Agricultural and Silvicultural Activities	6/14/06	6/14/06
205.J	Revisions to Community-Owned Facilities	6/14/06	6/14/06
205.K	Residential Care or Group Home added	6/14/06	6/14/06
205.L	Exclusion of Housing added	6/14/06	6/14/06
206	Revisions of Table 206	6/14/06	6/14/06
207	Revisions of 207B, E, and G and to Table 207	6/14/06	6/14/06
3	Various revisions, except to 304.A.3.	6/14/06	6/14/06
402	Minor revisions to 402.B and C.	6/14/06	6/14/06
404.E	Minor revisions	6/14/06	6/14/06
404.G	Repealed	6/14/06	6/14/06
405	Public hearing notice revisions	6/14/06	6/14/06
506	Minor revision to site plan review timelines	6/14/06	6/14/06
508	Various revisions to Planned Development sections 508.A, C, and F.	6/14/06	6/14/06
508.B	Planned Development definitions	6/14/06	6/14/06
509	Minor revisions to 509.A and E.	6/14/06	6/14/06
6	Numerous revisions to Subdivision and Planned Development procedures, except to 607.A. and 608.C.	6/14/06	6/14/06
7	Minor Sign Approval title revision	6/14/06	6/14/06
8	Various minor revisions throughout	6/14/06	6/14/06
805.C	Parking Space and Aisle Dimensions	6/14/06	6/14/06
810	Major revisions to lighting standards	6/14/06	6/14/06
811.D.1	Internally illuminated signs prohibited in Residential districts	6/14/06	6/14/06
816.E	Cross reference to nonconformities in Floodplain in Article 3	6/14/06	6/14/06

10	Various revisions to comply with State Statute	6/14/06	6/14/06
11	Various revisions to comply with State Statute	6/14/06	6/14/06
13	Various revisions to Definitions, excluding Affordable Housing Development, Glare, Illuminance, and Lot Coverage	6/14/06	6/14/06
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Article 3 §309.B.	Revised Language to clarify, Definition of Floodplain Lands		5/14/08
Article 7 §716.A(7)	Discusses “recreational vehicles”		5/14/08
	§716.B(3)&(4) Relates to basements and floodways, respectively.		5/14/08
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Article 13	New and revised terminology in the Definition of Terms		5/14/08
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	• Revised language to clarify.		
	§203. Permits and Approvals Required Prior to Commencement of Development Activities		
	§203.A(3)		
	• Revised language to clarify prior approvals.		
Art. 3	§309. Floodplain Development		
	§309.A(3). Purpose and Enabling Language		
	• Revised language to clarify.		
	§309.D. Development Requiring Floodplain Approval		
	• Language deleted.		
	§309.F. Required Application Materials for a Floodplain Approval.		
	• Revised language to clarify.		
	§309.H. Administration and Enforcement		
	• Revised language to update and clarify duties.		

- §309.I. Variances
 - Revised language to clarify repercussions for variances.
- Art. 7
 - §716 Floodplain Development
 - §716.A. Standards for Development in All Flood Hazard Areas.
 - §716. A(1) – (13) – Revised language and standards.
 - §716.B. Standards for Development in "Numbered" Flood Hazard Areas.
 - §716.B(1) – (5) – Revised language to comply with NFIP standards.
 - §716.C. Standards for Development in “Unnumbered” Flood Hazard Areas
 - Deleted.
 - §716.D. Standards for Accessory Structures
 - §716.E. Exempted Activities
 - §716.E(1) – (4) – Revised exempted activities.
- Art. 9
 - §901. Purpose (Certificate of Compliance Procedures)
 - Clarifying language.
 - §903. Certificate of Compliance within the Special Flood Hazard Area
 - §903(1) – (4) – Additional procedures for Certificate of Compliance in SFHA.
- Art. 13
 - §1303 Definition of Terms – new and revised terminology.
 - Development in the Floodplain District
 - Dwelling, Manufactured Home
 - Floodway, Regulatory in City of Montpelier
 - Historic Structure
 - Manufactured, Home
 - Mobile Home
 - Substantial Improvement

102. PURPOSE OF THIS ORDINANCE

The purposes of the Zoning and Subdivision Regulations are those set forth in 24 V.S.A. 117.

103. SEVERABILITY

A finding by any court or body of competent jurisdiction that any part of these regulations is invalid shall not invalidate the remainder hereof.

Article 2. GENERAL PERMIT PROCEDURES.

201. REGULATION OF ALL DEVELOPMENT ACTIVITIES.

No land, building or structure, in whole or in part, shall be developed, altered, occupied or used unless in conformity with the Zoning and Subdivision Regulations for the district in which it is located.

202. NO ZONING PERMITS REQUIRED.

No zoning permit shall be required for the following activities; however, all development in the Special Flood Hazard Area (SFHA) requires a permit and a building permit or other approvals may be required:

1. Accepted agricultural practices (AAP's) and accepted management practices (AMP's) for silviculture, in accordance with § 605.I, and 24 V.S.A. 4413 (d).
2. Power generation and transmission facilities, which are regulated under 30 V.S.A. 248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
3. Hunting, fishing, and trapping as specified under 24 V.S.A 2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.
4. Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
5. Interior alterations or repairs to a structure which do not alter or expand the exterior of the structure or result in a more intense use. Interior alterations that increase the intensity of a use or that are subject to the parking requirements in § 705, such as increasing the number of seats at an eating establishment, require a zoning permit.
6. Exterior alterations to structures which are not located within designated design review districts and which do not result in any change to the footprint or height of the structure or a change in use. Exterior alterations to structures within a designated Design Control District may be subject to design review under § 305. Exterior alterations to a nonconforming structure may require review under § 804.
7. Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities.
8. Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
9. Small accessory buildings associated with residential uses which are less than 100 square feet of floor area, less than ten (10) feet in height with a flat roof or less than twelve (12) feet in height with a peaked roof, and are not located within required setback areas.
10. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) days in any calendar year.
11. Road, sidewalk, bridge, infrastructure, and utility improvements and maintenance, and related appurtenances within existing public rights-of-way; however, the City shall abide by the standards in this ordinance.

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12. The following types of antennas or dishes, which are placed on properties for the owners' or occupants' exclusive use and control:
- a. A “dish” antenna one meter (39.37 inches) or less in diameter designed to receive direct broadcast satellite television service or to receive and transmit fixed wireless signals via satellite;
 - b. An antenna one meter in diameter or less designed to receive wireless cable or to receive or transmit fixed wireless signals other than by satellite;
 - c. Commercially-available analog and digital television antennas;
 - d. Ground or building mounted radio or television antenna, or satellite dishes not exceeding one meter in diameter, which are intended solely for residential use, and which do not, as mounted, exceed 40 feet in height above the lowest grade at ground level;
 - e. Single use local business radio dispatch equipment;
 - f. Citizens band radio antennas operated by federally licensed amateur (ham) radio operators which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located; and
 - g. Police, fire ambulance, and other emergency dispatch telecommunications facilities.

203. PERMITS AND APPROVALS REQUIRED PRIOR TO COMMENCEMENT OF DEVELOPMENT ACTIVITIES.

203.A. Zoning Permit.

1. Construction, reconstruction, installation or substantial alteration of any structure; a material change in the use of any structure or land; development of any structure or land; or a change in the intensity of use of any structure or land require a zoning permit issued according to the provisions in Article 3.
2. Depending on the nature of the proposed development, other approvals may be required prior to approval and issuance of a zoning permit. As explained in Article 3, these prerequisite approvals include conditional use review, design review, site plan review, and floodplain review. Zoning permit applications will be considered incomplete until these prerequisite approvals are obtained.
3. A permit is required for all development requiring floodplain approval, as defined in §309.D. Within the designated flood hazard area, “development” shall mean any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under §309, must have such approvals prior to the issuance of a permit by the Administrative Officer (AO). Any permit issued will require that all other necessary permits from State or Federal agencies have been received before work may begin.

203.B. Sign Approval

Construction, reconstruction, installation or substantial alteration of any sign requires a permit issued according to the provisions of Article 5. For signs located in the Design Control District, Design Review approval of the proposed sign according to the provisions of § 305 is required prior to the issuance of a permit. A permit application for a sign will be considered incomplete until these prerequisite approvals are obtained.

203.C. Subdivision Approval.

Division of land into two or more lots requires subdivision approval issued according to the provisions of Article 4. Final subdivision approval must be obtained prior to offer of sale of any lot.

203.D. Planned Development Approval.

1. The development of four (4) or more dwelling units on one lot or four (4) or more lots shall require planned development approval. For applications that are not otherwise subject to the planned development approval provisions, an applicant may elect to apply such provision to his or her project in accordance with Article 4.
2. The development of four (4) or more units or lots but less than twenty-four (24) units or lots or combination of units and lots shall require minor planned development approval in accordance with Article 4.
3. The following development activity shall require major planned development approval in accordance with § 308:
 - a. The development of twenty-four (24) dwelling units on a single lot or a combination of lots; or
 - b. The development of, or division of, a parcel of land into twenty-four (24) or more lots; or
 - c. The development of a combination of twenty-four (24) or more units or lots over a period of five (5) years or less.

203.E. Demolition of Structure.

The demolition of any structure or part of a structure, except those listed in § 202, shall require a zoning permit in accordance with § 310.

203.F. Certificate of Compliance.

Occupancy or use of any lot or structure, or part thereof, created, erected, changed, converted, enlarged or altered, wholly or partially, in its use or structure requires a certificate of compliance issued according to the provisions of Article 9.

Zoning permit applications will be considered incomplete until these required approvals are obtained.

204. INFORMAL PROJECT REVIEW.

Prior to filing a permit application, applicants are encouraged to meet with the Administrative Officer and Planning Department staff for a preliminary review of the proposal and discussion of the required permits, application materials and review procedures.

205. PERMIT APPLICATION AND REVIEW PROCEDURES.

205.A. Initiation of the Application.

Applicants shall initiate permit applications by submitting the required forms and information to the Administrative Officer.

205.B. Determination of Which Permits and Review Procedures are required.

All applications shall be reviewed according to one or more of the procedures described in Articles 2 through 3. The required permits and procedures depend on the type and location of the proposed development. The Administrative Officer shall determine which of these permits and procedures apply and shall inform the applicant of that determination. All applicable application fees shall be paid at the time of application.

As a service to the applicant, this notification shall include notice of any impact fees or other charges that may apply to the proposed project.

Any interested party may appeal the Administrative Officer’s determination of the permits and procedures required by filing an appeal to the Development Review Board in accordance with the provisions of Article 10.

205.C. Referral to the Appropriate Review Body and Administrative Officer.

Permit review procedures are administered either by the Administrative Officer or the Planning Director depending on the type of project. Those requiring Development Review Board review will be administered by the Planning Director. Those requiring only administrative review will be administered by the Administrative Officer. The Administrative Officer shall determine which officer has administrative responsibility for an application and shall transmit applications to the Planning Director for Development Review Board review as appropriate.

205.D. Determination that an Application is Sufficient for Review.

Within five days of referral of an application from the Administrative Officer, the officer administering the application shall determine whether an application is sufficient for filing according to the filing requirements for the relevant permit or review procedure. The Administrative Officer shall notify the applicant of that determination.

If an application is determined to be insufficient, the Administrative Officer shall provide the applicant with a written list of the required additional information. Within five days of the applicant’s submission of additional information, the Administrative Officer shall determine whether an application is sufficient, and shall notify the applicant of that determination. Failure to act within these time limits shall not constitute approval of the application.

Any interested party may appeal the Administrative Officer’s determination by filing an appeal to the Development Review Board in accordance with the provisions of Article 10.

205.E. Review of Applications.

Once an application is determined to be sufficient for review it shall be reviewed according to the process and time limitations specified in these regulations for the relevant permits and review procedures. If an application is subject to Development Review Board review for more than one procedure, the Administrative Officer will schedule reviews concurrently to the extent possible.

TABLE 205.E Index to Review Procedures.

REVIEW PROCEDURE	SECTION	REVIEW PROCEDURE	SECTION
Permitted Uses	§ 303	Planned Developments	§ 308
Conditional Uses	§ 304	Floodplain Review	§ 309
Design Review	§ 305	Sign Approval	Article 5
Site Plan Review	§ 306	Subdivision Approval	Article 4

Site Plan Amendments	§ 307		
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205.F. Date When Application is filed with Administrative Officer.

For the purposes of the time limit in 24 VSA § 4464, an application requiring action by the Administrative Officer shall not be considered complete for filing until the results of all other review procedures required prior to the issuance of a permit are received by the Administrative Officer.

205.G. Required Waiting Period and Notice to the State of Vermont.

Repealed.

205.H. Expiration of Permits.

1. Zoning permits shall expire two years after the date of issuance by the Administrative Officer. Development must be completed prior to the expiration of the permit, unless a later completion date has been approved by the Development Review Board or the Administrative Officer during the initial approval process. Once commenced, development not completed in accordance with the permit within two years shall constitute a violation of the zoning permit and be subject to enforcement action by the Administrative Officer. Once a permit has expired, a new permit must be obtained prior to initiating or recommencing the development. Reestablishment of an expired permit is considered a new application and shall be subject to the review process in effect at the time of reestablishment.
2. Prior to expiration of a zoning permit, and upon written request from the property owner, the Administrative Officer may extend, for good cause, a zoning permit for a period not to exceed six months.
3. Site plan approval shall expire with the expiration of the zoning permit, unless the Board extends the completion date as part of its initial site plan approval. Prior to expiration of the permit and upon a written request from the applicant, the Board may grant a one-time only extension of the site plan approval and permit for an additional 12 months.
4. If construction has not commenced due to a delay in acquiring required State or Federal permits, the Board may make the one-time extension of the site plan approval for a period longer than 12 months if the applicant can demonstrate to the satisfaction of the Board that the State permits are being actively pursued and there is reason to believe such permits may be granted.
5. An approved A1-PUD shall expire five years from the date of final approval (see § 308.D).

205.I. Abandonment of Development after Excavation.

Within one year after work on an excavation for a building has begun or within six months after a permanent or temporary building or structure has been destroyed or demolished, all structural materials shall be removed from the site and the excavation thus remaining shall be covered over or filled to the normal grade by the owner.

206. RULES REGARDING NOTICE AND PUBLIC HEARING.

206.A. Public Hearing Notice.

Public hearings which require public notice under the Zoning and Subdivision Regulations shall be advertised not less than 15 days prior to the date of the public hearing by all of the following means:

1. Publication of the date, place and purpose of the hearing in a newspaper of general publication in the city;
2. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. §312 (c)(2), including in or near the City Clerk's office and posting within view from the public right-of-way most nearly adjacent to the property for which an application is made;
3. Written notification to the applicant and to owners of record of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

206.B. Notice by Posting the Property.

Not less than fifteen days prior to the public hearing, the applicant shall post a sign obtained from the Planning and Community Development Department on the property. The sign shall include the date, time, place and purpose of the public hearing, shall be posted in a location clearly visible to the public from a public right-of-way, and shall be removed within two days of the close of the public hearing.

206.C. Defect in Notice.

No defect in the form or substance of any requirements this section shall invalidate the action of the Development Review Board where reasonable efforts are made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the environmental court or by the Board itself, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

207. COMPUTATION OF TIME.

Calculation of the time in which an action must be taken shall not count the first day and shall count the final day. The period shall be calculated on the basis of calendar days.

208. TECHNICAL ASSISTANCE.

208.A. Authority.

In accordance with 24 VSA §4407(17), the Development Review Board may request expert consultation with respect to any of the review procedures provided for in Table 205.E, above. Such request may be made as the result of a pre-application meeting, if any, held between the Development Review Board and applicant, or in the course of the review of the proposal. The Development Review Board may seek or accept input from City staff regarding any additional information which the applicant should provide, the possible need for expert consultation, the estimated cost of this consultation, and the amount of money, if any, the applicant shall be required to pay to the City for such services prior to the completion of the Development Review Board's review.

208.B. Release of Funds.

Funds received from the applicant by the City pursuant to this section shall be deposited in an interest-bearing escrow account. The sum may be drawn against by appropriate City personnel for the payment of consultants hired by the City to review a project. Any balance remaining no later six months after final action on the application by the Development Review Board shall be returned to the applicant, along with the accrued interest.

209. FILING AND RECORDING OF MUNICIPAL LAND USE PERMITS.

Within 30 days after a municipal land use permit, as defined in 24 VSA §4303(24) and specified in § 402, has been issued or within 30 days of the issuance of any notice of violation, the Administrative Officer shall deliver the original or a legible copy of the municipal land use permit or notice of violation, or a notice of municipal land use permit generally in the form set forth in 24 VSA §1154(c), to the town clerk for recording as provided in 24 VSA §1154(a); and file a copy of that municipal land use permit in the offices of the municipality in a location where all municipal land use permits shall be kept.

Article 3. ZONING PERMIT PROCEDURES.

301. REQUIRED REVIEW PROCEDURES.

A zoning permit shall be issued only after review according to one or more of the procedures described in this Article. The Administrative Officer shall determine which permits and review procedures apply to an application according to the provisions of § 205.

302. REQUIRED APPLICATION MATERIALS.

A zoning permit application shall include the following:

1. Completed application and fees forms. The forms shall be provided by either the Department of Planning and Community Development or the Administrative Officer.
2. A description of the proposed use or uses of the land and structures.
3. A plan, drawn to scale, showing the dimension and location of the lot, existing and proposed structures, frontages and setbacks, driveways, sidewalks, rights-of-way and easements of record, and access points to public streets, and parking spaces. NOTE: The officer administering the application may waive this requirement if an application is for permitted or temporary uses which do not involve physical changes to the lot or structures.
4. A statement of the number of days to completion after commencement of the project.
5. Any information required by the specific review procedures under which the application will be reviewed (see the appropriate specific review procedure in the following Sections).
6. Any information required by the Administrative Officer or Planning Director to provide a clear understanding of the proposal.

303. PERMITTED USES.

303.A. Purpose

Permitted uses are those uses that are designated to be appropriate in each of the city's zoning districts, as indicated on the current City of Montpelier Zoning Map and in Table 606, Table of Uses.

303.B. Review Standards.

A use is considered permitted if the Table of Uses contained in Article 6 lists the use as permitted in the zoning district in which the use is to be located.

A proposed permitted use shall be reviewed according to the dimensional requirements (for setbacks, lot coverage, etc.) for the district in which the use is located (refer to Article 6) and any applicable general development standards (refer to Article 7).

303.C. Review Process and Time Limits.

If the Administrative Officer determines that the use is permitted, meets the appropriate dimensional and development standards of the ordinance, and does not require review by the Development Review Board or the Design Review Committee, the zoning permit shall be approved. If the Administrative Officer

determines that these requirements are not met, the zoning permit shall be denied. If the Administrative Officer fails to act with regard to a complete application within 30 days, the permit shall be deemed issued on the 31st day.

303.D. Uses not Expressly Listed in the Table of Uses.

If a proposed use is not listed on the Table 606, Table of Uses, it shall be allowed only if the Administrative Officer determines that the proposed use has characteristics and impacts that are similar to a listed use. When such a determination has been made, the proposed use shall be reviewed per the requirements for the similar listed one. When the Administrative Officer determines that the proposed use is not similar, it shall not be permitted.

303.E. Appeals.

Any interested person may appeal the decision of the Administrative Officer to the Development Review Board in accordance with Article 10.

304. CONDITIONAL USES.

304.A. Purpose.

Conditional uses are those uses or development activities that may not be appropriate generally throughout a zoning district. However, such uses or development activities when properly conditioned may not be detrimental to the public health and welfare, and, therefore, may be appropriate. The conditional use procedure provides for individual evaluation of such uses or development activities. A use is considered conditional in a zoning district if designated as a conditional use in Table 606, Table of uses and § 205.E.

304.B. Review Process.

1. Any use designated as a conditional use may be permitted only after approval by the Development Review Board of an application to establish said use.
2. A use designated as a conditional use in Table 606, Table of Uses, shall not be subject to the site plan review procedures set forth in § 306.B. The site plan review standards and approval conditions in § 306.C shall become part of the conditional use review standards per § 304.D.
3. The Development Review Board shall hold a public hearing on the application after public notice. Based on the application material and relevant evidence presented at the hearing, the Board shall determine whether the proposed conditional use complies with the review standards set forth in § 304.D below. If the Board determines that a proposal meets these standards or that it is possible to meet those standards by placing conditions on the approval, it shall approve the conditional use with applicable conditions.

304.C. Public Hearing Requirement.

The Development Review Board shall hold a public hearing on the conditional use zoning permit application and provide 15 days public notice of the hearing in accordance with § 206.

304.D. General Review Criteria.

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1. **Conditional Use Review Criteria.** A conditional use may be approved only if the Development Review Board determines that the proposed use does not adversely affect the following:
 - a. the capacity of existing or planned community facilities;
 - b. the character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards in the Montpelier Municipal Plan;
 - c. traffic on roads and highways in the vicinity;
 - d. the Zoning and Subdivision Regulations in effect; and
 - e. the utilization of renewable energy resources.
 2. **Area Affected.** The Development Review Board shall consider the following when determining whether the proposed development will adversely affect the character of the area:
 - a. the performance standards contained in § 714 of the ordinance;
 - b. the site plan review standards and approval conditions in § 306.C excluding uses exempt from site plan review;
 - c. the cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood;
 - d. the compatibility with existing and proposed development for the area;
 - e. the traffic generated per unit;
 - f. the cumulative impact of the proposal's failure, if applicable, to fully satisfy each of the conditional use standards in §§ 304.D and 712;
 - g. the noise generated per unit;
 - h. any other factors judged to have an adverse impact on the area;

304.E. Standards for Specific Conditional Uses.

1. When considering conditional use approval for convenience commercial uses, accessory apartments, ancillary apartments or large institutional properties, the Development Review Board shall apply the standards of § 712.
2. The Development Review Board shall apply the site plan review standards in 306.C to all conditional uses, except for the uses specifically exempted from site plan review under these regulations.

304.F. Authority to Set Conditions.

In granting a conditional use, the Development Review Board may attach any additional reasonable conditions and safeguards it deems necessary to implement the provisions of 24 V.S.A. 4414 and these Regulations. The information in the plans and applications submitted for the proposed use or structure along with any conditions imposed by the Board shall be incorporated into any permit issued.

When conditions are established by the Board that require amendments to the site plan, the applicant shall submit an amended site plan that satisfies the conditions of the Board approval prior to a permit being issued.

304.G. Time Limits for Decision.

The Development Review Board shall act to approve, approve with conditions, or deny any conditional use application within 45 days of the close of the public hearing. Failure to act within this period shall be deemed approval.

304.H. Appeals.

Any interested person may appeal the conditional use decision of the Development Review Board to the Environmental Court in accordance with the provisions of Article 10.

305. DESIGN REVIEW.

305.A. Purpose and Enabling Legislation.

In accordance with 24 VSA 4414(1)(E), the Design Control District has been created to guide development in an area with particular historical, architectural, urban design, visual or cultural significance.

305.B. Establishment of the Design Review Committee.

In accordance with § 305, the Montpelier City Council has appointed a Design Review Committee to advise the Development Review Board.

305.C. Review Process.

1. Proposals that Require Design Review. Within the Design Control District no structure may be erected, reconstructed, substantially altered, restored, moved, or demolished, without review of the design plans by the Development Review Committee and approval of design plans by the Development Review Board.
2. Development, renovation or demolition may commence only if one of the following criteria is met:
 - a. the proposed development is an exempt activity as defined in § 306.B.4; or
 - b. a zoning permit has been issued after the Design Review Committee has reviewed the development and the Development Review Board has granted Design Review Approval.
3. Additional Requirements in Office Park and Riverfront Districts. Additional design review standards for proposals in the Office Park and Riverfront Districts are provided in § 604.A.5 and 604.B.3 respectively.
4. Exempt Development. The following development is exempt from design review approval requirements:
 - a. The subdivision of land;
 - b. Changes in use that do not cause any exterior changes in appearance of the building or lot;
 - c. The repair or replacement of architectural features using materials of identical composition, type and appearance;
 - d. Non-substantial alterations, as determined in writing by the Administrative Officer;
 - e. The removal of signs (no evidence of the sign's installation may remain); and
 - f. Interior renovations (the alteration to doors or windows, located on exterior walls is not an exempt activity).
5. Review by the Design Review Committee. The Planning Director, or his or her designee, shall submit to the Design Review Committee the complete application materials including those specifically required for

design review as described in § 305.E. The Committee shall review the proposed development according to the criteria for the Design Control District and the location of the proposed development. The Committee shall make recommendations to the applicant regarding design modifications that may further the intents and purposes of the design control provisions of the ordinance.

6. Plan Revisions. The Design Review Committee may request that the applicant incorporate the recommended modifications into a revised plan for further review by the Committee.
7. Report to the Development Review Board. The Design Review Committee shall report its recommendations to the Development Review Board based on these revised plans, or, if no revised plans are prepared, the originally submitted plans. The Committee may recommend and the Board may require as a zoning permit condition that the final approval of the detailed design of selected elements of the project be delegated to the Committee.
8. Development Review Board Action. The Development Review Board shall review the application and act to approve, approve with conditions, or deny the proposed plans. The Board, at its discretion, may incorporate the Design Review Committee's recommendations into its decision.
9. Time Limit on Decisions. The Development Review Board shall act to approve or deny any application for design review approval within 60 days of receiving the complete application. The application is considered to be received by the Board on the date of the Board meeting at which the application is first considered. Failure to act within this period shall be deemed approval.

305.D. Appeals.

Within the Design Control District, any interested person may appeal a decision of the Administrative Officer to the Development Review Board in accordance with Article 10. A decision of the Development Review Board may be appealed to the Environmental Court in accordance with Article 10.

305.E. Required Application Materials.

1. Required Materials. In addition to the materials required by § 302, any application for construction, reconstruction, or alteration of any structure in the Design Control District shall include the following:
 - a. Architectural elevations, drawn to scale, of existing structure, including architectural details such as trim and molding;
 - b. New structures or changes to existing structures should be clearly identified;
 - c. A description and samples of all materials to be used on the exterior of any structure;
 - d. Accurate representations or samples of all colors to be used on the exterior of any structure;
 - e. A plan showing proposed landscaping including information on the type and size of plant materials to be installed;
 - f. Current photos showing the site and affected structures, all four sides, neighboring structures with subject in photo and relevant details; and
 - g. Lighting fixtures, bulb type, wattage, and direction of light.
2. Optional Materials. The Design Review Committee or the Development Review Board may require an applicant to submit additional information, including models or other three-dimensional analyses, as necessary for a clear understanding of a proposal.

305.F. Review Criteria.

The Design Review Committee and Development Review Board shall evaluate design review plan based on the following considerations:

1. Preservation or reconstruction of the appropriate historic style if the proposed project is in the historic district or involves an historic structure;
2. Harmony of exterior design with other properties in the district;
3. Compatibility of proposed exterior materials with other properties in the district;
4. Compatibility of the proposed landscaping with the district;
5. Prevention of the use of incompatible designs, buildings, color schemes, or exterior materials;
6. Location and appearance of all utilities;
7. Recognition of and respect for view corridors and significant vistas including gateway views of the city and State House; and
8. The design standards established in § 604.A.5 for development within the Office Park District and in § 604.B.3 for development within the Riverfront District, if applicable.

305.G. Maintenance of Approved Alterations.

A failure to maintain development as approved within the Design Control District shall be deemed a violation of the zoning permit.

306. SITE PLAN REVIEW.

306.A. Purpose and Enabling Legislation.

In accordance with 24 VSA 4416, all development involving non-residential and multi-family uses shall be reviewed by the Development Review Board (a) to assure the project's compatibility with its location and the Montpelier Municipal Plan, (b) to promote the highest quality design for such development, and (c) to prevent and/or mitigate potentially negative impacts resulting from the development.

306.B. Review Process.

1. Proposals that Require Site Plan Review: Any use other than single-family and two-family dwellings or any structure, improvements or land dedicated to such a use may not be established, expanded or modified, except as provided in § 307, without approval of a site plan by the Development Review Board.
2. Pre-Application Conference.
 - a. Purpose. Prior to submitting a full application for Site Plan review, the applicant may request an informal meeting with the Development Review Board for preliminary consideration and advice. The pre-application conference is offered to provide the applicant an opportunity to consult early with the Board to save time and expense in the preparation of final site plans.
 - b. Procedure. The applicant shall submit to the Planning and Development Office the following information:
 - (1) a written request for a pre-application conference, and

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- (2) general site information including a location map and site plan.

These materials shall be filed at least 10 working days prior to the pre-application conference. The application materials shall be forwarded to the appropriate municipal representatives for review and comment prior to the pre-application conference. Those representatives may include:

- (3) the Director of Public Works;
- (4) the Director of Planning and Community Development;
- (5) the Administrative Officer;
- (6) the Design Review Committee, Conservation Commission, and Tree Board;
- (7) Police and Fire Departments and other municipal agencies, as appropriate; and/or
- (8) the Technical Review Committee.

- a. Preliminary Development Review Board Recommendations. The pre-application conference shall be held as part of a scheduled meeting of the Development Review Board. Following review of the material submitted at the pre-application conference, the Board shall make preliminary recommendations to guide the applicant in preparation of plans for Site Plan review. The Board's recommendations shall be recorded in the minutes of the meeting and shall be provided to the applicant.
- b. Time Limits. The pre-application process does not begin the site plan review period specified in § 306.D.

3. Site Plan Review.

- a. Application Procedure. The applicant shall pay all required application fees and file a complete application with the Administrative Officer at least 30 days prior to a regularly scheduled meeting of the Development Review Board.
- b. Submission Requirements. The following information shall be submitted for Site Plan review unless waived by the Development Review Board or determined by staff not to apply to the proposed site:

TITLE BLOCK:

- the address of the site and the project title;
- the name and address of the applicant;
- the name and address of the property owner(s); and
- the name, address and license number of the architect or engineer (if applicable).

GENERAL INFORMATION: scale; north arrow; and site location map.

EXISTING SITE FEATURES:

- a. total lot size;
- b. property lines with dimensions;
- c. written consent of the owners of all property to be included in the development;
- d. locations and dimensions of easements and rights-of-way;
- e. locations and dimensions of streets, sidewalks, driveways and parking lots;
- f. locations and dimensions of structures and site improvements including buildings, signs, dumpsters, above and below ground tanks, and fences;
- g. location of outside storage and display areas;
- h. location and type of lighting fixtures;

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- i. location of utilities on or adjacent to the property;
 - j. drainage patterns including structures and swales;
 - k. topography at 2' intervals;
 - l. existing natural features (such as rock outcroppings and wetlands), and
 - m. landscaping identifying type, size and location of major plant materials.

ABUTTING PROPERTIES: For properties within 200 feet of the site, the location, use and approximate size of all structures and improvements; and names of owners.

PROPOSED USES AND IMPROVEMENTS:

- a. Location and dimensions of new structures, improvements, and any other changes to existing structures or site conditions;
- b. description of proposed use, height and floor areas for all structures;
- c. detailed landscaping and screening plan specifying type, size and location of plant materials;
- d. site improvements or changes to any existing site features identified in subsection 306.b(3)(b);
- e. traffic generated;
- f. hours of operation;
- g. measures taken for the conservation of water and energy;
- h. measures taken to minimize waste (e.g., composting or recycling);
- i. how the proposed uses and improvements accommodate pedestrians within and around the site;
- j. detailed plan showing the useable open space and how it serves the public interest; and
- k. location of dumpsters and above ground propane tanks.

OTHER INFORMATION: Other information requested by staff to provide a clear understanding of the proposal.

4. Minor Development Exempt from Site Plan Review.

- a. **Definition of Minor Development.** Development shall be considered as minor if all of the following conditions are met:
 - (1) There are no building additions,
 - (2) There are no alterations to the site,
 - (3) There are no changes to the building entrance(s),
 - (4) There will be no tractor trailer deliveries,
 - (5) The proposed use is a permitted use, and
 - (6) The proposed use does not result in an increase in the required number of parking spaces.
- b. **Submission Requirements.** The applicant shall submit the following materials to the Administrative Officer:
 - (1) a copy of the tax map showing the lot and building location and adjacent buildings within 200 feet.
 - (2) a completed zoning permit application form.
 - (3) required application fees.
- c. **Review.** If the Administrative Officer determines that the conditions of § 306.B.4.a are met, the application shall be exempt from site plan review by the Development Review Board. The application shall be subject to normal requirements for a zoning permit.

306.C. Review Standards and Approval Conditions.

The Development Review Board shall consider and may impose appropriate conditions and safeguards with respect to the adequacy of the following:

1. streets (§ 702)
2. pedestrian access and circulation (§ 703),
3. vehicular access and circulation (§ 704),
4. parking (§s 705 and 707),
5. loading (§s 706 and 707),
6. landscaping and screening (§ 708),
7. outdoor lighting (§ 710),
8. signs (§ 504),
9. performance standards (§ 714),
10. site protection and design (§ 715),
11. excavation and filling (§ 717),
12. public sites and open spaces (§ 718.f),
13. water supply (§ 721),
14. sewage disposal (§ 722),
15. storm drainage (§ 723 and 724),
16. utilities (§ 725), and
17. provisions to protect the utilization of renewable energy resources.

306.D. Action by the Development Review Board.

The Development Review Board shall review the site plan application and act to approve, approve with conditions, or deny the proposed plans. If the plans are denied, the Board shall state the reasons for such denial in a report to the applicant and Administrative Officer.

The Development Review Board shall act on site plan review applications within 45 days of the close of the public hearing. Failure of the Board to act within the 45 day period shall constitute approval of the site plan application.

306.E. Appeals.

Any interested person may appeal the site plan decision of the Development Review Board to the Environmental Court in accordance with the provisions of Article 10.

306.F. Expiration of Approval.

See § 205.H.

307. SITE PLAN AMENDMENTS.

307.A. Permit Requirements.

Circumstances may arise where an applicant discovers that development cannot proceed according to an adopted site plan or that there will be cost savings or design improvements with changes to the plan. Amendments to site plans previously approved by the Development Review Board or Planning Commission shall require a zoning permit. Prior to issuing a zoning permit the applicant must obtain site plan approval from the Board. An applicant shall submit previously approved plans along with proposed amendments.

307.B. Administrative Approval.

Amendments that meet all of the following criteria shall not require site plan review by the Development Review Board and may be administratively approved by the Planning Director, or his or her designee:

1. Changes that do not violate or require a variance from the provisions of the Zoning and Subdivision Regulations.
2. Changes in land use density or intensity that do not result in an increased requirement for parking or loading spaces.
3. Changes to the building footprint, involving less than five hundred (500) square feet or 10% of building area, whichever is less, and that do not affect parking, traffic, access, or circulation.
4. Minor changes in location of landscaped areas, sidewalks, or bike paths.
5. Substitution of proposed planting materials from the approved planting list provided that the substitution does not change the overall design concept approved by the Development Review Board.
6. Minor changes in the location of structures.
7. Other minor changes as determined by staff which do not alter the concept of the development as approved by the Development Review Board.

Amendments that do not meet all of the criteria in § 307.B, above, shall require review and approval by the Development Review Board in accordance with § 306.

307.C. Appeals.

A determination by the Administrative Officer that an amendment is exempt from site plan review by the Development Review Board may be appealed by any interested person to the Board in accordance with Article 10. A decision by the Board to approve, approve with conditions, or deny a site plan amendment may be appealed to the Environmental Court in accordance with Article 10.

308. PLANNED DEVELOPMENTS.

308.A. Purpose and Enabling Legislation.

1. All Planned Developments.

The purpose of Planned Unit Developments (PUD), also referred to simply as Planned Developments, is as follows:

- a. Encourage compact, pedestrian-oriented development and redevelopment and promote an appropriate mix of residential uses or nonresidential uses, or both, especially in and near the downtown, in and near existing neighborhoods, in new neighborhoods, and in accordance with the Municipal Plan;
- b. To encourage new residential development in accordance with the principles of traditional patterns of neighborhood development that includes dense, residential development that supports and enhances

mixed uses, pedestrian circulation, open space, inter-connected street patterns, architecture in harmony with the neighborhood and a sense of community;

- c. To encourage the development of diverse housing types and affordable housing;
- d. To allow the waiver of district dimensional standards in order to provide for the efficient use of land and flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will achieve the goals for the area as articulated in the Montpelier Municipal Plan and within the particular character of the site and its surroundings;
- e. To provide for the conservation of a natural, historic, cultural, recreational, and open space features recognized as worthy of conservation in the Montpelier Municipal Plan and bylaws, such as the preservation of agricultural land, forest land, trails, critical and sensitive natural areas, stone walls, scenic resources, and protection from natural hazards;
- f. To encourage opportunities for energy-efficient development and redevelopment; and
- g. To increase the efficiency of the development review process.

2. Academic Institution Planned Unit Development (AI-PUD).

The purpose of an Academic Institution Planned Unit Development (AI-PUD) is to encourage long range physical development planning on the part of major academic institutions, to accommodate the institution's growth while assuring that the growth will be compatible in use and design with adjacent neighborhoods, to provide for public review and general awareness of the plans for the institution's property, to assure the institution that its future development plans are compatible with the Zoning and Subdivision Regulations and Montpelier Municipal Plan, and to simplify the review process for development which is part of an approved AI-PUD.

The AI-PUD is a two-step process. Step one is the review and adoption of an AI-PUD as a master plan for the institution. Step two is the review and approval of the individual projects which will implement the master plan. If an individual project represents significant change in the master plan, a new master plan adopted according to the step one process is required. If an individual project is in conformance with the master plan, the step two reviews should be relatively simpler and shorter than step one.

308.B. Definitions.

- 1. Planned Unit Development (PUD). Also referred to simply as a planned development, a PUD is an area of minimum contiguous size, as specified in this ordinance, to be planned, developed, operated and maintained according to plan as a single entity, the plan for which may not conform to the Zoning and Subdivision Regulations concerning lot size, bulk, type of dwelling, commercial or industrial use, density, lot coverage, or required open space.
- 2. Academic Institution Planned Unit Development (AI-PUD). A planned unit development, as defined in this section, which is located in the Low Density Residential, Medium Density Residential or High Density Residential zoning districts and which has an academic institution as its primary land use.

308.C. Minimum Lot Size for Planned Developments.

- 1. The minimum area of land to be developed as a residential, commercial, or mixed-use Planned Unit Development shall be determined by the minimum lot size requirements established in Table 607 for the district in which it is located.

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2. The area of land to be developed as an Academic Institution-Planned Unit Development (AI-PUD) shall not be less than three (3) acres.
 3. The area of land to be developed as a Planned Unit Development in the Office Park (OP) District shall not be less than ten (10) acres.

308.D. Application Procedure.

1. Initial Approval Process.

The procedure for the review and approval of a PUD or AI-PUD shall be as set forth in Article 4 Subdivisions.

