
ARTICLE 4. SPECIFIC USE STANDARDS

Section 4.1 Applicability

(A) The following standards apply to specified uses in all zoning districts in which such uses are allowed. Specified uses may be subject to conditional use review in accordance with Section 5.2. If there is a conflict between a standard in this section and a standard in another section of these bylaws, the more restrictive standard shall apply.

Section 4.2 Accessory Dwelling

(A) A dwelling unit may be allowed as an accessory to another principal use, subject to the following provisions, which also are intended to meet requirements for accessory apartments as set forth in the Act [§4412(1)].

(B) One attached or detached dwelling unit may be allowed as an accessory to a single family dwelling. Such accessory dwelling shall not exceed 800 square feet or 30% of the total existing living area of the principal dwelling, whichever is greater, and shall meet other applicable requirements under subsections (D) and (E), below.

(C) One caretaker's apartment which is accessory to a nonresidential use may be approved as an accessory to another use by the Board of Adjustment in accordance with Section 5.2. A caretaker's apartment shall be located within the Industrial District, be occupied by the owner or an employee of the principal use, and shall not exceed 800 square feet.

(D) All accessory dwellings shall:

- (1) meet setback requirements for principal structures for the district in which they are located; for nonconforming structures, the degree of nonconformance shall not be increased by the addition of an accessory apartment or dwelling;
- (2) have adequate potable water and wastewater systems in accordance with applicable municipal and state regulations; and
- (3) be provided with off-street parking for the residents of the dwelling in accordance with Section 3.10.

(E) Any zoning permit issued for an accessory dwelling shall clearly state that the dwelling is permitted only as an accessory to the principal use of the property and shall be retained in common ownership. An accessory dwelling to a single family dwelling may be subdivided and/or converted for conveyance or use as a principal dwelling only if it is found to meet all current municipal regulations applying to a two family dwelling, or to two single family dwellings if detached, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to conversion to, or conveyance as, a principal dwelling.

Section 4.3 Adaptive Reuse of an Historic Structure

(A) Adaptive reuse is designed to provide for the continued viability of historic structures that have outlived their original agricultural, civic or industrial function, while retaining their historic character, by allowing additional uses within the current dimensions of such structures, including nonconforming structures, subject to conditional use review under Section 5.2 and the following provisions.

(B) Structures eligible for adaptive reuse in the Rural Residential (RR) District and Forest Reserve (FR) District are limited to historic buildings which:

- (1) have historical or architectural significance to the town, as determined by the Board of Adjustment from application information, listing on federal or state historic site registers or surveys, and/or evidence presented in hearing; and
- (2) are no less than 50 years old.

(C) Structures determined to be eligible for adaptive reuse in the Rural Residential (RR) District and Forest Reserve (FR) District may be considered for one or more of the following uses subject to conditional use approval under Section 5.2:

- (1) any use allowed within the district in which the structure is located;
- (2) multi-family dwelling (maximum of 4 dwelling units);
- (3) storage facility;
- (4) the processing and/or sale of agricultural or forest products (e.g., farm produce store, food cooperative, woodworking or furniture shop);
- (5) cultural facility (e.g., museum, theater, performance space); and
- (6) retail sales, limited to antiques, arts and crafts.
- (7) any use which legally occupied the structure as a pre-existing nonconforming use, even if the use was discontinued for a period in excess of one year.

(D) Structures eligible for adaptive reuse in the Central Business (CB) District, Village Neighborhood (VN) District and/or Compact Residential (CR) District are limited to nonresidential structures which:

- (1) have historical or architectural significance to the town, as determined by the Board of Adjustment from application information, listing on federal or state historic site registers or surveys, and/or evidence presented in hearing;
- (2) are no less than 50 years old and are listed, or eligible for listing, on the *Vermont Historic Sites and Structures Survey for the Town of Hardwick*; and
- (3) have a minimum floor area of 800 square feet.

(E) Structures determined eligible for adaptive reuse in the Central Business (CB) District, Village Neighborhood (VN) District and/or Compact Residential (CR) District may be put to one or more of the following uses:

- (1) any use allowed within the district in which the structure is located;
- (2) restaurant
- (3) retail store
- (4) cultural facility
- (5) indoor recreation
- (6) storage facility;

(F) Structures determined eligible for adaptive reuse in the Central Business (CB) District, Village Neighborhood (VN) District and/or Compact Residential (CR) District may be granted the following modifications to standards contained within these bylaws, subject to conditional use approval under Section 5.2:

- (1) The Board of Adjustment may waive one or more parking requirements set forth in Section 3.10, provided the Board determines that the proposed use meets the standards set forth in Section 5.2 and that the waiver will not result in or cause unsafe conditions for motorists or pedestrians, and will not adversely impact surrounding properties.
 - (2) The Board of Adjustment may waive one or more dimensional standards, including residential density standards, set forth in Article 2, provided the proposed use meets the standards set forth in Section 5.2 and that the waiver will not result in or cause unsafe conditions for motorists or pedestrians, and will not adversely impact surrounding properties.
- (G) It also shall be demonstrated to the satisfaction of the Board of Adjustment for any adaptive reuse of an historic structure, regardless of the district within which it is located, that:
- (1) adequate water supply, septic system, and off-street parking capacity exist to accommodate the proposed use; and
 - (2) any proposed exterior renovations shall maintain the historic and architectural character of the structure, including those characteristics which resulted in the Board's determination that the structure is of historical or architectural significance to the town.

Section 4.4 Campers [Temporary Shelter]

- (A) A camper (e.g., recreational vehicle, travel trailer) or other temporary shelter (e.g., tent, teepee, yurt) may be located, stored or parked on public or private property in accordance with the following requirements:
- (1) Campers and other temporary shelters may be parked in approved campgrounds (see Section 4.5), sales establishments and, for a specified period, on construction sites for use as a temporary structure in accordance with subsection (C).
 - (2) A camper or temporary shelter may be stored on the lot of a single or two family dwelling and/or on an undeveloped parcel, provided that it is not located within required setbacks for the district in which it is located; is not occupied for dwelling purposes for more than 90 days within any one year period; and is not connected to the residential water or wastewater system.
- (B) Any camper or temporary shelter that is used for dwelling purposes for more than 90 days within any one year period, or is sited so as not to be readily moveable, shall be deemed a dwelling and be subject to all zoning regulations applicable to accessory or single family dwellings.
- (C) The Administrative Officer may issue a zoning permit to allow a temporary shelter, including a mobile home, to be occupied for dwelling purposes for not greater than one year to allow a property owner to reside on a parcel while constructing or rehabilitating a permanent dwelling. Such a temporary shelter shall be removed from the premises within one year of the issuance of the permit, unless the applicant obtains a one year extension, with the approval of the Board of Adjustment, in accordance with Section 5.2. No structure other than the permitted temporary shelter may be occupied as a dwelling on a single parcel for the period in which the temporary structure is occupied.
- (D) Any wastewater or sewage generated by a camper shall be disposed of off-site in accordance with all applicable state and federal regulations.

Section 4.5 Campground

(A) A new or expanded recreational vehicle campground, improved seasonal campground, or primitive campground may be permitted in designated zoning districts subject to conditional use review under Section 5.2, applicable state agency referral requirements under Section 7.1, and the following provisions:

- (1) The parcel of land for a campground shall be no less than five acres in area or the minimum lot area for the district in which it is located, whichever is greater.
- (2) All campgrounds shall meet minimum setback requirements for the districts in which they are located. A minimum 75 foot setback shall be required from any residential property. No building, camp site, parking or service area shall be located in setback areas.
- (3) Landscaping and/or fencing along property boundaries shall be required as appropriate for screening, security, and privacy.
- (4) Campgrounds shall provide lavatory, shower, and toilet facilities sufficient to serve all camp sites. Water and wastewater disposal systems must be designed and installed in accordance with applicable municipal and state regulations.
- (5) A campground shall provide sufficient access and parking for each camp site. Each camp site shall be at least 2,000 square feet in area.
- (6) The campground shall operate for a period not to exceed six months (180 days) during any calendar year, unless otherwise approved by the Board of Adjustment. Recreational vehicles may be stored on the property only if they are registered for highway use.
- (7) Adequate provision for the safe, sanitary disposal of trash and recyclables shall be provided on site.
- (8) Outdoor fires shall not result in a nuisance or threat to neighboring landowners, businesses or residents, nor endanger or adversely affect public health, safety or welfare.