2. Review of Development within an Approved PUD or AI-PUD.

- a. Minor Amendments to Approved Plans: Except as provided below, plans for construction or alterations to a site that is part of an approved PUD or AI-PUD shall be reviewed by the Development Review Board for conformance with the approved PUD or AI-PUD. The procedure for this review shall be as set forth for site plan review in accordance with § 306 except that public notice shall be provided for the Board hearing in accordance with § 206, including advertisement of the public hearing in a newspaper of general circulation in the city not less than 15 days before the hearing. Approval of the following may be done administratively, provided they comply with all applicable provisions of these Regulations and prior approvals:
 - (1) Development that does not alter the footprint of an existing structure, such as a dormer or enclosing a porch;
 - (2) Unenclosed structures, such as a patio or deck; and/or
 - (3) Accessory structures provided they do not exceed more than 250 square feet and are limited to one per property.
- b. Major Amendments to Approved Plans: If the Development Review Board finds that a plan constitutes a significant amendment to an approved PUD or AI-PUD, the plan must be reviewed and approved starting at the initial approval stage as specified in § 308.D.1.above.
- c. Preliminary Neighborhood Meeting: As a preliminary step in the development of any PUD or AI-PUD, applicants are encouraged to seek input from the neighborhoods in the vicinity of the project. At a minimum, notice shall be provided to adjoining property owners of the sketch plan review meeting scheduled before the Development Review Board.

3. Review of Site Plans and Subdivisions as Part of a Planned Development.

Initial approval by the Development Review Board of the PUD or AI-PUD site plan and subdivision plat shall take place simultaneously. Any or all portions of the substantive review criteria of the subdivision ordinance may either be applied or deemed not applicable by the Board for the review of a PUD or AI-PUD.

308.E. AI-PUD Expiration.

1. An AI-PUD expires five years from the date of final approval by the Development Review Board. Prior to expiration, the applicant must apply to have a new AI-PUD approved in accordance with § 308.D.2. The application must reflect all changes since the original AI-PUD was approved and all changes planned over the next five year period.
2. If no changes have occurred or are anticipated, the original AI-PUD may be resubmitted for renewal. In this instance, only one public hearing is required.

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3. If the AI-PUD expires, the institution may continue as a non-conforming use and shall continue to be bound by the previous AI-PUD approval, however, no development may occur at the site until a new AI-PUD or planned development is approved or the AI-PUD status is reinstated.

308.F. Required Application Materials.

1. The application requirements for lot line adjustments, subdivisions, and planned developments are provided in Table 401.
2. Application requirements for an AI-PUD are provided below. The applicant shall submit three sets of maps and supporting data to the Department of Planning and Development, which shall include the following information:
 - a. AREA CONTEXT AND OWNERSHIP: Name and address of the owner of record and owner of adjoining lands. A map shall be supplied which shows the adjacent building outlines and other outstanding features within 200 feet.
 - b. ADJACENT PROPERTIES RELATED TO THE PUD: When adjoining lands are owned or controlled by the applicant, the owner shall provide the Development Review Board with future plans, if any, for those lands.
 - c. TOPOGRAPHIC BASE MAP: A survey of the property showing existing features, including contours at intervals of no more than 5 feet, structures, large trees, streets, easements, rights of way, land use, and deed restrictions, water bodies, and other natural features.
 - d. SITE PLAN: Site plans showing proposed location, height and spacing of buildings, use of buildings, open spaces and their landscaping, pedestrian and vehicular access and circulation, including streets, parking and loading areas and sidewalks, garbage facilities, utility lines, water supply sources, sewage and storm water collection and disposal areas, and drainage, unique natural features, including wetlands, streams and rivers, and agricultural or forest land, wildlife habitat and scenic features. The site plan shall be at a scale such that one inch equals no more than 50 feet.
 - e. ADJACENT PROPERTIES: Other conditions on adjacent land indicating the approximate direction and gradient of ground slope, including any embankments, retaining walls, and power lines.
 - f. CHANGES TO EXISTING CONDITIONS: Existing buildings, structures, street, or water courses which are to be relocated or demolished should be indicated using dashed lines.
 - g. SITE CAPABILITY: A site capability map, at an appropriate scale as the site plan, indicating slopes in excess of 25%, wet soils, water bodies, shallow to bedrock soils and south-facing slopes.
 - h. PLAN STATEMENT: A statement setting forth the nature of all proposed modifications or changes and their compliance with existing zoning regulations.
 - i. IMPLEMENTATION SCHEDULE: A statement of the construction sequence and time schedule for completion of each phase for buildings, parking spaces, and landscaped areas of the entire development.
 - j. ADHERENCE TO GENERAL AND SPECIFIC STANDARDS: A written summary of the project and detailed description of how it meets the standards set forth in Article 7.

309. FLOODPLAIN DEVELOPMENT.

309.A. Purpose and Enabling Legislation.

1. State Authority. These floodplain regulations are established in accordance with 24 V.S.A. 4424.
2. Purpose. The Floodplain District is an overlay zone that imposes additional requirements above those required by the underlying zoning district. The purpose of this district is to promote health, safety and general welfare, to minimize losses due to flooding, and to prevent the establishment of structures or uses that would either hinder flooding waters or be subject to devastation as a result of flooding.

309.B. Definition of Floodplain Lands.

These regulations shall apply to all areas in the City of Montpelier identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. §753, which are hereby adopted by reference and declared to be part of these regulations.

309.C. Interpretation of District Boundaries.

The Administrative Officer shall determine the boundaries of any designated flood hazard area by scaling distance on the Flood Insurance Rate Maps or by reviewing revised boundaries determined by survey of actual grades in relation to flood hazard elevations. If the applicant disagrees with the determination made by the Administrative Officer (AO), a Letter of Map Amendment (LOMA) from FEMA shall constitute proof.

309.D. Development Requiring Floodplain Approval.

A permit is required for all development requiring floodplain approval. Within the designated flood hazard area, “development” shall mean any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under this section, must have such approvals prior to the issuance of a permit by the Administrative Officer (AO). Any permit issued will require that all other necessary permits from State or Federal agencies have been received before work may begin.

309.E. Floodplain Approval Application Procedures.

1. Determination by Administrative Officer. The Administrative Officer shall determine whether the proposed development is located within the flood hazard area and whether the proposal complies with the relevant standards for development in the floodplain.
2. Referral to State Agencies. Upon receipt of an application and plans, the Administrative Officer shall transmit one copy to the Vermont Department of Environmental Conservation in accordance with 24 VSA 4424 (2)(D).
3. Required Waiting Period. In accordance with 24 VSA 4424 (2)(D), no permit may be granted prior to the receipt of comments from the Vermont Department of Environmental Conservation or the expiration of a period of 30 days following submission of the application materials to the same department in accordance with § 309.E.2 above.

4. Action by Administrative Officer. If the Administrative Officer determines that the proposal complies with the relevant standards for development in the floodplain, the proposed use shall be reviewed as follows:

- a. Permitted uses shall be reviewed according to the provisions of § 303.
- b. Conditional uses shall be reviewed according to the provisions of § 304.

If the Administrative Officer determines that the proposal does not comply with the relevant standards for development in the floodplain, the application shall be denied.

5. Appeals. Any interested person may appeal the floodplain permit decision of the Administrative Officer to the Development Review Board in accordance with the provisions of Article 10. Decisions of the Board may be appealed to the Environmental Court in accordance with the provisions of Article 10.

309.F. Required Application Material for a Floodplain Approval.

Applications for development in the floodplain shall include:

1. Two copies of plans drawn to scale showing the following:
 - a. the location, dimensions and elevations of the lot.
 - b. existing and proposed structures including the elevation of the lowest floor including basement and confirmation as to whether such structure contains a basement.
 - c. the location and type of proposed fill and/or storage areas.
 - d. the location of the floodway.
 - e. river bank elevation contours.
 - f. the base flood elevation.
2. Detailed plans and descriptions of flood-proofing measures and the level to which any structure will be flood-proofed.
3. A narrative addressing the proposal's compliance with the relevant standards contained in the Zoning and Subdivision Regulations pertaining to development in the floodplain and that the proposed development will be reasonably safe from flooding.
4. When the finished floor is proposed to be constructed below flood level a floodproofing certification from a licensed architect or engineer that the proposed design is in compliance with the flood plan development standards contained in § 716.

309.G. Standards for Development in Flood Hazard Areas.

See Standards for floodplain development in § 716.

309.H. Administration and Enforcement.

The Administrative Officer shall have the following duties pertaining to Floodplain Permits and record keeping:

1. Review proposed development permits to assure that all necessary permits are obtained from those governmental agencies from which approval is required by Federal or State law. Applications for development shall include a Vermont Agency of Natural Resources Project Review Sheet for the

proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application.

2. Properly file and maintain a record of all permits issued in areas covered by this section.
3. Properly file and maintain Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Floodplain Hazard Area.
4. Properly file and maintain all flood proofing and other certifications required under §716.
5. Properly file and maintain all decisions of the Development Review Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

309.I. Variances.

1. Criteria and Process. Requests for variances within the Floodplain Hazard Area shall be made to the Development Review Board in accordance with § 1006. Variances shall be granted by the Development Review Board only.
 - a. In accordance with the provisions of 24 VSA §4469, 4424(E), and 44 CFR §60.6, and
 - b. Upon determination that the variances will not increase flood heights or result in threats to public safety, create nuisances or conflict with any other existing local laws and ordinances.
2. Notice. The Development Review Board shall notify the applicant, in writing, that:
 - a. The issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of coverage.
 - b. The City shall maintain a record of all variance actions, including justification for their issuance; and
 - c. The City shall report such variances issued in the City's annual report to the Flood Insurance Administrator.

309.J. Occupancy.

Prior to the issuance of a certificate of compliance for any non-accessory structure constructed within the floodplain the applicant shall provide to the Administrative Officer, as applicable, a completed current FEMA Post Construction Elevation Certification.

309.K. Warning of Disclaimer of Liability.

This ordinance does not imply that land outside of the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Montpelier or any town official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

310. DEMOLITION OF STRUCTURES.

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1. Demolition of all or part of a structure beyond ordinary repair and replacement shall require a zoning permit, which may be issued by the Administrative Officer if no other, prior approvals or review by the Development Review Board are required. In addition to basic permit application requirements, the application shall include a demolition and site restoration plan which, at a minimum, describes the intended use of the site and the manner in which the site is to be restored to grade, surfaced, landscaped and/or screened to minimize adverse visual impacts, and secured to prevent hazards to public safety and adjoining properties.
 2. The demolition or replacement of any structure, or portion thereof, listed as a contributing structure on the Vermont Historic Sites and Structures Survey and/or the National Register for Historic Resources, or any application for development which involves the demolition of such structures, shall be reviewed by the Development Review Board under the following provisions:
 - a. The permit application shall include, in addition to other required materials:
 - (1) a demolition and site restoration plan which, at a minimum, describes the intended use of the site and the manner in which the site is to be restored to grade, surfaced, landscaped and/or screened to minimize adverse visual impacts, and secured to prevent hazards to public safety and adjoining properties; and
 - (2) for historic structures, documentation that the rehabilitation of the structure would cause undue financial hardship to the owner, or that the demolition is part of a site development plan that would provide clear and substantial benefit to the municipality.
 - b. Demolition of Historic Structures – The demolition or replacement of any structure or portion thereof listed as a contributing structure on the Vermont Historic Sites and Structures Survey and/or the National Register for Historic Places is prohibited unless the Development Review Board approves the demolition and site restoration plan, and:
 - (1) The Board finds, pursuant to § 310.B.3 and 310.B.4 below, that rehabilitation of the structure or portion thereof would cause undue financial hardship to the owner; or
 - (2) The Board finds that the demolition is part of a site development plan and design plan (if applicable) that would provide clear and substantial benefit to the community.
 - c. Standards for Determination – The Development Review Board shall consider at least the following factors in making its determination regarding whether undue financial hardship exists under § 310.B.4 of this provision:
 - (1) The applicant’s knowledge of the property’s historical significance at the time of acquisition, or of its status subsequent to acquisition;
 - (2) The structural soundness of the building, or any structures on the property and their suitability for rehabilitation;
 - (3) The economic feasibility of rehabilitation or reuse of the existing property in the case of a proposed demolition;
 - (4) The current level of economic return on the property as considered in relation to the following:
 - (a) amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;
 - (b) a substantial decrease in the fair market value of the property as a result of the denial of the permit;
 - (c) the fair market value of the property at the time the application is filed;
 - (d) real estate taxes for the previous three (3) years;
 - (e) annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and a

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- depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years;
 - (f) remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years;
 - (g) all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property;
 - (h) any state or federal income tax returns on or relating to the property for the previous three (3) years.
- (5) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and the price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
- (a) any real estate broker or firm engaged to sell or lease the property;
 - (b) reasonableness of the price or rent sought by the applicant, and
 - (c) any advertisements placed for the sale or rent of the property by the owner or applicant.
- (6) The feasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:
- (a) a report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings/structures on the property and their suitability for rehabilitation;
 - (b) testimony from a licensed engineer or architect with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of existing buildings/structures on the property.
- (7) Studies and evaluations conducted at the owner's expense shall identify impact of economic incentives and/or funding available to the applicant through federal, state, city, or private programs, including tax credits, in relation to a ten (10) year pro forma of projected revenues and expenses for the reasonable uses or revenues that takes into consideration the utilization of incentives programs available.
- (8) Input from community organizations, preservation groups, other associations and private citizens who may wish to evaluate and comment on a submission made under the financial hardship provision.
- d. Determination of Undue Financial Hardship – A determination of undue financial hardship may be granted only if the project fully complies with one of the following requirements:
- (1) For income producing properties – the building, site or object cannot be feasibly used or rented at a reasonable rate of return in its present condition or if rehabilitated, and denial of the application would deprive the owner of all reasonable use of the property; or
 - (2) For non-income producing properties – the building site or object has no beneficial use as a residential dwelling or for an institutional use in its present state or if rehabilitated, and denial of the application would deprive the owner of all reasonable use of the property.
- e. Conduct to be excluded from review – Demonstration of undue financial hardship by the owner shall not be based on conditions caused by or resulting from the following:
- (1) willful or negligent acts by the owner, agents, tenants, or licensees;
 - (2) purchasing the property for substantially more than market value at the time of purchase;
 - (3) failure to perform normal maintenance and repairs;
 - (4) failure to diligently solicit and retain tenants;
 - (5) failure to prescribe a rental amount which is reasonable; or
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- (6) failure to provide normal tenant improvements.
 - (7) failure to maintain or repair significant architectural features or structural components.
 - f. Hearing Recess – Prior to approving the demolition of an historic structure, the Development Review Board may temporarily adjourn the hearing process for a period not to exceed six months from the date of complete application, to provide time to assess the feasibility of rehabilitation of the structure, or to document the historic and architectural elements of the structure prior to its demolition.
 - g. Site Restoration – Within 30 days after a permanent or temporary building or structure has been demolished, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over and filled to the normal grade by the owner(s), unless otherwise required as a condition of an approved site restoration plan.
3. The requirements of this section shall not apply to orders of the Building Inspector or Fire Marshall requiring that a building be removed due to public health, safety, or welfare concerns.

Article 4. SUBDIVISION AND PLANNED DEVELOPMENT PROCEDURES.

401. PURPOSE AND POLICY

401.A. Purpose.

The purpose of this article is to protect and provide for the public health, safety, and general welfare of the City of Montpelier by guiding future growth and orderly development through the control of land subdivision and development, the development or improvement of infrastructure to support it, the protection of natural and cultural resources, and the provision of public and private amenities in accordance with the Montpelier Municipal Plan and the Capital Budget and Program.

401.B. Policy.

Land shall be subdivided or developed so that it can be used safely or without danger to health or peril from fire, flood, or other menace; it will not adversely impact significant natural resources, views and vistas, geological sites, historic resources, or scenic roads; there are adequate public facilities and improvements; it results in an appropriate development pattern or form; and proper provision has been made for drainage, water, sewage, and capital improvements such as schools, parks, recreation facilities and transportation facilities.

402. APPROVAL REQUIREMENTS.

1. Prior to the subdivision of any land, the relocation of any lot boundary line, or the creation of a planned development, the applicant must obtain approval following the procedures in this article.
2. Separate applications are required for the Sketch Plan, Preliminary Plan Review, and Final Plan Review steps.
3. Final approval of a subdivision or planned development does not, by itself, signify complete approval of a subdivision or planned development. The final plats of all subdivisions and final plats or plans of planned developments must be recorded in the Land Records of the City of Montpelier in accordance with § 408 and 24 V.S.A. 4463(b) or the subdivision or planned development shall be deemed null and void.
4. Unless otherwise provided, a zoning permit shall be required for the development of individual lots within the subdivision or planned development.

403. LOT LINE ADJUSTMENTS

403.A. Purpose.

The regulations for lot line adjustments provide for an abbreviated review and approval process for the realignment or relocation of lot boundary lines between existing adjacent lots.

403.B. Requirements.

The realignment or relocation of lot boundary lines between existing adjacent lots that have already been divided or platted into lots may be approved by the Administrative Officer without Development Review Board review if the following criteria are met:

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1. The sale or exchange of parcels of land is between adjacent property owners;
 2. No new lots are created by the re-subdivision;
 3. The relocation of the lot line does not result in the creation of a non-conforming lot, structure or use; and
 4. The proposed change does not violate any conditions imposed by the Planning Commission or the Board from prior approvals.

403.C. Application Submission Requirements.

See Table 401. Submission Requirements for Lot Line Adjustments, Subdivisions, and Planned Developments.

403.D. Filing Requirements for Lot Line Adjustments.

With 180 days of approval by the Administrative Officer, the applicant shall submit a survey plat to the Administrative Officer with the required filing fee for recording in the City's Land Records. The following language shall be printed on the plat:

“Approval of this lot line adjustment does not constitute creation of a separate parcel or lot. It simply adjusts the physical location of the common boundary of the adjoining parcels or lots. Any future subdivision of these parcels or lots must be approved by the Development Review Board. This lot line adjustment has been approved pursuant to § 403 of the City of Montpelier Zoning and Subdivision Regulations.”

The plat shall meet all of the requirements of Title 27 of VSA, Chapter 17, § 4413, clearly indicating the metes, bounds and ties of each of the affected lots. The plat shall be signed by the Administrative Officer prior to being recorded.

404. OVERVIEW of the SUBDIVISION and PLANNED DEVELOPMENT REVIEW PROCESS.

There are three steps in the subdivision and planned development review process: sketch plan review, preliminary plan review, and final plan review. Each step requires a separate application and action by the Development Review Board. Planned Unit Developments are distinguished by minor and major review standards (see §§ 203.D., 713 and Table 726.) Public hearings are required prior to preliminary and final approval. The hearing must be warned, in accordance with § 206. The Board may combine preliminary and final hearings and reviews if it determines that issues can adequately be addressed in one review stage.

405. SKETCH PLAN REVIEW

405.A. Purpose.

The intent of sketch plan review is to provide the applicant an opportunity to consult with and to obtain feedback from the Development Review Board to save time and expense in the preparation of plans and final review.

For large or complex subdivision projects, the applicant is urged to meet informally with appropriate municipal representatives to discuss the project prior to submitting a request for sketch plan review. These representatives may include:

1. the Director of Public Works;

2. the Director of Planning and Community Development;
3. the Administrative Officer;
4. representatives from the Design Review Committee, Conservation Commission, and Tree Warden;
5. Police and Fire Departments and other municipal agencies, as appropriate.

The applicant also is urged to notify neighboring property owners to identify issues that may arise in subsequent public hearings and to seek resolution of any such issues.

405.B. Submission Requirements.

See Table 401. Submission Requirements for Lot Line Adjustments, Subdivisions, and Planned Developments.

405.C. Action by the Development Review Board.

1. Following review of the material submitted at the sketch plan review, the Development Review Board shall make recommendations to guide the applicant in preparation of plans for preliminary plan review. The Board's recommendations shall be recorded in the minutes of the meeting and shall be provided the applicant. Action by the Board on a sketch plan does not constitute approval of a subdivision plat but is merely authorization to proceed to the next step of review.
2. The applicant may proceed to preliminary plan review within one year following sketch plan review by the Development Review Board. The Board shall determine if preliminary and final hearings may be combined for the proposed subdivision or planned development.

406. PRELIMINARY PLAN REVIEW.

406.A. Purpose.

Preliminary plan review of a subdivision or planned development plan shall not constitute approval of the proposal, but is an opportunity for the Development Review Board and the public to review the preliminary design that will be redesigned and improved to address any conditions imposed by the Board. Prior to final approval of the subdivision or planned development, the Board may require additional changes as a result of further study of the proposal in final form or as a result of new information obtained at the public hearing.

406.B. Application Procedure.

1. To initiate preliminary plan review, the applicant shall pay all required application fees and file a complete application with the Administrative Officer at least 21 days prior to the hearing. Preliminary plan review shall be conducted following a public hearing that has been warned in accordance with public notice requirements specified in § 206.
2. Meeting. The preliminary plan review hearing shall be held as part of a regularly scheduled Development Review Board meeting.

406.C. Required Application Materials.

See Table 401. Submission Requirements for Lot Line Adjustments, Subdivisions, and Planned Developments.

406.D. Review Standards and Approval Conditions.

The Development Review Board may consider and impose appropriate conditions and safeguards with respect to the proposal's conformance with the general development standards of Article 7.

406.E. Action by the Development Review Board.

1. Decision. Within 45 days of the closure of the hearing on the preliminary plan review, the Development Review Board shall act to approve, approve with modifications, or disapprove the preliminary plan. The Board may also require, as a condition of approval, the submission of proposed changes or modifications resulting from further study. Failure of the Board to act within the 45 day period shall constitute a preliminary plan approval of the subdivision or planned development.
2. Report. The Development Review Board shall issue a written decision stating the conditions of approval, if any, with respect to the following:
 - a. specific changes required in the filed plan,
 - b. issues to be analyzed and addressed in the application for final review,
 - c. the character and extent of the required improvements for which the applicant has requested waivers, and
 - d. which of these waivers the Board finds acceptable.
3. Preliminary Plans. The written decision of the Development Review Board shall be attached to two copies of the preliminary plans. One set shall be returned to the applicant and one retained by the Board. An additional copy of the written decision shall be forwarded to the Director of Public Works.

406.F. Expiration of Preliminary Plan Approval.

Preliminary plan approval of a subdivision expires six months after the date of Development Review Board action unless an application for final approval has been properly filed prior to the expiration date.

407. PROCEDURES FOR FINAL APPROVAL.

407.A. Purpose.

Final approval of a subdivision or planned development is the process by which the Development Review Board ascertains, among other things, that all necessary municipal certifications have been obtained, infrastructure has been provided for, legal documents are acceptable and complete, conditions have been or will be complied with, and that the plat is otherwise ready for recording in the office of the City Clerk.

407.B. Application Procedure.

1. Filing Deadline. An applicant must file all final approval materials prior to expiration of preliminary plan approval.
2. Complete Application. Within 10 days of receipt of the application materials for final approval, the Administrative Officer shall determine whether the application is complete and shall inform the applicant in writing of the specific additional information required.

3. Public Hearing. A public hearing shall be held by the Development Review Board within 30 days following the submission of a complete application. The hearing must be warned in accordance with public notice requirements specified in § 206.

407.C. Required Application Materials.

See Table 401. Submission Requirements for Lot Line Adjustments, Subdivisions, and Planned Developments.

407.D. Final Subdivision or Planned Development Plat.

The final plat shall meet all of the requirements of Vermont State Statute, Title 27, Chapter 17, § 1403. The plat shall be drawn with pen and permanent ink on reproducible media acceptable to the Director of Public Works. The scale shall not be more than 100 feet to the inch. Where necessary, the plat may be on several 18" x 24" sheets accompanied by an index sheet showing the entire subdivision or planned development. For large developments, the final plat may be submitted for approval progressively in continuous sections satisfactory to the Development Review Board and Director of Public Works.

See Table 401. Submission Requirements for Lot Line Adjustments, Subdivisions, and Planned Developments.

407.E. Review Standards and Approval Conditions.

The Development Review Board may consider and impose appropriate conditions and safeguards with respect to the subdivision's or planned development's conformance with the general development standards of Article 7.

407.F. Action by the Development Review Board.

Within 45 days of the close of the Development Review Board's final public hearing, the Board shall act to approve, approve with conditions, or deny the subdivision or planned development.

408. FILING OF APPROVED PLATS.

408.A. Filing Requirements.

1. In accordance with Title 24 VSA Chapter 117, § 4463, the applicant shall record a final survey plat in the City's Land Records within 180 days of final approval by the Development Review Board. Said plat shall meet all of the requirements of Vermont State Statutes Annotated, Title 27, Chapter 17, § 1403 and shall contain the signature of the presiding Chair of the Development Review Board. If the Board fails to act on the proposed subdivision or planned development within 45 days of the close of the final public hearing, the final plat shall be recorded by the City Clerk with a certificate attached to the plat and filed or recorded with the plat showing the failure of the Board to take action within the 45-day period. Once filed or recorded, the plat shall be a part of the official map of the municipality.
2. If a plat meeting all of the above requirements is not properly recorded within 180 days of the Board's approval, the subdivision or planned development shall be deemed null and void. Upon written request prior to the expiration of the 180 days, the Administrative Officer may grant an extension up to an additional 90 days, if other final local or state permits are still pending. Once a plat is properly filed or recorded, subdivision and planned development approvals do not expire.

408.B. Plans Void if Changed After Approval.

No changes, erasures, modifications, or revisions shall be made on any final plans or plats after approval has been given by the Development Review Board and endorsed in writing on the plans, unless the plans are first resubmitted to the Board; and the Board approves any modifications. In the event that any subdivision plat or planned development plan is recorded in violation of this requirement, the plan shall be considered null and void.

408.C. Ratification of Improperly Filed Plats.

1. If a plat has been recorded in the City's Land Records lacking the signed endorsement of the Development Review Board or prior Planning Commission, or was not timely filed or recorded in the office of the City Clerk and no extension was obtained from the Administrative Officer, and the recorded plat can be shown to be identical to the plat that was acted on by the Board or Commission at that time, an interested party may apply to seek the Board's ratification of the recorded plat.
2. The Board shall review, at a duly noticed public hearing, a copy of the recorded plat and associated documentation and compare such with the records of the original approval. If found to be identical, the Board shall endorse a Notice of Ratification, which shall be recorded in the City's Land Records and contain the following information:

“WHEREAS, the City of Montpelier Development Review Board or Planning Commission, having granted final plat approval relative to said subdivision and the related plat, and the same having been previously recorded in the Land Records of the City of Montpelier, and wishes by the adoption and recording of this Notice to reaffirm and confirm said approval

- a. that the plat as recorded _____, in Map Book _____ at Page _____, shall be deemed to have been stamped and endorsed by the Montpelier Development Review Board or Planning Commission as required by and so as to satisfy the requirements of § 608.A. of the City of Montpelier Subdivision Regulations and 24 V.S.A. §4463, and
 - b. the lots depicted on said plat have been and shall continue to be subject to all of the conditions and restrictions contained in the final plat approval which conditions and restrictions shall run with said land and be binding upon the current owners thereof and their respective successors, heirs, and assigns, unless and until modified or removed by the Montpelier Development Review Board.”
3. If the Board finds that the records do not support ratification, the request shall be denied.

409. INFRASTRUCTURE IMPROVEMENTS.

409.A. Financial Guarantee.

1. Subsequent to final approval but prior to the commencement of construction the applicant, if required by the Development Review Board, shall provide to the City a financial instrument which shall insure the completion of all required improvements. The instrument shall be in an amount sufficient to cover the full cost of the improvements and their maintenance for a period of two years after completion, as estimated by the Board or the Director of Public Works, and shall be in a form approved by the Board. One of the following instruments may be utilized:
 - a. a certified check
 - b. a performance bond; or

c. an approved letter of credit.

The performance bond shall comply with the requirements of 24 VSA 4419 Chapter 91. The performance bond or the letter of credit shall be satisfactory to the Board, the Director of Public Works, and the City Attorney as to the instrument's form, sufficiency, manner of execution, and surety.

A period within which the required improvements must be completed shall be set forth in the bond or letter of credit. The period shall be one year or other period as the Board shall determine appropriate not to exceed three years. With the consent of the owner, the term of that bond may be extended for an additional period not to exceed three years. The three year limitation may be waived in the case of a project with an approved phasing plan that extends beyond three years. In such cases the terms and period of the bond or letter of credit may be set to reflect the approved phasing plan for the project.

2. Construction of Improvements. If the applicant chooses to construct the required improvements, the applicant shall complete construction to the satisfaction of the Director of Public Works, who shall provide to the Board a letter that verifies the satisfactory completion of all the improvements required by the Board.

For any required improvements that are not completed or not approved by the Director of Public Works, the applicant shall file with the City Clerk a bond or certified check covering the costs of improvements. Any bond shall be satisfactory to the Montpelier City Council, Director of Public Works, and City Attorney as to form, sufficiency, manner of execution, and surety.

3. Release of Financial Guarantee. All financial guarantees required under this section shall be released after certification by the applicant's engineer and determination by the City that the required improvements have been satisfactorily completed.
4. Issuance of Zoning Permits. In lieu of a performance bond or other financial instrument to ensure the completion of required public improvements, the Board may include a condition that requires no zoning permit be issued for an approved development (except for any permits that may be required for infrastructure construction) unless the streets and other required public improvements have been satisfactorily installed in accordance with the approval decision and pertinent bylaws.

409.B. Modifications to the Approved Design of Public Improvements.

If at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the Director of Public Works that unforeseen conditions make it necessary or preferable to modify the design of the improvements, the Director of Public Works or his designee may authorize these modifications if the following conditions are met:

1. the modifications are within the spirit and intent of the Development Review Board's approval;
2. the modifications do not extend to the waiver or substantial alteration of the function of any improvements required by the Board; and
3. the Director of Public Works has issued in writing the authorization required under this section and has transmitted a copy of such authorization to the Development Review Board for its next regular meeting.

409.C. Inspection of Public Improvements.

At least five days prior to commencing construction of required improvements, the applicant shall pay to the City Clerk the inspection fee required by the Director of Public Works and shall notify the Director of Public Works in writing of the time when construction of the improvements shall commence so the Director of

Public Works may have the work inspected. The inspection shall serve to assure that all City specifications and requirements shall be met during construction, and to assure the satisfactory completion of improvements and utilities required by the Development Review Board.

409.D. Failure to Properly Install Public Improvements.

If the Director of Public Works finds, upon inspection of the public improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, the Director of Public Works shall report the failure to the City Attorney, Building Inspector, and Development Review Board. The City Attorney then shall notify the applicant and, if necessary, the bonding company, and take all necessary steps to preserve the City's rights under the bond or other financial instrument.

410. PUBLIC STREETS AND LANDS IN A SUBDIVISION PLAN.

410.A. Public Acceptance of Streets.

1. Effect of Development Review Board Action. The approval by the Development Review Board of a subdivision or planned development plan shall not be deemed to constitute or be evidence of any acceptance by the City of any street, easement, or other open space shown on such subdivision plat.
2. Notification of Completion: After the applicant is satisfied that the subdivision has been completed in accordance with the plans and all requirements of these regulations, the applicant shall notify the Director of Public Works in writing that the streets and other rights-of-way are ready for acceptance by the City.
3. Public Works Inspection: Within 30 days of such written notification, the Director of Public Works shall inspect the subdivision and report to the Montpelier City Council at the next regularly scheduled meeting as to whether the subdivision project has in fact been completed in accordance with the plans and other requirements of these regulations.
4. Montpelier City Council Action: The City Council shall then act upon the matter by:
 - a. Resolving to accept the said streets or rights-of-ways as "Public Ways" within which the City from this time forth assuming all responsibility for maintenance and repair, or
 - b. Refusing to accept the streets or rights-of-ways and then notifying the applicant in writing with specific reasons justifying this course of action.

410.B. Ownership and Maintenance of Recreation Areas.

1. Effect of Development Review Board Action. When a park, playground, or other recreation area is shown on a subdivision plan, the approval of the plan shall not constitute acceptance by the City of such an area. The Development Review Board shall require the plan to be endorsed with appropriate notes to this effect.
2. Agreement on Future Dedication. The Development Review Board may require that a written agreement be filed between the applicant and the Montpelier City Council covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

Table 401. Submission Requirements for Lot Line Adjustments, Subdivisions, and Planned Developments

	Sketch Plan Review		Preliminary Plan Review		Final Plat/Plan Review		
	Sub	PUD	Sub	PUD	Lot Line	SUB	PUD
(1) Application Information							
Completed application form	√	√	√	√	√	√	√
Application fee	√	√	√	√	√	√	√
Name and address of applicant	√	√	√	√	√	√	√
Name and address of representative	√	√	√	√	√	√	√
Name and address of owner(s) of record	√	√	√	√	√	√	√
Names and addresses of all adjoining property owners	√	√	√	√	√	√	√
Waiver request in writing, if applicable	√	√	√	√	NA	√	√
(2) Plan/Plat Mapping Requirements – All Applications							
Type of Material	paper	paper	paper	paper	perm. ink on mylar & paper	perm. ink on mylar & paper	perm. ink on mylar & paper
Plans not larger than 36" x 24"	2	2	2	2	1 Mylar, 2 paper	1 Mylar, 2 paper	1 Mylar, 2 paper
11" x 17" reduced copies of all plans and other large materials	√	√	√	√	NA	√	√
TITLE BLOCK with name of applicant, name of project, location of parcel(s), title and number of sheet(s), plan preparer, date, revision date(s), north arrow, scale.	√	√	√	√	√	√	√
SCALE: appropriate to sheet	√	√	√	√	√	√	√
LOCATION MAP showing relation of proposed project to adjacent property and surrounding area.	√	√	√	√	√	√	√
ZONING DISTRICT designations and boundaries.	√	√	√	√	√	√	√
FLOODPLAIN and FLOODWAY boundaries and elevations only if the affected land is located within a flood hazard area.	√	√	√	√	√	√	√
Existing and proposed PROPERTY LINES including tract boundary lines, with accurate dimensions, acreages, bearings or deflection angles, and radii, arcs, and central angles of all curves.	drawn	drawn	drawn	drawn	surveyed	surveyed	surveyed

	Sketch Plan Review		Preliminary Plan Review		Final Plat/Plan Review		
	Sub	PUD	Sub	PUD	Lot Line	SUB	PUD
LOT NUMBER to identify each lot or site in numerical order within blocks; letter to identify each block	√	√	√	√	√	√	√
Existing and proposed EASEMENTS or RIGHTS-OF-WAY on or associated with the parcel, including location, dimensions and purposes.	drawn	drawn	drawn	drawn	surveyed	surveyed	surveyed
Existing and proposed STREETS and STREET NAMES.	drawn	drawn	drawn	drawn	surveyed	surveyed	surveyed
Existing and proposed STRUCTURES.	√	√	√	√	√	√	√
Names of record OWNERS OF ADJOINING UNPLATTED LAND.	√	√	√	√			
Reference to recorded SUBDIVISION PLATS OF ADJOINING PLATTED LAND by record, name, date, and number.	√	√	√	√			
AREA CONTEXT AND OWNERSHIP: Name and location address of the owner of record and owner of adjoining lands. Show the adjacent building outlines and other outstanding features, including streets, sidewalks, curbs, gutters, bridges, culverts, or other significant features within 200 feet of the project or parcel. Also include the approximate direction and gradient of ground slope, including any embankments, retaining walls, and power lines.	√	√	√	√			
ENVIRONMENTAL FEATURES INVENTORY: On a plan at the same scale as the base plans, delineate significant natural resources; wetlands, shoreline management areas; water courses; rare, threatened or endangered plant and animal species; geological sites; historic sites; scenic roads; agricultural lands; open spaces; view sheds; streams; bodies of water; woodlands; flood hazard areas; slopes with gradients greater than 20%; south-facing slopes; significant trees; significant wildlife habitats, wellhead protection areas; and ridge lines.	√	√	√	√			
PRIMARY CONTROL POINTS, approved by the Director of Public Works, or descriptions and “ties” to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred.					√	√	√
Location and descriptions of MONUMENTS, LOT CORNER					√	√	√

	Sketch Plan Review		Preliminary Plan Review		Final Plat/Plan Review		
	Sub	PUD	Sub	PUD	Lot Line	SUB	PUD
MARKERS, and BENCH MARKS.							
CERTIFICATION BY REGISTERED LAND SURVEYOR (including name, address, and Vermont State License number and seal) certifying to accuracy of survey and plat.					√	√	√
(3) Requirements for Planned Developments and Subdivisions With Development							
ADJACENT PROPERTIES RELATED TO THE PUD: When adjoining lands are owned or controlled by the applicant for a PUD, the owner shall provide the Development Review Board with future plans, if any, for those lands.	√	√	√	√			
CHANGES TO EXISTING CONDITIONS: Existing buildings, structures, streets, water courses, or other features that are proposed to be relocated or demolished should be indicated using dashed lines.	conceptual	conceptual	√	√	√	√	√
SITE PLAN: Site plans showing proposed location, height and spacing of buildings, use of buildings, open spaces and their landscaping, pedestrian and vehicular access and circulation, including streets, parking and loading areas and sidewalks, garbage facilities, utility lines, water supply sources, sewage and stormwater collection and disposal areas, and drainage, unique natural features, including wetlands, streams and rivers, and agricultural or forest land, wildlife habitat and scenic features. The site plan shall be at a scale such that one inch equals no more than 50 feet.	conceptual	conceptual	√	√		√	√
Existing and proposed PUBLIC SITES, RECREATION AREAS, and OPEN SPACES, if any are to be reserved or dedicated.	conceptual	conceptual	√	√		√	√
Proposed BUILDING ENVELOPES	▲	▲	▲	▲		▲	▲
Existing and proposed TOPOGRAPHIC LINES: 5 foot intervals.			▲	▲		▲	▲
GROUND ELEVATIONS on the tract based on a datum plan approved by the Director of Public Works (U.S.G.S. NAVD '88 recommended with conversions to NGVD '29 if required by Public Works); for land that slopes less than approximately 2 percent show spot elevations at all breaks in grade along all			√	√		√	√

	Sketch Plan Review		Preliminary Plan Review		Final Plat/Plan Review		
	Sub	PUD	Sub	PUD	Lot Line	SUB	PUD
drainage channels or swales, and at selected points not more than 100 feet apart in all directions; for land that slopes more than approximately 2 percent show contours with an interval of not more than 5 feet.							
Existing DRAINAGE conditions and proposed STORMWATER MANAGEMENT plan.			√	√		√	√
CERTIFICATION from a licensed engineer that the improvements are designed in compliance with the FLOODPLAIN development standards contained in Section 716 of the ordinance (only if development is proposed within the flood hazard area).						▲	▲
(4) Civil Engineering Requirements for Development With Infrastructure							
STREETS PLAN VIEW: Civil engineering plans pertaining to the design of new streets and roads proposed for the subdivision or project shall be prepared meeting the following minimum standards consistent with highway technology guidelines, the standards of the Department of Public Works, and shall be supported by the conduct of a field survey meeting the accuracy standards prevalent in the industry: i. The plan shall be drawn to a scale of not more than forty feet to the inch. ii. Indicate rights-of-way, easements, and lot lines (and markers). iii. Indicate the centerline with base line stationing at fifty foot intervals. iv. Indicate horizontal curves with curve data noted. v. Show all utilities and utility structures, poles, signs, pipes, culverts, conduits, manholes, catch basins, gate valves, open channels and ditches. vi. Indicate pavement markings, edge of road, and road shoulder. vii. Depict existing and proposed landscaping. viii. The plan must clearly distinguish proposed features from existing.			√	√		√	√
STREETS PROFILE VIEW: Civil engineering plans pertaining to the design of new streets and roads proposed for the			√	√		√	

	Sketch Plan Review		Preliminary Plan Review		Final Plat/Plan Review		
	Sub	PUD	Sub	PUD	Lot Line	SUB	PUD
subdivision or project shall be prepared meeting the following minimum standards consistent with highway technology guidelines, the standards of the Department of Public Works, and shall be supported by the conduct of a field survey meeting the accuracy standards prevalent in the industry: <ul style="list-style-type: none"> i. Use a scale that is as equal horizontally and vertically as possible. In no case shall the vertical scale be more than 10 feet to the inch and the horizontal scale more than 50 feet to the inch. ii. Along the centerline of the road/street, indicate the original ground surface using a dashed line and the finish grade using a solid line. iii. Accurately note the percent of grade, vertical curve data and centerline stationing. iv. Show the grade of channels/ditches, culverts, pipes, and similar facilities; and indicate all existing and proposed invert elevations of structures and pipes. 							
STREETS CROSS SECTION VIEW: Civil engineering plans pertaining to the design of new streets and roads proposed for the subdivision or project shall be prepared meeting the following minimum standards consistent with highway technology guidelines, the standards of the Department of Public Works, and shall be supported by the conduct of a field survey meeting the accuracy standards prevalent in the industry. Show a cross-sectional view of the street or road satisfying the following requirements: <ul style="list-style-type: none"> i. Using graph or graduated media, accurately depict all features identified in the plan and profile views at a perspective that is perpendicular to the centerline of the proposed street/road. ii. Provide cross sectional perspective drawings for each fifty foot station interval and other station intervals as necessary to show abrupt changes in road surface, drainage structures, road/driveway intersections, etc. iii. All cross sections shall extend a minimum of 10 feet beyond 			√	√		√	

	Sketch Plan Review		Preliminary Plan Review		Final Plat/Plan Review		
	Sub	PUD	Sub	PUD	Lot Line	SUB	PUD
the limits of the right of way or no less than a total cross section width of 70'.							
TYPICAL DETAILS SHEET: The "Typical" Sheet shall give details of manholes, catch basins, typical cross-section including side slopes in cut and fill curb, pavement, sub-base super-elevation or crown, and such other pertinent information in the form of General Notes as may be considered advisable by the designing engineer or required by the Director of Public Works. This sheet may be deleted if there is available from the Director of Public Works a set or series of "Standard Design Information" approved by the Development Review Board and the Montpelier City Council.			▲	▲		▲	▲
DESIGN DETAILS: Information for the proposed improvements including: a. PROFILES showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; b. TYPICAL CROSS-SECTIONS of the proposed grading, roadway and sidewalks; c. DESIGNS OF ANY BRIDGES and culverts which may be required; d. PLAN OF PROPOSED WATER MAINS to connect with existing public water supply; e. PLAN OF PROPOSED SEWERS to connect with existing municipal sewers; f. STORMWATER MANAGEMENT PLAN (with plan for collecting and discharging storm drainage). Where the drainage is to be a natural watercourse, show the elevation of water in the watercourse or ditch at a recognized flood stage. All elevations shall be based on a datum plan approved by the Director of Public Works (U.S.G.S. recommended).			√	√		√	√

	Sketch Plan Review		Preliminary Plan Review		Final Plat/Plan Review		
	Sub	PUD	Sub	PUD	Lot Line	SUB	PUD
(5) Supporting Documentation							
PLAN STATEMENT: A statement setting forth the nature of all proposed modifications or changes and their compliance with the existing zoning regulations	√	√	√	√		√	√
ADHERENCE TO GENERAL AND SPECIFIC STANDARDS: A written summary of the project and detailed description of how it meets the standards set forth in Article 7.	√	√	√	√			
IMPLEMENTATION SCHEDULE: A statement of the construction sequence and time schedule for completion of each phase for buildings, parking spaces, and landscaped areas of the entire development.			▲	▲		▲	▲
All information requested from SKETCH PLAN REVIEW			√	√			
All materials required from the PRELIMINARY PLAN REVIEW, amended and completed as required by this ordinance or by the Development Review Board.						√	√
TRAFFIC IMPACT ANALYSIS (current and proposed traffic volumes, capacities, levels of service, proposed improvements).	<u>preliminary</u>	<u>preliminary</u>	▲	▲		▲	▲
A REPORT from the Director of Public Works assessing the condition of any existing improvements proposed for use by the proposed subdivided lots.	√	√	√	√		▲	▲
PROTECTIVE COVENANTS if contemplated, where the applicant proposes to regulate land use in the project.			draft	draft		final	final
Final Plan Certifications by Applicant: A statement by the applicant acknowledging his or her understanding that no building permit will be issued until one of the following are fulfilled: a. All required improvements have been installed in accordance with these regulations. b. A financial guarantee assuring completion of all required improvements has been provided in accordance with § 409.A.						▲	▲
Approval by the WATER RESOURCES BOARD, where appropriate, of all water and sewer facility improvements contained in the subdivision.						▲	▲
A statement by the City Attorney approving the legal						▲	▲

	Sketch Plan Review		Preliminary Plan Review		Final Plat/Plan Review		
	Sub	PUD	Sub	PUD	Lot Line	SUB	PUD
sufficiency of all legal documents and agreements required by the Development Review Board such as irrevocable offers of dedication, restrictive covenants, licenses, deeds, easements, rights-of-ways, and proposed bonds or financial instruments. The cost of such review shall be borne by the applicant and is not included in the application fee.							
(6) As May Be Required by the DRB or Staff							
In special cases where there are potential hazards of flooding, or other hazards, the Development Review Board may require the services of an independent consultant to recommend conditions under which the subdivision may be approved. The expense of such consultant shall be borne by the subdivider.			√	√			
SUBSURFACE CONDITIONS of the tract including: (a) location and results of tests made to ascertain subsurface soil, rock and ground water conditions; and (b) depth to ground water unless test pits are dry at a depth of 5 feet.			√	√			
Other information as necessary such as other certificates, affidavits, endorsements or other agreements as may be required by the Development Review Board in the enforcement of these regulations.						√	√
KEY							
	√	Applicable					
	▲	May be waived by the DRB or determined by staff to be not applicable					
	■	Not applicable					

Article 5. SIGN APPROVAL PROCEDURES.

501. ACTIVITIES REQUIRING PERMITS.

501.A. All Signs.

No sign within the City of Montpelier, except as provided in § 501.C below, shall be displayed, installed or altered without a permit issued by the Administrative Officer.

501.B. Signs within the Design Control District.

No permit may be issued for a sign located within the Design Control District without review of the proposed sign by the Design Review Committee and approval of the proposed sign by the Development Review Board according to the provisions of § 305, or unless the sign conforms to a sign plan, as provided in this Article and in § 504.C.

501.C. Temporary Signs Not Requiring Review.

The following temporary signs do not require a permit if constructed and installed according to the provisions of § 505.B:

- | | |
|--------------------------------|-----------------|
| 1. Real Estate Signs | See § 504.B.2.a |
| 2. Construction Site Signs | See § 504.B.2.b |
| 3. Interior Signs | See § 504.B.2.c |
| 4. Political Signs | See § 504.B.2.d |
| 5. Public Announcement Banners | See § 504.B.2.e |
| 6. State and Municipal Signs | See § 504.B.2.f |
| 7. Portable Signs, Signboards | See § 504.B.2.g |
| 8. Public Hearing Notice Signs | See § 206. |

501.D. Signs and Displays within the Public Right of Way.

Placement of any sign or display within the public right of way requires approval by the Director of Public Works acting as Streets Commissioner. These signs include freestanding signboards or menu boards, signs, vending machines, displays of merchandise, etc. placed within the public right of way or upon public sidewalks. In considering a permit request for items to be temporarily placed within the public right of way, the Montpelier City Council may consult the Design Review Committee for a recommendation regarding the permit request. See § 504.B.2.g.

501.E. Signs within an Approved Sign Plan.

1. Applications for new signs or alterations to existing signs that are in conformance with an approved sign plan, regardless of whether the property is in the Design Control District, may be approved by the Administrative Officer without further review if the Administrator determines that the proposed alterations are in strict conformance with the approved details, terms, and conditions of such plan.

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2. If the Administrative Officer determines that an application for a new sign (s) or alteration (s) to an existing sign is not in conformance with an approved sign plan, the application shall be subject to the reviews applicable to the district in which the sign is located.
 3. A sign application and amendments to an approved sign plan may be reviewed simultaneously.

502. REQUIRED APPLICATION MATERIALS.

502.A. Signs within the Design Control District.

For sign applications within the Design Control District, the following materials shall be submitted:

1. A current color photograph of the property showing the present storefront or structure, and showing the immediate neighboring buildings.
2. A two-dimensional illustration of the building façade (i.e., architectural elevation) drawn to scale showing the proposed sign and its relation to the building.
3. A large scale drawing showing the sign itself and including the size, materials, colors, lighting, lettering (size, style, and spacing), method of attachment, support and projection. Physical samples of all materials showing these features may be required for clarification, along with manufacturer's catalog data and illustrations, if applicable.

502.B. Signs Outside of the Design Control District.

For sign applications outside of the Design Control District, the following materials shall be submitted:

1. A current photograph or property plan drawn to scale showing the location of the proposed sign.
2. A scale drawing showing the sign itself and clearly indicating the dimensions and method of attachment.

502.C. Sign Plans.

An application for approval of a sign plan for a specific property must include:

1. Written narrative detailing the types, sizes(both linear and square foot measurements), appearance, and locations on the property of the proposed signs;
2. Written and/or illustrated standards that proposed signs shall conform to;
3. One or more two-dimensional drawings or illustrations presenting the proposed signs in place and their general appearances; and
4. Applicable application fee.

502.D. Signs on Properties With Approved Sign Plans.

An application for the approval of a sign on a property for which a sign plan has been approved must conform to the application requirements in § 502.

503. REVIEW PROCESS.

503.A. Application.

The applicant shall initiate a sign permit application by submitting the required forms, materials and application fees to the Administrative Officer. A permit may not be issued without payment of the application fee.

503.B. Referral for Design Review.

1. Referral. The Administrative Officer shall review the application materials for the proposed sign. If the sign is located within the Design Control District, the Administrative Officer shall refer the application to the Planning Director for administration of the design review process. Review of applications for signs in the Design Control District shall follow the process for design review specified in § 305. All required application materials and the prescribed fee shall be submitted before the review process will be scheduled.
2. Design Review Committee. The Design Review Committee will review the proposed sign and prepare a recommendation to the Development Review Board. It may be necessary to meet with the Committee more than once to resolve issues of design and the proposal's compatibility with the zoning district. It is also possible to meet informally with the Committee to discuss a proposed sign prior to submitting an application.
3. Development Review Board Action. The Development Review Board shall review the application, consider the recommendation of the Design Review Committee and act upon the proposed application. Decisions shall be rendered by the Board within 45 days of receiving a complete sign application.

503.C. Action on Complete Applications.

The Administrative Officer shall issue the permit if the proposed sign satisfies the applicable regulations pertaining to the size, location and design, and has received design review approval if required. If the Administrative Officer fails to act with regard to a complete application within 30 days, the permit shall be deemed issued on the 31st day.

504. SIGN STANDARDS.

504.A. Signs in the Design Control District

Review of signs proposed to be located in the Design Control District shall be based on the following guidelines:

1. The sign shall satisfy the design review standards in § 305,
2. The sign shall conform, to the extent possible and desirable, to any recommendations provided for sign placement and design in the Montpelier "Cityscape" studies;
3. The proposed sign design, dimensions, color scheme, and materials shall be compatible with the subject property and other properties in the district.
4. The proposed sign shall not obscure significant architectural detail.
5. In the CB-II and Office Park Districts, if there are more than one sign per building, the signs shall have a uniform and consistent appearance, and all such signs shall be located uniformly and consistently.
6. Internally lit plastic signs are not permitted within the Design Control District.
7. Pennants, and banners, except as provided for in § 504.B.2, are not permitted in the Design Control District.

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8. Building signs which consist of solely individual letters affixed directly to the building or structure, or painted onto or engraved into the building or structure are encouraged.

504.B. General Regulations.

1. Sign Measurements.

- a. Cut-out letters. For signs made of cut-out letters, sign area shall be computed by taking the area enclosed within the smallest rectangle needed to completely encompass all letters including vertical and horizontal spacing between letters.
- b. Other signs. For signs other than those made of cut-out letters, sign area shall be computed by taking the total area of the sign face or the total area within the outer edge of any existing border of the sign, including frames and panels.
- c. Area includes All Sides. Sign dimensions include all sides of the sign unless specifically stated otherwise.

2. Standards for Signs Not Requiring a Permit.

- a. Real Estate Signs. One sign may be located on real estate or a building, advertising that the premises on which the sign is located is for sale, lease, or rent along with identification of the owner or agent. Such signs may not exceed four square feet per side and shall be removed immediately after sale, lease, or rental.
- b. Construction Site Signs. Construction site identification signs which identify the project, owner or developer, architect, engineer, contractor and subcontractors, funding source, and related information including but not limited to sale or leasing information. Not more than one such sign may be erected per site. Such signs shall be limited to 32 square feet per side. They shall not be erected prior to the issuance of a zoning permit, if required, and shall be removed within three days after the issuance of a certificate of compliance.
- c. Interior Signs. Signs may be attached to the interior of a building window or glass door.
- d. Political Signs. An owner or lessee of private property may place and maintain a political sign thereon. These signs shall be permitted in all districts. Such signs shall be restricted to six square feet in size. Any signs relating to elections shall be placed no more than 60 days prior to the time of election and all such signs relating to an election shall be removed within 7 days following voting day.
- e. Public Announcement Banners and Signs. A temporary banner or sign announcing an auction, a campaign, drive or event of a civic, philanthropic or religious organization may be attached to the exterior surface of a building, post, pole or structure, but shall not be erected more than 15 days before the event and must be removed not later than three days following the event.
- f. State and Municipal Signs. Signs or banners provided by the State of Vermont and the City of Montpelier in the interest of the public are essential services and shall be permitted in any district without permit application or review.
- g. Portable Signs. Signboards or Menu Boards. Signboards or menu boards may be displayed as one single-sided portable sign or one double-sided freestanding portable sign advertising daily specials. Such signs may not be larger than two feet wide and four feet high when measured from the ground level and shall be located so as not to block entrances or sidewalks, or obstruct sight triangles. Such signs shall be removed during hours when the business is not open. An establishment may have only one such sign.

3. Prohibited Signs and Placements.

- a. Flashing Lights, Excessive Illumination. Signs with flashing lights, or signs with excessive illumination or glare characteristics are not permitted.
- b. Billboards. Advertising Billboards shall not be permitted in any District.
- c. Obscuring City Signs. No projecting or ground sign shall obscure in whole or in part any city sign.
- d. Projecting Over Public Roadways. No projecting sign shall project over a public street or roadway.
- e. Roof Sign(s). Roof signs including a sign painted on or applied to a roof surface shall not be permitted in any District except as an air navigational guide, or as exempt by this Section.
- f. Internally Illuminated Plastic Signs. Internally illuminated plastic signs are prohibited in all districts except the General Business and Industrial Districts.

504.C. Sign Plans.

1. Properties with multiple tenants or activities are encouraged to develop approved sign plans to achieve a level of uniformity and/or cohesiveness in appearance among multiple signs as appropriate to a particular property, and to streamline the sign permit review process for new signs or alterations to existing signs on that property. A sign plan that addresses signs on a single-tenant or single-activity property may also be appropriate in an effort to streamline the review of future alterations to existing or proposed signs.
2. A sign plan is set of agreed-upon standards that will govern the location, size, placement, and appearance, of one or more signs on a particular property. A sign plan in the Design Control District must be reviewed by the Design Review Committee and be approved by the Development Review Board. A sign plan shall:
 - a. Include specific standards for the color(s), font style, materials, placement, mount, and location of all signs anticipated on the property to be included.
 - b. Ensure that the cumulative area of all signs remains in conformance with district requirements.
 - c. Be in conformance with the design review criteria in §§ 305 and 504, as applicable.
3. An approved sign plan shall remain in effect indefinitely.

504.D. Regulations by Zoning District

1. Permitted Signs—Residential Districts.

The following signs are permitted when located on the immediate property whereon the goods or services advertised are offered for sale:

- a. Professional or home occupation sign not exceeding four square feet per side. Only one sign is allowed per property. Signs located on the inside of windows and visible from the public right of way shall be included in the calculation of total sign area.
- b. One temporary real estate for-sale sign, not exceeding four square feet per side.
- c. No more than two free-standing or wall signs identifying the entrance to a residential subdivision, multi-family development, or school. Such signs must be located at the entrance. A single side of any such sign shall not exceed 10 square feet.

- d. Signs identifying any non-residential building or use permitted in Residential Districts not exceeding a total of 10 square feet per side (refer to § 606 Table of Uses).
- e. Signs necessary for the public safety and welfare.
- f. Internally-illuminated signs are not permitted in residential districts.

2. Permitted Signs—Civic District.

- a. Capitol Complex. State of Vermont signs shall be in conformance with the Capitol Complex Master Plan section entitled Graphics.
- b. All other signs shall be in conformance with the regulations for permitted signs in the Central Business District I.

3. Permitted Signs—Other Districts.

Signs permitted for the Central Business I, CB-II, General Business, Industrial, Riverfront, and Office Park Districts shall be as shown in the following Table 504.C:

TABLE 504.C Types of Permitted Signs by District.

	CB-I (3)	CB-II (3)	General Business/Industrial	Office Park (3)	Riverfront
Wall Signs	Yes	Yes (1)	Yes	Yes	Yes
Projecting Signs (2)	Yes	Yes (1)	Yes	No	Yes
Ground Signs	Yes	Yes	Yes	Yes	Yes
Directory and Informational	Yes	Yes	Yes	Yes	Yes
Residential District Signs	Yes	Yes	Yes	Yes	Yes
Roof Top Signs	No	No	No	No	No
Advertising Billboard Sign	No	No	No	No	No

Table Notes:

- 1) Wall and Projecting Signs not permitted above ground floor in CB-II.
- 2) A Certificate of Insurance is required for all projecting signs.
- 3) Design review required for all signs in CB-I, CB-II, Riverfront, and OP districts.

4. Maximum Size and Total Sign Area.

- a. Size Limits. The size of individual signs and the total amount of sign area per property shall not exceed the limits shown in Table 504.D. below.
- b. Area Calculation. The calculation of total sign area includes all sides of a sign unless specifically stated otherwise.
- c. Exceptions in Area Calculation. In CB-I, GB, Riverfront, and OP districts, temporary, directory and informational signs shall not be included in the calculation of total sign area. In CB-II, temporary signs shall not be included in the calculation of total sign area.

TABLE 504.D Sign Size and Area by District.

	CENTRAL BUSINESS I	CENTRAL BUSINESS II	GENERAL BUSINESS /INDUSTRIAL	OFFICE PARK	RIVERFRONT
WALL SIGNS					
Ground Floor	Greater of 50 ft ² total or 2 ft ² per linear foot of lot	10 ft ² for total of all signs (3)	Greater of 50 ft ² total or 2 ft ² per linear foot of lot frontage (3)	2 signs per building wall (2)(3)	2 ft ² per linear foot of lot frontage (3)

	CENTRAL BUSINESS I	CENTRAL BUSINESS II	GENERAL BUSINESS /INDUSTRIAL	OFFICE PARK	RIVERFRONT
	frontage (3)				
Above Ground Floor	50% of sign area allowed on ground floor. (3)	NOT PERMITTED	50% of sign area allowed on ground floor. (3)	50 ft ² maximum	50% of sign area allowed on ground floor (3)
Maximum Size per Individual sign	75 ft ² (3)	5 ft ² per sign	150 ft ² (3)	50 ft ² maximum (1)	16 ft ² road side; 24 ft ² river side
PROJECTING SIGNS					
Ground Floor	6 ft ² per side	6 ft ² per side	12 ft ² per side	NOT PERMITTED	6 ft ² per side
Above Ground Floor	6 ft ² per side	NOT PERMITTED	12 ft ² per side	NOT PERMITTED	6 ft ² per side
Total Area Allowed per Building		12 ² per building (3)			1 per establishment side; not closer than 12ft
GROUND SIGNS					
Permitted Size	2 ft ² per linear foot of lot frontage of ground floor advertiser, not to exceed 75 ft ² total including all faces printed or blank (3)	6 ft ² per sign side, not to exceed 18 ft ² total area per building	2 ft ² per linear foot of lot frontage of ground floor advertiser, not to exceed 75 ft ² total including all faces printed or blank (3)	75 ft ² total, including all faces printed or blank (2) (3)	32 ft ² per side & up to 48 ft ² for multi-business signs, incl. all faces, printed or blank
DIRECTORY					
Permitted Size	1 ft ² per advertiser, 6 ft ² per building entrance (3)	1 ft ² per advertiser, 6 ft ² per building entrance (3)	1 ft ² per advertiser, 6 ft ² per building entrance (3)	1 ft ² advertiser, 6 ft ² per building entrance (3)	1 ft ² per advertiser, 6 ft ² per building entrance (3)
INFORMATIONAL					
Permitted Size	1 ft ² per sign (3)	1 ft ² per sign (3)	1 ft ² per sign (3)	1 ft ² per sign (3)	1 ft ² per sign (3)

Table Notes:

- (1) Signs in Office Park District shall consist solely of occupant’s organizational name and/or logo.
- (2) Total area of signage for a single building or unit development shall not exceed 150 ft²
- (3) The areas of temporary, directory, and informational signs are not to be included in the maximum signage limitations for other types of signs.

5. Projection, Location, and Height of Signs.

- a. Limits. The limitations on maximum sign projection, location of a sign on a structure or lot, and the height of signs shall be as shown in Table 504.E below.
- b. OP District. No ground sign shall project over a public right of way.

TABLE 504.E Projection, Location and Height of Signs.

	Central Business I	Central Business II	General Business /Industrial	Office Park	Riverfront
Wall Signs					
Maximum Projection	12” from building face	4” from building face	Same as CB-I	12” from building face(3)	4” from building face(3)
Location	In sign band or a minimum of 10 ft above the ground	Not specified	Same as CB-I	Not specified	Not specified
Maximum Height	No higher than the	10ft above ground or no	Same as CB-I	No higher than the	No higher than the

	Central Business I	Central Business II	General Business /Industrial	Office Park	Riverfront
	highest point of the eave line	higher than the top of highest first story window		highest point of the eave line	highest point of the eave line
Projecting Signs					
Maximum Thickness	8"	4"	Same as CB-I	NOT PERMITTED	4"
Maximum Projection -Ground Floor -Upper Floor	3ft 2ft(1)(2)	3ft NOT PERMITTED	Same as CB-I Same as CB-I	NOT PERMITTED NOT PERMITTED	3ft NOT PERMITTED
Ground Signs					
Maximum Height of sign structure	20ft	The lesser of 10ft or top of highest first story window	Same as CB-I	20ft	8ft
Directory sign					
	To be located at foyer or entryway	To be located at foyer or entryway	To be located at foyer or entryway	To be located at foyer or entryway	To be located at foyer or entryway

Table Notes:

- (1) Second floor projecting signs should be placed beside a related window and not exceed the height of the top of the window.
- (2) No projecting signs are allowed above the second floor.
- (3) Signs in the Office Park District shall consist solely of the occupant's organizational name and/or logo.

6. Other Regulations.

- a. **Street Numbers.** Signs showing street number addresses are encouraged in the Central Business District 1. The size should be approximately six inches in height and six inches in width.
- b. **Certificate of Insurance.** A Certificate of Insurance is required for all projecting signs.
- c. **Flags.** Flags used as a symbol of government, political subdivisions, or other governmental entities shall be permitted in all district, provided that such a flag shall not exceed 60 square feet in area and shall not be flown from a pole the top of which is more than 40 feet in height. Any flag not meeting any one or more of these conditions shall be considered a banner and subject to regulation as such.

505. EXEMPTIONS, VARIANCES, AND WAIVERS.

505.A. Exemptions.

The following signs are exempt from the provisions of this Article.

- 1. The 205 ft² roof sign at 118 Main Street which was approved on March 22, 1995 may be retained but not enlarged.
- 2. The clock in front of the Vermont National Bank at 13 State Street.
- 3. The following existing canopies and marquees:
 - a. 100 State Street (former Tavern Hotel)
 - b. 93 State Street (Capitol Theater)
- 4. The small projecting signs along the State Street arcade on 100 State Street.

505.B. Variances and Waivers.

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1. Business Not on Public Right-Of-Way. The Development Review Board may by special permit authorize signs for permitted uses not having frontage on a City street and prescribe conditions for the erection thereof.
 2. Variance. A variance to any of these regulations may be addressed to the Development Review Board.
 3. Situations Not Covered. The Development Review Board may, by unanimous vote, waive and/or alter these requirements in a situation not specifically covered under the sign ordinance.

506. MAINTENANCE AND REMOVAL OF SIGNS.

506.A. Maintenance of Signs.

All signs shall be maintained in substantially as good condition as when they were constructed or installed. In the event any sign should suffer structural deterioration or damage, or malfunction of any operative systems, or any visible deterioration, it shall be promptly repaired or removed by the owner.

506.B. Discontinued Businesses.

Within the Design Review District, all signs advertising businesses, goods, services or events associated with a business that has been discontinued and is no longer operating or doing business on a site, or offering the goods, services, events or activities advertised, must be removed within 90 days. This provision requires the removal of the sign lid, lettering, or graphics as well as the sign structure assembly that supports the lettering or graphics. Supporting posts or structures, used exclusively for the discontinued sign, must also be removed. If the supporting posts, or equivalent structure, for a ground sign, is a conforming structure, it may remain unused for 180 days. The Development Review Board may waive this requirement for signs that the Board finds have historic significance.

Article 6. ZONING DISTRICTS AND REGULATIONS.

601. ZONING MAP AND DISTRICTS.

601.A. Zoning Map.

The Zoning Map, officially entitled “City of Montpelier Zoning Map” is hereby adopted as part of this Ordinance and is on file with the City Clerk as amended.

601.B. Amendments to Zoning Map.

- 10/26/94 The part of 49 Greenwood Terrace zoned Civic District is rezoned to High Density Residential and that part of 47 Court St. zoned Civic District is rezoned to Central Business II.
- 6/12/96 The General Business Zone is extended from School Ave. to the south corner of Northfield St., replacing the Central Business II (CB II) District. The specific properties Affected include 3 Berlin St., 11 Berlin St., and 15 Berlin St.
- 1/10/01 Establishment of Riverfront District between Granite and Main Streets, the Winooski River, and the rear of Barre Street.
- 5/28/03 Adoption of Interim Restricted Development District
- 9/24/03 Extension of the CB-II and Design Control Overlay District along Barre Street to Granite Street
- 8/30/06 HDR, MDR, and LDR Districts rezoned along Barre Street.

601.C. Zoning Districts.

The “City of Montpelier Zoning Map” and these Regulations divide the City into the following districts:

LDR Low Density Residential	CB-I Central Business I
MDR Medium Density Residential	CB-II Central Business II
HDR High Density Residential	OP Office Park
CIV Civic District (Capital Complex)	GB General Business
REC Recreation	IND Industrial
RIV Riverfront District	

601.D. Overlay Districts.

In addition, the Regulations establish the following overlay districts:

Floodplain District

Design Control District

602. DISTRICT BOUNDARIES.

602.A. Division of Existing Lots.

Where a district boundary line divides a lot created by deed on record at the time such line is adopted, the regulations for the part of such lot in the less restrictive zone shall extend up to 30 feet into the other part of the lot if the lot has frontage on a street in the less restrictive zone.

602.B. Boundaries Follow Center Lines.

District boundaries shown within the lines of the road, stream or transportation right-of-way shall be deemed to follow the center line. The discontinuance of a road shall not affect the location of a district boundary.

602.C. Determination of Boundaries.

When the administrative officer cannot definitely determine the location of a district boundary, the officer shall refuse action. The matter shall be appealed to the Development Review Board, which shall interpret the location of the district boundaries with reference to the scale of the map.

603. DISTRICT OBJECTIVES.

The following subsections state the objective for each zoning district. The list of which uses are permitted, conditional, or not permitted in each district is provided in the Table of Uses (Table 606). Conditional uses allowable in a district may not be suitable in all locations within that district and shall be subject to review by the Development Review Board in accordance with § 304.

1. **LOW DENSITY RESIDENTIAL (LDR):** This area is limited to non-intensive land uses. The purposes of this district are to prevent premature development of land, to retain certain areas for non-intensive uses, to prevent development where it would be a burden on the community, and to retain area for open space.
2. **MEDIUM DENSITY RESIDENTIAL (MDR):** This principally residential area is designated for land where city water and sewer facilities are available or where the installation of these facilities is feasible. Residential and other compatible and complementing uses are permitted in this district at densities dependent upon the city utility services available. This district is intended to house the majority of the community's permanent residents in areas and at densities consistent with the city utilities provided.
3. **HIGH DENSITY RESIDENTIAL (HDR):** This district is designated for land centrally located where city water and sewer facilities are available. Due to reasons of utilities, location and existing intensive development, higher density is appropriate. The purpose of this district is to permit a continuation and expansion of residential and related uses when consistent with the objectives of the Montpelier Municipal Plan.
4. **CIVIC (CIV):** The Civic District is the focus for Montpelier's role as the state capital and houses the greatest concentration of government buildings. This district includes the area identified as the Capitol Complex for which additional planning and regulatory functions are provided by the State "Capitol Complex Commission."
5. **CENTRAL BUSINESS DISTRICT I (CB-I):** The Central Business District I (CB-I) is an area which permits a variety of uses necessary to serve as the community's governmental, commercial, retail and cultural center. Residential uses are permitted to add interest and vitality to the city center and to accommodate those who desire housing at relatively high density.
6. **CENTRAL BUSINESS DISTRICT II (CB-II):** This district is comprised of areas adjacent to the Central Business I (CB-I), Civic (CIV), and High Density Residential (HDR), districts. It is designed to encourage desirable change toward several related goals.

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- a. To create a transitional district between the high activity central business and civic districts and the residential districts it borders. To this end, permitted uses include residential uses, together with certain business uses such as offices and professional residences, which are less intensive and which compliment and support the city's governmental and retail center.
 - b. To promote tourism within some of the city's most historic neighborhoods. Accordingly, among the business uses permitted are those that attract additional tourist trade or provide accommodations to the business traveler.
 - c. To preserve and enhance the unique historical character of its buildings, structures and landscaping. This is promoted by permitting some selected business uses only in historic buildings and structures. It is the intent to create a positive incentive for the preservation and restoration of these historic buildings and structures by permitting certain additional and economically more viable uses that are appropriate to the character of the area.
7. OFFICE PARK (OP): The Office Park District is an area designated for planned commercial development, with a park-like setting utilizing substantial areas of undeveloped land which is currently primarily wooded or open meadow, and adjacent or visible to major highway routes into the city and from elsewhere in the city.
 8. GENERAL BUSINESS (GB): In recognition of the demand by the traveling public, the city provides for these activities in especially designated areas. They are designed for accommodating automotive activities, overnight accommodations and uses generally associated with the traveling public.
 9. INDUSTRIAL (IND): The Industrial District provides areas which encourage the location of industrial development and uses through the provision of transportation and other utility infrastructure, and appropriate buffering from residential and commercial uses.
 10. RECREATION (REC): The Recreation District comprises public lands dedicated to recreation and conservation of open space. Other public uses shall be compatible with these objectives. Uses approved immediately adjacent to the Recreation District shall not derogate from the public benefits of the district.
 11. RIVERFRONT DISTRICT (RIV): The Riverfront District defines the area along the Winooski River between Main, Granite, and the rear of Barre Street. Historically a manufacturing and rail transportation corridor, it is important to honor the area's industrial past while continuing to support the existing active rail use and manufacturing businesses.

New buildings and uses that locate there should be of pedestrian scale and orientation; ensure the public's visual access and enjoyment of the river, evoke a feeling of the industrial and transportation history of the area; include design orientation both to the river and to the public way; and integrate public outdoor activity. The historic turntable is intended to be a centerpiece of an area reserved for public use and enjoyment. Adverse impacts to the surrounding neighborhoods, such as excessive lighting or noise, must be avoided or mitigated.

The area's configuration is linear and narrow and provides limited potential for on-site vehicular circulation or storage. It's an area primarily served and occupied by people, not vehicles, although some provision has been made for public and private parking. Uses in the Riverfront District are not to be automobile-oriented or dependent; however parking requirements will need to be addressed by the developer.

The purpose of this district is to help increase the economic vitality of the downtown, enhance the eastern riverfront approach, provide opportunity for new mixed-use development, provide for the public's use and enjoyment, and to provide for the protection of the river bank

604. STANDARDS FOR SPECIFIC DISTRICTS.

The standards in this section for specific districts are in addition to or in combination with the procedures and standards for general development found elsewhere in these regulations.

604.A. Office Park Regulations.

1. Office Park Development Parcels.

- a. Minimum Size. Within the Office Park district (OP), all land shall be developed as part of “development parcels” of at least 10 acres.
- b. Master Plan. Development parcels shall be planned as integral areas and controlled by a master plan for the entire parcel. The master plan shall be adopted before subdivision of the parcel or resale of any portions of the parcel. The master plan shall be designed and reviewed according to the provisions for planned unit developments in § 308. Development of the parcel shall not proceed without approval of the master plan by the Development Review Board.

The master plan for the overall development parcel shall set forth specifications for the following:

- Interior roadways,
- Utilities and drainage,
- Layout of building sites and specific use relationships,
- Minimum setbacks from main roadways and abutting zoning districts for all development sites,
- Setbacks between buildings, roadways, and parking areas within the development parcel,
- Type and design of the structures to be erected, and
- Landscaping.

2. Individual Development Sites within an Office Park. Within a development parcel, there may be individual development sites which consist of a single building or cluster of buildings. Such sites may be developed individually after subdivision of the parcel or as part of a comprehensive development of the entire parcel. Both subdivision and development of such sites must conform to the adopted master plan for the parcel and the standards contained in § 604.A and Article 7.
3. Minimum Lot Size for Sites. There are no minimum lot size requirements for individual development sites within the Office Park District when approved as part of the overall development parcel plan.
4. Standards for Development Site Review. Subsequent applications for individual development sites, whether reviewed as subdivisions or design review/site plan review applications shall be reviewed by the Development Review Board according to the master plan for the overall development parcel.
5. Specific Design Guidelines. The Office Park District shall be a part of the Design Control District. All proposed projects shall be reviewed by the Development Review Board under the provisions for design review in § 305 using the criteria specified below:
 - a. Site development shall provide visual protection for gateways to city and view corridors.

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- b. Minimum set-backs shall be established for each development parcel from main roadways to retain natural terrain and landscape vegetation as a buffer between main roadway and new construction.
 - c. Protection shall be established for natural terrain, vegetation, and ridges with minimum intrusion of new development by:
 - (1) clustering of development on site to maximize the preservation of open areas and conform with the natural topography.
 - (2) building on areas of minimum slope with minimum use of cut and fill.
 - (3) height, width, bulk and materials of buildings which create a development profile consistent with dominant expanse of mainly forested hillsides and ridges as seen from the main roadway entrances concerned and from elsewhere in the city.
 - d. Internal relationships between individual units of the planned commercial development shall be designed so as to provide a well-landscaped harmonious development, with compatible materials, building elements, and signage throughout the development.
 - e. Parking shall be provided as specified in § 705 and may be clustered or divided as appropriate to achieve adequate circulation and an attractive visual relationship to the existing landscape.
 - f. All utilities shall be placed underground (except for existing major transmission lines). Public lighting shall be included in all office park planning and shall be color-balanced lighting, such as provided by metal halide lamps.

604.B. Riverfront District Regulations.

- 1. Standards for Development Site Review. In addition to the general site plan review standards in § 306, the following standards shall apply:
 - a. All new construction requiring a zoning permit shall have underground utility service from the nearest utility pole, including electric, cable television, and telephone service, unless this requirement is waived by the Development Review Board.
 - b. Structures, uses, and landscaping shall be arranged so not to interfere with the continued, active use of railroad facilities by present and future rail operators.
 - c. Sites shall be designed to accommodate persons with disabilities.
 - d. Landscaping: see § 604.B.3.i.
 - e. With respect to vehicular and pedestrian circulation, special attention shall be given to the location and number of access points to the public street, sidewalk, or path, to the arrangement of parking areas, to service and loading areas, and to the location of accessible routes and ramps for the disabled. Common or shared driveways and walkways will be required.
 - f. Special attention shall be accorded to stormwater runoff so that the neighboring properties and/or the public stormwater drainage system are not adversely affected. Attention shall also be accorded to design features which address the affects of rain, snow, and ice, with particular attention to affects on the areas between buildings and the river, and to provisions for snow and ice removal from circulation areas.
 - g. Site elements and design shall provide for pedestrian and non-vehicular circulation, such as through the provision of seating, bike racks, paths, or sidewalks.