(B) For substantially undeveloped, primitive camping areas (e.g., tenting areas, backcountry shelters) located on public or private lands, the Board of Adjustment may waive any or all of the requirements under subsection (A) if it is demonstrated to the Board's satisfaction that access, total lot area, camp site area, and setback distances are sufficient to:

- (1) support the proposed level of use, and
- (2) avoid any adverse impacts to water quality, natural areas, and adjoining properties and uses.

Section 4.6 Day Care Facility [Home Child Care, Day Care]

(A) In accordance with the Act [§4412(5)], a state registered or licensed child care home serving six or fewer children on a full time basis and up to four additional children on a part time basis, which is conducted within a single family dwelling by a resident of that dwelling, shall be considered a permitted use of the single family residence. No zoning permit is required for home child care providing it meets the requirements of this section.

(B) Nonresidential day care facilities, and those facilities operated from a dwelling which serve greater than six children full-time, may be permitted in designated zoning districts as a conditional use subject to review under Section 5.2.

Section 4.7 Extraction of Earth Resources

(A) The extraction or removal of topsoil, sand, gravel, rock, minerals or other similar earth resource for may be allowed in designated districts subject to conditional use review under Section 5.2. In addition to the conditional use standards set forth in Section 5.2, for commercial extraction operations which are likely to impact surrounding properties due to the scale, intensity and timing of the extraction, the presence of fragile natural features (e.g., steep slopes, riparian land), and/or the relative density of nearby land uses, the Board of Adjustment may also require erosion control and site reclamation plans showing:

- (1) existing grades, drainage patterns and depths to bedrock and the seasonal high water table;
- (2) the extent and magnitude of the proposed operation, including proposed phasing;
- (3) finished grades at the conclusion of the operation; and
- (4) a detailed plan for the restoration of the site, including final grading and revegetation.

(B) In granting approval, the Board may impose conditions with regard to any of the following factors:

- (1) depth of excavation or quarrying;
- (2) slopes created by removal;
- (3) effects on surface drainage on and off-site;
- (4) storage of equipment and stockpiling of materials on-site;
- (5) hours of operation for blasting, trucking, and processing operations;
- (6) effects on adjacent properties due to noise, dust, or vibration;
- (7) effects on traffic and road conditions, including potential physical damage to public highways;
- (8) creation of nuisances or safety hazards;
- (9) temporary and permanent erosion control, including project phasing to limit exposed area;
- (10) effect on ground and surface water quality, and drinking water supplies;
- (11) effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;
- (12) effect on agricultural land; and
- (13) public health, safety and general welfare.

(C) In accordance with the Act [§4412(12), §4464(B)(6)] a performance bond, escrow account, or other surety acceptable to the Selectboard may be required to ensure reclamation of the land upon completion of the excavation, to include any re-grading, reseeding, reforestation or other reclamation activities that may be required. This provision specifically does not apply to mining or quarrying operations; however upon failure of the permit holder, or their successors or assigns, to complete site reclamation as required, the town may take legal action as appropriate to ensure site reclamation and cost recovery.

(D) This section shall not apply to normal agricultural and/or forestry operations, public (municipal and state) road maintenance and construction, the operation of a cemetery, or the removal of earth resources for a use that is incidental to another duly permitted construction activity located on the same parcel from which the materials were extracted.

Section 4.8 Home Businesses [Home Occupation, Home Industry]

(A) **Home Occupations.** In accordance with the Act [§4412(4)], no provision of these regulations may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not have an undue adverse effect upon the character of the surrounding neighborhood or area. No zoning permit is required for a home occupation. All home occupations shall comply with the following standards:

- (1) The home occupation shall be carried on by residents of the dwelling.