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2. Parking and Loading Standards.
 - a. The waiver provisions of § 705.H shall apply to proposals in the Riverfront District.
 - b. No more than twenty-five percent (25%) of a lot shall be used for unenclosed above-ground parking. However, unenclosed parking on an additional fifteen percent (15%) of a lot may be permitted by the Development Review Board if the applicant provides contractual evidence that the use of the additional parking will be shared with another facility or facilities for at least 15 hours per day.
 - c. Accessory parking (49.9% or less of the total square footage of a building) that is enclosed and incorporated into the design of a building structure may supplement parking provided in 604.B.2.b above. This parking shall:
 - (1) Be designed and screened so that it does not appear to be a parking lot and in such a way so to be integrated into the site and building design;
 - (2) Comply with all of the standards and design guidelines outlined in § 604.B.1 and 3; and
 - (3) Feature up to two vehicular access/egress entryways which are not required to be screened, and shall not be located on the street side or the river side of the structure.
 - d. Parking requirements for residential uses in the Riverfront District shall be waived.
 3. Specific Design Guidelines. The Riverfront District shall be a part of the Design Control District. All propose projects shall be reviewed by the Development Review Board under the provisions for design review in Section 305, the district objective in Section 603.11, as well as the criteria specified below:
 - a. Spatial Relationships. Spatial relationships between individual structures shall be designed to provide for a well-landscaped, harmonious district with compatible materials, building elements, and signage.
 - b. Directional Expression & Sense of Entry. New development shall be oriented so that both river and street side facades are primary. Materials on the riverside of a structure shall be of equal character and quality as those on the street side. Both facades should incorporate fenestration, detailing and other building components that are dimensionally proportional and are pedestrian friendly.
 - c. Materials and Details. Artificial, composition type materials (including simulated wood or masonry) lacking strong evidence of durability and compatibility with traditional types of building materials are discouraged. Structures should create an attractive and interesting exterior form through variation in surface, colors, textures and materials which carry through on all sides.
 - d. Screening. Loading docks, service entrances, dumpsters, propane tanks, utility cabinets, and other similar above-ground structures shall not be located on either the street side or river side of the structures and should be screened from view with landscaping or building materials in such a way so to be integrated into the site and building design.
 - e. Solar Gain. Building designs are encouraged to take full advantage of solar gain for purposes of energy conservation.
 - f. Lighting. Light levels should provide for safety and security, should enhance the building and site design, and should not create glare for neighboring properties or streets. The number, location, and appearance of light fixtures should be compatible with building design and landscaping.
 - g. Rooftop Appurtenances. Rooftop mechanical equipment and appurtenances to be used in the operation or maintenance of a structure shall be arranged to minimize visibility from any point at or
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below the roof level of the structure. Such features, in excess of one foot (1') in height, shall be either; enclosed by outer building walls or parapets, grouped and screened in a suitable manner, or designed in themselves so that they are balanced and integrated with respect to the design and materials of the building.

- h. Signs. See Article 5.
 - i. Landscaping. Landscaping must be integrated with the building and site design, including any screening required in Section 604.B.3.d above, and enhance the appearance of the project.
4. Specific Conditional Use Standards. The following conditional use standards shall be applied in addition to those established in Section 305 and/or 306:
- a. Noise. The impact of excessive noise on the surrounding neighborhoods is a concern. Buildings and related infrastructure shall include sufficient sound-proofing in their design and construction to minimize the sound emanating off site. Noise levels of the normal operation of the facility and related infrastructure shall not exceed 55 decibels during the day (7 a.m. – 10 p.m.), and 50 decibels at night (10 p.m. – 7 a.m.) at the property or lease line. Any outdoor event shall comply with the same decibel limits as buildings in the Riverfront District, except for special events which may exceed the decibel limit, if approved by Montpelier City Council.
 - b. Hours of Operation. Hours of operation of new uses or activities may be regulated to minimize adverse impacts on the surrounding neighborhoods.

605. STRUCTURES AND USES.

605.A. Permitted Uses.

See Section 303.

605.B. Conditional Uses.

- 1. See Section 304.
- 2. Conditional use approval is required if the application is for either use below or if the use is designated a conditional use in Table 606. Table of Uses:
 - a. Twenty-four (24) or More Residential Dwelling Units. Any combination of uses listed under the heading of Residential Uses in Table 606, totaling 24 dwelling units or more, shall be reviewed as a conditional use. This requirement shall be cumulative and shall include all units approved after the effective date of this regulation on the same parcel or in the same development.
 - b. Non Residential Structures Over 10,000 Square Feet. Any retail, commercial, industrial, and/or multiple use structures 10,000 square feet or larger and/or multiple structures which combined equal or exceed 10,000 square feet shall be reviewed as a conditional use. This requirement shall be cumulative and shall include all structures approved after the effective date of this regulation on the same parcel or in the same development.

605.C. Principal Residential Structures.

There shall be no more than three single family residential structures or four duplex/multi-family dwelling units on a single lot, except as may be approved as a planned development under Section 308.

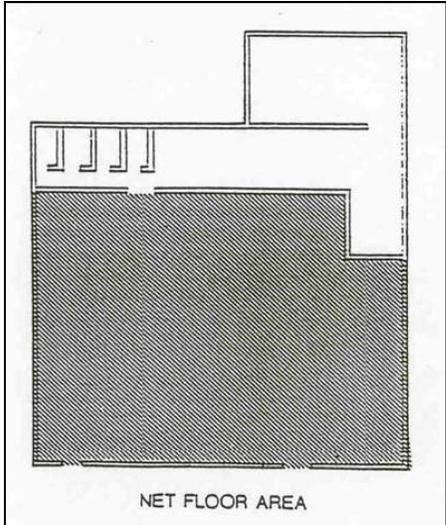
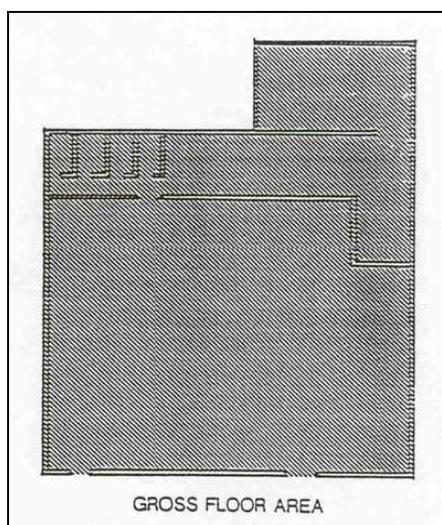
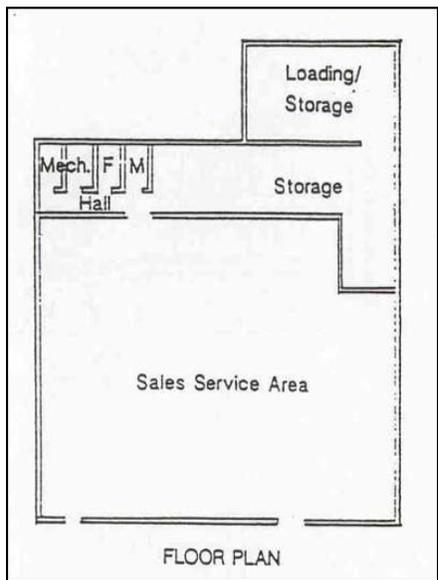
605.D. Accessory Structures and Uses.

1. Review Process and Time Limits. The Administrative Officer shall determine whether the proposed use is a permitted accessory structure or use and then shall apply the appropriate dimensional and development standards. Outbuildings, garages, carports, storage sheds, and all similar accessory use buildings shall meet the yard requirements of these regulations. If the Administrative Officer determines that the use or structure is permitted and meets the review standards, the zoning permit shall be approved. If the Administrative Officer fails to act with regard to a complete application within 30 days, the permit shall be deemed issued on the 31st day.

2. Accessory Structure.

An accessory structure is a structure whose use is incidental, subordinate to, and customarily associated with the primary structure located on the same lot. Accessory structures shall not exceed 50% of the gross floor area of the structures dedicated to the lot's primary use.

Figure 6-4. Example of Floor Area Calculation



3. Accessory Use.

An accessory use is any use which is clearly incidental to and customarily found in association with the principal use; and is subordinate in area, purpose and extent to the primary structure and use of the lot.

4. Accessory Apartment.

- a. The creation of an accessory apartment meeting the following criteria shall be reviewed as a single family permitted use:
 - (1) one such unit may be located within or appurtenant to an owner occupied single-family dwelling, or within an existing accessory structure located on that lot;
 - (2) the unit shall be an efficiency or one-bedroom apartment;
 - (3) the unit shall have facilities and provisions for independent living, including sleeping, food preparation, and sanitation;
 - (4) on- or off-site wastewater processing capacity shall be sufficient for both units;
 - (5) existing parking at the site is sufficient to meet the parking requirements for a two family dwelling contained in this ordinance; and
 - (6) the unit does not exceed 40 percent of the total habitable floor area of the single family dwelling; units created within existing accessory structures are exempt from this criteria.
- b. Accessory apartments are exempted from the lot area per dwelling unit requirements of this ordinance.
- c. Conditional use review shall be required if one or more of the following is involved in the creation of an accessory dwelling unit:
 - (1) the development requires an increase in the dimensions of the parking area (s);
 - (2) the unit is proposed within an existing accessory structure that does not meet the side or rear yard setback requirements of this ordinance, and a request has been received by the affected adjoining property owner within 15 days after notice by certified mail, return receipt requested, notifying them of the application and the opportunity to request a conditional use hearing within 15 days of receipt; or
 - (3) the accessory apartment is proposed to be larger than 40 percent of the habitable area of the dwelling.
- d. The Development Review Board may reduce or waive the off-street parking requirement for accessory apartments where the waiver will not create an undue negative impact on the neighborhood.

5. Special Review Standards for Small Accessory Structures. Accessory structures that are of 100 sq. ft. or less in floor area and are not more than 8 feet in height shall be exempt from the review standards for permitted uses if the building meets the following criteria:

- a. The building is used for storage only;
 - b. The building is located in the rear yard;
 - c. The applicant has obtained the affected adjoining property owner's written approval of the accessory building's location when setback requirements cannot be met; and
 - d. The property has no more than one accessory building that does not meet the review standards for permitted uses.
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6. Swimming Pools. A swimming pool shall be considered a structure only if it has a permanent foundation. Such swimming pools shall be subject to the setback and other dimensional requirements in Section 607.
 7. Wheelchair access ramps. Wheelchair access ramps on residential properties shall not be required to meet setback requirements providing the ramp is not enclosed or roofed.

605.E. Temporary Uses and Structures.

Temporary permits may be issued by the administrative officer for a period not exceeding 120 days, for non-conforming uses incidental to construction, provided such permits are conditioned upon removal of the structure or use upon expiration of the permit. Such permits may be renewed for additional periods not exceeding 90 days, if the administrative officer finds that the construction requires it.

605.F. Uses Considered Permitted Residential Uses.

1. Family Care Home: A state licensed or registered residential care home or group home, serving not more than six persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another such home.
2. Child Care Home. A state registered or licensed day care facility as defined in Article 13 shall be considered by right to constitute a permitted single-family residential use of property.
3. Residential Care or Group Home in accordance with Section 605.K below.

605.G. Home Occupations.

Home occupations shall be permitted in any legally established residence if the occupational use complies with the following standards:

1. The home occupation does not occupy a majority of the dwelling unit or is within an enclosed accessory structure.
2. The home occupation is customary or compatible in a residential neighborhood and does not change the character thereof.
3. The use is not a retail establishment, does not involve the servicing of any type of motor vehicles, and does not involve any outdoor storage.
4. The home occupation shall be carried on only by a member of the family residing in the dwelling unit and up to two employees who are not part of the family.
5. The home occupation shall be carried on entirely within an enclosed structure.
6. Exterior displays or signs other than those permitted under these regulations, exterior storage of materials and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted.
7. The home occupation use shall not increase the noise level, vibration, smoke, dust, electrical disturbances, odors, heat, or glare of the neighborhood.
8. Traffic generated by such home occupation shall not be in excess of 10 vehicles per hour.
9. Parking

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- a. Adequate off-street parking shall be provided. The number of required parking spaces shall be determined according to §§ 705.A and 705.B.
 - b. In any residential district, except in a planned unit development, a use which requires more than five off-street parking spaces shall no longer be considered a home occupation.
 - c. All parking spaces must be provided on site except where providing off-street parking off-site does not change the character of the residential neighborhood.
10. If necessary, adequate screening shall be provided for all off-street parking and other structural or site changes related to the home occupation.

605.H. Public Utility Substations.

Public utility substations and similar utility structures, where permitted and approved by the Vermont Public Service Board, shall be conditionally permitted in all districts subject to the following criteria:

1. The facility shall be surrounded by a fence set back from the property lines in conformance with the district regulations for front, side and rear yards.
2. A landscaped area at least 25 feet wide shall be maintained in front, rear, and side yards.

605.I. Agricultural and Silvicultural Activities.

1. With the exception of dwellings, all farm structures, accepted agricultural practices, and accepted silvicultural practices are exempt from local permitting requirements. However, farmers intending to erect a farm structure must notify the municipality of the intent to build a farm structure, and abide by setbacks contained within the zoning ordinance, unless they provide an approval of lesser setbacks by the Commissioner of Agriculture, Food and Markets. The notification must contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way. Additionally, all farm structures within the Flood Hazard Overlay District must comply with the National Flood Insurance Program. Lastly, the municipality may report violations of Accepted Agricultural Practices or accepted silvicultural practices to the appropriate state authorities for enforcement.
2. This bylaw shall not regulate accepted silvicultural practices, as those practices are defined by the commissioner of forests, parks and recreation under subsection 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.
3. Sale of Produce. Agricultural produce may be offered for sale on the premises upon which it was grown or produced, provided however, that:
 - a. No stand shall be within 20 feet of the front or side lot lines; and
 - b. Off-street parking spaces shall be provided for at least two motor vehicles. These spaces are in addition to any spaces required for other uses of the property.

605.J. State or Community-Owned Institutions and Facilities.

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

1. State- or community-owned and operated institutions and facilities;

2. Public and private schools and other educational institutions certified by the state department of education;
3. Churches and other places of worship, convents, and parish houses;
4. Public and private hospitals;
5. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159;
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. 6606a.

605.K. Residential Care or Group Home.

1. A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. §4501 and, shall be considered to constitute a permitted single family residential use of property, unless it locates within 1,000 feet of another existing or permitted home, in which case it shall be considered to be a conditional use.
2. A residential care home or group home serving nine or more persons who have a handicap or disability as defined in 9 V.S.A. §4501 and to be operated under state licensing or registration shall be reviews as a multi family dwelling and be subject to conditional use and site plan review

605.L. Exclusion of Housing.

1. No provision of this bylaw shall have the effect of excluding from the municipality housing to meet the needs of low and moderate income citizens and the overall population as determined in accordance with 24 V.S.A. §4382.
2. No provision of this bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.
3. No provision of this bylaw shall have the effect of excluding mobile home parks, as defined in 10 V.S.A. chapter 153 from the municipality.

606. TABLE OF USES.

The following Table 606 provides a list of the permitted uses, conditional uses and uses not permitted for each district.

TABLE 606. Table of Uses.

RESIDENTIAL USES (10)(11)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Dwelling, Single-family	P	P	P		C	P(3)		P(6)	C		
Dwelling, Two-family	P(1)&P	P(1)&P	P(1)&P		C	P(3)		P(6)	C		
Dwelling, Multi-family	C(9)	C	P		P	P		P(6)	C		P&C(8)
Dwelling, Mobile Home/ Manufactured Home	P	P	P					P(6)	C		
Accessory Apartment	P(14)	P(14)	P(14)			P(14)		P(14)			
Boarding/Rooming House			C		P	P(3)		P	C		

RESIDENTIAL USES (10)(11)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Child Care – Home	P	P	P			P		P	C		
Family Care – Home	P	P	P			P		P	C		
Group Home (13)	P	P	P			P(3)		C			
Group Housing	C	C	C		C	C(4)		C	C		
Housing for the Elderly			P		P	P		P			P&C(8)
Mobile Home Park	C	C									
Residential Care Home (13)	P	P	P			P(3)		C			

LODGING (12)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Bed and Breakfast	C	C	C	C	P	P(3)		P	C		
Hotel				C	P		P	P	C		C
Motel					P			C	C		
Inn					P	P(4)		P	C		C
Tourist Home			C		P	P(3)		P	C		

INSTITUTIONAL USES (12)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Academic Institution	P(7)	P(7)	P(7)		P	C(3)	P		C		C
Art Gallery/Museum	C(5)	C(5)	C(5)	C	P	C(3)	P		C		C
Cemetery	P&(16)	C & (16)	C & (16)								
Church, Synagogue, Place of Worship	P	P	P	C	P	C(3)		C	C		
Club			C		P	C(3)		P	C		
Community Care Home	C	C	C	C	C	C(4)		C	C		
Community Center	C	C	P		P	C(3)	P				C
Cultural Facility				C	P		C	P	C		C
Child Care Facility	P	P	C or (16)		C	C(3)	P	P	C		
Child Care Home (2)	P	P	P			P		P	C		
Dormitory	C	C	C		P		P		C		
Emergency Shelter	C	C	C			C(3)		C	C		
Family Care, Home (2)	P	P	P			P		P	C		
Family Care Facility	C	C	C			C(3)		C	C		
Hospital					C		C	P			
Medical Clinic	C(5)	C(5)	C(5)	C	P	C(3)	P	P	C		
Nature Center	C						P	P	C	C	
Nursing, Rest or Convalescent Home	C	C	C			C(3)					
Public Assembly Hall or Area				C	P			P	C		C
Safety Service Facility	C	C	C	P	P	C	C	C	C		
School	C&(16)	P & (16)	C & (16)		P	C(3)	P		C		C

COMMERCIAL USES (12)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Agricultural Sales	P	C							C		
Animal Boarding Facility or Kennel	C							P	C		
Animal Care/Veterinarian	C				C			P	P		
Art Gallery/Museum	C(5)	C(5)	C(5)	C	P	C(3)	P		C		C

COMMERCIAL USES (12)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Artisan Studio	C & (16)	C & (16)	C & (16)		P	C(4)	P	P	P		C
Bank				C	P		P	P	C		
Bank, Drive-Through				C	C		P	P	C		
Bar/Night Club					C			P			
Business Services					P	C(3)	C	P	C		P
Car Wash								P	P		
Car Wash, Incidental								P	P		
Catering Service	C(5)	C(5)	C(5)		P	C(3)	P	P	P		C
Convenience Commercial	C	C	C								
Convenience Gas Station								P	C		
Drive-Through Facilities					C			P	C		
Dry Cleaner								P	P		
Eating & Drinking Establishment	C(16)	C(16)	C(15) & (16)		P	C(3)	P	P	C		C
Eating Establishment, Drive-through								P	C		
Eating Establishment, Take-Out					P		P	P	P		
Equipment Sales & Service								P	C		
Funeral Home					P	C(3)		P			
Gas Pump								P	P		
Gasoline Station								P	P		
Home Occupation	P	P	P		P	P		P	C		C
Landscape Service	P							P	P		
Mail Service					P		P	P	P		
Medical & Dental Laboratory	C(5)	C(5)	C(5)		P		P	P	P		
Medical Clinic	C(5)	C(5)	C(5)	C	P	C(3)	P	P	C		
Mini-Warehouse								P	P		
Motor Vehicle Maintenance					C			P	P		
Motor Vehicle Rental					C			P	C		
Motor Vehicle Repair					C			P	C		
Motor Vehicle Sales								P	C		
Motor Vehicle Service Bay					C			P	P		
Office	C(5)& (16)	C(5)& (16)	C(5)& (16)	P	P	P	P	P	C		P
Outdoor Market				P	P	C	C	P	P		P
Parking – Commercial				C	P			P	P		
Personal Service Establishment	C(16)	C(16)	C(16)		P	C(3)		P	C		
Public Assembly Hall or Area				C	P			P	C		C
Research Facility	C(5)	C(5)	C(5)		P	C(3)	P	P	C		C
Retail Sales & Service					P	C(4)		P	C		C
Retail Sales - Outdoor					P			P	C		
Retail Sales - Temporary					P	C		P	C		P
Shopping Center					C			P	P		
Storage – Outdoor					C			P	P		
Theater				C	P			P	C		C
Warehouse									P		
Wholesale Trade									P		
Yard Sale	P	P	P	P	P	P		P	C		

TRANSPORTATION/ UTILITIES (12)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Antenna – Tower	C			C	C		C	C	P		
Essential Services	P	P	P	P	P	P	P	P	P	P	P
Freight & Truck Terminal								C	P		
Municipal Facilities	C	C	C	C	C	C	C	P	P		
Parking – Commercial				C	P			P	P		
Passenger Terminal or Station				C	P	C	C	P	P		C
Public Utility (pump station, water storage tank, water treatment facility)	C	C	C	C	C	C	C	C	C		
Taxi & Limo Service								P	P		
Wireless Telecommunication Facility, Small Scale	P	P	P	P	P	P	P	P	P	P	P

INDUSTRIAL USES (12)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Antenna – Tower	C			C	C		C	C	P		
Artisan Studio					P	C(4)	P	P	P		C
Contractor Yard									P		
Excavation or Fill – Commercial	C	C							C		
Freight or Trucking Terminal								C	P		
Incinerator									C		
Junk Yard								C	C		
Machinery/Heavy Equipment Sales and Service								C	P		
Manufacturing – Heavy									P		
Manufacturing – Light					C			C	P		C
Public Utility Substation			C				C		P		
Quarry	C								C		
Solid Waste Collection Site								C	C		
Solid Waste Transfer Site								C	C		
Storage – Outdoor	C				C			P	P		
Storage of Mine, Quarry, Sand or Gravel Pit Products	C								P		
Utility, Major	C	C	C	C	C	C	C	C	P		
Utility, Minor	C	C	C	C	C	C	C	C	P	C	C
Warehouse									P		
Wholesale Trade									P		

RECREATION USES (12)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Recreational Use – Large, Outdoor	C	C					P	P	C	P	
Recreational Use – Indoor					P		P	P	C		C
Recreational Use – Parks/ Playgrounds	P	P	C	C	P	C	P	P	C	P	C
Stable – Public	P	C							C		
Theater				C	P			P	C		C

OTHER USES (12)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Animal exhibits	C						P	P	C		
Animal Rehabilitation Center	C						P		C		
Animal Shelter	P	C	C						C		

OTHER USES (12)	LDR	MDR	HDR	CIV	CB-I	CB-II	OP	GB	IND	REC	RIV
Quarry	C								C		
Stable - Private	P	C	C								
Stable - Public	P	C							C		
Storage of Mine, Quarry, Sand or Gravel Pit Products	C								P		

Key	C	P	
	Conditional Use – Requires Development Review Board Approval	Permitted Use	NOT PERMITTED

Notes to the Table of Uses:

- (1) Residential structures existing as of 4/01/87 and containing over 2,000 ft² of finished living space are exempt from minimum lot size. See Section 607.F
- (2) Facilities licensed to serve 6 or fewer children are permitted in any residence. See Section 605.F
- (3) Only in historic buildings or structures existing as of 1/01/87.
- (4) Only in historic buildings.
- (5) Only in large institutional properties. See Section 608.A
- (6) Only with off-lot water and sewer
- (7) Only as part of an AI-PUD. See Section 308
- (8) Housing allowed on the first floor only with conditional use approval.
- (9) Only as part of a PUD/PRD.
- (10) There shall be no more than three single family residential structures or four duplex/multi-family units on a single lot, except as may be approved as planned development under Section 308.
- (11) Any combination of uses listed under the heading Residential Uses totaling 24 dwelling units or more, shall be reviewed as a conditional use. This requirement shall be cumulative and shall include all units approved after the effective date of this regulation on the same parcel or in the same development.
- (12) Any retail, commercial, industrial, and/or multiple use structures 10,000 square feet or larger and/or multiple structures which combined equal or exceed 10,000 square feet shall be reviewed as a conditional use. This requirement shall be cumulative and shall include all structures approved after the effective date of this regulation on the same parcel or in the same development.
- (13) See Section 605.K.
- (14) In accordance with Section 605.D.
- (15) With fewer than twenty-five seats.
- (16) As allowed in a planned development per Section 713.D.

607. LOT SIZE, SETBACK, LOT COVERAGE, AND HEIGHT REGULATIONS.

607.A Minimum Frontage.

No land development may be permitted on lots which do not have the required frontage on a public road or public waters or, with the approval of the Development Review Board, access to such road or public waters by a permanent easement or right-of-way at least 20 feet in width. Lots, which abut on more than one street, shall provide the required minimum frontage along at least one street.

607.B. Prohibition of Structures in Required Setbacks.

No structures, whether attached to the principal structure or not, and, whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall project into any minimum front, side, or rear yard except as authorized by these regulations.

607.C. Measurement of Front Yard Setback

The Front Yard Setback is the space extending the full width of the lot between any building and the front lot line and measured perpendicularly to the building at the closest point to the front lot line.

Notwithstanding provisions for front yards elsewhere in these Regulations, on streets with less than 50 foot of right-of-way or where the right-of-way line is not known, the front yard requirement shall be measured from the center line of the existing roadway and 25 feet shall be added to the front yard requirements. Lots which front on more than one city street may have corresponding additional front yards.

607.D. Measurement of Height.

1. General. Height shall be measured as the vertical distance from the highest point of the structure (not including chimneys and other rooftop and appurtenances) to the finished grade directly below, except as otherwise provided below. See Figures 6-2 and 6-3.
2. Measuring Building Height on Sloped Lots. Height shall be measured as the vertical distance from the highest point of the structure to the average of the highest and lowest points where the exterior walls meet the finished grade. (See figure 6-3)

Figure 6-1. Illustration of yards for irregular shaped lots.

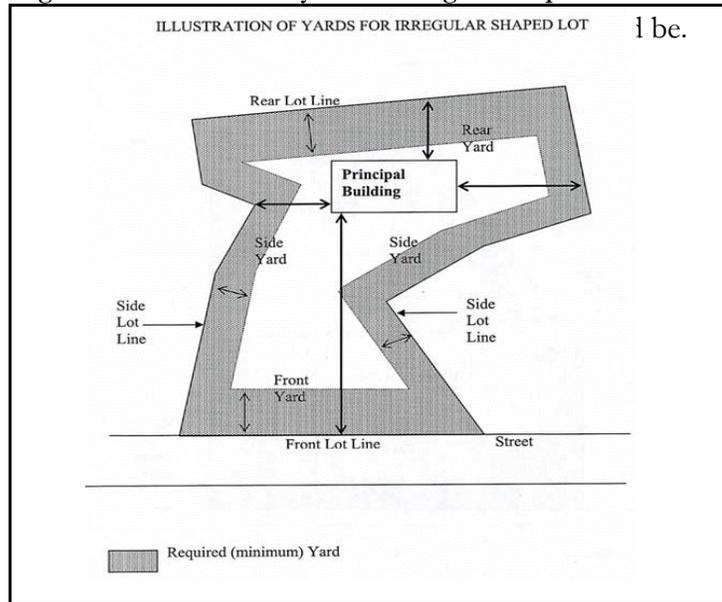


Figure 6-2. Measuring height of building

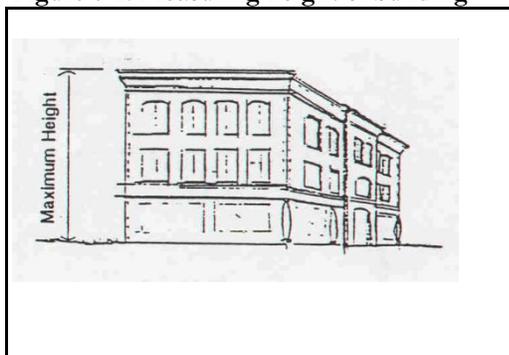
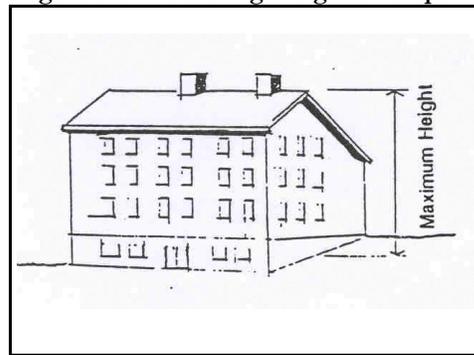


Figure 6-3. Measuring Height on slope



607.E. Density Bonus.

1. Elderly Housing Bonus. For projects to provide housing for the elderly, the Development Review Board may; a) reduce by up to 50% the minimum lot area per family and required setbacks and b) increase by up to 50% of the maximum building coverage.
2. Setbacks in General Business. For projects located in the General Business zone, the Development Review Board may reduce minimum required setbacks.
3. Basis for Granting Approvals. In determining whether to grant approvals for such exceptions, the Development Review Board shall evaluate their impact, including blocking of sunlight, on adjoining properties and public roads and the visual impact that the building will have on the character of the neighborhood. The Board shall weigh any adverse impacts, against the particular needs of the applicant requesting the exception and potential benefits to the community.
4. Application Requirements for Bonuses. The applicant shall provide detailed drawings of the subject property and all adjoining properties (both sides of street) and shall indicate any shading that may occur because of building height or reduced setback.

607.F. Additional Dwelling Unit in Residential Structures.

Up to two residential units are permitted in residential structures that existed as of 4/1/87 and contain 2,000 or more square feet floor area of finished living space. The determination of the amount of space shall be based on tax assessment records. No variance for minimum lot size per family is required. All other requirements apply including setbacks and off-street parking requirements.

607.G. Height Regulations for Church Spires, Radio Towers, Etc.

1. Height of towers not intended to enclose space for human use may exceed those provided for in the district, providing such an increase will not be disruptive to its surroundings and providing it does not constitute a hazard. This determination is to be made by the Development Review Board.
2. The height of antenna structures, wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high, any of which are mounted on complying structures, shall not be regulated unless otherwise governed under design review per Section 305 or Section 725.

607.H. Table of Dimensional Requirements.

The minimum lot area, minimum lot area per family, minimum width of lot, maximum building and lot coverage and height, and minimum front, rear, and side yard setbacks are shown in the following Table 607:

Table 607. Dimensional Requirements for Lots, Yards & Buildings.

MINIMUM LOT AREA	LDR	MDR	HDR	CIV
Off-lot water and sewer	1 acre	10,000 ft ²	8,700 ft ²	8,700 ft ²
Off-lot water <u>or</u> sewer	1 acre	20,000 ft ²	NOT PERMITTED	NOT PERMITTED
On-lot water and sewer	2 acres	1 acre	NOT PERMITTED	NOT PERMITTED
MINIMUM AREA PER FAMILY	LDR	MDR	HDR	CIV
Off-lot water and sewer	1 acre	a) 10,000 ft ² b) 8,000 ft ²	1,500 ft ² (note 3)	NOT PERMITTED

		(note 4)		
Off-lot water <u>or</u> sewer	1 acre	20,000 ft ²	NOT PERMITTED	NOT PERMITTED
On-lot water and sewer	2 acres	1 acre	NOT PERMITTED	NOT PERMITTED
MINIMUM LOT FRONTAGE	LDR	MDR	HDR	CIV
Off-lot water and sewer	200 linear feet	75 linear feet	40 linear feet	75 linear feet
Off-lot water <u>or</u> sewer	200 linear feet	100 linear feet	NOT PERMITTED	NOT PERMITTED
On-lot water and sewer	250 linear feet	150 linear feet	NOT PERMITTED	NOT PERMITTED
SETBACKS (5)	LDR	MDR	HDR	CIV
Front yard	To match building line of older adjacent buildings and at least 20 ft (note 3)	To match building line of older adjacent buildings and at least 10 ft (note 3)	10 linear ft (notes 1 & 3)	20 linear ft (note 2)
Side yard	30 linear ft	10 linear ft	5 linear ft (note 3)	15 linear ft (except railroad)
Rear yard	75 linear ft	30 linear ft	30 linear ft (note 3)	20 linear ft (except railroad)
MAXIMUM BUILDING COVERAGE	10%	33%	50%	50%
MAXIMUM HEIGHT	3 Stories or 45 ft	3 Stories or 45 ft	3 Stories (note 2) or 45 ft	6 Stories or 60 ft

NOTES TO THE DIMENSIONAL REQUIREMENTS TABLE:

- (1) See additional setback requirements in §§ 607.C and 607.D
- (2) See setback and height bonuses in Section 607.E
- (3) See density and setback bonuses for Elderly Housing in Section 607.E
- (4) For structures existing as of April 1, 1987.
- (5) When a river or stream runs through or adjacent to a property, the setback will be measured to the top of the bank.
- (6)

Table 607. Dimensional Requirements for Lots, Yards & Buildings.

MINIMUM LOT AREA	CB-I	CB-II	OP	GB	IND	RIV
Off-lot water and sewer	a)5,000 ft ² or b)10,000 ft ² for residential uses	10,000 ft ²	10 acres (note 4)	a)15,000 ft ² or b)10,000 ft ² for residential uses	1 acre	5,000 ft ²
Off-lot water <u>or</u> sewer	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	20,000 ft ² , but NOT permitted for residential use	2 acres	NOT PERMITTED
On-lot water and sewer	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	1 acre, but NOT permitted for residential use	2 acres	NOT PERMITTED
MINIMUM AREA PER FAMILY	CB-I	CB-II	OP	GB	IND	RIV
Off-lot water and sewer	0	1,500 ft ² (note 3)	NOT PERMITTED	3,000 ft ² (note 3)	NOT PERMITTED	0
Off-lot water <u>or</u> sewer	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED
On-lot water and sewer	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED
MINIMUM LOT FRONTAGE	CB-I	CB-II	OP	GB	IND	RIV
Off-lot water and sewer	75 linear ft	75 linear ft	500 linear ft (note 4)	100 linear ft	200 linear ft	N/A
Off-lot water <u>or</u>	NOT	NOT	NOT	125 linear ft, but	NOT	N/A

MINIMUM LOT AREA	CB-I	CB-II	OP	GB	IND	RIV
sewer	PERMITTED	PERMITTED	PERMITTED	NOT permitted for residential use	PERMITTED	
On-lot water and sewer	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED	N/A
SETBACKS (5)	CB-I	CB-II	OP	GB	IND	RIV
Front yard	0	To match building line of older adjacent buildings and at least 10 ft (note 3)	See note 5	20 linear ft (notes 2 & 3)	50 linear ft (note 1)	5 ft from edge of pavement or curb
Side yard	0	10 linear ft (note 3)	See note 5	20 linear ft (notes 2 & 3)	20 linear ft (except railroad)	0; minimum of 20 ft between buildings
Rear yard	20 linear ft	20 linear ft (note 3)	See note 5	20 linear ft (notes 2 & 3)	20 linear ft (except railroad)	10 ft measured from top of bank (note 8 & 9)
MAXIMUM BUILDING COVERAGE	100%	50%	See note 4	33.33%	33.33%	60% (note 7)
MAXIMUM HEIGHT	6 stories (note 2)	3 stories or 45 ft	5 stories (note 6)	3 stories (note 2) or 45 ft	3 stories or 45 ft	Up to 45 ft from 100 year base flood elevation
MINIMUM HEIGHT	2 stories (note 10)					2 stories (note 10)

NOTES TO THE DIMENSIONAL REQUIREMENTS TABLE:

- (1) See additional setback requirements in §§ 607.C and 607.D
- (2) See setback and height bonuses in Section 607.E
- (3) See density and setback bonuses for Elderly Housing in Section 607.E
- (4) The dimensional requirements shown apply to the office park parcel as an entirety. Subdivision of park into individual development parcels of less than 10 acres may be possible. See Section 604.
- (5) The setbacks for individual development parcels within an office park will be determined by the planned unit development. See section 604.
- (6) The highest building element is not to exceed 710 ft above mean sea level. See Section 604.
- (7) Lease lines related to private development on State property shall be used in place of property lines.
- (8) Ground-level walkways, open-air seating, patios, decks, and balconies are allowed within the rear yard setback.
- (9) Excluding the two occupied parcels northwesterly of the Turntable with existing retaining walls as of September 13, 2000.
- (10) Up to 20 percent of the building footprint may be 1-story.
- (11) When a river or stream runs through or adjacent to a property the setback will be measured to the top of the bank.

608. LARGE INSTITUTIONAL PROPERTIES

608.A Definition of Large Institutional Properties.

1. The Table of Uses lists certain uses as conditional in residential districts for large institutional properties. Only properties meeting the following criteria may be considered large institutional properties for the purposes of such conditional uses:

- a. The property contains a minimum of 10 acres;
 - b. The property was in an institutional use on November 6, 1973, the date the Montpelier Zoning Ordinance of 1973 became effective; and
 - c. The property has not been used solely for a permitted residential use at any time since November 6, 1973.
2. In HDR, only properties meeting the following criteria may be considered large institutional properties for the purposes of such conditional uses:
- a. The property contains a minimum of three (3) acres; and
 - b. The property was in an institutional use on November 6, 1973, the date the Montpelier Zoning Ordinance became effective.

608.B List of Eligible Conditional Uses.

The uses listed in the Table of Uses as conditional in residential districts for large institutional properties are as follows:

- (1) Art Gallery/Museum,
- (1) Artisan Studio,
- (2) Catering Service,
- (3) Medical and Dental Lab,
- (4) Medical Clinic,
- (5) Office,
- (6) Research Facility

See Section 712.D

Article 7. GENERAL DEVELOPMENT STANDARDS.

701. PURPOSE AND APPLICABILITY.

The purpose of this article is to provide development standards related to specific land uses and/or development standards for any use permitted by any provision of these regulations. The standards established by this article supplement and do not supersede other requirements of these regulations.

The standards of this Article shall apply to site plans, subdivisions, planned developments and other applications for development approval as required by these regulations.

702. STREETS.

702.A Consistency with the Montpelier Municipal Plan.

The arrangement, character, extent, width, grade and location of all streets shall be consistent with the Montpelier Municipal Plan and shall be considered in their relation to other existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of land to be served and/or abutted by such streets.

702.B Planning Requirements for New Streets.

1. Streets. Access for more than three dwelling units, whether on the same or separate parcels, shall be reviewed as a public street, unless the Development Review Board determines the street is private as defined below. All standards of this section shall apply to proposed public streets.
 - a. Private Streets. The Development Review Board may approve streets as private only if it determines that a suitable homeowners' association or similar entity is established for future maintenance and repair of private streets. The Board, after considering input from the Public Works Director and Fire Department, may waive normal street standards for width or curbs. All other public street standards in this section shall apply to private streets.
 - b. Private Driveways. Access for three or fewer lots or dwellings may be provided by a private driveway. Applications being reviewed by the Board may be subject to any of the street standards of this section to private driveways the Board determines that such standards are necessary to provide suitable access or to accommodate potential future development.
2. Street Arrangement. Where not shown in the Montpelier Municipal Plan, streets in a development shall:
 - a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - b. Conform to a plan for the neighborhood approved or adopted by the Board to meet a particular situation where topographic or other conditions make continuance of or conformance with existing streets impracticable.
3. Minor Street Layout. Minor streets shall be so laid out that their use by through traffic will be discouraged. However, connections to other minor streets within the development and in an adjacent development shall be encouraged.

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4. Jogs in Street Centerlines. New intersections shall, if possible, coincide with any existing intersections on the opposite side of an existing street. Where street jogs occur, centerline offsets of less than 125 feet shall be avoided.
 5. Minimum Curve Tangents. A tangent at least 100 feet long shall be introduced between reverse curves on a city street when roadway design speeds exceed 25 mph.
 6. Intersection Alignments. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 75 degrees. The Development Review Board may waive this requirement if adequate channelization, traffic signals or divisional islands are provided to insure traffic safety.
 7. Minimum Intersection Radii. Curb radii at intersections shall be not less than 30 feet except in locations with high pedestrian activity and low truck volumes.
 8. Minimum Right-of-Way Width. Right-of-way widths for proposed public streets shall not be less than 50 feet and shall be conveyed to the City by warranty deed.
 9. Street Grades. Street grades shall not exceed 10% except on steep terrain where 13% may be permitted by the Development Review Board for short, non-continuous road segments. In limited cases where steeper grades are necessary to minimize site disturbance, the Development Review Board may permit grades up to 15%. In order to facilitate drainage, no street grade shall be less than 1 percent.
 10. Dead End Streets. Dead-end streets that are designated to be so permanently shall be provided with a cul-de-sac having an outside roadway diameter of at least 100 feet, and a street right-of-way diameter of at least 120 feet. No dead-end street shall be more than 1,800 feet in length. Whenever interconnecting streets can reasonably be provided, dead-end streets shall be discouraged.
 11. Street Names. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Development Review Board.
 12. Street Orientation. The orientation of streets should; enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients.
 13. Street Trees. Street tree species shall be selected in accordance with the Montpelier Tree Ordinance.
 14. Pedestrian comfort and safety shall be a primary consideration of the streetscape network. Design conflicts, if any, between vehicular and pedestrian movement shall be decided in favor of the pedestrian.
 15. The Development Review Board may require specific traffic calming treatments.

The following only applies to minor and major development:

16. Access. For minor and major planned development, access roads, including the conversion of existing private logging roads to private residential roads or driveways, and utility corridors, shall:
 - a. Use or share existing accesses and rights-of-way where feasible;
 - b. Take into consideration existing contours and, to the extent practical, follow linear features (e.g., tree lines, stone walls);
 - c. Be located to minimize stream and wetland crossings;
 - d. Avoid to the extent practical, the fragmentation of wildlife corridors and habitat and other natural and scenic resources; and
 - e. Be of sufficient width and design to ensure adequate access and maneuverability for emergency response vehicles.

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17. Public Frontages on Roads and Streets. For major planned developments, the following shall apply:
- a. Residential roads are characterized by low to moderate vehicular speeds and capacity and low to moderate residential density. New or modified public frontages shall consist of the following:
 - (1) Open swales drained by culverts and percolation;
 - (2) A walking path or bicycle trail along one or both sides;
 - (3) Tree and shrub species planted in naturalistic clusters;
 - (4) Limited on-street parking.
 - b. Residential streets are characterized by low to moderate vehicular speeds and capacity and moderate to high residential density. New or modified public frontages shall consist of the following:
 - (1) Either raised curbs drained by inlets or open swales drained by culverts and percolation;
 - (2) Sidewalks or defined walking paths separated from the vehicular lanes by either the curb or drainage swale;
 - (3) Street trees planted at regular intervals either in a continuous planter of suitable width between the sidewalk and curb or walking path and swale, or in suitable space provided on the other side of the sidewalk or path;
 - (4) On-street parking on one or both sides;
 - (5) Space to accommodate utilities such as fire hydrants, street signage, lighting, transit stops, and benches where appropriate.
 - c. Commercial streets are characterized by moderate vehicular speeds and capacity and moderate to high density of commercial uses. New or modified public frontages shall consist of the following:
 - (1) Raised curbs drained by inlets;
 - (2) Sidewalks separated from the vehicular lanes by the curb;
 - (3) Street trees planted in regularly spaced intervals to the extent possible, either in a continuous planting area or in separate treewells with grates, but not so to obstruct entrances, obscure approved signs, or interfere with minimum sight distances;
 - (4) Space to accommodate utilities such as fire hydrants, street signage, lighting, transit stops, and benches where appropriate.

702.C. Suitability of Existing Streets.

1. The development shall not cause unreasonable congestion or unsafe conditions with respect to use of existing streets and intersections. The Development Review Board may require the applicant to submit a traffic impact study to evaluate existing conditions and future conditions resulting from additional development traffic. A typical traffic study shall address existing and proposed traffic volumes during a.m. and p.m. peak hours and during an average weekday, existing and projected levels of service during peak hours, and sight distance and safety issues. Locations to be studied shall be determined by the Board and shall include any existing streets and intersections having traffic concerns and any locations where the development will add significant traffic volumes. In its review of any traffic study, the Board may seek guidance from any relevant standards, studies, data, or reports provided by VTrans and/or other appropriate traffic engineering or safety resources. Review and comment by the Public Works Department is required.
2. The Development Review Board may require the applicant to provide improvements sufficient to meet the additional traffic demand. The extent of required improvements may vary based on the location of the development, the degree of unreasonable congestion or unsafe conditions that already exists, and the amount of traffic that will be added by the development. Required improvements may be on-site or off-

site and may include, but are not limited to, installation of traffic signals, construction of additional turning lanes at intersections, widening of existing access streets, provision of additional access streets, or change in location or number of access points. If adequate improvements cannot be provided, the Board may deny, condition, or otherwise adjust the scope of the project to limit the volume of traffic to be generated by the development.

3. The Development Review Board may consider the additional traffic associated with a major planned development or buildings of 10,000 square feet or more, which results in a reduction of more than one level of service (LOS), an adverse impact on the character of the neighborhood.
4. In the course of reviewing a major planned development or site plan review of a building 10,000 square feet or more, the Development Review Board shall deny an application if the level of service (LOS) on residential street types A, B, or C as described in Table 702.D. decreases by more than two levels, following mitigation, as a result of traffic associated with the development, unless the applicant can show a minimum impact on the character of the neighborhood.

702.D. Construction Standards.

1. Pavement Width. The standards for residential street and shoulder widths are presented in the following Table 702.D.

TABLE 702.D. –Pavement Widths

STREET TYPE	LEVEL OF DEVELOPMENT	AVERAGE DAILY TRAFFIC	PAVED WIDTH	GRADED SHOULDERS
A: cul-de sacs & minor residential streets	Up to 5 single family units or 7 multi-family units or any combination meeting the ADT standard	ADT of 0-50	16 feet	2 feet
B: cul-de sacs & minor residential streets	5 to 40 single family units or 7 to 60 multi-family units or any combination meeting the ADT standard	ADT of 50-400	18 feet	2 feet
C: minor residential & feeder streets	40 to 150 single family units or 60 to 210 multi-family units or any combination meeting the ADT standard	ADT of 400 – 1,500	20 feet	2 feet
D: streets with through traffic	more than 90 single family units or 140 multi-family units or any combination meeting the ADT standard	ADT of 1,500 – 2,000	22 feet	2 feet

ADT = Average Daily Traffic

Notes to Table:

1. If on-street parking, add 6 feet for each side for uncurbed streets and 8 feet for curbed streets
2. Widths shown do not include offset to curb.
3. Shared bike use: add 1 foot paved shoulder each side for ADT = 0 – 400 and uncurbed; add 2 feet each side for ADT = 400 – 1500 and/or curbed streets.
4. Minimum paved width for truck use (trucks = 2% or greater of traffic volume) is 22 feet.

2. Sub-base. Minimum of 12 inches of bank run gravel or crushed stone approved by Department of Public Works, compacted in place, with no particle exceeding 6 inches in diameter, VT AOT Spec. Item 301.35. Where unacceptable original ground material is encountered, additional sub-base and/or an approved filter fabric shall be included.
3. Base. Minimum 6 inches crusher run gravel or its equivalent compacted in place with no particle exceeding one half inch in diameter, or a plant-mixed base course at a minimum of 3 inches, VT AOT Spec. Item 303.25.
4. Surface. Roadway surfaces shall be constructed to meet one of the following two options:
 - a. **OPTION 1:** A minimum of 4 inches of bituminous concrete meeting VT AOT Spec. 406, and to be applied in two lifts: Two and one –fourth (2-1/4) inches of Type II (base course) and one and three-fourths (1 3/4) inches of Type III (wear course). The Director of Public Works will determine if both lifts will be applied within the same construction season.
 - b. **OPTION 2:** Eight inches of Portland Cement Concrete (PCC). If PCC is used, the base may be eliminated.
5. Curbing. When required by the Development Review Board, curbing shall be utilized in place of shoulders. Curbing shall be placed at least 2 feet from the edge of the travel lane pavement. Curbs may be constructed of granite or Portland Cement Concrete.

703. PEDESTRIAN ACCESS AND CIRCULATION.

703.A. Purpose.

1. Lot layouts, site design, and site elements shall provide for pedestrian circulation, such as through the provision of sidewalks, bicycle paths, easements, or some combination thereof. Such facilities should be located to provide circulation within a development between buildings and parking areas, to common areas within a development, to adjacent properties, and to schools, parks, shopping areas, transportation and other community facilities.
2. Pedestrian facilities shall be required whenever necessary to serve existing or projected pedestrian traffic, to provide safety along vehicular traffic locations, or to provide connections to existing pedestrian facilities.
3. “Pedestrian” facilities may include sidewalks, bicycle paths, or other facilities intended to serve any form of non-vehicular transportation including pedestrians, bicycles, roller blades, stroller, etc.

703.B. Sidewalks.

1. General Requirements. Sidewalks shall accompany streets and shall be provided to accomplish the purposes of Section 703, unless deemed unnecessary by the Development Review Board.
2. Sidewalk Construction Standards. The standards for sidewalk materials and location are presented in the following Table 703.B:

TABLE 703.B – Standards and Materials for Sidewalks.

ZONE	MATERIALS	WIDTH OF PLANTING STRIP OR DISTANCE BETWEEN SIDEWALK AND ROAD	NOTE
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CB-I, CB-II, GB, HDR	Concrete walk or specialty pavers with granite or concrete curbing	0 feet or match existing separation	Specialty pavers require approval of Development Review Board and Director of Public Works. Granite curbing is required within public rights-of-way.
MDR, LDR	Concrete or asphalt walk with granite or concrete curbing.	0 feet or minimum 6 feet	If green space or no sidewalk is provided, then curbing shall be as required by Director of Public Works.
LDR	Concrete, asphalt, or gravel walks with concrete or asphalt curbing for streets designated as minor collector or higher.	0 feet or minimum 6 feet	Concrete or asphalt curbing may be required for drainage control. If green space or no sidewalk is provided, then curbing shall be as required by Director of Public Works. Gravel walks require approval of Director of Public Works who will consider the appropriateness of gravel for the proposed location and any issue with the year-round maintenance of a gravel walk

3. Compliance with Americans with Disabilities Act (ADA): All sidewalks and paved paths shall comply with the access requirements of the Americans with Disabilities Act.

703.C. Paths and Easements.

1. The Development Review Board may require construction of bicycle paths and/or pedestrian walkways instead of or in addition to sidewalks along streets and at other locations to safely accommodate the purposes of Section 703.
2. The Development Review Board may require, and shall require for major planned developments, permanent pedestrian easements, generally between eight (8) and fifteen (15) feet in width, in the following locations. The Board also may require construction of sidewalks or paths in these locations:
 - a. Through blocks 600 feet or more in length.
 - b. As continuations of cul-de-sacs.
 - c. In conjunction with utility or other easements.
 - d. To facilitate pedestrian access between developments and to schools, parks, shopping areas, etc.
 - e. To connect with and/or otherwise advance paths or path systems identified in the Montpelier Municipal Plan.

704. VEHICULAR ACCESS AND CIRCULATION

704.A. Driveways

1. Private Driveways. Access roads serving three or fewer lots or dwellings may be approved as private driveways except as provided in Section 702.B. Private driveways shall be subject to the standards for vehicular access and circulation in Section 704.

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2. Location. Driveways are to be located at least 75 feet from a street line intersection for all uses except one and two-family residential uses.
 3. Driveways shall be located to maximize available sight distance and to avoid turning movement conflicts with other nearby driveways. The Development Review Board may require the applicant to relocate or consolidate existing driveways to meet these requirements. The board also may require a traffic study to determine if dedicated turn lanes on the adjacent street to serve the driveway are required, and may request information about turn lane length, frequency of driveway blockage (queue length), levels of service, and other information as deemed necessary to determine the level of congestion, safety, and design suitability of proposed new or altered driveways.
 4. Widths. Driveway widths generally shall conform with the Vermont Agency of Transportation's Standard B-71 for Residential and Commercial Drives, as may be amended. Curb radii shall be sufficient to accommodate the largest vehicles that regularly use the site. Where minimum truck traffic is anticipated, curb radii shall be reduced to facilitate pedestrian crossings.

704.B. Curb Cuts

Installation of any curb cut for access to City streets requires a permit from the Department of Public Works.

704.C. Access Management.

1. Proper access management techniques will be employed that generally follow the Vermont Agency of Transportation publication entitled "Access Management Program Guidelines", as may be amended. Basic principals of access management include:
 - a. Limiting the number of conflict points,
 - b. Separating conflict points,
 - c. Separating turning volumes from through movements,
 - d. Locating traffic signals to facilitate traffic movement,
 - e. Maintaining a functional hierarchy of roadways, and
 - f. Limiting direct access on higher-speed roads.
2. Parking spaces shall be separated from access lanes sufficiently to prevent conflicts with entering/departing vehicles.
3. On adjoining properties, parking lots shall be interconnected and common entrances and exits shall be used wherever practical.

704.D. On-Site Vehicular Circulation.

1. Congestion at access points: On-site circulation shall be planned to avoid congestion at access points onto public streets.
2. Separation of movements: On-site circulation shall be planned to minimize conflicts between trucks, automobiles and pedestrians.
3. Drive-up Facilities: Sufficient stacking distances shall be provided at any drive-up facilities to prevent back up onto public streets or onto on-site circulation aisles. Dedicated drive-through aisles may be required when shared uses present conflicts with circulation aisles.

4. Access to parking spaces. Parking spaces may not be blocked by circulation or drive-through aisles more than 50% of the time during peak periods.
5. Access for fire and emergency vehicles: Provisions shall be made for adequate access by fire and emergency vehicles to all structures. Designated access routes shall have turning radii sufficient to accommodate fire trucks. The Development Review Board may require fire lanes adjacent to structures.

705. PARKING.

705.A. Required Parking.

1. Whenever a new use is established or an existing use is expanded, off-street parking spaces designed for all weather conditions must be provided to satisfy an increase in the parking demand beyond what is required for the current uses at the site. The Development Review Board, at its discretion, may approve one or more of the following means to satisfy this requirement:
 - a. Provision of parking spaces on the same site as the use or on another suitably located private site, as provided in 705.F;
 - b. Use of public parking spaces in specified districts;
 - c. Payment of a parking replacement fee to the City, as provided in 705.G;
 - d. Waived in the CB-1 and Riverfront Districts, as provided in 705.H; and
 - e. Shared parking, as provided in 705.I.
2. Existing Use Exemptions. Parking space requirements for those uses in place prior to the date of the adoption of this ordinance shall be exempt from any waiver required under this section and only parking spaces in excess of the number previously required for all existing uses within the property shall be subject to any replacement parking fee.

705.B. Number of Required Parking Spaces.

Parking requirements by land use are listed in Tables 705.B.1 and 705.B.2 standards reflect normal parking needs for the listed uses. The Development Review Board may increase or decrease these standards if deemed appropriate to accommodate the parking needs of an individual applicant. In making any adjustments, the Board may consider availability of shared parking by multiple uses, access to the site by pedestrians and buses, and elements that may cause higher than average use. In general, the Board shall seek to require sufficient parking spaces to meet anticipated demand but also to avoid provision of excess parking areas.

TABLE 705.B.1 OFF-STREET PARKING REQUIREMENTS BY LAND USE

<u>USE</u>	<u>STD</u>	<u>USE</u>	<u>STD</u>
<u>RESIDENTIAL</u>		<u>INSTITUTIONAL</u>	
Dwelling, Single-Family	P-1	Child Care – Home and Facility	P-4
Dwelling, Two-Family	P-1	Church, Synagogue, Place of Worship	P-16
Dwelling, Multi-Family	P-2	Club	P-9
Accessory Apartment	P-2	Community Care Home	P-6
Housing for the Elderly	P-3	Hospital	P-5
Family Care – Home	P-4	Nursing Home	P-5
Child Care – Home	P-4	Public Assembly Hall or Area	P-16
Dormitory	P-6	Grade School	P-20

<u>USE</u>	<u>STD</u>	<u>USE</u>	<u>STD</u>
Boarding/Rooming House	P-7	High School	P-21
Other Residential uses	P-1	Academic Institution	P-22
		Other Institutional Uses	P-17
<u>LODGING</u>		<u>TRANSPORTATION/UTILITIES</u>	
Bed and Breakfast	P-7	All Transportation/Utility Uses	P-15
Hotel, Motel,	P-7		
Inn, Tourist Home	P-7		
<u>COMMERCIAL USES</u>		<u>INDUSTRIAL USES</u>	
Business Services in CB-I	P-11	All Industrial Uses	P-15
Business Services outside CB-I	P-12		
Doctor's Office	P-18	<u>RECREATION USES</u>	
Eating and Drinking Establishment	P-13	Theater	P-9
Funeral Home	P-14	All other Recreational Uses	P-8
Medical Clinic in CB-I	P-18	<u>OTHER</u>	
Medical Clinic outside CB-I	P-19	Agricultural Use	P-15
Office in CB-I	P-11	Agricultural Sales	P-11
Office outside CB-I	P-12	Animal Care/Veterinarian	P-11
Personal Services in CB-I	P-11	Animal Exhibit	P-17
Personal Services outside CB-I	P-12	Animal Rehabilitation Center	P-11
Retail Sales in CB-I	P-11	Quarry	P-15
Retail Sales outside CB-I	P-12	Stable, Public	P-8
Retail Furniture/Carpet	P-23	Storage of Mine, Quarry, Sand or	
Theatre	P-9	Gravel Pit Products	P-15
Warehouse	P-15	Any use not otherwise named in this Table	P-17
Other Commercial Use	P-17		

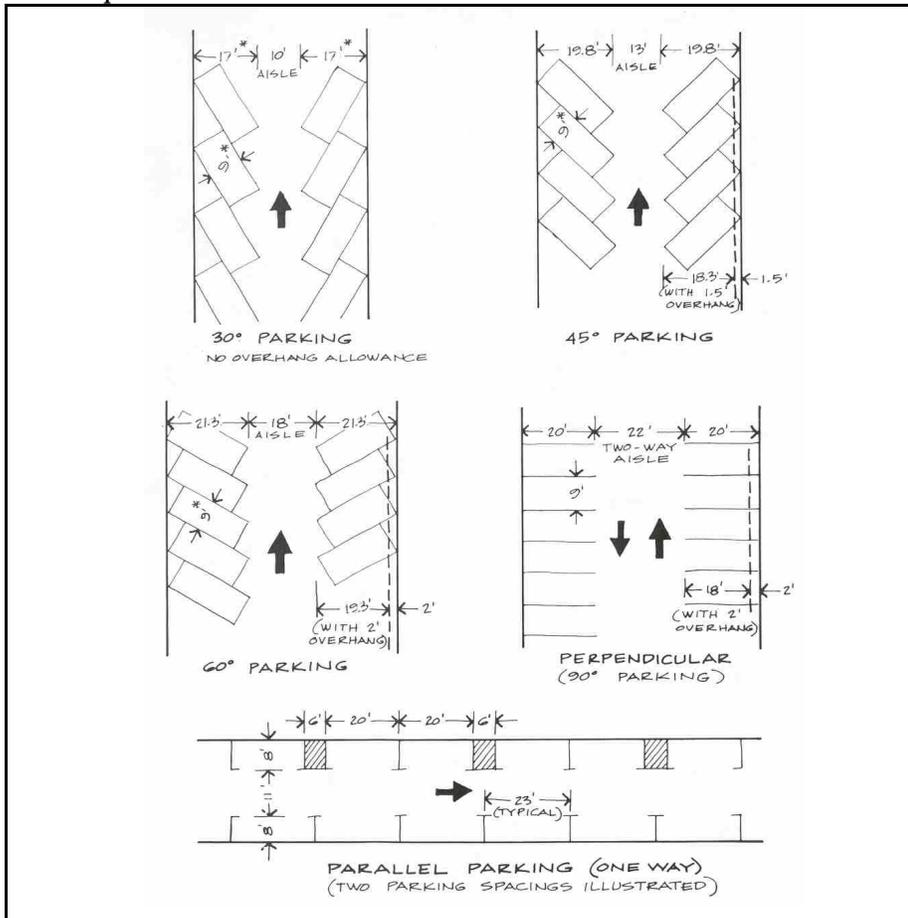
TABLE 705.B.2 Off-Street Parking Standards

STD.	NUMBER OF PARKING SPACES REQUIRED	STD.	NUMBER OF PARKING SPACES REQUIRED
P-1	1.5 per dwelling unit	P-11	1 per each 400 sq. ft. of net floor area (figure 6-4)
P-2	(a) 1 per dwelling unit for spaces with unobstructed access (b) 2 per dwelling unit for spaces with obstructed access (note 2)	P-12	1 per each 250 sq. ft. of net floor area
		P-13	1 per every 3 seats (including bar stools)
		P-14	1 per each 75 sq. ft. of floor area open to the public in the conduct of business
P-3	1 per each 3 dwelling units	P-15	1 per each 1.2 employees (note 3)
P-4	1 per 8 children at peak hours plus 1 per employee (note 3)	P-16	1 per 3 persons at maximum occupancy capacity of principle assembly room
P-5	1 per every 2 non-resident employees	P-17	1 per 250 sq. ft. net floor area plus 2
P-6	1 per 3 beds <u>and</u> 1 per employee (note 3)	P-18	4 per practitioner at peak hour
P-7	1 per lodging unit or hotel/motel room	P-19	5 per practitioner at peak hour
P-8	1 per 8 persons (note 4)	P-20	1.5 per staff at peak hour
P-9	1 per 4 seats	P-21	1 per 4 students at max. capacity
P-10	1 per each 250 sq. ft. of net floor area	P-22	1 per 2.5 students at max. capacity
		P-23	3 per 1,000 sq. ft. plus 2
NOTES TO TABLE 705.B.2.			
1.	Calculations will be rounded up to the next whole number		
2.	The first space of each unit has unobstructed access and the second for each unit is accessed through the first space for that unit.		
3.	The number of employees is based on the highest average employee occupancy.		
4.	The number of persons is based on maximum capacity.		

705.C. Dimensions of Parking Spaces and Aisles (see Figure 7-1).

1. A parking space for either 90 degree parking or parallel parking shall be 8-1/2 feet by 19 feet or 9 feet by 18 feet and have unobstructed access, except as approved by the Development Review Board for residential uses in Table 705.B.2.
2. Parking aisles service 90 degree parking spaces shall be 22 feet in width.
3. Angle parking and one-way parking aisles may be provided in accordance with the Institute of Transportation Engineers (ITE) Guidelines.

Figure 7-1. Parking Area Guidelines for Standard-Sized Vehicles
 *9' is required for commercial use



705.D. Year Round Use.

Parking spaces shall be designed and located for year round use. Provisions for snow storage must be made. If any part of the parking area is used for snow storage, the Development Review Board may require periodic snow removal and disposal to ensure required parking is available.

705.E. Compliance with American Disabilities Act Parking Requirements.

Parking that is compliant with American Disabilities Act (ADA) shall be provided and shall adhere to the ADA requirements for number, location and design. Accessible routes from parking to buildings shall be provided. Payment of parking replacement fee does not apply to ADA spaces.

705.F. Private Off-Site Parking.

Parking spaces may be provided on property other than that where the use requiring such parking is situated provided that the distance is no more than 1,000 feet from the off-site parking space to the building entrance in which the use is located. The distance shall be measured as the distance traveled by a pedestrian walking along a route easily traveled and intended for pedestrian use. Off-site parking must be located within a zoning district in which the use requiring parking is permitted or conditional.

705.G. Replacement Parking Fee.

1. Eligible Zoning Districts. In the Central Business District I, Riverfront District, and the Civic District there may be circumstances in which it is not desirable and/or feasible to provide the required number of off-street parking spaces.
2. Required Findings. If the Development Review Board finds that either of the following conditions exist, requirements for parking in the Central Business I District, Riverfront District, and Civic District may be waived in whole or part if a Replacement Parking Fee as described hereafter is paid to the City of Montpelier for every space so waived:
 - a. The required off-street parking cannot be reasonably accommodated due to physical constraints of the property; or
 - b. Such parking would create adverse conditions with respect to landscaping, or the design characteristics of the property or adjacent properties, or the purposes of the Design Control District.
3. Purpose of the Fee. For every parking space waived under this section, the property owner must pay a replacement parking fee as set by the Montpelier City Council from time to time. Said fee shall not exceed the estimated cost per space of constructing public parking lots and facilities. Any and all replacement parking fees received by the City may only be used by the City for the construction, expansion, leasing or capital improvement of public parking lots and facilities within or close to the Central Business I, Riverfront District, or Civic Districts. These fees shall not be used for routine operating or maintenance expenses. This section shall not prohibit the City from charging fees or rent to any or all users of any or all public parking facilities.
4. Payment of the Fee. The Development Review Board shall be responsible for determining the precise number of spaces waived and shall notify the City Treasurer in writing so that a bill may be prepared. Any replacement parking fee shall be paid in full prior to the issuance of a building permit.

705.H. Waiver of Parking Requirements in CB-I and Riverfront Districts.

Changes of use involving any amount of existing floor space in the CB-1 or Riverfront District shall not be subject to the off-street parking requirements of this section. In the event that an existing structure is expanded, including an increase in floor area through construction of a new interior or mezzanine floor, only the expansion area shall be included in the calculation of any off-street parking requirements.

705.I. Shared Use Parking

In calculating the number of parking spaces needed to satisfy the parking requirements where multiple separate uses occupy one property, spaces may be counted toward satisfying the parking requirement for more than one use if approved by the Development Review Board after a showing by the applicant that the spaces will be used by the different uses at different times and that the proposed number of spaces will meet the expected peak parking demand for the project.

705.J. Trucks, Unlicensed Vehicles and Storage in Residential Districts.

Vans, trucks, trailers or other large commercial vehicles of over one ton carrying capacity shall not be parked or garaged for more than 15 days on any property in the MDR, HDR, CB-I, CB-II or Riverfront Districts except for the purpose of making deliveries.

Unlicensed vehicles or building materials may not be stored out of doors more than 60 days in those districts.

Large construction equipment may be parked, garaged or stored in MDR or HDR districts only if the equipment is primarily for use on site by the resident of the property.

706. LOADING REQUIREMENTS.

706.A. Required Spaces.

For every building hereafter erected, altered, extended, or changed in use for the purpose of business, trade or industry, sufficient space for loading and unloading of vehicles must be available to meet the needs of the use. The following standards reflect typical loading requirements for the proposed uses. The Development Review Board may increase or decrease these standards if deemed appropriate to accommodate the loading requirements of an individual applicant.

1. For buildings containing hotels, motels, hospitals, commercial, business service, or industrial establishments as a primary use: One off-street loading space for every 10,000 square feet of gross floor area.
2. For buildings containing wholesale, warehouse, freight trucking as a primary use: One off-street loading space for every 7,500 square feet of gross floor area.

706.B. Waivers.

In the Design Control District, the Development Review Board may waive any or all loading requirements if it finds that such a waiver will advance the purpose of the Design Control District. In the General Business, Central Business I and Central Business II Zones, the Board may waive any or all off-street loading requirements.

707. SITING OF PARKING AND LOADING SPACES.

707.A. General Standards.

Parking and loading spaces are intended to be accessory uses to the primary use of a lot. As such, they should not be allowed to visually dominate the appearance of a lot. Location of parking and loading areas behind buildings and away from public streets, avoidance of parking in front yards, and appropriate landscaping and screening can help to accomplish this purpose.

707.B. Front Yard Parking and Loading Restrictions.

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1. In all Districts: Wherever possible, the Development Review Board shall encourage location of parking and loading areas in side and rear yards.
 2. In the CB-II District: No part of the front yard setback and no area between the street and the front building line of the nearest structure shall be used for parking or loading space.
 3. In Residential Districts: Turnaround areas and required parking spaces may not be developed within the front yard setback. Supplemental parking is allowed in driveways.
 4. Parking in Non-Conforming Side Yards: Where pre-existing buildings do not conform to the front yard setback requirement, the Development Review Board may approve parking in the side yard but not between the front building line and the front property line.

707.C. Residential Parking Buffers.

Where any non-residential district abuts a residential district, the parking and/or loading spaces shall be no closer than 15 feet to the property line abutting the residential district, and the spaces shall be screened and landscaped.

708. LANDSCAPING AND SCREENING.

708.A. Street Trees.

Suitable hardwood shade trees shall be planted at intervals no less than 60 feet, on the average, along both sides of new streets where there are or otherwise would be no trees. At least one street tree shall be planted along the frontage of each lot. All trees shall measure at least 2-1/2 inches in diameter measured at a point one foot above ground line.

708.B. Plantings.

The Development Review Board may require expenditures for on-site planting in an amount up to 3% of the total development costs. In determining the appropriateness of the landscaping plan, the Board may seek input from the Tree Board and shall consider the following elements:

1. Mature Size: Plantings shall be appropriate to function and shall have available space above and below ground.
2. Function: Plantings shall be suited to the aesthetic and functional needs of the site and shall not be put in unsafe locations.
3. Soils: Soil conditions shall be suitable for the proposed plantings.
4. Disease Resistance: Insect and disease resistant varieties shall be used whenever possible.
5. Tolerance for Site Conditions: Plantings shall be tolerant for salt, exhaust fumes, drought, wetness, wind, and any other adverse site conditions.

The applicant shall submit specifications regarding the installation of all plantings. Specifications shall include provision for soil enhancement, root space, transplanting procedures, protection from injury and pruning.

708.C. Planting Maintenance.

1. The applicant shall provide a suitable performance bond or other security to guarantee the installation of plant materials and their maintenance for a period of one year after installation.

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2. After completion of the guarantee period, the property owner shall be responsible for following a maintenance program and for replacing all dead or dying plant materials associated with the approved project. Landscaping shall be maintained at a level consistent with approved plans.

708.D. Parking Lot Landscaping.

Parking lots containing ten or more spaces shall be planted with a least one tree per eight spaces, no smaller than two inches caliper, planted in a bed of no less than 40 square feet. The Development Review Board may require fewer trees if the required landscaping results in undue loss of parking.

708.E. Screening.

1. Ground-level screening. The Development Review Board may require parking areas, loading docks, service entrances, dumpsters, propane tanks, open storage areas, exposed machinery, and waste disposal areas to be screened from public streets and adjacent land uses. The screening may consist of densely planted landscaping, fencing, land forms, or a combination thereof. The screening area shall be five feet wide at a minimum. The location, design, and height of all elements of the screening must be reviewed and approved by the Board.
2. Rooftop screening. Rooftop mechanical equipment and appurtenances to be used in the operation or maintenance of a structure shall be arranged to minimize visibility from any point at or below the roof level of the structure. Such features, in excess of thirty inches in height, shall be enclosed by outer building walls or parapets, grouped and screened in a suitable manner, or designed in themselves so that they are balanced and integrated with respect to the design and materials of the building.

708.F. Buffers.

1. Locations. Where non-residential structures, parking areas, or access roads are adjacent to residential properties, the Development Review Board may require a buffer area within the setback to minimize the impact of the institutional use on a less intense residential land use. Buffers should be designed to have a year-round effect.
2. Design. Buffers shall consist of an area densely planted with a mixture of evergreen and deciduous trees and shrubs. Buffers may include land forms and fences. The minimum width of the buffer area shall be 10 feet. The elements of the buffer shall have a minimum height of five feet.
3. Maintenance. The owner of the land use for which the buffer is required is responsible for maintaining and replacing, when necessary, the landscaping, fences, or land forms.

708.G. Site Amenities.

In areas where a high level of pedestrian or bicycle use is anticipated, the Development Review Board may require provision of bike racks, benches and/or trash receptacles.

709. FENCES AND WALLS.

Fences and walls are not subject to setbacks or other dimensional requirements and shall not be located within a public right-of-way unless specifically authorized by the Department of Public Works. Fences and walls in the Design Control District shall be subject to the review processes and permits required for structures in the Design Control District according to Section 305.C.

710. LIGHTING.

710.A. General Requirements.

To ensure appropriate lighting and energy efficiency while minimizing undesirable effects, and to maintain a dark night sky, the following general standards apply to outdoor sources of illumination, unless otherwise provided in these regulations or approved by the Development Review Board:

1. Exterior lighting proposed with a development other than a single family dwelling or duplex shall comply with these requirements, unless otherwise approved by the Board. Exceptions include lighting necessary for emergency equipment or work conducted in the interests of law enforcement or for the safety, health, and welfare of the community.
2. Site lighting shall minimize trespass onto adjacent properties, minimize spill into the night sky, and be designed to avoid harsh contrasts in lighting levels.
3. Where practical, site lighting shall include timers, dimmers, sensors, or photocell controllers that turn lights off during daylight hours or when lighting is not needed.
4. Lighting fixtures shall be aimed and shielded in a manner that does not direct illumination on adjacent residential properties and shall be of a type or adequately shielded to prevent glare from normal viewing angles.
5. Any site plan which includes the installation of new or changed outdoor lighting shall include information regarding all proposed lighting fixtures, including fixture type, mounting location and height, illumination levels, and distribution.
6. Outdoor lighting fixtures shall be limited to recessed, shielded, or fully cut-off fixtures so that the distribution of the light meets the illuminating Engineering Society of North America (IESNA) standards for cut-off fixtures. Lighting shall not result in excessive shadows and a high contrast between illuminated areas and dark areas.
7. Outdoor lighting fixtures shall be energy-efficient, using pulse-start metal-halide, high-pressure sodium, fluorescent, or an equally efficient technology. Incandescent lighting is prohibited unless controlled by a motion sensor.
8. Outdoor fixtures shall only be illuminated during the hours of operation unless it is demonstrated to the satisfaction of the Board that such illumination is necessary for safety and security reasons.

710.B. Illumination Levels and Color.

The light level measured at ground level at the property line shall not exceed two-tenths (.2) foot candles in LDR areas and four-tenths (.4) foot candles in MDR and HDR areas. Luminaries should emit white color-balanced light.

710.C. Luminaries' Heights.

The maximum height for luminaries with a 90 degree cutoff angle is 15 feet. The maximum height for a luminary with a cut-off angle less than 90 degrees is 20 feet.

710.D. Street Lights.

Street lighting shall be installed to meet minimum Illuminating Engineering Society of North America (IESNA) standards. Lighting shall have underground electrical service, color balanced lamp sources, and cut-off fixture photometrics.

710.E. Canopy and Service Station Lighting (See Figure 7-2).

1. Except as provided under Section 504. Sign Standards, lighting shall not be used to attract attention to the business.
2. Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy or shielded by the fixture or the edge of the canopy so that light is restrained to 85 degrees or less from vertical.
3. Lights shall not be mounted on the top or sides (fascias) of the canopy. The sides (fascias) of the canopy shall not be internally illuminated.
4. Areas around the service station pump islands shall be illuminated so that the minimum horizontal luminance at grade level is at least 1.0 footcandle and not more than 5.0 footcandles. The uniformity ratio (average illumination to minimum illumination) shall be no greater than 4:1.

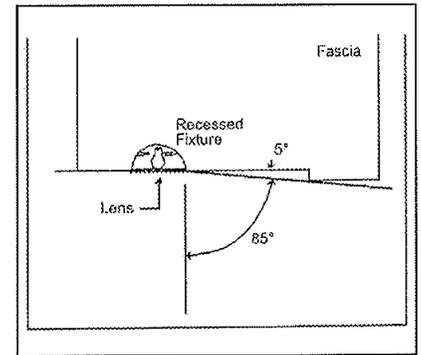


Figure 7-2. Example of recessed light fixture.

710.F. Security Lighting.

1. Security lighting is defined as lighting designed and used to discourage crime and undesirable activity.
2. Security lighting should use the lowest possible illumination to effectively allow surveillance.
3. In order to direct light downward and minimize the amount of spill into the dark night sky, all security lighting fixtures shall be full cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA) and shall be shielded and aimed so that illumination is directed to the designated areas.
4. Where security lighting is proposed, the table below shall govern the range of permissible light levels for the listed applications. Where a proposed application is not identified in the table, the table should be used as a guide for establishing the range of permissible light levels.

SECURITY LIGHTING APPLICATION	AVERAGE HORIZONTAL ILLUMINATION LEVEL ON THE GROUND
Large open areas	0.5 – 2.0 fc (1)
Buildings	0.5 – 2.0 fc (1)
Perimeter Fence	0.5 fc (2)
Entrances	10.0 fc (3)
Pedestrian pathways and access routes	4.0 – 6.0 fc

Notes

fc = footcandle

- (1) The greater the brightness of the surrounding area, the higher the luminance required to balance the brightness.
- (2) Luminance on the ground.
- (3) Luminance on the ground in the inspection area.

710.G. Lighting for Outdoor Performance, Sport, and Recreation Facilities.

1. Lighting levels for outdoor performance areas, sport and recreation facilities, and playfields shall not exceed by more than five percent the Illuminating Engineering Society of North America (IESNA)

published standards for the proposed activity or levels set by the applicable building code or life safety code.

2. Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be mounted, aimed, and shielded so that their beams fall with the primary playing area and immediate surroundings and so that illumination directed off the site is minimized.
3. The main lighting shall be turned off as soon as possible but remain on no longer than 30 minutes following the end of the event. Where feasible, a low level lighting system shall be used to facilitate patrons leaving the facility, cleanup, nighttime maintenance, and other closing activities. The low level lighting system shall provide an average horizontal illumination level at grade of not more than 3.0 footcandles, with a uniformity ratio not exceeding 4:1.

710.H. Architectural Accent Lighting.

1. Fixtures used to accent architectural features, materials, colors, style of buildings, art, or other features shall be located, aimed, and shielded so that the light is directed only on those features and to minimize light spill into the dark night sky and shall not generate excessive light levels, cause glare, or direct light beyond the façade or feature, onto neighboring property, streets, or the night sky.
2. The maximum illumination of any vertical surface or angular roof surface in light surroundings shall not exceed five footcandles and three footcandles in dark surroundings.
3. Flags of the United States or Vermont may be illuminated from below provided such lighting is focused primarily on the individual flag so to limit light trespass and spill into the dark night sky.
4. Illumination of landscaping shall use diffused or muted lighting, avoid glare, and minimize light trespass beyond the landscaping onto neighboring property, streets, or the night sky.

711. SIGNS

See Section 504.

712. CONDITIONAL USES – SPECIFIC STANDARDS.

712.A. Convenience Commercial Uses.

To approve a convenience commercial conditional use, the Development Review Board must determine that such use:

1. Does not exceed 3,500 square feet net floor area;
2. Is either a retail store or personal service establishment;
3. Complies with the conditional use and general standards listed above; and
4. Promotes the residential character of the neighborhood by serving the convenience of neighborhood residents without adversely affecting that residential character.

712.B. Accessory Apartments.

See Section 605.D.4

712.C. Large Institutional Properties.

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1. Eligibility Criteria: To establish or alter a conditional use that is limited in residential zones to large institutional properties according to the provisions of Section 606 and this Section, the Development Review Board must first determine that the property meets the criteria defining eligible large institutional properties.

For LDR and MDR those criteria are as follows:

- a. The property contains a minimum of 10 acres;
- b. The property was in an institutional use on November 6, 1973, the date the Montpelier Zoning Ordinance of 1973 became effective; and
- c. The property has not been used solely for a permitted residential use at any time since November 6, 1973.