- (2) The home occupation shall not occupy a gross floor area greater than 30% of the combined gross floor area of the principal dwelling and accessory structure.
- (3) Exterior storage or displays, other than that characteristic of a residential use, is prohibited.
- (4) The home occupation shall meet all performance standards set forth in Section 3.11.
- (5) No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use.
- (6) The home occupation shall meet all applicable sign standards (Section 3.13).
- (7) The outdoor storage of materials that are not customary of a residential use is prohibited.
- (8) On-site wholesale or retail sales shall be limited to products produced or services provided on the premises, which will be available to the public by appointment only.

(B) **Home Industry.** Home industry, as distinguished from “home occupation” under Subsection (A), may be allowed as an accessory to a single family dwelling in designated zoning districts subject to conditional use review under Section 5.2, and the following provisions:

- (1) The home industry shall be conducted by residents of the dwelling, and up to three full-time nonresident employees (or full-time equivalent part-time nonresident employees).
- (2) The home industry shall be carried out within the principal dwelling or an accessory structure.
- (3) Exterior storage areas for materials and equipment associated with the home industry may be approved by the Board of Adjustment provided that such areas are clearly designated and are adequately screened from public view and neighboring properties. Designated storage areas shall meet the setbacks for the district in which the use is located, although the Board may require greater setbacks to avoid impacts on neighboring properties. The storage of hazardous materials anywhere on the premises is prohibited, with the exception of materials customary and characteristic of residential uses (e.g., heating oil).
- (4) The home industry shall not have an undue adverse effect upon the character of the neighborhood, or result in a change in the outward appearance of the dwelling or the accessory structure.
- (5) The home industry shall not generate traffic, including delivery traffic, in excess of volumes characteristic of other uses allowed in the district in which the home industry is located.
- (6) Off-street parking shall be provided for resident, employee, customer and delivery vehicles, as well as all commercial vehicles or equipment associated with the home industry.
- (7) Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.
- (8) Home industries shall meet all performance standards set forth in Section 3.11.
- (9) The home industry shall meet all applicable sign standards (Section 3.13).

(10) On-site wholesale or retail sales shall be limited to products produced or services provided on the premises.

(C) The zoning permit issued for a home industry shall clearly state that the home based business is permitted only as an accessory to the principal residential use of the property, and as such shall be retained in common ownership. A home occupation or home industry may be subdivided and/or converted for conveyance as a separate, principal use only if it is found to meet all current municipal regulations applying to such use, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to subdivision, conversion, or conveyance of a home business as a principal use.

Section 4.9 Light Industry

(A) Light industry (as distinguished from home industry under Section 4.8) may be permitted in designated zoning districts subject to conditional use review under Section 5.2. Within the Central Business (CB) District and Highway Mixed-Use (HMU) District, light industry also shall meet the following provisions:

- (1) All industrial activities, and the maintenance and repair of vehicles and equipment, shall be conducted within an enclosed building or buildings.
- (2) The Board of Adjustment may limit the outdoor storage of materials, vehicles and heavy equipment shall be limited to a designated area, and may require that such area be screened year-round from the road and from neighboring properties.
- (3) Any area designated for the outdoor storage of materials shall be set back a minimum of 100 feet from road rights-of-way, surface waters, wetlands and adjacent properties. All other setback and dimensional standards for the district in which the light industry is located shall apply. The Board of Adjustment may however, as a condition of approval, require greater setbacks based on specific site conditions to protect water quality and neighboring properties.
- (4) Industrial uses shall comply with all performance standards under Section 3.11; additional conditions, including conditions on the hours of operation, may be imposed as appropriate to protect public health, safety, and welfare, municipal facilities and services, and other public investments.
- (5) The on-site storage of hazardous materials shall require the specific approval of the Board of Adjustment. In approving such storage the Board shall require the submission of a hazard mitigation plan, prepared by the applicant, to ensure the protection of ground and surface waters and public safety in the event of a spill or release.
- (6) Sufficient landscaping and screening shall be provided along parcel boundaries and within the project site to protect adjacent properties from objectionable visual impacts. At a minimum, a landscaped buffer a minimum of 30 feet deep shall be located along all boundaries adjoining a residential property.

(B) The standards set forth in subsection (A), above, shall not apply to lands within the Industrial District.