For HDR those criteria are as follows:

- a. The property contains a minimum of three (3) acres; and
- b. The property was in an institutional use on November 6, 1973; the date the Montpelier Zoning Ordinance became effective.

2. Conditional Use Standards. The Development Review Board must then determine that the proposed use complies with the following standards for such use:

- a. The use complies with the conditional use and general standards listed above and in Section 304.D.
- b. The use occupies only structures existing on the property as of November 6, 1973, the effective date of the Montpelier Zoning Ordinance of 1973.
- c. Each structure on the property may be expanded by no more than 10% or 2,500 square feet, whichever is less if the expansion is to be used as part of a conditional use allowed under the provisions for large institutional properties. This limitation shall not apply to expansions for permitted uses or other conditional uses.
- d. The use does not exceed the “exempt small generator” classification for hazardous wastes according to the Vermont Hazardous Waste Management Program, and the use will comply with all provisions of the State program and any subsequent amendments to that program. If the State classification scheme changes, the use shall not exceed the requirements for the classification most closely corresponding to the current exempt small generator group.
- e. Any changes to the exterior of the structure and site have received design review approval from the Development Review Board.

713. PLANNED DEVELOPMENTS.

713.A. General Standards.

The following general standards shall be met in order for the Development Review Board to approve the application:

1. **CONSISTENCY WITH THE MONTPELIER MUNICIPAL PLAN:** The Development Review Board shall make a finding that the planned development is consistent with the relevant policies, purposes, and recommendations of the Montpelier Municipal Plan, which shall be demonstrated by the applicant in the application.

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2. **DENSITY:** Density for a planned development shall be determined as follows:
 - a. The overall number of residential units or land area covered by residential, commercial, or industrial improvements shall be equal to or less than the number of units or land area coverage which would be permitted, in the Development Review Board's judgment, if the land were subdivided into lots in accordance with district regulations. The areas of existing and proposed road right-of-way shall not be included in the calculation of density.
 - b. If a planned development crosses zoning district lines, the number of units allowed shall not exceed the total number that would be allowed if the minimum area per family requirements in Table 607 were applied to the land in each district.
 - c. Notwithstanding the provisions of subsections (a) and (b), the Development Review Board may grant density bonuses not to exceed a total of twenty-five percent (25%) of the density normally allowed in the district based on the following considerations:
 - (1) Cluster development per Section 713.E; and/or
 - (2) Affordable housing: In granting a density increase, the Board shall consider the capacities of community facilities and services, the character of the area affected, and the number of units to be designated as affordable housing. As a condition of approval, the Board shall require the applicant to file an affidavit indicating which of the proposed dwelling units are to be perpetually affordable and stating the legal mechanism to be used to assure affordability in perpetuity. The affidavit shall be submitted, reviewed, and accepted by the Department of Planning and Community Development prior to the issuance of a zoning permit for construction and compliance with the terms of the affidavit shall be a condition of approval.
 - d. Density for all uses shall be calculated in terms of housing units. One housing unit shall be allocated for each single family house, each dwelling unit within a duplex, each dwelling unit within an apartment building or apartment house, each accessory apartment, every two lodging units, and each 1,000 square feet of retail and office (other than home office) space.
 3. **SITE PLAN/ENVIRONMENTAL ISSUES:** The planned development shall be an effective unified treatment of the development possibilities on the project site, and the development plan shall make appropriate provisions for site protection and design per Section 715.
 4. **SITE PLAN/SITE DESIGN ISSUES:** Mixed uses are arranged so as to be compatible while ensuring both visual and privacy and buffering from noise for the residents of the project and the area surrounding the project.
 5. **NEIGHBORHOOD COMPATIBILITY:** The planned development shall be designed in harmony with the surrounding area, being compatible in function, building location, height, bulk, design, building materials, landscaping and if relevant, historic character. The Development Review Board may find that an element of the planned development may be made compatible if it is effectively buffered from the surrounding area and offers adequate screening.
 6. **LOT AND YARD REQUIREMENTS:** Minimum area per family or other uses for the entire planned development shall conform to the Zoning Regulations, but lot area, frontage and yard requirements may be varied.
 - a. The Board may require that building envelopes be designated on each lot within which the principal and accessory structure or structures shall be located.
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- b. The Board may require that public and private frontages be coordinated with the public streetscape as a single, coherent, landscape and paving design.
 - c. The Board may require that cross-block passages be reserved between buildings to provide a minimum 8 foot wide pedestrian access.
- 7. UTILITIES: Adequate water supply and sewage disposal facilities shall be provided and constructed to City standards, unless the Development Review Board finds otherwise. Where private community water supply and sewage and stormwater collection and disposal systems are provided, assurances must be given to the satisfactory continued operation of these facilities.
 - 8. STREETS: Streets shall be constructed to City standards unless the Development Review Board permits otherwise.
 - 9. INFRASTRUCTURE: Streets and other public utilities shall be installed, maintained and operated by the developer or his assignee unless otherwise agreed to by the City.

713.B. Requirements for Open Space and Common Land.

The Development Review Board may require that certain land areas be designated as open space and held privately or in common, except in AI-PUDs.

- 1. No area may be accepted as common open space for a PUD unless it meets the following requirements:
 - a. The common open space shall be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved and lands designated for agriculture and forestry may be so utilized.
 - b. Land shown as common open space shall be conveyed under one of the following options:
 - (1) Conveyed to owners or tenants, who through an association of owners and tenants shall adopt and impose articles of incorporation and bylaws and adopt and impose a set of covenants and restrictions on the common open space that is acceptable to the Development Review Board. The covenants and restrictions on the common open space shall provide that the covenants and restrictions cannot be altered, amended, or eliminated without Board approval and are enforceable by the City;
 - (2) Conveyed to the City, if the Montpelier City Council accepts and agrees to maintain the common open spaces; or
 - (3) Conveyed to a land or conservation trust.
- 2. Designated open space may be owned and maintained privately subject to an Open Space Agreement and shall be indicated with appropriate notation on the final plat.

713.C. Specific Standards for AI-PUD.

In addition to the General Standards listed in Section 713.A, plans which are to be approved as part of an AI-PUD must meet the following standards:

- 1. USES: The uses permitted as part of an AI-PUD are those directly related to and part of the academic institution. Retail uses are permitted only if accessory and clearly intended, designed, and located to provide the retail uses primarily to the students, faculty, and employees of the academic institution or occasionally to the public.

2. **CONDITIONAL USES:** In reviewing conditional uses as part of an AI-PUD, the Development Review Board shall apply the criteria for conditional uses contained in Section 304.D in addition to the criteria for planned developments contained in Section 713.
3. **EXISTING CONDITIONS:** If an academic institution applies for an AI-PUD, all land owned or occupied by the academic institution shall be included in the AI-PUD. In approving an AI-PUD, the Development Review Board may require changes to existing structures and recreational facilities, only to the extent that the academic institution proposes, in the master plan it submits to the Board, to make significant changes to the design or use of such structures and recreational facilities.
4. **DESIGN REVIEW:** All land which is part of an AI-PUD shall be included in the Design Control District, and shall be reviewed in accordance with Section 305.F.
5. **LOT COVERAGE:** In an AI-PUD, lot coverage shall be defined as the area of a lot covered by buildings, structures, paved areas, and unpaved parking/loading areas. Coverage shall not exceed the percentages listed in Table 713.5.

Table 713.5 A1-PUD Lot Coverage

	LDR	MDR	HDR
Maximum Lot Coverage	20%	40%	50%

6. **BUILDING SETBACKS:** New non-residential buildings or structures which are adjacent to residential properties shall be set back from the property line according to the limits in Table 713.6:

Table 713.6 A1-PUD Building Setbacks

	LDR	MDR	HDR
Minimum Front Yard	40 ft.	30 ft.	10 ft.
Minimum Side and Rear Yard	100 ft.	60 ft.	60 ft.

If a lot has frontage along more than one public street, more than one frontage may be considered the front yard for setback purposes but only with Development Review Board approval.

7. **OTHER SETBACKS:** Parking lots, access drives, streets, and storage, and waste disposal locations may be within the side and rear yard setbacks but shall be set back according to whichever of the following two standards results in the greater distance from the nearest residential structure:
 - a. The setback for such improvement measured from any adjacent residential structures shall not exceed 50 ft. in LDR, 30 ft. in MDR or 30 ft. in HDR; or
 - b. The setback for such improvements shall be no closer than 15 feet from the property line of an adjacent residential property.
8. **BUFFERS:** Where non-residential structures, parking areas, or access roads are adjacent to residential properties, the Development Review Board may require a buffer area within the setback to minimize the impact of the institutional use on a less intense residential land use. Buffers should be designed to have a year-round effect.

Buffers shall consist of an area densely planted with a mixture of evergreen and deciduous trees and shrubs. Buffers may include land forms and fences. The minimum width of the buffer area shall be 10 feet. The elements of the buffer shall have a minimum height of 5 feet.

The owner of the land use for which the buffer is required is responsible for maintaining and replacing, when necessary, the landscaping, fences, or land forms.

9. **SCREENING:** The Development Review Board may require parking areas, open storage areas, exposed machinery, and waste disposal areas to be screened from public streets and adjacent land uses. The screening may consist of densely planted landscaping, fencing, land forms, or a combination thereof. The screening area shall be 5 feet wide at a minimum. The location, design and height of all elements of the screening must be reviewed and approved by the Board.

The owner of the land use for which the screening is required is responsible for maintaining and replacing, when necessary, any element of the screening.

10. **PARKING LOT LANDSCAPING:** Parking lots containing ten or more spaces shall be planted with at least one tree per eight spaces, no smaller than 2” caliper, planted in a bed of no less than 40 square feet. The Development Review Board may require fewer trees if the required landscaping results in undue loss of parking.

11. **LIGHTING:** Under no circumstances may the light level measured at ground level at the property line exceed .2 foot candles in LDR areas and .4 foot candles in MDR and HDR areas. Luminaires should be the cutoff type shielded to prevent light from shining onto adjacent properties.

The maximum height for luminaire with a 90 degree cut-off angle is 15 feet. The maximum height for a luminaire with a cut-off angle less than 90 degrees is 20 feet. Luminaires should emit white color-balanced light.

713.D. Specific Standards for Residential or Mixed-Use Planned Developments.

In addition to the General Standards listed in Section 713.A, the following standards shall apply to plans which are to be approved as part of a residential planned development:

1. **MIX of USES:** In order to achieve or maintain walkable residential neighborhoods and reduce reliance upon automobile use, a mix of residential, commercial, civic, and open space uses are encouraged.
- a. Within the MDR, HDR, CB-II, CB-I districts, residences should be within a quarter mile (1/4 mile) from existing or proposed commercial, and recreation, or open space uses. This mix may be satisfied by existing uses adjacent to or in the vicinity of the proposed development.
 - b. In addition to the uses listed in Table 606, the following non-residential uses may be allowed within a residential or mixed use planned development:
 - (1) Convenience commercial
 - (2) Personal service establishments
 - (3) Civic uses, such as places of worship, library, cemetery, elementary or middle school
 - (4) Child care
 - (5) Bakery
 - (6) Café’ or eat-in restaurant with fewer than 25 seats
 - (7) Artisan studio

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- (8) Office (limited to first floor only and based upon availability of required on-site parking)
 - (9) Home occupations
 - (10) Laundromats

2. GENERAL BUILDING PLAN STANDARDS

a. Requirements:

- (1) Developments with four or more buildings shall include variation in building size and form.
- (2) Garages or other accessory structures shall not be the dominant feature viewed from the street. Front-loading (entrance facing street) garages should be set back from the front building line to the extent possible and should not represent more than 40 percent of the front façade. Side-loading garages (entered from the side yard) visible from the street must have some architectural treatment facing the street, such as a window or door.
- (3) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings. New buildings, which exceed the scale and volume of existing buildings, shall demonstrate compatibility by articulating and modulating the building components to reduce the perceived scale and volume.

b. Recommendations:

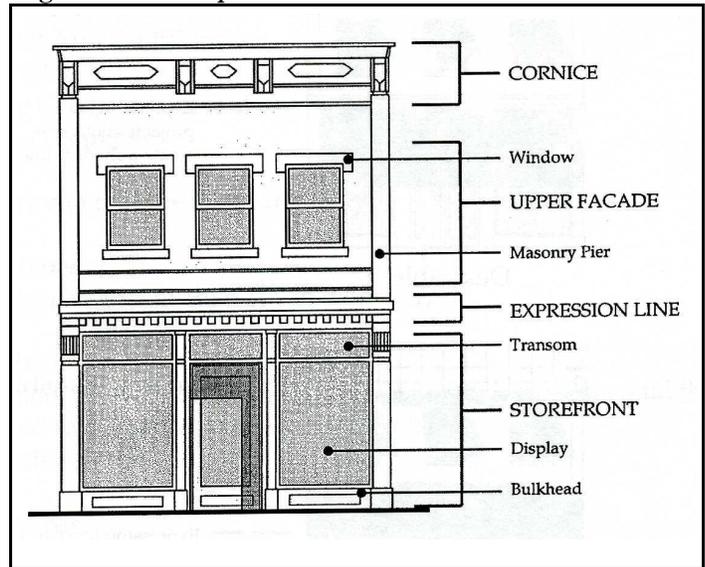
- (1) Residential buildings are encouraged to be designed to include a front porch, stoop, or other similar element. The Board may require that at least fifty percent (50%) of the principal residential buildings in a planned development be equipped with front porches. Such elements may encroach up to 50% of the depth of the required setback.
- (2) Residential and mixed-use buildings are encouraged to be designed to be accessible to persons of all abilities.
- (3) All buildings are expected to include elements, features, and treatments that create variety, texture, and visual interest in a manner that is compatible with similar buildings in the area. Buildings should be articulated (giving emphasis to architectural elements) to create a complimentary pattern of rhythm, which is particularly useful for dividing large buildings in smaller, identifiable parts. Examples include, but are not limited to the following:
 - (a) Porches;
 - (b) Varying roof shapes and heights among buildings;
 - (c) Visible trim and framing around windows;
 - (d) Dormers;
 - (e) Fascia boards, corner boards, cornices, roof brackets, and eaves;
 - (f) Windows appropriately grouped and sized;
 - (g) Bay windows;
 - (h) Detailed entryways, such as a well-detailed door, side lights, or roof extensions;
 - (i) Variation in building colors and materials, such as clapboard, brick, or other masonry; and/or
 - (j) Variation in housing types and sizes.

- (4) To achieve more efficient use of land and variation in building form, single-story buildings are discouraged.
- (5) Commercial, multi-family, or mixed-use buildings must be oriented toward the street and have a least one primary entrance facing the street. The primary entrance should be architecturally emphasized and visible from the street.

- (6) Commercial and mixed-use buildings designed to house most types of retail service, or office businesses should include typical storefront elements for any façade facing the streets, such as but not limited to the following:

- (a) Clearly delineated upper and lower facades;
- (b) Display windows on street-level façade, with smaller, regularly spaced windows in the upper story or stories;
- (c) Recessed entry or entries;
- (d) Sign band; and
- (e) Decorative trim and ornamental devices such as molding, entablature, and friezes.

Figure 7-4. Example of commercial facade articulation



3. VIEW PROTECTION GUIDELINES:

The development Review Board may require design changes to protect valued public views.

713.E. Density Bonuses for Cluster Development:

- 1. Purpose: Cluster development is intended to encourage flexibility in planned development design by permitting mixed housing types and uses which may be grouped on lots of reduced dimensions to allow for a more economic provision of street and utility network, to protect environmentally sensitive areas, and to encourage the preservation and recreational use of open space.
- 2. Review Criteria: In approving a plan for Cluster Development, the Development Review Board shall make the following findings:
 - a. The proposed Cluster Development would result in a more desirable environment than would be possible through a conventional subdivision, which strictly conforms to the requirements of the underlying zone.
 - b. The location, size, nature and topography of the open areas make them suitable for use as common areas for park, recreational purposes, conservation purposes, buffer areas and/or agricultural purposes.
 - c. The proposed Cluster Development plan will develop the property in harmony with the natural environment by concentrating the development on those parts of the property which have the least natural limitation to accommodate development and by protecting those parts of the property which are environmentally sensitive such as, but not limited to, wetlands, floodplains, aquifer recharge areas,

wellheads, meadows, steep slopes, visual ridgelines, prominent hilltops, stream buffers, important panoramic viewpoints, winter deer yards, wildlife corridors, and threatened and endangered species habitat.

- d. The Cluster Development shall conform to the standards outlined above and the Montpelier Municipal Plan.
 - e. Open Space or Common Land: The land area not used for individual lots, construction of buildings and roads shall be permanently protected, using a conservation easement, Open Space Agreement, or other suitable legal instrument, as open space or common land for the purposes of recreation, conservation, park or public easement or forestry or agriculture. The open space or common land or any portion of it shall be held, managed and maintained by the applicant until it is protected in accordance with Section 713.B.
3. Density Bonus Amount: The Board may award an increase in the density above that normally allowed in the underlying district of up to twenty-five percent (25%) under one of the following two conditions:
- a. Up to fifteen percent (15%) if the Board deems that the open space conserved by the development will preserve or enhance connectivity for wildlife and enhance public access for recreation.
 - b. Up to twenty-five percent (25%) for land that falls within the Conservation Lands designation in the Montpelier Municipal Plan if the Board deems that the open space conserved by the development will preserve or enhance important natural and visual resources as well as connectivity for wildlife and public access for recreation.

714. PERFORMANCE STANDARDS.

714.A. General Performance Standards.

The following performance standards shall apply to all uses. The Administrative Officer shall determine whether proposed uses meet the following conditions. No use shall:

1. Emit noise at the property line in excess of the standards set in the Montpelier Code of Ordinances, Chapter 11, Article 10.
2. Emit odor, which is offensive at property line.
3. Emit dust or dirt at property line.
4. Emit smoke, in excess of Ringelmann Chart No. 2.
5. Emit noxious gases which endanger the health, comfort, safety or welfare of any person, or which have a tendency to cause injury or damage to property, business or vegetation.
6. Emit or reflect light which creates undue glare, which could impair the vision of the driver of any motor vehicle, interfere with the quiet enjoyment of property by the owner or occupant of a residential or commercial building, or that is otherwise offensive to or inconsistent with the character of the area affected.
7. Cause a fire, explosion or safety hazard or create electrical interference.

715. SITE PROTECTION AND DESIGN.

715.A. Existing Features.

The development plan shall make appropriate provision for protection of the following items:

1. Streams and stream banks;
2. Steep slopes;
3. Wetlands;
4. Soils unsuitable for development;
5. Agricultural lands and primary agricultural soils;
6. Unique natural and manmade features;
7. Significant historic and archaeological sites;
8. Wildlife habitat and sensitive environmental features as identified in the Montpelier Municipal Plan;
9. Aquifer recharge areas and wellheads; and
10. Scenic features, including roads, and major ridgelines as delineated in the Montpelier Municipal Plan.

Effort shall be made to protect/preserve such areas and to provide suitable buffers while allowing reasonable development of the applicant's property.

715.B. Natural Cover.

Where possible, the natural cover shall be conserved and stormwater runoff shall be limited. This standard may not be relevant in high density districts.

715.C. Contours.

The development plan shall minimize grading and cut and fill and shall retain, to the degree possible, the natural contours.

715.D. Erosion and Sediment Control.

Control measures shall follow the guidelines of the latest edition Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites. Temporary controls shall be established during construction. All silt fences shall be keyed into the ground and hay bales shall be staked. The smallest practicable area of land shall be exposed at any one time, and the time of exposure shall be kept as short as possible. Land shall not be left exposed during winter months.

715.E. Forested Hillsides.

Development on a forested hillside shall be minimally visible and shall blend in with its surroundings in winter months. To achieve this purpose, the amount and location of clearing adjacent to structures shall be limited to the amount necessary for reasonable use of the property. Additional tree planting may be required where needed to reduce visibility from roadways, or other public vantage points. On major ridgelines, development shall be located to protect the unbroken forested backdrop.

715.F. Rivers, Streams, and River/Stream Banks.

Development shall not encroach on banks adjacent to rivers and streams. Sufficient setbacks to buildings, streets, parking lots and other impervious surfaces shall be provided to prevent erosion and to encourage treatment on site of stormwater runoff. Temporary construction measures shall comply with Section 715.D.

715.G. Relationship to Surrounding Area.

The development and the location, height, bulk, design, and materials of the buildings shall be designed in harmony with the surrounding area.

716. FLOODPLAIN DEVELOPMENT

716.A. Standards for Development in All Flood Hazard Areas.

In all Zone A flood hazard areas (numbered and unnumbered), the following general standards are required:

1. All development shall be reasonably safe from flooding.
2. All development shall be anchored to prevent flotation, collapse or lateral movement of the structure.
3. All development shall be constructed with materials and utility equipment resistant to flood damage.
4. All development shall be constructed by methods and practices that minimize flood damage.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
7. On-site waste disposal systems shall be located to avoid their impairment or contamination during flooding.
8. The lowest floor of new, replacement and substantially improved structures, including residential and non-residential structures and manufactured homes, shall be at least one foot above the known base flood elevation. The use of fill to elevate structures is discouraged where other elevation methods that promote and maintain flood water storage and conveyance are practicable.
9. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
10. Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding, shall:
 - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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11. Recreational Vehicles placed on sites within the Special Flood Hazard Area shall be fully licensed and ready for highway use.
 12. Subdivisions.
 - a. All subdivisions must be accessible by dry land access outside the special flood hazard area and be reasonably safe from flooding
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than 50 lots or 5 acres, whichever is less.
 13. Structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

716.B. Standards for Development in “NUMBERED” Flood Hazard Areas.

In all Zone A flood hazard areas where base flood elevation data has been provided (Zone A1 – A30), the following specific standards are required:

1. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement elevated to at least one foot above base flood elevation.
2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to at least one foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that at least two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Administrative Officer.
3. Basements. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater.

Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- The bottom of all openings shall be no higher than one foot above grade.
- Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater

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4. Floodways. In areas designated as floodways, encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification by a professional registered engineer or architect is provided demonstrating that encroachment shall not result in any increase in flood levels during occurrence of the base flood discharge.

Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

5. Watercourse Alterations. Notice shall be given to adjacent, up- and down-stream communities and the Vermont Department of Water Resources prior to an alteration or relocation of a water-course, with copies of said notice submitted to the Administrative Officer. Assurance shall be given that the flood-carrying capacity within the altered or relocated portion of any water-course will be maintained.

716.C. Standards for Development in ‘UNNUMBERED’ Flood Hazard Areas.

In unnumbered “A” Zones where base flood elevations and/or floodway limits have not been provided by National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant’s responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies as criteria for requiring compliance with the standards in §§716.A and B.

716. D. Standards for Accessory Structures.

Small detached structures that do not represent a significant development investment and are not used for human habitation (garages, storage sheds, gas station pump island canopies, bus shelters, pump houses, information kiosks, etc.), or is not the primary location of a business shall meet the following development standards:

1. The structure shall be designed to have low flood damage potential.
2. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
3. The structure shall be firmly anchored to prevent flotation that may result in damage to other structures.
4. Service facilities such as electrical and heating equipment shall be elevated or flood-proofed.

716.E. Exempted Activities.

The following activities are exempt from regulation under this bylaw:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;
3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
4. Agricultural activities conducted with the Vermont Department of Agriculture’s Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer must notify the ZA in

writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

717. EXCAVATION AND FILLING.

The use of land for the excavation, removal, filling, or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish, or other wastes or by-products where permitted, shall be done under the supervision of the director of Public Works in accordance with a topographic plan submitted by the owner of the property concerned.

The topographic plan shall be drawn at a scale of not less than 50' = 1" and show existing and proposed grades and topographical features and other such data as may be required by the Director of Public Works.

This regulation does not apply to normal soil removal for basement or foundation work when a building permit has previously been issued by the code enforcement officer. Upon completion of all such excavation, removal and filling of lands, it shall be graded, loamed, and seeded. The Administrative Officer may require a performance bond to assure the protection of the City.

718. LOTS.

718.A. Lot Area and Dimension.

Lots shall be of sufficient dimensions to be developed in full compliance with the area and dimensional standards of these regulations and to accommodate required parking and loading for the type of development contemplated. The Development Review Board may require lots larger than specified in these regulations where it deems necessary because of conditions affecting drainage, sanitary sewage disposal, water supply or access, circulation and screening.

718.B. Corner Lots.

Corner lots shall have sufficient width to permit a front yard setback on each street in conformance with the standards of these regulations.

718.C. Side Lot Lines.

Side lot lines shall be substantially at right angles to straight streets or radial to curved street lines.

718.D. Lot Shape.

Lots with irregular shapes (curves, jobs, dog-legs, bowling alleys, etc.) shall not be approved unless warranted by conditions of topography, protection of natural resources, existing road location and/or shape or use of the tract being subdivided.

718.E. Building Envelopes.

1. All lots shall have designated building envelopes that shall not include floodways, wetlands, streams or drainage ways, or other unbuildable land. Dimensions of lots and building envelopes shall be large enough to accommodate the purpose for which they are intended to be used.

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2. Parcel boundaries and building envelopes shall also be located and configured to minimize adverse impacts on important natural resources identified in the Montpelier Municipal Plan. Methods for avoiding adverse impacts include, but may not be limited to the following:
 - a. Concentrating development (e.g., through clustering, Section 713) on those portions of the site that will have the least impact on identified habitat, agricultural soils, floodplains, wetlands, wellheads, and other environmentally sensitive features.
 - b. Locating development to avoid identified natural communities and critical wildlife habitat, including wildlife corridors, winter deer yards, threatened and endangered species habitat and other critical habitats.
 - c. Designating suitable areas of open space to encompass land associated with identified important natural communities and critical wildlife habitat; and
 - d. Establishing buffer areas of adequate size to ensure the protection of important natural communities and critical habitat.

718.F. Public Sites and Open Space.

The Development Review Board shall encourage lot layout and clustering that will preserve open space areas and significant natural resources, including all those identified in the Montpelier Municipal Plan.

718.G. Access to Public Streets.

1. The subdividing of the land shall be such as to provide each lot with satisfactory access to an existing public street by means of a new public street or new private street approved in accordance with Section 702.B.
2. Lots shall be laid out to minimize direct access to heavily traveled streets or highways.
3. Intersections with City streets preferably shall be spaced at least 1,000 feet apart
4. The Development Review Board may require at least two access points for subdivisions and/or planned developments of greater than twenty (20) lots.

718.H. Provision for Future Development.

Where a tract is subdivided into parcels, such parcels shall be planned to permit the opening of future streets and logical further subdivision.

719. MONUMENTS, LOT CORNER MARKERS AND BENCH MARKS.

719.A. Monuments.

Monuments shall be placed at block corners, angle points and points of curves in streets, and additionally at intermediate points if required by the Development Review Board or the Director of Public Works. The monuments shall be of such material, size and length as may be approved by the Director of Public Works.

719.B. Lot Corner Markers.

Markers shall be set at corners and angle points of all lots or parcels, and shall be located in the ground at finished grade.

719.C. Bench Marks.

A permanent bench mark shall be established reference to U.S. Coast and Geodetic Survey NAVD '88 with conversions to the NGVD '29 datum if appropriate and tied to the elevations shown on all plans, subject to the approval of the Director of Public Works.

720. RECREATION SITES AND OPEN SPACES.

720.A. Requirement to Provide Open Space.

1. As a condition to the approval of any site plan relating to a residential subdivision or residential development, the Development Review Board may require that up to 15% of the areas of the plat, suitably located for park, playground or other outdoor recreation purposes, be provided. The Board shall determine whether such recreation area is appropriate for general public use based on the following factors:
 - a. The size of the proposed subdivision and the resulting area proposed for outdoor recreation purposes.
 - b. The physical suitability of the applicant's land for use as public outdoor recreation land.
 - c. Whether use of the applicant's land for such purposes would conform to the City's recreation or open space plans.
 - d. Location of the applicant's land relative to recreationally underserved neighborhoods of the city.
 - e. The applicant's land is identified by the Montpelier Municipal Plan as a potential recreation or wildlife corridor.
 - f. In residential planned developments containing twenty-four (24) units or more, at least one playground or other form of park, open space, or recreational facility shall be provided if none is available for public use within one quarter mile.
2. The Development Review Board may require dedication of the land to the City, dedication to a land trust or other non-profit organization, establishment of a homeowners' association, or other means of ensuring long-term ownership and maintenance of the open space.

720.B. Exemption from Park Impact Fee

If a suitable park, playground or outdoor recreation site is provided to the City of Montpelier under paragraph "A" above, the Development Review Board may exempt the applicant from the payment of municipal impact fees relating to recreation and open space.

720.C. Shared Open Space in Planned Developments

The aforementioned requirement of land shall be in addition to any provisions for shared open space in conformance with provisions of a Planned Development, and shall not be met by provision of privately-owned recreation facilities or those which are not publicly accessible.

721. WATER SUPPLY

721.A. Municipal Water System.

Connections to the municipal water system shall be made in accordance with the requirements of the Montpelier ordinance regulating water use, Chapter 3, Article 3. When connections to the municipal water system are authorized, the applicant shall be responsible for installing all supply and distribution facilities as required by the Director of Public Works. If existing water supply facilities are inadequate to serve the additional demand created by the development, the Development Review Board may require the applicant to enlarge or otherwise improve those facilities including water conservation measures.

721.B. Fire Protection.

Fire Hydrants or other adequate fire protection shall be required in all developments served by the municipal water supply system. The location and spacing of hydrants shall be as approved by the Development Review Board with input from the Fire Chief. Generally, hydrants shall be spaced no more than 500 feet apart when serving residential development and no more than 300 feet apart when serving commercial/industrial development.

722. SEWAGE DISPOSAL

Where city sewer is available, it shall be used, as required and in accordance with Chapter 3, Article 4 of the City's Code of Ordinances regulating municipal sewer use.

When connections to the municipal sewer system are authorized, the applicant shall be responsible for installing all supply and distribution facilities as required by the Director of Public Works. If existing sewer supply facilities are inadequate to serve the additional demand created by the development, the Development Review Board may require the applicant to enlarge or otherwise improve those facilities.

723. STORM DRAINAGE

Storm sewer system and/or other drainage improvements shall be in accordance with plans approved by the Director of Public Works. In no case shall stormwater discharge into a city sewer system if a separate system exists.

723.A. Management Plan.

Where required by the Director of Public Works, a stormwater management plan must be submitted for review and approval by the Development Review Board. Stormwater control facilities must be designed to accommodate the 25 year storm event frequency or as required. All existing facilities for the conveyance of waters, both private and public, which may be affected or impacted by the development must be identified and analyzed. An historical account of off-site facilities within a drainage area (culverts, ditches and brooks, etc.) may also be required. The plan shall show all natural and constructed drainage ways, both existing and proposed.

723.B. Minimization of Stormwater Runoff.

The best available technology shall be used to minimize stormwater runoff, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems, and minimize discharge of pollutants to ground and surface water. Best available technology may include measures such as retention basins, recharge trenches, swales and minimal use of impervious surfaces.

Stormwater drainage shall not negatively affect adjacent properties. Low points and standing water should be avoided unless specifically designed as in detention ponds, artificial wetlands, or similar facilities. Failure to

maintain natural and/or engineered on-site systems as part of an approved development will be considered a violation of the permit.

723.C. Type of Drainage Systems.

Natural watercourses and drainage ways shall be incorporated into the design of drainage systems to the fullest extent possible. Where open drainage systems are proposed, minimum grades shall be provided as directed by the Director of Public Works. Closed drainage systems shall be required where directed by the Director of Public Works based upon an evaluation of building densities and drainage conditions.

723.D. Public vs. Private Drainage Systems.

Drainage systems associated with public streets shall be located within the street right-of-way or within an easement provided to the City and indicated on the plan. All public drainage systems shall be designed in accordance with the Department of Public Works specifications. Drainage systems on individual lots shall be privately owned and maintained.

723.E. Responsibility for Downstream/Off-site Drainage.

Where anticipated discharge from the development will overload existing downstream drainage facilities, the Development Review Board shall not approve the development until provision has been made for improvement of the downstream facilities. The Board may require detention ponds or other measures such that a zero percent increase in drainage flows result from the development.

723.F. Design Calculations.

All calculations for the drainage system - including upstream potential discharge, downstream capacity, and requirements for on-site facilities and easement width – shall be based on a 25 year storm or as required by the Director of Public Works.

724. EASEMENTS.

724.A. Storm Drainage.

Where natural or manmade water courses are integral to a development's stormwater management plan, the Development Review Board may require, based on recommendation from the Director of Public Works, that a maintenance and protection easement be granted to the City, retained by the applicant, or that protective covenants be established. The width of such easement shall be as directed by the Director of Public Works.

In cases of increased off-site drainage, the Development Review Board may require an applicant to acquire an easement for drainage control and disposal that would permit the flow of stormwater, or to allow an increase in drainage flow, onto an adjoining property.

724.B. Sewer and Water.

Where a subdivision is traversed by a sewer or water main, easements shall be included in the deeds of those lots involved of sufficient width to be adequate for the purpose.

725. UTILITIES.

725.A. Underground Utilities.

1. Subdivisions. All new Subdivisions shall have underground utilities including primary and secondary electric power, cable television, and telephone service.
2. New Construction. All new construction requiring zoning permits shall have underground utility service from the nearest appropriate utility pole including electric, cable television, and telephone services unless this requirement is waived by the Development Review Board for good cause.
3. Public Streets and Bridges. Areas of redevelopment where streets or bridges are reconstructed, subject to the appropriation of available funds by the Montpelier City Council, shall have underground utilities including primary and secondary electric power, cable television, and telephone service.
4. Exemptions. Exempt from the provisions of this section are Public Utility power generating plants and transmission facilities and other similar utility structures, permitted and approved by the Vermont Public Service Board under 30 V.S.A §248. These structures are controlled under Section 205 of these Regulations.
5. Nothing in this section shall be construed to limit the rights of the City under applicable provisions of Title 30 Vermont Statutes Annotated.

725.B. Fuel Tanks.

Above-ground fuel tanks shall be subject to the setback requirements of the district in which they are proposed to be located. Below-ground fuel tanks shall not be subject to setback requirements; however a permit shall be required. Above or below-ground tanks and associated appurtenances proposed in the Design Control District shall be subject to Design Review approval. Fuel tanks shall also be in compliance with state regulations.

725.C. Antennas, Antenna Towers.

(Reserved)

TABLE 726. Applicability of Article 7 Provisions to Different Levels of Review

Article 7. GENERAL DEVELOPMENT STANDARDS	Site Plan Review	Minor PUD	Major PUD	Special Circumstances
701. PURPOSE AND APPLICABILITY.				
702. STREETS				
702.A. Consistency with the Montpelier Master Plan	X			
702.B. Planning Requirements for New Streets	X			
702.B.13. Public Frontages on Roads and Streets			X	
702.C. Suitability of Existing Streets	X			
702.D. Construction Standards	X			
703. PEDESTRIAN ACCESS AND CIRCULATION				
703.A. Purpose	X			
703.B. Sidewalks	X			
703.C. Paths and Easements	X			
704. VEHICULAR ACCESS AND CIRCULATION				

Article 7. GENERAL DEVELOPMENT STANDARDS	Site Plan Review	Minor PUD	Major PUD	Special Circumstances
704.A. Driveways	X			
704.B. Curb Cuts	X			
704.C. Access Management	X			
704.D. On-Site Vehicular Circulation	X			
705. PARKING				
705.A. Required Parking	X			
705.B. Number of Required Parking Spaces	X			
705.C. Dimensions of Parking Spaces and Aisles	X			
705.D. Year Round Use	X			
705.E. Compliance with American Disabilities Act Parking	X			
705.F. Private Off-Street Parking	X			
705.G. Replacement Parking Fee	X			
705.H. Waiver of Parking Requirements in CB-I and Riverfront	X			
705.I. Shared Use Parking	X			
705.J. Trucks, Unlicensed Vehicles and Storage in Residential	X			
706. LOADING REQUIREMENTS				
706.A. Required Spaces	X			
706.B. Waivers.	X			
707. SITING OF PARKING AND LOADING SPACES				
707.A. General Standards	X			
707.B. Front Yard Parking and Loading Restrictions	X			
707.C. Residential Parking Buffers	X			
708. LANDSCAPING AND SCREENING				
708.A. Street Trees	X			
708.B. Plantings	X			
708.C. Planting Maintenance	X			
708.D. Parking Lot Landscaping	X			
708.E. Screening	X			
708.F. Buffers	X			
708.G. Site Amenities	X			
709. FENCES AND WALLS				
710. LIGHTING				
710.A. Street Lights General Requirements	X			
710.B. Illumination Levels and Color	X			
710.C. Luminaire Heights	X			
710.A.D. Street Lights	X			
710.E. Canopy and Service Station Lighting	X			
710.F. Security Lighting	X			
710.G. Lighting for Outdoor Performance, Sport and Recreation	X			
710.H. Architectural Accent Lighting	X			
711. SIGNS				
711.A. Signs in the Design Control District	X			

Article 7. GENERAL DEVELOPMENT STANDARDS	Site Plan Review	Minor PUD	Major PUD	Special Circumstances
711.B. General Regulations	X			
711.C. Sign Plans	X			
711.D. Regulations by Zoning District	X			
712. CONDITIONAL USES – SPECIFIC STANDARDS				
712.A. Convenience Commercial Uses				X
712.B. Accessory Apartments				X
712.C. Ancillary Apartments				X
713. PLANNED DEVELOPMENTS				
713.A. General Standards		X	X	
713.B. Requirements for Common Open Space		X	X	
713.C. Specific Standards for AI-PUD				X
713.D. Specific Standards for Residential or Mixed-Use Planned			X	
713.E. Cluster Development				X
714. PERFORMANCE STANDARDS				
714.A. General Performance Standards	X			
715. SITE PROTECTION AND DESIGN				
715.A. Existing Features	X			
715.B. Natural Cover	X			
715.C. Contours	X			
715.D. Erosion and Sediment Control	X			
715.E. Forested Hillides	X			
715.F. Rivers, Streams, and River/Stream Banks	X			
715.G. Relationship to Surrounding Area	X			
716. FLOOD PLAN DEVELOPMENT				
716.A. Standards for Development in All Flood Hazard Areas				X
716.B. Standards for Development in “NUMBERED” Flood				X
716.C. Standards for Development in “UNNUMBERED” Flood				X
716.D. Standards for Accessory Structures				X
716.E. Standards for Nonconformities				X
717. EXCAVATION AND FILLING				
718. LOTS				
718.A. Lot Area and Dimension				
718.B. Corner Lots				
718.C. Side Lot Lines				
718.D. Lot Shape				
718.E. Building Envelopes				
718.F. Public Sites and Open Space	X			
718.G. Access to Public Streets				
718.H. Provision for Future Development				
719. MONUMENTS, LOT CORNER MARKERS AND BENCH MARKS				
719.A. Monuments				
719.B. Lot Corner Markers				

Article 7. GENERAL DEVELOPMENT STANDARDS	Site Plan Review	Minor PUD	Major PUD	Special Circumstances
719.C. Bench Marks				
720. RECREATION SITES AND OPEN SPACES				
720.A. Requirement to Provide Open Space			X	
720.B. Exemption from Park Impact Fee				
720.C. Shared Open Space in PRD/PUD				
721. WATER SUPPLY				
721.A. Municipal Water System	X			
721.B. Fire Protection	X			
722. SEWAGE SUPPLY				
723. STORM DRAINAGE				
723.A. Management Plan	X			
723.B. Minimization of Stormwater Runoff	X			
723.C. Type of Drainage Systems	X			
723.D. Public vs. Private Drainage Systems	X			
723.E. Responsibility for Downstream/Off-site Drainage	X			
723.F. Design Calculations	X			
724. EASEMENTS				
724.A. Storm Drainage	X			
724.B. Sewer and Water	X			
725. UTILITIES				
725.A. Underground Utilities	X			
725.B. Fuel Tanks	X			
725.C. Antennas	X			

Article 8. NONCONFORMING USES, STRUCTURES, AND LOTS.

801. GENERAL PROVISIONS

1. The purpose of this article is to ensure the rights of uses or structures that do not legally conform to the present regulations to continue to exist unchanged; to phase out nonconforming uses and structures over time as changes do occur; and to establish acceptable parameters for alterations of nonconforming uses and structures.
2. The provisions of this section shall apply to all structures or uses that are;
 - a. Legally existing on the effective date of these regulations,
 - b. Do not comply or conform to the requirements set forth in these regulations, and
 - c. Did comply or conform to the laws, ordinances and regulations prior to the enactment of these regulations. The following provision also shall apply to structures and uses that in the future do not comply or conform by reasons of any subsequent amendment of these regulations
3. A building or structure that is occupied by a nonconforming use shall not by extension be considered a nonconforming structure. Conversely, a nonconforming structure shall not by itself be considered a nonconforming use.

802. CONTINUATION AND MAINTENANCE OF NONCONFORMITIES.

1. Continuation. Any nonconforming use or structure may be continued unchanged indefinitely.
2. Maintenance. Ordinary repairs and maintenance may be made to a nonconforming structure provided the structure is not made more nonconforming. The Administrative Officer shall determine what constitutes ordinary repairs and maintenance. Appeals of this determination may be made according to the provisions of Article 10.

803. CHANGES OF NONCONFORMING USES.

803.A. Enlargement and Extension of a Nonconforming Use.

Nonconforming uses shall not be enlarged or extended except as provided below. For the purposes of this section, “enlarged” shall mean an increase in the size of the structure in which a use is housed or of the land area the use occupies. “Extended” shall mean an increase in the square footage of a use within an existing structure or the land area the use occupies.

1. In Central Business, General Business, or Industrial Districts, nonconforming uses may be enlarged by up to twenty-five percent of the floor area existing on the effective date of the previous version of the Montpelier Zoning Regulations (November 6, 1973)
2. In the Central Business I, General Business, Industrial or High Density Residential District, a nonconforming use which existed as of July 1, 1987 may be extended to fully utilize the structure which it occupies to the extent that such structure also existed as of July 1, 1987.
3. Any extension or enlargement of a nonconforming use that may be allowed under these regulations shall be a conditional use subject to review under the conditional use provisions and the site plan review provisions of this ordinance.

803.B. Changes of Use.

A nonconforming use shall not be changed to another nonconforming use without approval by the Development Review Board, and then only to a use which, in the opinion of the Board, is of the same or of a more restricted nature. Any change of a nonconforming use that may be allowed under these regulations also shall be subject to the site plan review provisions of this ordinance.

803.C. Discontinuance and Re-Establishment of a Nonconforming Use.

A nonconforming use shall not be re-established if the nonconforming use has been discontinued or abandoned for a period of six consecutive months, including any period prior to the effective date of these regulations, or if the nonconforming use has been changed to, or replaced by a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.

804. CHANGES TO A NONCONFORMING STRUCTURE

804.A. Enlargement of a Nonconforming Structure.

1. Enlargements. In any district, nonconforming structures may be enlarged only if the enlargement does not increase the degree, aspect, or extent of nonconformance with regard to any of the dimensional requirements of these regulations including density, lot coverage, side and rear yards and height, except as provided in 604.A.3.
 2. Enlargement in front yard. Enlargements or improvements to a nonconforming structure within the front yard setback may be approved administratively if the following conditions are met:
 - a. The enlargement does not encroach beyond the existing, nonconforming building line;
 - b. The nonconforming structure's front building line is consistent with the average building line of the adjacent structures.
 - c. The parcel is not in the Design Control District, Flood Hazard Area, or subject to any other overlay district requirements; and
 - d. The property is not subject to other conditions or restrictions from prior approvals that would otherwise restrict the proposed development and
 - e. The property would not otherwise be subject to site plan or conditional use review.
 3. Enlargements within existing footprint. Enlargements beyond ordinary maintenance to the nonconforming portion of a residential structure that does not increase the existing footprint of the structure (such as a dormer on a part of a building that encroaches into a setback, or the enclosure of a nonconforming portion of a deck or porch) may be approved administratively, if the following conditions are met;
 - a. The parcel is not in the Design Control District, Flood Hazard Area, or subject to any other overlay district requirements;
 - b. The nonconforming portion of the structure is not closer than 5 feet to any side or rear property line;
 - c. The property is not subject to other conditions or restrictions from prior approvals that would otherwise restrict the proposed development;
 - d. An affected adjoining property owner, as defined in these Regulations, has not submitted a request in writing for conditional use review of the application with 15 days of receiving notice of the application
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by certified mail, return receipt requested. If a timely request is received, conditional use review shall be required, but limited to criteria 304.D.1.b., 304.D.1.d., and 304.D.1.e.

804.B. Reconstruction of a Nonconforming Structure.

Any nonconforming structure damaged by fire, flood, explosion, or other casualty may be rebuilt and used as before, provided the following conditions are met:

1. The structure is not more than 75% destroyed, except for single family structures which may be 100% destroyed;
2. The structure as reconstructed contains no greater floor area than before;
3. The structure as reconstructed shall not be more nonconforming than the original structure; and
4. The reconstruction commences within one year and is completed within two years.

804.C. Standards for Changes to a Nonconforming Structure in a Regulated Flood Hazard Area.

In accordance with 24 VSA 4424, the Development Review Board, after public hearing, may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area, subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:

1. That the Board finds the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise;
2. That the Board finds the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners; and
3. That the permit, if granted, states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood or other hazard area, does not conform the bylaws pertaining to that area, and will be maintained at the risk of the owner.

805. EXISTING SMALL LOTS.

1. Any lot in individual and separate non-affiliated ownership from surrounding properties in existence on the effective date of the lot size requirements in these Regulations (November 6, 1973) or the effective date of any lot size requirements adopted in the future as part of these Regulations may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet. This provision shall not exempt development on such lots from the other provisions of these regulations.
2. Any lots that are not in individual and separate non-affiliated ownership from surrounding properties and are smaller than the lot size requirements in existence on the effective date of the lot size requirements in these Regulations (November 6, 1973) or the effective date of any lot size requirements adopted in the future as part of these Regulations shall be considered merged into a single lot, except as follows:
 - a. If such lots are crossed by a right-of-way of a type that would preclude the development of the land as a single lot, the lots shall not be considered merged for the purpose of development.

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- b. If such lots subsequently come under common ownership with one or more contiguous lots, the lots shall be deemed merged with the contiguous lots for purposes of this section. However, such lots shall not be deemed merged and may be separately conveyed, if;
- (1) the lots are conveyed in their preexisting, nonconforming configurations; and
 - (2) on the effective date of any zoning regulations, each lot had been developed with a water supply and wastewater disposal and the wastewater system is functioning in an acceptable manner; and
 - (3) the deeds of the conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails, which means the system functions in a manner:
 - (a) that allows wastewater to be exposed to the open air, pool on the surface of the ground, discharge directly to surface water, or back up into a building or structure unless the approved design of the system specifically requires the system to function in such a manner.
 - (b) so that a potable water supply is contaminated or rendered not potable;
 - (c) that presents a threat to human health; or
 - (d) that presents a serious threat to the environment.
- c. If, subsequent to a separate conveyance, as authorized under the initial paragraph of this section, a wastewater system fails, the owner shall be required to obtain from the secretary of natural resources a wastewater permit as required as required under the State subdivision regulations or a certification that the wastewater system has been modified or replaced, with the result that it no longer constitutes a failed system.

Article 9. CERTIFICATE OF COMPLIANCE PROCEDURES.

901. PURPOSE

The Certificate of Compliance provides a mechanism for review of all approved developments to ensure that all building code requirements and development conditions, including development with the Special Flood Hazard Area (SFHA) are satisfied prior to the occupancy of any structure.

902. ACTIVITIES REQUIRING CERTIFICATES OF COMPLIANCE

1. Except as provided below, it shall be unlawful to use or occupy or permit the use or occupancy of any land or structure, or part thereof created, erected, changed, converted, or wholly or partially altered or enlarged in its use or structure until a Certificate of Compliance is issued therefore by the Administrative Officer stating that the proposed use of the structure or land conforms to all approved plans and specifications, and to all provisions of these regulations.
2. The following shall not require the issuance of a Certificate of Compliance:
 - a. One and two family dwellings, except Accessory Apartments;
 - b. and any development completed prior to 1989; and
 - c. any non-occupied development subject solely to Design Review approval.

903. TEMPORARY CERTIFICATE OF COMPLIANCE

903.A. Requirements for Issuance.

Upon written request of the owner or the owner's agent, a Temporary Certificate of Compliance may be issued by the Administrative Officer for occupancy of part of a building, provided that the following requirements are met:

1. Such temporary occupancy would not in any way jeopardize life or property; and
2.
 - a. All completed portions of the development are in conformance with approved plans and specifications, code requirements, and development conditions, or
 - b. The owner or owner's agent, submit a guarantee equal to 150% of the cost to correct those portions of the development that are not in conformance.

903.B. Duration of Temporary Certificate of Compliance.

A Temporary Certificate of Compliance shall not be issued for a period in excess of 180 days, and must be replaced by a permanent Certificate of Compliance following the expiration of any temporary certificate.

904. REVIEW PROCESS AND TIME LIMITS.

904.A. Application Deadline.

A request for a Certificate of Compliance must be filed with the Administrative Officer prior to the expiration of the Zoning or Subdivision Permit.

904.B. Required Form and Application Materials.

1. A request for a Certificate of Compliance shall be filed on a form provided by the City of Montpelier and shall contain the signature of the owner or agent certifying that all of the following requirements of Section 905 have been satisfied.
2. Certified “As Built” drawings for all development involving new structures in excess of 500 square feet in area.
3. for any non-accessory structure constructed within the floodplain, a completed ELEVATION CERTIFICATE (FEMA Form 81-31) or FLOODPROOFING CERTIFICATE (FEMA 81-65)

904.C. Issuance of Certificate of Compliance.

The Administrative Officer shall perform any required inspections or consult with any interested City agencies, and shall determine conformance with the criteria of Section 905. If found to be in conformance, the Administrative Officer shall issue a Certificate of Compliance within 21 days following the receipt of a properly completed application.

904.D. Denial of Certificate of Compliance.

If the Administrative Officer believes that conformance with the criteria of Section 905 has not been achieved, the Administrative Officer shall deny the Certificate of Compliance and shall respond in writing to the applicant, stating the reasons for denial.

904.E. Re-application

The owner or agency may reapply, upon remedying any conditions identified as a basis for denial, for a Certificate of Compliance, provided that such reapplication shall occur before the expiration of the Zoning or Subdivision Permit issued to the project.

904.F. Failure to Respond.

In the event that the Administrative Officer fails to issue a response within the 21-day period, the Certificate of Compliance shall be considered to be approved, but in no case shall this relieve the applicant of fulfilling all requirements of the Zoning Ordinance, the building code, and any development conditions issued with the Zoning Permit.

904.G. Appeals

Any interested party may appeal the Administrative Officer’s decision by filing an appeal to the Development Review Board in accordance with the provisions of Article 10.

905. PROCEDURES AND APPROVAL CRITERIA

905.A. Approval Criteria.

Prior to issuing a Certificate of Compliance, the Administrative Officer shall determine that the development satisfies all of the following standards:

1. The development has been completed in conformance with filed plans and specifications, and all development conditions have been satisfied;

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2. All infrastructure connections have been completed in conformance with Department of Public Works Specifications, Zoning Permit requirements, and the provisions of this Ordinance; and
 3. All development impact fees or other required fees have been paid.

905.B. Inspection and Verification.

The Administrative Officer or designated staff may inspect the site and/or building, and may require receipts for payment of all required fees prior to issuing a Certificate of Compliance.

906. CERTIFICATE OF COMPLIANCE WITHIN THE SPECIAL FLOOD HAZARD AREA

1. In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within the SFHA until a certificate of compliance is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws.
2. A certificate of compliance is not required for structures that were built in compliance with bylaws at the time of construction and have not been improved since the adoption of this bylaw.
3. Within 14 days of the receipt of the application for a certificate of compliance, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and that all work has been completed in conformance with the zoning permit and associated approvals. If the ZA fails to grant or deny the certificate of compliance within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day.
4. If certificate of compliance cannot be issued, notice will be sent to the owner and copied to the lender.

Article 10. APPEALS AND VARIANCES.

1001. PURPOSE.

It is the purpose of this article to provide for review of all questions arising out of or with respect to the implementation of this ordinance. Except as specifically provided herein, the Development Review Board may not amend, alter, invalidate or affect any development plan or bylaw or the implementation or enforcement thereof, or allow any use not permitted by any zoning regulations or other bylaw.

1002. AUTHORITY.

These regulations are enacted under the provisions of 24 V.S.A. Subchapter 11.

1003. DEFINITION OF INTERESTED PERSONS

For the purposes of this Article, an interested person means any of one of the following:

1. A person owning title to property affected by a by-law who alleges that such regulation imposes on such property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
2. If the Montpelier plan or by-law is at issue, the City of Montpelier or any municipality which adjoins the City.
3. A person owning or occupying property in the immediate neighborhood of a property which is the subject of any decision or act taken under this ordinance, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, who alleges that the decision or act, if confirmed, will not be in accord with policies, purposed or terms of the plan or bylaw of the City.
4. Any ten persons who may be any combination of voters or real property owners within the city or an adjoining municipality who, by signed petition to the Development Review Board in any appeal brought under these regulations, allege that any relief requested by a person under this article, if granted, will not be in accord with policies, purposes or terms of this plan or bylaw of the city. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
5. Any department and administrative subdivision of the State of Vermont owning property or any interested therein within the city or an adjoining municipality, and the Vermont Agency of Development and Community Affairs.

1004. APPEALS TO DEVELOPMENT REVIEW BOARD.

1004.A. Deadline for Appeal.

An appeal taken with respect to the decision or act of an Administrative Officer must be filed within 15 days of the date of such decision or act.

1004.B. Eligible Appellants.

An appeal from any final order or decision of the Administrative Officer or, where provided by these regulations, the Planning Director, may be taken to the Development Review Board by any interested person as defined in §1003.

1004.C. Filing an Appeal.

An appeal is initiated by filing with the Administrative Officer a written notice of appeal. Such notice of appeal shall include the following:

1. name and address of the appellant,
2. a brief description of the property with respect to which the appeal is taken,
3. reference to the regulatory provisions applicable to that appeal,
4. a statement of the relief requested by the appellant and the alleged grounds why such requested relief is believed proper under the circumstances, and
5. the appropriate filing fee.

A notice of appeal shall be considered filed with the Administrative Officer and the Development Review Board when delivered to the Department of Planning and Community Development, and the date and time of filing shall be entered on the notice by the Department staff.

The Administrative Officer shall notify the Development Review Board of the appeal. If the appeal pertains to an act or decision of the Planning Director, the Administrative Officer shall provide the Planning Director with a copy of the Notice of Appeal.

1004.D. Assignment for Hearing.

1. Applications or appeals shall be assigned for hearings in the order in which they are received. All hearings shall be held within 60 days of the filing of the Notice of Application or Appeal. Public notice shall be mailed to the applicant and shall be provided in accordance with § 206 including provisions of notice both at least 15 days before the hearing date.
2. The Board may reject an appeal or request for reconsideration without hearing and render a decision, which shall include findings of fact, within 10 days of the date of filing of the notice of appeal, if the appropriate municipal panel considers the issues raised by the appellant in the appeal have been decided in an earlier appeal or involve substantially or materially the same facts by or on behalf of that appellant. The decision shall be rendered, on notice given, as in the case of a decision under 24 V.S.A. 4464(b)(3), and shall constitute a decision of the Development Review Board for the purpose of an appeal to the Environmental Court.

1004.E. Conduct of Hearing.

1. Hearings on appeals shall be conducted according to the Development Review Board's adopted Rules of Procedure. At a minimum those rules shall provide that when an appeal is taken to the Board in accordance with this section, the Administrative Officer shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall then have the burden of persuasion.

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2. Any person or body empowered by § 1003 above to take an appeal with respect to that property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing.
 3. Any hearing held under this section may be adjourned by the Board from time to time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing. All hearings under this section shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. 810.

1004.F. Decisions.

Within 45 days after the final hearing on an appeal, the Board shall act to approve or disapprove the application. The Board's decision shall include findings of fact. The Administrative Officer shall send the appellant, by certified mail, a copy of the decision. Copies of the decision also shall be mailed to every person who appeared and was heard at the hearing. A copy of the decision shall be filed with the Administrative Officer and the Clerk of the municipality as part of the public record.

If the Board fails to render an oral or written decision within the 45 day period, on the 46th day the decision shall be deemed to have been rendered in favor of the appellant.

1004.G. Conditions Imposed in the Board's Decision

Any conditions imposed as part of the Board's decision on an appeal shall be considered to be part of any permit granted as a result of that decision.

1005. STAY OF ENFORCEMENT.

1005.A. Requests for Stay of Enforcement.

Any interested person filing an appeal to the Development Review Board may file a request for stay of enforcement of the regulatory provisions referred to in the notice of appeal. The request shall include a sworn statement that irreparable damage will directly result if such stay is not granted.

1005.B. Development Review Board Action.

The Development Review Board shall hold a public hearing on the request and act to approve or deny the request and notify the appellant through certified mail or direct notice within 15 days of the filing of the notice of appeal. The approval by the Development Review Board of the request may include such terms and conditions, including without limitations, a bond to be furnished by the appellant, as the Board deems appropriate.

1005.C. Public Notice.

Public notice shall be provided for the public hearing at least 15 days before the hearing through a newspaper advertisement and posting according to § 206. The Board may give abbreviated notice where in its judgment circumstances require prompt action.

1006. VARIANCES

1006.A. Filing and Review Process.

Other than as provided below, variance requests shall be filed, heard and acted on in accordance with the provisions for appeals to the Development Review Board in § 1004.

1006.B. Criteria for Variances.

1. A variance from the provisions of a zoning regulation may be granted by the Development Review Board and a decision rendered in favor of the request for a structure that is not primarily a renewable energy resource structure, if all of the following facts are found and the finding is specified in its decision:
 - a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lots size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
 - b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property.
 - c. That the unnecessary hardship has not been created by the applicant, and the hardship relates to the applicant's land, rather than personal circumstances;
 - d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use of development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare;
 - e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the Montpelier Municipal Plan; and that
 - f. The variance will not result in the initiation of a nonconforming use of land.
2. On an appeal under § 1004 above in which a variance from the provisions of a zoning regulation or an interim bylaw is requested for a structure that is primarily a renewable energy resource structure, the Board may grant that variance and render a decision in favor of the appellant if all the following facts are found, and the finding is specified in its decision:
 - a. That it is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws;
 - b. That the hardship was not created by the appellant;
 - c. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and
 - d. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaws and from the plan.

1006.C. Authority to Impose Conditions.

In variances, the Development Review Board may impose such reasonable conditions as it may consider necessary and appropriate to ensure that the use of the property or renewable energy resource structure to which the variance applies will be as compatible as practicable with the surrounding properties and to implement the purposes of this ordinance and the Montpelier Municipal Plan. A variance may be issued for an indefinite duration or a specified duration only.

1006.D. Decision Becomes Part of Permit.

The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirements of this chapter.

1006.E. Burden of Proof.

The burden of presenting evidence sufficient to allow the Development Review Board to reach the conclusions set forth in this section, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

1007. APPEALS OF DEVELOPMENT REVIEW BOARD

An interested person may appeal a decision of the Development Review Board to the Environmental Court. The appeal shall be taken in such manner as the Supreme Court may by rule provide for appeals from state agencies governed by §§ 801 through 816 of Title 3 of the Vermont Statutes. Notice of the appeal shall be sent by mail to every interested person appearing and having been heard at the hearing before the Development Review Board, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

1008. EXCLUSIVITY OF REMEDY

Except as otherwise provided by state statute, the exclusive remedy of an interested person with respect to any decision or act taken, or any failure to act, under this ordinance or any one or more of its provisions shall be the appeal to the Development Review Board, and the appeal to Superior Court from an adverse decision upon such appeal.

1009. FINALITY.

Upon the failure of any interested person to appeal to the Development Review Board or to Environmental Court, all interested persons affected shall be bound by such decision or act of such Administrative Officer or other administrative officer, such provisions or such decisions of the Development Review Board, as the case may be, and shall not thereafter contest, either directly or indirectly, such decision or act, such provision, or such decision in any proceeding, including with limitation, and proceeding brought to enforce this ordinance.

Article 11. ENFORCEMENT.

1101. ADMINISTRATIVE OFFICER.

The Administrative Officer shall be appointed by the City Manager to administer the Zoning Regulations, as provided for in 24 V.S.A. 4448 and subject to approval of the City Manager. The Administrative Officer shall literally enforce the provisions of these Regulations and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these Regulations.

1102. VIOLATIONS.

1102.A. Development without Proper Permits.

It shall be a violation of these Regulations for any person to commence any development, including signs or changes in use, for which an approval or permit is required under Article 2 without first obtaining such approval or permit.

1102.B. Development Not According to Approved Plans and Conditions.

It shall be a violation of these Regulations for any person to fail to comply with all requirements, representations and conditions of any approved plan or permit granted under the provisions of these Regulations.

1102.C. Development after Expiration of Permits.

It shall be a violation of these Regulations for any person to commence development if the permit authorizing the development has expired.

1102.D. Sale or Offer to Sell without Subdivision or Planned Development Approval.

It shall be a violation of these Regulations for any person to sell, transfer or offer to sell any land in a subdivision or land development unless a final plat has been prepared and filed in full compliance with these Regulations. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from this violation.

1103. SCHEDULE OF FEES.

1103.A. Development Review Board and Administrative Permits.

The fees for Conditional Use, Variances, Planned Developments, Appeals of Administrative Decisions, Subdivisions, Site Plan Approval, Sign Permits, advertised Public Hearings, publications, or administrative review shall be as set from time to time by the City Council and published on a Schedule of Fees. No application shall be considered by the Development Review Board unless submitted with payment of the fees.

1103.B. Technical Assistance.

Fees required by the Development Review Board for technical or expert assistance, as provided in Article 2 and 24 V.S.A. § 4407(17) must be paid by the applicant to the City prior to the completion of the Board's review of the application.

1104. PENALTIES—ENFORCEMENT.

1104.A. Notice of Violation.

The Administrative Officer shall issue a written “Notice of Violation” to any person believed to be in violation of any provision of this Ordinance. Such Notice of Violation shall:

1. Describe the activity which violates this Ordinance;
2. Identify the provisions of this Ordinance which have been violated;
3. State the specific action required to cure the violation;
4. State that if the violation is not cured within seven days of the Notice of Violation, the City of Montpelier may institute court proceedings to obtain a court order directing compliance with the Ordinance and awarding fines up to the legal maximum as prescribed by Vermont Statutes for each day that the violation continues from the date of the notice; and
5. State that the Notice of Violation may be appealed to the Development Review Board in accordance with the procedures of Article 10 of these Regulations.

1104.B. Court Action.

Upon failure of any person to cure a violation of the provisions of this Ordinance after receipt of a Notice of Violation, the Administrative Officer shall institute an appropriate court action on behalf of the City.

1104.C. Penalties.

Any person commencing or undertaking development in the City of Montpelier without first complying with the provisions of these regulations, including the payment of any impact fee imposed hereunder, shall be subject to a penalty of not more than \$100.00 per day for each day a violation of this ordinance continues in existence, to be recovered in a civil action commenced by and prosecuted in the name of the City. The penalty imposed in this section shall be in addition to any other penalty imposed by general law or ordinance, and shall not be in lieu thereof. In addition to the penalties provided for herein, the City shall have the power to enjoin and abate any violations of these Regulations.

Any person who violates these regulations as described in § 1102.D by selling, transferring, agreeing to sell any land in a subdivision or land development without proper permits does so at the risk of property transfer, title or other transfer of property ownership being declared null and void upon determination that such action was in violation of these Regulation.

1104.D. Floodplain Enforcement.

If the structure is still noncompliant after the opportunity to cure has passed, the Administrative Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. § 1316 of the National Flood insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of:

- a. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location,
- b. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance,

- c. a clear statement that the public body making the declaration has authority to do so and a citation to that authority,
- d. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and
- e. a clear statement that the declaration is being submitted pursuant to § 1316 of the National Flood Insurance Act of 1968, as amended.

Article 12. IMPACT FEES.

1201. ESTABLISHMENT OF IMPACT FEES.

For any development located within the City of Montpelier for which a zoning or subdivision permit is required, there is hereby imposed an impact fee which will be computed and assessed in accordance with the formula and methodology set out in Table 1200.A., Impact Fees. The impact fee herein established, and the formula by which said fee shall be calculated, are hereby consistent with the city plan, to be provided by capital projects and expenditures resulting from development, construction and subdivision, and capital projects previously constructed or acquired.

1202. MITIGATION IN LIEU OF FEE.

In lieu of the fee imposed by § 1201 hereof, the City of Montpelier, acting by and through its City Council, may but is not obligated to, accept comparable and equal off-site mitigation in the form of interests in real estate, the value of which shall be discounted to reflect the diminution there of as a result of said real estate being exempt from taxation or of limited development potential.

1203. SEGREGATION OF FEES

1203.A. Separate Account for Impact Fees.

All impact fees imposed and collected under § 1201 hereof shall be maintained in a segregated account and shall be used only to fund a capital project identified as related to the development for which the impact fees are collected. The City of Montpelier shall produce annually an accounting identifying the source of each impact fee, the amount thereof, and the capital project to which it is attributable.

1203.B. Expenditure of Impact Fees.

All impact fees imposed and collected under § 1201 hereof, and all interest accretions, shall be expended only to fund those capital projects attributable to the impact fee imposed thereto.

1204. REFUNDS

All applications for refund of any unexpected impact fees shall be made in writing to the City of Montpelier within six month of the sixth anniversary of the date upon which such impact fee was paid. Thereafter, any claim for refund shall be barred and of no force and effect.

1205. RESERVATION OF POWERS.

Nothing herein shall be construed to impair the ability of the City of Montpelier, acting by and through its City Council, convened as Water and Sewer Commissioners, to enter into independent contracts for the provision, extension or maintenance of municipal water and sewer services, systems, and improvements; provided, however, that a reasonable proportion of the cost thereof attributable to and paid by any person otherwise subject to the impact fee imposed by § 1201 hereof shall be deducted from such fee.

1206. PAYMENT OF IMPACT FEES.

Full payment of the impact fees required by these Regulations shall be received by the City Treasurer prior to the issuance of a building permit for projects subject to impact fees according to § 1201. However, with the prior consent of the City Council, the payment of impact fees may be according to the following options:

1. Said fee may be paid in installments with interest accruing at the maximum annual rate of interest allowed by law, to be secured by a recorded lien in favor of the City upon all lands made subject to such fee; or
2. The payment of said fee may be deferred until a date certain, together with interest accruing at the maximum rate of interest allowed by law, to be secured by an approved bond, securities or letter of credit unconditionally in favor of the City.

1207. CALCULATION OF FEES.

The calculation of impact fees shall be based on the information in Table 1200.A. The fee associated with the land use most closely describing the proposed use shall be multiplied by the size of the project expressed in terms of the demand units listed for that use. Units expressed in square feet are to be calculated as gross square feet. The fee for projects which involve multiple land uses shall be calculated by applying the fee to the portion of the project dedicated to each use.

1208. EFFECTIVE DATE.

The ordinance shall be effective with respect to all building, zoning and subdivision applications duly filed with the City of Montpelier on and after July 15, 1989.

1209. VIOLATIONS AND PENALTIES.

Any person commencing or undertaking development in the City of Montpelier without first complying with the provisions of this ordinance, including the payment of any impact fee imposed hereunder, shall be subject to a penalty, not to exceed \$100.00 per day for each day a violation of this ordinance continues in existence, to be recovered in a civil action commenced by and prosecuted in the name of the City. The penalty imposed in this section shall be in addition to any other penalty imposed by general law or ordinance, and shall not be in lieu thereof. In addition to the penalties provided for herein, the City shall have the power to enjoin and abate any violations of this ordinance.

TABLE 1200.A. Traffic Impact Fees.

(EFFECTIVE July 15, 1989)

Land Use Fee	Fee	Demand Unit
INSTITUTIONAL		
Elementary School	0	Student
High School	0	Student
University	0	Student
Post Secondary School	0	Student
Church	0	1,000 ft ²
Library	0	1,000 ft ²
Dormitory	250	Bed
Hospital	0	Bed
Nursing Home	0	Bed
Community Care Home	0	Bed
Maternity Home	0	Bed
Therapeutic Community Residence	0	Bed
Government Offices	500	1,000 ft ²

Land Use Fee	Fee	Demand Unit
Post Office	500	1,000 ft ²
Club	0	1,000 ft ²
Museum	0	1,000 ft ²
Auditorium	0	1,000 ft ²
RETAIL		
Retail Store	500	1,000 ft ²
General Service & Rental Agencies	500	1,000 ft ²
1,000 ft ² Personal Services	500	1,000 ft ²
Garden Center, Building Materials	500	1,000 ft ²
Automotive Sales & Service	500	1,000 ft ²
Supermarket	500	1,000 ft ²
Convenience Store	500	1,000 ft ²
Furniture Store	500	1,000 ft ²
SHOPPING CENTER		
0 to 10,000 ft ²	500	1,000 ft ²
10,001 to 50,000 ft ²	750	1,000 ft ²
50,001 to 100,000 ft ²	750	1,000 ft ²
100,001 to 200,000 ft ²	750	1,000 ft ²
200,001 to 300,000 ft ²	750	1,000 ft ²
300,001 to 400,000 ft ²	750	1,000 ft ²
INDUSTRIAL		
Light Industry & Manufacturing (fewer than 100 employees)	0	1,000 ft ²
Industrial Plant (over 100 employees)	0	1,000 ft ²
Warehouse	0	1,000 ft ²
Utilities	0	1,000 ft ²
Freight or Trucking Terminal	0	1,000 ft ²
Contractor's yard, Pole yard, Materials storage	0	1,000 ft ²
COMMERCIAL		
General Office: 0 to 10,000 ft ²	500	1,000 ft ²
10,001 to 50,000 ft ²	500	1,000 ft ²
Medical Office	500	1,000 ft ²
Office Park	500	1,000 ft ²
Day Care	500	1,000 ft ²
Clinic	500	1,000 ft ²
Hotel/Motel	250	Room
Bed & Breakfast, Rooming House	250	Room
Theatre	0	Seat
Restaurant	500	1,000 ft ²
Fast Food Restaurant (with/without drive-through)	500	1,000 ft ²
Service Station	0	Pump
Car Wash	0	Stall
Truck Stop	0	Site
Banks & Credit Union: Walk-In Only	500	1,000 ft ²
With Drive-Through	1,000	1,000 ft ²
Funeral Home	0	1,000 ft ²
RESIDENTIAL		
Single Family Detached	0	Dwelling Unit
Apartment	0	Dwelling Unit
Condominium/Townhouse/Multi-Family	0	Dwelling Unit

Land Use Fee	Fee	Demand Unit
Mobile Home	0	Dwelling Unit
Congregate	0	Dwelling Unit
PUD	0	Dwelling Unit

TABLE 1200.B. Park impact Fees.

(EFFECTIVE July 15, 1989)

Land Use Fee	Fee	Demand Unit
INSTITUTIONAL		
Elementary School	0	Student
High School	0	Student
University	0	Student
Post Secondary School	0	Student
Church	0	1,000 ft ²
Library	0	1,000 ft ²
Dormitory	0	Bed
Hospital	0	Bed
Nursing Home	0	Bed
Community Care Home	0	Bed
Maternity Home	0	Bed
Therapeutic Community Residence	0	Bed
Government Offices	0	1,000 ft ²
Post Office	0	1,000 ft ²
Club	0	1,000 ft ²
Museum	0	1,000 ft ²
Auditorium	0	1,000 ft ²
RETAIL		
Retail Store	0	1,000 ft ²
General Service & Rental Agencies	0	1,000 ft ²
Personal Services	0	1,000 ft ²
Garden Center, Building Materials	0	1,000 ft ²
Automotive Sales & Service	0	1,000 ft ²
Supermarket	0	1,000 ft ²
Convenience Store	0	1,000 ft ²
SHOPPING CENTER		
0 to 10,000 ft ²	0	1,000 ft ²
10,001 to 50,000 ft ²	0	1,000 ft ²
50,001 to 100,000 ft ²	0	1,000 ft ²
100,001 to 200,000 ft ²	0	1,000 ft ²
200,001 to 300,000 ft ²	0	1,000 ft ²
300,001 to 400,000 ft ²	0	1,000 ft ²
INDUSTRIAL		
Light Industry & Manufacturing (fewer than 100 employees)	0	1,000 ft ²
Industrial Plant (over 100 employees)	0	1,000 ft ²
Warehouse	0	1,000 ft ²
Utilities	0	1,000 ft ²
Freight or Trucking Terminal	0	1,000 ft ²
Contractor's yard, Pole yard, Materials storage	0	1,000 ft ²
COMMERCIAL		
General Office: 0 to 10,000 ft ²	0	1,000 ft ²
10,001 to 50,000 ft ²	0	1,000 ft ²

Land Use Fee	Fee	Demand Unit
Medical Office	0	1,000 ft ²
Office Park	0	1,000 ft ²
Day Care	0	1,000 ft ²
Clinic	0	1,000 ft ²
Hotel/Motel	0	Room
Bed & Breakfast, Rooming House	0	Room
Theatre	0	Seat
Restaurant	0	1,000 ft ²
Fast Food Restaurant (with/without drive-through)	0	1,000 ft ²
Service Station	0	Pump
Car Wash	0	Stall
Truck Stop	0	Site
Banks & Credit Union: Walk-In Only	0	1,000 ft ²
With Drive-Through	0	1,000 ft ²
Funeral Home	0	1,000 ft ²
RESIDENTIAL		
Single Family Detached	250	Dwelling Unit
Apartment	250	Dwelling Unit
Condominium/Townhouse/Multi-Family	250	Dwelling Unit
Mobile Home	250	Dwelling Unit
Congregate Care Facility	0	Dwelling Unit
PUD	250	Dwelling Unit

Article 13. DEFINITIONS.

1301. CLARIFICATION OF MEANING.

The precise meaning of any word used in these regulations, when not otherwise defined by these regulations or if the definition provided is unclear, shall be clarified by the Development Review Board. The Board shall interpret the meaning in the context of the purpose and intent of these Zoning and Subdivision Regulations, the City of Montpelier Municipal Plan, and 24 V.S.A. Chapter 117.

1302. GENERAL INTERPRETATION.

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural.

The word "lot" includes "plot".

The word "building" includes "structure".

The word "shall" is mandatory. "May" is authorized but not required. "Should" is desirable but not mandatory.

The words "occupied" or "used" shall be considered as though followed by "or intended, arranged or designated to be used or occupied."

The word "person" includes individual, partnership, cooperative, association, corporation, company, or organization.

The "Act" refers to 24 V.S.A. Chapter 117.

The word "staff" refers to employees of the Montpelier Department of Planning and Development.

The word "Board" refers to the Development Review Board.

1303. DEFINITION OF TERMS

Academic Institution: A post-secondary education institution offering or operating programs of college or professional education for credit or degree (See School).

Academic Institution Planned Unit Development (AI-PUD): An AI-PUD which is located in the Low Density Residential, Medium Density Residential, or High Density Residential zoning districts, and which has an academic institution as its primary land use.

Accessory Apartment: A small apartment, created within or attached to an owner occupied single-family dwelling, or within an accessory structure associated with the dwelling, which meets the accessory apartment standards of this ordinance.

Accessory Structure: A structure, the use of which is incidental and subordinate to, and customarily associated with the primary structure located on the same lot.

Accessory Use: Any use which clearly meets the following: (a) it is clearly incidental and customarily found in association with the principal use, and (b) it is subordinate in area, purpose, and extent to the primary structure and use of the lot.

Advertising Billboard Sign: A sign which directs attention to a business, industry, profession, service, commodity, or entertainment conducted, sold or offered elsewhere than upon the same premises.

Affordable Housing: A dwelling that is occupied by person whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United State Department of Housing and Urban Development (HUD), and the total annual cost of the housing, if owned by the inhabitant including principal, interest, taxes and insurance, or, if rented by the inhabitant including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

Affordable Housing Development: A development of which at least five (5) dwelling units or at least 20 percent of the total number of dwelling units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions, as defined in 27 V.S.A. §610, that preserve their affordability, for at least 99 years or longer [24 V.S.A. §4302(2)].

Agricultural Use: The use of property or structures for common farming-related activities necessary for crop and animal production, including plant or tree nurseries per the determination from the Agricultural Commissioner.

Agricultural Sales-related Activity: The sale of agricultural products or byproducts on agricultural property.

Ancillary Apartment: A small apartment, created within or as an addition to an existing single family dwelling unit, which meets the ancillary apartment standards of this ordinance.

Animal Boarding Facility or Kennel: Land, structure, or facility designed and used for the temporary storage or housing of five (5) or more domesticated or wild animals at any time. The housing, storage, or raising of any animals as part of an active farm is not deemed to be a kennel (See Animal Shelter).

Animal Care/Veterinarian: Any facility which provides medical care to animals which may include facilities for keeping animals overnight as part of veterinary care. Facilities which provide for the overnight boarding or caring for animals not part of veterinary care are deemed to be animal boarding facilities.

Animal Exhibits: Any structure or property where animals are kept in captivity for public display with or without charge.

Animal Rehabilitation Center: Any structure or property used in part or in its entirety for the short term care of any domesticated or wild animal.

Animal Shelter: Any accessory structure or property which is used for housing or sheltering four (4) or fewer domesticated animals outside of the principal permitted structures. A structure for the housing, storage, or raising of any animals as part of an accepted agricultural practice is not deemed to be an animal shelter.