Section 4.10 Mixed Use

(A) In designated zoning districts, more than one principal use may be allowed within a single building, or on a single lot, subject to the following provisions:

- (1) Each of the proposed uses is allowed as a permitted or conditional use within the zoning district in which the mixed use is located.
- (2) The uses in combination meet all applicable standards for the district in which the mixed use is proposed, including minimum lot, frontage and setback requirements; or the mixed use is part of a planned unit development (PUD) reviewed in accordance with Section 5.4.
- (3) The mixed use shall meet all applicable general regulations under Article 3, including but not limited to sign and parking requirements.

Section 4.11 Mobile Home Park

(A) Mobile home parks may be permitted in designated districts subject to conditional use review in accordance with Section 5.2 and the following provisions:

- (1) Proposed parks shall comply with all applicable state regulations, including regulations relating to water supply and wastewater disposal.
- (2) The parcel of land for a mobile home park shall have a minimum area of no less than five acres, or the minimum lot area for the district in which it is located, whichever is greater.
- (3) Each mobile home shall be located on a dedicated site of not less than 6,000 square feet in area. Each site shall be landscaped with two or more trees of a native species, which are at least two inches in diameter at chest height for deciduous trees, or at least eight feet in height for coniferous trees.
- (4) Mobile home parks shall meet minimum setback requirements along their perimeter for the district in which they are located. Setback areas shall not be included in the calculation of recreation land or open space under Subsection (9). A strip of land 25 feet deep shall be maintained as a landscaped buffer along all property boundaries.
- (5) Each mobile home shall be set back a minimum of 10 feet from adjoining mobile home sites.
- (6) All roads within a mobile home park shall comply with Section 6.6, and adequate walkways shall be provided.
- (7) Parking shall be provided in accordance with Section 3.10.
- (8) A minimum of 100 square feet of indoor storage space (e.g., storage shed, or a central storage building) shall be provided for each mobile home located within the park.
- (9) A minimum of 20% of the total land area in any mobile home park shall be set aside for common recreational use or open space.

(B) The mobile home park owner, or designated operator, as a condition of Board of Adjustment approval, shall:

- (1) maintain all park buildings, roads, parking areas, paths, utilities, infrastructure, landscaping, open space and common areas in good condition, and shall provide for the regular collection and removal of recyclables, waste and garbage; and
- (2) remove snow from all park roads and service areas.

Failure to meet these operation and maintenance requirements shall constitute a violation of permit conditions and these regulations, subject to enforcement action under Section 7.5.

(C) Changes or alterations to park area, design, layout or common facilities are subject to conditional use review in accordance with the above provisions. The owner of a mobile home within an approved mobile home park may apply for a zoning permit under Section 7.1 for a deck or accessory structure which meets site setback requirements under Subsection (A), without additional approval by the Board of Adjustment under Section 5.2. The replacement of a permitted mobile home within an approved mobile home park shall require a zoning permit issued by the Zoning Administrator in accordance with Section 7.1 to ensure ongoing compliance with all conditions of conditional use approval.

Section 4.12 Motor Vehicle Service & Gas Stations

(A) Motor vehicle service stations and gas stations may be allowed in designated districts subject to conditional use review under Section 5.2 and the following requirements:

- (1) No vehicle may be parked, stored or displayed within the setback areas for the district in which the business is located.
- (2) There shall be no more than two (2) curb cuts providing access to and from adjoining roads. On corner or through lots, one or both accesses may be limited to the secondary road. The width of a curb cut shall not exceed 35 feet.
- (3) The service and/or repair of motor vehicles shall be conducted within an enclosed structure.
- (4) All buildings, equipment, service, parking and storage areas shall be set back at least 150 feet from streams, surface waters and wetlands. The setback area shall be maintained as a vegetated buffer. The required setback may be increased as appropriate to protect water quality, based on local site and drainage conditions.
- (5) Gasoline pumps shall be located not less than 15 feet from any road right-of-way. All pumps, lubricating and other service equipment shall be located at least 35 feet from side and rear lot lines.
- (6) Gasoline service stations, in addition to the signs allowed under Section 3.13, may have one pricing sign which does not exceed 12 square feet in area and/or pump-top pricing signs, each not to exceed 2 square feet in area.
- (7) Gas station canopies shall be limited to the minimum area required for adequate pump and apron coverage, and the minimum ceiling height necessary to meet applicable state and federal safety requirements. Canopy design, including materials and roof pitch, shall be compatible with surrounding buildings.