Antenna: Any structure or device used for the purpose of receiving or transmitting electromagnetic waves, such as telecommunication, television, radio, or other electronic signals, including but not limited to directional antennas, such as panels, microwave and satellite dishes, and Omni-directional antennas, such as whip antennas.

Antenna Tower: Any structure, including all supporting lines, cables, wires, and braces, intended primarily for the purpose of mounting one or more antennas.

Apartment Unit: One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing other dwelling units.

Applicant: The person or legally responsible entity who is seeking approval for development pursuant to these regulations, whether represented by him/herself or represented by another person on his/her behalf, such as a builder, developer, optional purchaser, consultant, or architect.

Aquifer: A geologic formation beneath the surface of the earth that stores water.

Aquifer Recharge Area: An area in which water can infiltrate the soil and replenish an aquifer. Recharge areas are often much smaller than the total aquifer area. Artificially increasing runoff in a recharge area through paving or clearing can adversely impact an aquifer.

Architectural Elevation: A fully-dimensioned, scale drawing of a building façade in two dimensions showing features such as windows, doors and the relationship of grade to floor levels.

Art Gallery/Museum: A public or private cultural facility which provides for the display of art, artifacts or interactive exhibits, including children’s or science museums, art display spaces, and other facilities of natural, historic, educational, or cultural interest.

Artisan Studio: An enclosed space limited to 1000 square feet gross floor area and employing six (6) or fewer persons (including proprietors) that is generally used for the purpose of assembling finished goods which may or may not be retailed on the site.

Bank: Any financial institution involved in the direct deposit or withdrawal of funds or a structure which houses facilities to deposit or withdraw funds electronically.

Bank, Drive Through: Any bank facility which provides services to customers within vehicles.

Banner: Any temporary or permanent sign of lightweight fabric or similar material that is mounted on one or more poles, a building, or other structure at one or more edges. National, state or municipal flags shall not be considered banners.

Bar/Night Club: An establishment where the principal activities include serving alcoholic beverages for onsite consumption, social interaction, and/or stage entertainment.

Base Flood: The flood having one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) : the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

Basement: Any area of the building having its floor sub grade (below ground level) on all sides.

Bed and Breakfast: An owner-occupied dwelling which allows the use of up to five (5) sleeping rooms for rent for transient occupancy in exchange for compensation, including the serving of breakfast to guests only. The sale of alcoholic beverages is prohibited.

Boarding House: See Rooming House.

Bond: A performance bond duly issued by a bonding or surety company approved by the City Attorney with security acceptable to the Montpelier City Council or a performance bond duly issued by the developer-obligor (accompanied by security in the form of cash, certified check or U.S. Government bearer bonds deposited within the Montpelier City Council in the full amount of the obligation).

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Building Coverage: The ratio of the ground plan area of a lot covered by buildings or structures to the total area. The portion of the lot covered by structures is measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on the lot.

Building Envelope: A three dimensional space within which the principal and accessory structures on a lot must be located. A building envelope shall be delineated laterally on the ground by setbacks or other limits, and vertically by height limits.

Building Front Line: A line parallel to the street touching that part of the building (including porches and overhangs) closest to the street.

Building Marker: Any sign indicating the name of a building, along with a date or incidental information about its construction, which sign is cut into a masonry surface or made of metal or stone.

Business Services: A business which offers services to other businesses or individuals, including but not limited to, photocopying, blueprinting, insurance sales, financial management, computer data and processing, security services, interior cleaning and similar uses. Business services are not principally involved with the sale of goods or materials, and do not require outdoor storage.

Canopy Sign: Any sign that is a part of, or attached to, an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Car Wash, Incidental: Any facility whose principal business is the provision of automobile services other than a car wash, but which provides one bay for the washing of vehicles, clearly incidental to the other automobile services provided.

Car Wash: Any facility whose principal business is the cleaning and washing of vehicles of any type, or a facility which provides two or more bays for the washing of vehicles by the customer or for hire by the business.

Catering Services: Any facility which prepares food for delivery and consumption off the premises.

Central Business I (CB-I) : The Central Business District I (CB-I) is an area which permits a variety of uses necessary to serve as the community's governmental, commercial, retail and cultural center. Residential uses are permitted to add interest and vitality to the city center and to accommodate those who desire housing at relatively high density.

Central Business II (CB-II) : The Central Business District II (CB-II) is comprised of areas adjacent to the Central Business-I(CB-I), Civic (CIV), and High Density Residential (HDR), districts. It is designed to encourage desirable change toward several related goals.

Certificate of Compliance: The certificate of compliance provides a mechanism for review of all approved developments to ensure that all building code requirements and development conditions are satisfied prior to the occupancy of any structure.

Child Care Facility: A facility which operates according to a license or registration from the State of Vermont in which care is provided on a regular basis for seven or more children less than sixteen years of age, at one time, for periods not to exceed 24 hours. Such facilities include those commonly known as day care center, day nurseries, play groups, and preschool.

Child Care Home: A child care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. Care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children, who reside in the residence of the caregiver, except:

(A) these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and

(B) during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in

attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. [33 V.S.A. 4902(3)]

Church, Synagogue, or Other Place of Worship: See Place of Worship, below.

Civic District (CIV) : The Civic District is the focus for Montpelier's role as the state capital and houses the greatest concentration of government buildings. This district includes the area identified as the Capitol Complex for which additional planning and regulatory functions are provided by the State Capitol Complex Commission.

Civic Use: Land or building space that is primarily intended for non-commercial public education, cultural, governmental, or religious functions.

Club: A premises used by group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

Cluster Development: Cluster development describes the approach of grouping or concentrating the physical development of an area so to minimize impacts, reduce infrastructure costs, protect desirable terrain features, protect sensitive ecological features, achieve desirable land use patterns, and preserve open spaces while still allowing the same number of units or more that would be allowed within the underlying zoning district. It may or may not require reduced lot sizes and other adjustments to dimensional standards.

Community Care Home: A dwelling unit licensed or registered by the State of Vermont to provide a living environment and personal care, but not full-time nursing care, for up to six unrelated residents including such supervisory and support staff as may be necessary to meet their needs.

Community Center: A building used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency and may include the occasional sale or provision of refreshments, souvenirs, or other articles as related to and accessory to the activities occurring at the center.

Commercial Use: An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

Construction Site Identification Sign: A sign which identifies the project, owner or developer, architect, engineer, contractor and subcontractors, funding source, and related information including but not limited to sale or leasing information.

Convenience Commercial: A commercial establishment not exceeding 3,500 square feet net floor area offering personal services or items for sale in small quantities for daily use including prepackaged food products, household items, newspapers, magazines, sandwiches and freshly prepared foods for off-site consumption. Gasoline sales are expressly prohibited.

Convenience Gas Station: An establishment where the primary activities are the sale of automobile fuel and convenience goods (such as tobacco, magazines, drinks, packaged and deli foods) and does not contain seating for the onsite consumption of food but may contain automobile repair facilities.

Cultural Facility: The use of land, buildings, or structures to provide educational and informational services to the general public, which may include, but not be limited to, museums, schools, art galleries, libraries, accessory places of assembly or similar facilities.

Design Control District (DCD) : In accordance with 24 VSA 4407(6), the DCD has been created to guide development in an area with particular historical, architectural, urban design, visual and cultural significance.

Design Review: Design review is the process outlined in § 305 for properties located within the Design Control District (DCD).

Development: The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

Development in the Floodplain District: Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Directory Sign: A sign located in foyer or entryway which indicates floor, room or suite number for the purpose of locating a business for information purposes only.

Dormitory: A building used as group living quarters by six or more students and/or staff as an accessory use for an academic institution, convent, monastery, sorority, fraternity or similar institutional use.

Drawn to Scale: A plan drawn to scale represents the sizes and distances of all the elements of the plan in proper proportion to one another, regardless of the measure used (feet, inches, meters, etc.), and indicates the scale used. A bar scale on the plan showing the unit of measure is particularly useful for reduced plans.

Dry Cleaner: An establishment which provides laundry, dyeing or dry cleaning services to individual customers. Drop-off facilities for cleaning off the premises shall be deemed "personal service establishments".

Dwelling, Single-Family: A building or structure which contains no more than one (1) dwelling unit.

Dwelling, Two-Family: A building or structure which contains no more than two (2) dwelling units, sometimes referred to as a "duplex".

Dwelling, Multi-Family: A building or structure designed to contain three (3) or more dwelling units.

Dwelling, Manufactured Home: For floodplain management purposes, the term "manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not, however, include a "recreational vehicle."

Dwelling, Mobile Home: A structure at least eight feet wide and 40 feet long (or at least eight feet wide and 32 feet long if built before June 15, 1976) designed to be used as a dwelling that is constructed off-site on a permanent chassis or frame and moved or placed on a lot in one more sections with or without a permanent foundation and connected to utilities. Any structure that meets this definition except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. 6201(1) shall be considered a mobile or manufactured home.

Dwelling, Modular (or Prefabricated) Home: A factory-built structure constructed on-site to be used a place for human habitation, which is composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Dwelling Unit: A room or set of rooms fitted with a private bath and kitchen facilities comprising an independent, self-contained residence occupied by a family and where rooms are not let to individuals.

Eating and Drinking Establishment: Any establishment which provides, for compensation, food or drinks primarily for consumption on the premises. This term does not include establishments which provide drive-through facilities or whose primary business is the preparation of food to be consumed off the premises.

Eating Establishment, Drive-through: Any establishment which provides one or more windows which allow patrons to buy and pick up food from their vehicle for consumption off premises.

Eating Establishment, Take-out: An establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the restaurant, but where ordering and pickup of food does not take place from an automobile.

Efficiency Apartment: A dwelling unit consisting of no more than one habitable room together with kitchen and sanitary facilities.

Elevation: A vertical distance above or below a fixed reference level. For elevations tied to a permanent bench mark, elevations are expressed in terms of U.S. Coast and Geodetic Survey NAVD '88 with conversions to the NGVD '29 datum if appropriate.

Emergency Shelter: Any building, structure, residence or place for the temporary housing or care of individuals or families (including limited counseling) for a period not to exceed thirty (30) days. This term shall not be deemed to include day care facilities, day care homes, family care homes, group care homes, nursing, rest, or convalescent homes, halfway houses or similar facilities.

Equipment Sales and Service: The sale, service or rental of trucks of one ton or greater capacity, tractors, construction equipment, agricultural implements, mobile homes, recreational vehicles, or similar heavy equipment.

Essential Services: Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, steam, water, sewerage, and other utilities and the equipment and appurtenances necessary for such systems to furnish an adequate level of service for the area in which it is located.

Existing Manufactured Home Park or Subdivision: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Existing Street: A Street that was in existence and was assigned an E-911 street name either as a public or private street by the City of Montpelier, VT, prior to January 28, 2002.

Expansion to an existing Manufactured Home Park or Subdivision: the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Family: One or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit. More than five persons not related by blood, marriage, or adoption shall not be considered a family or part of a family.

Family Care Facility: A facility operating under a license or registration from the State of Vermont in which care is provided on a regular basis for seven or more adults, including limited counseling and medical care, and commonly known as group care facilities, therapeutic care facility, half-way houses, and similar facilities.

Family Care, Home: A state licensed or registered residential care home or group home, serving not more than six persons who are developmentally disabled or physically handicapped.

Farm Structure: A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

Fence and Wall: A freestanding structure of metal, masonry, stone, wood or any combination, which is attached to the ground and used for confinement, soil retaining or grading, screening, or partitioning purposes.

Fill, Commercial: The operation of clean fill dump site for a fee.

Fill or Filling: The placement of material or soil on any property in any manner which increases or alters the flow of stormwater on any adjacent lot. Soil preparation for gardening purposes shall not be deemed "fill".

Flag: Any fabric, banner, or bunting containing distinctive, colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other governmental entity.

Flood Hazard Boundary Map: An official map of a community, issued by the Federal Insurance Administration, which designates the boundaries of the flood, mudslide and related erosion areas having special hazards.

Flood Insurance Rate Map (FIRM) : An official map of a community, on which the Federal Insurance Administration has delineated both the special hazard area and the risk premium zones applicable to the community.

Flood Insurance Study: an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and / or flood related erosion hazards.

Floodplain: Normally dry land adjacent to a body of water, such as a river, stream, or lake, which is susceptible to inundation by floodwaters.

Floodplain Approval: Floodplain approval is granted to a project that is within the floodplain provided that it meets the requirements of the Federal Emergency Management Agency, State of Vermont, and the City of Montpelier and that it is adequately flood proofed or is shown to be above the 1% chance of flooding within a given year.

Floodplain District: The district shown on the official FIRM map of the area designated by the community, on which the Federal Emergency Management Agency, designating it as having a 1% chance of flooding within a given year.

Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water or sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Floodway, Regulatory in the City of Montpelier: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Floor Area, Gross: The sum of the horizontal area of all floors of a building or structure measured from the exterior face of exterior walls or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than 6 feet.(figure 6-4)

Floor Area Habitable: The floor area of the finished portion of a dwelling unit that meets the applicable occupancy standards of Montpelier’s housing code and is suitable for human occupancy.

Floor Area, Interior: The sum of the horizontal area of all floors of a building or structure measured from the interior walls.

Floor Area, Net: The total of all interior floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading, and all floors below the ground floor except when used or intended to be used for habitation or service to the public.(figure 6-4)

Floor Area Ratio: The gross floor area of all buildings or structures on a lot divided by the total lot area.

Footcandle (fc) : A unit of measure of illumination or luminance. A unit of luminance on a surface that is one foot from a uniform point source of light of one candle and equal to one lumen per square foot. Footcandle values can be measured directly with handheld incident light meters. One footcandle is equal to 1 lumen cast per square foot of surface. A typical sunny day can measure between 5,000 fc and 10,000 fc. An average living room measures about 30 fc. A full moon can provide 0.2 fc of illumination.

Frontage-Lot: See Lot Frontage.

Funeral Home: Any building or structure, or part thereof used for human funeral services which may include a chapel or facility to be used for funeral services.

Gasoline Sales: Any structure, device, or land used or intended to be used for the on-premises sale of petroleum products to motor vehicles required to be licensed under the laws of the State of Vermont, with or without the repairing or servicing of such motor vehicles.

General Business District (GB) : The GB is a business district designed for accommodating automotive activities, overnight accommodations and uses generally associated with the traveling public.

Glare: Light emitting from a luminaire or reflected off an object with intensity great enough to reduce a viewer’s ability to see and, in extreme cases, causing momentary blindness.

Grade, Finished Elevation: of completed surfaces of ground, lawns, walks, paved areas, and roads brought to grades as shown on plans relating thereto.

Ground Sign: A structure consisting of one (1) or more signs having its own supporting structure on/in the ground independent of any building.

Group Home: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Group Housing: Any premises where the principal use is the housing of two or more individuals not living as a single housekeeping unit and which does not have individual cooking and eating facilities or separate apartments. This term shall be deemed to specifically include sororities, fraternities, retreat houses, camps, convents or similar uses but does not include hotels, family care facilities, or boarding houses.

High Density Residential (HDR) : This district is designated for land centrally located where city water and sewer facilities are available. Due to reasons of utilities, location, and existing intensive development, higher density is appropriate. The purpose of this district is to permit a continuation and expansion of residential and related uses when consistent with the objectives of the Montpelier Municipal Plan.

Historic Building, Property or Resource: Any property, building, structure, or site identified as having local, state or national historic, architectural or archeological significance and eligible for listing on the State Register of Historic Places either in its own right or as a contributing resource in an historic district.

Historic Structure: Any structure that is (a) listed individually in the National Register of Historic Places – a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

Home Occupation: A non-residential use that is established in a legally established residential structure and meets the criteria and provisions of § 605.G.

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily in-patients. Hospitals include, as an integral part of the institution, related facilities such as laboratories, out-patient facilities, training facilities, medical offices and staff residences.

Hotel: A facility designed and constructed to provide transient lodging accommodations to the general public and may provide additional services such as restaurants, meeting rooms, entertainment, and recreational facilities which are accessory to, customary to, and subordinate to the principal lodging use.

Housing for the Elderly: Multiple unit housing for senior citizens with increased density, and specific occupancy and ownership restrictions as described in this ordinance.

Illuminance (usually 'E' in formulas): The total amount of visible light illuminating (incident upon) a point on a surface from all directions above the surface. This "surface" can be a physical surface or an imaginary plane. Therefore, illuminance is equivalent to irradiance weighted with the response curve of the human eye. Standard unit for illuminance is Lux (lx), which are lumens per square meter (lm/m²). 1 fc= 10.764 lx.

Incinerator: Any facility designed to be used for the disposal by combustion of products or materials.

Industrial District (IND) : The IND provide areas which encourage the location of industrial development and uses through the provision of transportation and other utility infrastructure, and appropriate buffering from residential and commercial uses.

Informational Sign: A sign used strictly for the direction, safety or convenience of the public such as those indicating restrooms, parking restrictions or freight entrances. No sign with a commercial message legible from a position off the subject premises on which the sign is located shall be considered informational.

Inn: An historic building, the primary purpose of which is to offer for rent lodging for the traveling public. Meals and alcoholic beverages may also be provided as a secondary service to guests and other patrons.

Interior Signs: Signs attached to the interior of a building window or glass door.

Junk Yard: Any place which is maintained, operated or used in connection with a business for storing, keeping or processing, buying or selling junk for processing or use on or off the premises. Also included is any facility designed or used for the storage of sale of unlicensed vehicles or parts from vehicles. This does not include a garage or service station where wrecked or damaged vehicles are stored for less than 30 days, or

a recycling or waste collection center approved under provisions of these regulations, or new or used car sales establishments where vehicles for sale are unlicensed.

Kennel: See Animal Boarding Facility.

Landscape Service: Any establishment which provides maintenance, planting, sodding, seeding, trimming or other care to any plant off-premises. The production and storage of plant materials on the premises for pick-up and delivery is also deemed a landscape service.

Lot: A designated parcel, tract, or area established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Lot, Corner: A lot or parcel of land abutting two or more public streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot Coverage: The portion of a lot covered by buildings, structures, paved areas, and unpaved parking/loading areas divided by total lot area. The portion covered by buildings is measured as the horizontal area of the footprint, including any eaves or overhanging structures, of all principal and accessory buildings.

Lot Frontage: Distance measured across the lot at the lot front line abutting a street.

Low Density Residential (LDR): The LDR district is an area limited to non-intensive land uses. The purposes of this district are to prevent premature development of land, to retain certain areas for non-intensive uses, to prevent development where it would be a burden on the community, and to retain areas for open space.

Lowest Floor: The lowest floor of the lowest enclosed area, including basements. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable design requirements of applicable sections of the National Flood Insurance Regulations.

Mail Services: Any establishment which engages in the distribution of mail or parcels.

Manufactured Home Park or Subdivision: a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured Home: See Dwelling, Mobile Home or Manufactured Home.

Manufacturing, Light: Any business where the principal use is the assembly of materials or parts to be used in part or in entirety in the manufacture of consumer products including small appliances, electronics, computers, and other similar products. This includes research and development of new products, or improvements to existing products.

Manufacturing, Heavy: Any land use where a principal activity is the assembly or creation of products from raw materials. Specifically included are asphalt batch plants, commercial incinerators (not accessory to a permitted use), oil, gas, or coal fired facilities used to process raw products, and other similar uses which potentially generate water or air-borne pollutants.

Marquee: Any permanent roof-like structure or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

Marquee Sign: Any sign attached to, in any manner, or made part of a marquee.

Meadow: An area of grassland, either in its natural state or maintained as a pasture or for growing hay.

Medical and Dental Laboratory: Any establishment whose principal business is the processing, testing, or analysis of materials for medical purposes and which provides limited direct client service.

Medical Clinic: Any facility which provides medical services by licensed professionals to individuals on an out-patient basis and which does not provide facilities for the care of patients on an overnight basis. Facilities consisting of only one doctor and up to four support staff shall be considered an office use.

Medium Density Residential (MDR) : The MDR district is a principally residential area where city water and sewer facilities are available or where the installation of these facilities is feasible. Residential and other compatible and complementing uses are permitted in this district at densities dependent upon the city utility services available. This district is intended to house the majority of the community's permanent residents in areas and at densities consistent with the city utilities provided.

Micro-Industry: See Artisan Studio.

Mini-Warehouse: A storage facility designed and constructed for rent of individual storage spaces to customers where each rented or leased space has an individual door or gate. The storage or lease of spaces for commercial storage shall be deemed a warehouse.

Mobile Home: See Dwelling: Mobile Home.

Mobile Home Park: A parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate, more than two mobile homes for human occupancy. This term does not apply to:

- premises used solely for storage or display of mobile homes;
- to land under the ownership of an agricultural employer who may provide up to four (4) mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment; or
- any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes.

Motel: A facility designed or used primarily to provide transient lodging accommodations for automobile travelers in which each sleeping room customarily has an exterior entrance next to an adjacent parking space.

Motor Vehicle Maintenance Service: A facility which provides vehicle maintenance, including oil changes and lubrication, tire sales and replacement, and minimal work while the customer is on the premises. This does not include sale of gasoline, oil tires or parts for use off premises.

Motor Vehicle Sales and Repair Facility: An establishment for the display, sale and repair of new and used motor vehicles, trailers, boats, and recreation vehicles.

Motor Vehicle Service Bay: A space designed and constructed for the placement of any motor vehicle for repair, servicing, or washing. Service bays may be located outside of structures.

Motor Vehicle Service Station: Any facility which provides repair service to individual vehicles including engine repair, transmission repair, body repair, and the installation of or replacement of any mechanical parts. Car washing, maintenance services, tire installation and sale of parts may be an incidental or accessory use. Also included is the sale of gasoline.

Montpelier Municipal Plan: The municipal plan approved by the Montpelier City Council of the City of Montpelier, which indicates the general locations recommended for various functional classes of public activities, places and structures and for the general physical development of the City of Montpelier and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Municipal Facilities: Municipally owned and operated institutions and facilities necessary for the public welfare, including, but not limited to, police and fire facilities, garages, and storage facilities.

Nature Center: A private non-profit or municipal establishment which provides exhibits and interpretive information on the natural environment, including but not limited to indoor and outdoor animal exhibits, botanical or geological exhibits, trails and pathways with interpretive signage, and structures which provide lecture and exhibit spaces, rehabilitative services, and accessory uses.

New Construction: for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Nonconforming Lots or Parcels: Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer.

Nonconforming Sign: Any sign that does not conform to the requirements of this ordinance.

Nonconforming Structure: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer.

Nonconforming Use: Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

Nonconformity: a use, structure, lot, or parcel that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

Nursing, Rest or Convalescent Home: A place licensed by the State of Vermont, other than a hospital, that maintains and operates facilities and provides nursing care to three or more persons, unrelated to the home operator, who are suffering from illness, disease, injury or deformity and require nursing care.

Office: Any building, structure, room, suite, or portion thereof where the occupant transacts business or carries on a stated occupation. An office shall not include the manufacture, assembly, cleaning, testing, processing, or repair of any product.

Office, Incidental: Any suite, room or occupancy within a building used for the purpose of meeting customers or processing paperwork for the permitted business.

Office Park (OP) : The Office Park District is an area designated for planned commercial development, with a park-like setting utilizing substantial areas of undeveloped land which is currently primarily wooded or open meadow, and adjacent or visible to major highway routes into the city and from elsewhere in the city.

Outdoor Market: Any seasonal retail business where goods are sold outdoors or under an open structure. Items sold may include vegetables, new and used household goods, personal effects, art work, handicrafts, and antiques, in small quantities on a temporary or limited basis. This use includes indoor flea markets and farmer's markets. Spaces or booths may be rented or leased to individuals for the sale of products.

Parcel: A lot established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Parking Area or Lot: An area located outside of any street right-of-way or easement designed and used for parking or temporary storage of motor vehicles.

Parking, Commercial: The use of land or structures for the parking of vehicles for a fee as a lot or parcel whose principal use is the parking of vehicles.

Parking Space: A temporary storage area for motor vehicles that (a) has the minimum dimensions required in these regulations, (b) is directly accessible to an access aisle, and, (c) is not located on a dedicated street right of way.

Passenger Terminal or Station: Any premises for the loading or unloading of passengers from various modes of transportation such as railroad, bus, or limousine, including the temporary storage of transportation vehicles, parking, and ticket purchase facilities.

Pennant: Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

Permanent Sign: Any sign as defined above, intended to be erected and maintained for more than sixty (60) days.

Perpetually Affordable Housing: One or more dwelling units subject to housing subsidy covenants or restrictions, as defined in 27 V.S.A. 610, that preserves their affordability for a period of 99 years or longer.

Person: A corporation, company, association, society, firm, partnership, or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof.

Personal Service Establishment: A facility which provides care to a person or a person's apparel, including barber shops, beauty shops, seamstress shops, shoe repair shops, coin-operated laundries, optician shops, diet centers, health clubs, spas, pet grooming shops and similar uses. Sales of products must be clearly incidental to the services provided.

Place(s) of Worship: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory

§610. Housing subsidy covenants; enforceability.

(a) Definition. As used in this section, "housing subsidy covenant" means a covenant the purpose of which is to encourage the development and continued availability of affordable rental and owner-occupied housing for low and moderate income persons. A housing subsidy covenant may be created during ownership or at the time of conveyance by the owner of real property as a condition of: (1) an allocation of "low income housing tax credits" pursuant to regulations of the agency of commerce and community development; (2) a grant, loan or contract made by an agency, instrumentality or political subdivision of this state; (3) a grant, loan or contract made by a nonprofit corporation; (4) a subsidized loan from any lending institution that makes loans for residential housing; or

(5) a subsidized private transaction.

(b) Restrictions. A housing subsidy covenant may include without limitation restrictions on the use of real property, restrictions on resale price, restrictions on tenant income and rents and restrictions on the income of a purchaser of housing or a housing unit for his or her own residence.

(c) Requirements. A housing subsidy covenant shall be set forth in a separate and distinct document and executed, acknowledged and recorded in the manner provided by law for the execution, acknowledgment and recording of deeds.

(d) Duration. A housing subsidy covenant may be perpetual or may be limited to a period of time specified in the document and may be amended or terminated by written agreement of the owner of the land and all persons or entities holding the right to enforce the covenant. Any amendment or termination shall be executed, acknowledged and recorded as provided in this section.

(e) Enforceability. A covenant that complies with this section shall run with the land and shall be enforceable according to its terms. The covenant may include provisions for monitoring and enforcing compliance. The covenant may be enforced by the person or entity that provided the subsidy of which creation of the covenant was a condition, or by any agency, instrumentality or political subdivision of the state or nonprofit corporation organized for the purpose of promoting affordable housing to whom the right of enforcement has been assigned.

Added 1989, N o. 91, § 1; am ended 1995, N o. 190 (Adj. Sess.), § 1(a).

buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

Plan: The plat and/or detailed drawings, from which the roadway, drainage, water supply, sewage facilities and such other installations as may be required, can be constructed.

Planned Residential Development (PRD): An area of minimum contiguous size, as specified in this ordinance, to be planned, developed, operated and maintained according to plan as a single entity for any number of dwelling units, the plan for which does not conform to the Zoning and Subdivision Regulations concerning lot size, type of dwelling, density, or lot coverage.

Planned Unit Development (PUD): An area of minimum contiguous size, as specified in this ordinance, to be planned, developed, operated and maintained according to plan as a single entity, the plan for which does not conform to the Zoning and Subdivision Regulations concerning lot size, bulk, type of dwelling, commercial or industrial use, density, lot coverage or required open space.

Plat: The final map, drawing or chart indicating the manner in which the property is to be subdivided.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs employing "A" or "T"-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day to day operations of the business.

Political Sign: A sign of non-permanent material for the purpose of calling attention to a candidate for public office or an issue to be voted on.

Preliminary Layout: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Development Review Board for its consideration.

Primary Agricultural Soils: Soil types designated as "prime" or "statewide" by the United States Natural Resource Conservation Service (USNRCS).

Projecting Sign: A sign projecting from the face of a building over either private or public property.

Public: Any use, land, structure, building, or facility used by any state or local government entity for use by the general public regardless of ownership.

Public Announcement Banners and Signs: A temporary banner or sign announcing an auction, a campaign, drive or event of a civic, philanthropic or religious organization.

Public Assembly Hall or Area: Any structure or area where large numbers of individuals collect to participate in or to observe programs of participation.

Private Frontage: Private frontage is that area between the front property line and the principal building facade. Variables within the private frontage include the depth of the setback and the combination of elements such as fences, stoops, porches, or landscaping. Private frontage may overlap with public frontage in the case of awnings, signs, patios, or similar features.

Public Frontage: Public frontage is the area between a property line and the edge of the travel way of a public thoroughfare, which typically includes curbs, walks, planters, street trees, streetlights, hydrants, and other streetscape features.

Quarry: A place where rock, ore, stone, and similar materials are excavated for sale or offsite use.

Real Estate Sign: A sign located on real estate or a building, advertising that the premises on which the sign is located is for sale, lease, or rent, along with identification of the owner or agent.

Recreation (REC): The REC district comprises public lands dedicated to recreation and conservation of open space. Other public uses shall be compatible with these objectives.

Uses approved immediately adjacent to the REC district shall not derogate from the public benefits of the district.

Recreational Use, Large Outdoor: Any public, quasi-public or private property where the principal use is a zoo, aquarium, amusement park, stadium, miniature or full-service golf course, swimming pool, exposition center, or similar use or activity. The characteristics of such uses include the occupation of a relatively large area of land, development of a large portion of the site for the use, and the use of the facility by a relatively large number of people at one time.

Recreational Use, Indoor: Any recreation facility enclosed in a structure for use such as billiards, bowling, indoor shooting range, arcade, pool halls, ice skating and similar facilities.

Recreational Use, Parks and Playgrounds: Any public, quasi-public or private facility where the principal use is a park, playground, athletic field, tennis court, bike path, or similar facility. A private club house restricted to use by development residents may be a park and playground recreation use.

Recreation Use, Temporary: Any recreation use which is established on a temporary basis including carnivals, booths, festivals, and similar uses.

Recreational Vehicle: a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicles Camp: Any parcel or portion thereof designed and constructed to accommodate the parking of one or more recreational vehicles for a fee.

Research Facility: An establishment, laboratory, or other facility for carrying on investigation and/or testing in the natural, physical, or social sciences, which may include engineering and product development.

Residential Care Home: A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator.

Residential Use: Use of a structure or property for human habitation.

Retail Sales: An establishment whose principal use is the sale of products for consumption or use by the customer off the premises. This shall include but not be limited to the sale of hardware, paint, office equipment, sporting goods, television equipment (including satellite dishes), automotive supplies, major household appliances (including refrigerators, stoves, ovens, air conditioners, furnaces) and groceries. This also includes trading stamp and other redemption outlets and department stores.

Retail Sales, Outdoor: The use of any lot or parcel or portion thereof for the outdoor sale and storage of any product or the exchange or swapping of any product among customers.

Retail Sales, Temporary: The use of any structure, lot or parcel for limited sales events which are conducted on private or public property for brief periods of time.

Ridgeline: The uppermost point of a ridge, hill, cliff, slope or face. It may coincide with the top (highest elevation) of a rock cliff or, where the bedrock is not exposed, the most obvious break in slope associated with the underlying bedrock. The term does not include intermediate terraces, steps, or elevations along the face of a slope. A major ridgeline is a ridgeline characterized by an elevation, slope, orientation, and/or relationship to nearby property so as to be highly visible from distant vantage points.

River: Any natural or artificial watercourse in which water flows in a definite direction or course greater than 1.5 cubic feet per second, either continuously or intermittently, and has a definite channel, bed, and banks.

Riverfront District (RIV): The RIV District defines the area along the Winooski River between Main, Granite, and the rear of Barre Streets. Historically a manufacturing and rail transportation corridor, it is important to honor the area's industrial past while continuing to support the existing active rail use and manufacturing businesses.

Roof Sign: A sign erected, painted, or applied upon or over the roof of any building.

Rooming House: A dwelling where no less than three (3) and no more than eight (8) lodging rooms are offered for hire with or without meals. The sale of alcoholic beverages on the premises is prohibited.

Safety Service Facility: A facility for the conduct of public safety and emergency services, including police and fire protection and emergency medical and ambulance service.

School: A facility offering a curriculum of elementary or secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools and certified by the Vermont Department of Education, including parochial, private, public and nursery schools, accessory uses, but specifically excluding commercially operated schools of beauty, business, dancing, driving, music, and other similar establishments, see Academic Institution.

School, Commercial or Trade: A facility offering instruction or training, but not offering academic credit or degrees.

Shopping Center: A structure or series of structures which contain a variety of commercial outlets for purchasing goods and services.

Site Triangle: A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sign: Any structure, display, device or representation designed or used to advertise or call attention by visible communication to any thing, person, business, activity or place. This definition shall include signs located within a window when directly illuminated. Marquees, canopies, clocks, thermometers, and calendars shall be subject to the provisions of these regulations when used in conjunction with signs as defined above.

Significant wildlife habitat: Significant wildlife habitats are those natural features that are essential for the survival and/or reproduction of the native wildlife of Montpelier and surrounding areas. This includes, but is not limited to, (1) deer winter habitat (i.e. deeryards); (2) habitat for rare, threatened and endangered species (state or federally listed); (3) concentrated black bear feeding habitat (bear-scarred beech and oak stands); (4) wetlands that provide critical functions for sensitive or unusual wetland-dependent wildlife such as breeding/nesting habitat for wading birds, waterfowl, and otter and vernal pools; (4) wildlife travel corridors, typically characterized by undeveloped forested corridors, including forest cover reaching to road rights-of-way, which serve to link large tracks of unfragmented forest habitat; (5) large areas of contiguous, unfragmented forest; and (6) habitat identified by the Vermont Department of Fish and Wildlife as either significant wildlife habitat or necessary wildlife habitat.

Site Plan Review: Site plan review is the process outlined in § 306.

Solid Waste Collection Site: An area or facility designated for the temporary collection and transfer of waste to an approved landfill.

Solid Waste Transfer Site: Any premises, facility, structure, or building designed and utilized for the temporary storage or sorting of materials for later removal to a landfill or recycling center.

Special Flood Hazard Area: the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”..

Stable, Private: A structure in which horses are kept for private use and not for remuneration.

Stable, Public: A boarding and grooming facility for horses or other livestock with stalls for rent to the general public. A stable may include riding facilities and trails.

Start of Construction: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and / or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Storage, Outdoor: The keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

Stream: Any natural or artificial watercourse in which water flows in a definite direction or course less than 1.5 cubic feet per second, either continuously or intermittently, and has a definite channel, bed, and banks.

Street: A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, place, terrace, way or circle.

Street, Collector: A street that is being used or will be used to carry a substantial volume of traffic from a minor street(s) to a major street or community facility, and normally including the principal entrance street to a large subdivision or group of subdivisions, and the principal circulation streets within such subdivision.

Street Grade: The elevation of the street as established by the Director of Public Works.

Street, Major: A street that is being used or will be used primarily as a street between different communities or portions of the City, or which will otherwise carry a heavy volume of traffic.

Street, Minor: A Street that is being used or will be used primarily to provide access to abutting properties, and that does not provide for use by through traffic.

Structure: An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home, billboard, sign, wall or fence. A trailer that is not for habitation is considered a structure if located on a lot for more than 90 days.

For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition. The term “structure” includes a gas or liquid storage tank.

Subdivision: The division of any parcel of land into two or more lots, plots, blocks, or sites for the purpose of offering any or all such lots, plots, blocks or sites for sale, lease or contract purchase. This also includes re-subdivision of land heretofore subdivided or platted.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of the adoption of this bylaw the cost of which exceeds 50% of the market value of the structure before the “start of construction” of the improvements. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alterations of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Taxi-cab and Limousine Service: A parcel, building or space designated for use by any company providing transportation for a fee. Incidental office space, structures designed for the storage of vehicles and the outdoor storage of vehicles not currently in service may be included.

Technical Review Committee: The TRC is an advisory staff committee comprised of representatives from the Planning and Community Development, Public Works, Police, Fire, Buildings, and Parks departments, and a representative from the Conservation Commission. Their role is to review development applications early in the review process and provide a coordinated feedback to the Applicant and to the Development Review Board as to issues and impacts associated with the proposed activity.

Temporary Sign: A sign, including its supporting structure, for the purpose of advertising or promotional information intended to be maintained for a continuous period not to exceed sixty (60) days.

Theatre: A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

Therapeutic Community Residence: A transitional facility licensed by the State of Vermont, providing individual treatment to three or more residents, unrelated to the licensee, in need of a supportive living arrangement to assist them in their efforts to overcome a major life adjustment problem such as alcoholism, drug abuse, mental illness and delinquency.

Tourist Home: A rooming house, primarily offering overnight lodging accommodations to public travelers. The sale of alcoholic beverages on the premises is prohibited.

Uniformity Ratio: Describes the uniformity of light levels across an area. This may be expressed as a ratio of average to minimum or it may be expressed as a ratio of maximum to minimum level of illumination for a

given area. Example: U. ratio max. to min. = 4:1 for the given area, the lowest level of illumination (1) should be no less than 1/4 or "4 times less" than the maximum (4) level of illumination.

Utility, Major: Generating plants, electrical switching facilities and primary substations, water and wastewater treatment plants, water tanks, and similar facilities to provide the public with electricity, gas, heat, steam, communication, water, sewage collection or other similar service. Antennas or antenna towers are excluded.

Utility, Minor: Services and facilities necessary to development, involving minor structures, such as underground, surface or overhead electrical, gas, telephone, steam, water, sewage collection and other utilities; and the equipment and appurtenance necessary for such systems to furnish an adequate level of service for the area in which they are located. Antennas or antenna towers are excluded.

Viewshed: A three-dimensional area extending outward from a stationary viewpoint or as one moves along a publicly accessible route. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a range of mountains, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

Wall: See Fence.

Wall Sign: A sign applied parallel to the face of a building.

Warehouse: A building used primarily for the storage of goods and materials.

Wholesale Trade: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wireless Telecommunication Facility: Any equipment that broadcasts or receives radio frequency waves carrying Wireless Telecommunication Services, including any tower or structure upon which such equipment is installed, and any accompanying structure, building, access road, or service utility.

Wireless Telecommunication Facility, Small Scale: Any device that is installed on the ground and does not exceed 10 feet in elevation and/or that is installed on an existing building or structure and does not extend more than 10 feet from the building or structure.

Wireless Telecommunication Service: Any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

Yard: An open space that lies between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward except as may be specifically provided in the zoning ordinance.

Yard, Front: A space extending the full width of the lot between any building and the front lot line and measured perpendicularly to the building at the closest point to the front lot line. Lots which front on more than one City Street may have corresponding additional front yards.

Yard, Rear: A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at the closest point of the rear lot line. Lots which have frontage on more than one city street may elect which side yard shall function as a rear yard.

Yard, Side: A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

Yard Sale: A temporary retail sales event for the disposal of used personal clothing, furniture, and equipment which may take place indoors or outdoors but which occurs for no more than three (3) days in a single calendar year.

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