- (8) Light fixtures mounted on station canopies shall either be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy; or for indirect lighting, mounted and shielded or skirted so that direct illumination is focused exclusively on the underside of the canopy. Lights shall not be mounted on the top or sides (fascias) of canopies, nor shall canopies be internally illuminated.
- (9) Gasoline stations which include retail sales unrelated to motor vehicle service, maintenance or repair (e.g., food, convenience items) shall be reviewed as a mixed use, and as such be required to meet all zoning provisions pertaining to retail uses for the district in which they are located, including but not limited to additional sign, lot size and/or parking requirements.

Section 4.13 Protected Public Uses

(A) In accordance with the Act [§4413(a)], reasonable provision has been made for the following uses within designated districts, shown in Table 4.1 which may be regulated only with respect to 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.

TABLE 4.1 PROTECTED PUBLIC USES	
Facility	Specified District(s)
Public and private hospitals.	CB, VN, CR
Regional solid waste management facilities certified by the State [10 V.S.A., Chapter 159].	RR (see Landfill)
Public utility power generating plants and transmission lines [see Public Utility].	All Districts
Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A., §6606a].	I
State or community owned and operated institutions and facilities [see Public Facility].	All Districts
Public and private schools and other educational institutions certified by the Vermont Department of Education.	CB, VN, HMU, CR, RR
Churches, convents and parish houses [see Place of Worship]	CB, VN, HMU, CR, RR

Section 4.14 Salvage Yard

(A) New or expanded salvage yards may be permitted within designated zoning districts subject to conditional use review under Section 5.2 and the following requirements:

- (1) Salvage yards shall meet all setback standards for the district in which the yard is located, and shall be set back at least 75 feet from surface waters and wetlands. Required setbacks may be increased as appropriate based on specific site conditions, and to protect water quality and neighboring properties.
- (2) Yards shall be screened year-round from public view and from adjoining residential properties. Additional landscaping, fencing or other forms of screening may be required as appropriate. No vehicles associated with the business, or any other waste, scrap, parts or materials shall be stacked, piled or stored higher than the fence or screen.

- (3) Salvage yards shall be secured as necessary to protect public health, safety, and welfare, and neighboring properties. Exterior lighting shall be the minimum required for security and safe operation.
 - (4) Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located.
 - (5) All salvage yards shall be licensed in accordance with State of Vermont regulations pertaining to junk yards, and shall be responsible for all upkeep and maintenance of fences, screening, and other required site improvements, and the proper storage of salvaged and hazardous materials, as required under municipal and state regulations, and associated conditions of approval.
 - (6) The on-site storage of materials shall not adversely affect surface, ground or drinking water supplies.
- (B) In addition to application requirements under Section 5.2, the applicant for a new or expanded salvage yard shall submit a description of existing and proposed operations, including storage areas, all equipment to be used on-site, and a site development plan that includes the following information:
- (1) the extent in area of existing and/or proposed salvage yard operations, including all storage and processing areas, and distances from property boundaries, public streets, wetlands, surface waters and public and private wells on-site and in the vicinity;
 - (2) site contours that show existing and proposed grades and drainage patterns,
 - (3) test boring results indicating soil types, and depths to bedrock and seasonal high water tables within the proposed area of operation; and
 - (4) existing and/or proposed ground water monitoring well locations, if any.
- (C) All materials shall be removed from the site within twelve months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the clean-up and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. A site restoration plan may be required as a condition of approval.

Section 4.15 Telecommunications Facility

- (A) **Purpose.** The purpose of these regulations is to protect the public health, safety, general welfare and scenic character of the Town of Hardwick, while accommodating the communication needs of residents and businesses. The intent of these regulations is to:
- (1) preserve the character and appearance of the town while allowing adequate services and coverage to be developed;
 - (2) protect the scenic, historic, environmental and natural resources of the town;
 - (3) provide standards as requirements for the siting, design, appearance, construction, operation, and removal of telecommunications facilities;
 - (4) minimize tower and antenna proliferation by requiring the co-location and sharing of existing telecommunications facilities wherever feasible and appropriate; and
 - (5) facilitate the provision of telecommunications services to residents and businesses in town.
- (B) **Federal Limitations.** In accordance with federal law, these regulations shall not have the effect of prohibiting personal wireless services, unreasonably discriminating among providers of functionally equivalent services, nor regulating wireless telecommunications facilities based on emissions which are subject to and in compliance with Federal Communications Commission (FCC) regulations.

(C) **Applicability.** Wireless telecommunications facilities shall include all facilities subject to licensing or regulation by the FCC, including towers, associated accessory structures, buildings and/or equipment, except as specifically exempted under subsection (D). New, modified or expanded wireless telecommunication facilities, except as specified for small scale facilities under subsection (G), may be allowed in designated zoning districts as conditional uses subject to review under Section 5.2 and the requirements of this section. However:

(D) **Exemptions.** The following are specifically exempted from the provisions of this Section:

- (1) A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 35 feet in height above the lowest grade at ground level.
- (2) Citizens band radio antennas operated by federally licensed amateur 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.
- (3) Replacement of telecommunications facilities operated by public (municipal, state or federal) or not-for-profit emergency service providers (e.g., police, fire, ambulance) in association with their duties.

(E) **Application Requirements.** In addition to application requirements under Section 5.2, applications for new towers shall also include the following:

- (1) The applicant's legal name, address and telephone number. If the applicant is not a natural person, the applicant shall provide the state in which it is incorporated and the name and address of its resident agent.
- (2) The name, title, address and telephone number of the persons to whom correspondence concerning the application should be sent.
- (3) The name, address, and telephone number of the owner or lessee of the property on which the Wireless Telecommunication Facility will be located.
- (4) The names and addresses of all adjoining property owners. Adjoining property owners shall be determined without regard to any public right-of-way.
- (5) A vicinity map showing the entire vicinity within a 1,000 foot radius of the Facility, including the location of any tower, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, landscape features, historic sites and necessary wildlife habitats. It shall indicate the property lines of the proposed Facility site parcel and all easements or rights of way needed for access from a public way to the Facility.
- (6) The location of the Facility on a USGS Topographic Map or a GIS-generated map compatible with Vermont Center for Geographic Information (VCGI) standards and encompassing the area within at least a two-mile radius of the proposed tower site.

- (7) Elevations and proposed site plans of the Facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet).
- (8) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
- (9) Construction sequence and time schedule for completion of each phase of the entire project.
- (10) A report from a qualified engineer that:
 - (a) Describes any tower's design and elevation,
 - (b) Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower and the minimum distances between antennas,
 - (c) Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.
 - (d) In the case of new Facilities, demonstrates that existing towers and structures within 5 miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
 - (e) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
 - (f) Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.
 - (g) Demonstrates the Facility's compliance with the standards set forth in this bylaw or other applicable standards.
 - (h) Provides proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
 - (i) Includes such other information as determined by the Board of Adjustment to evaluate the application.
- (11) A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Bylaw and all other applicable laws.
- (12) In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.
- (13) To the extent required by the National Environmental Policy ACT (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required for the facility.

(F) **Consultants** Upon submission of an application for a Telecommunication Facility permit, the Board of Adjustment may require a report by consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the Board of Adjustment. The consultant(s) shall work at the Board of Adjustment's direction and shall provide the

Board of Adjustment such reports and assistance as the Board of Adjustment deems necessary to review an application.

(G) **Balloon Test** The Board of Adjustment may require the applicant to fly a four-foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test at least 7 days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Board of Adjustment, in writing of the date, time and location of the test at least 15 days in advance of the test.

The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Board of Adjustment.

(H) **Criteria for Approval and Conditions** An application for a Telecommunication Facility permit shall be approved after a hearing when the Board of Adjustment finds all the following criteria have been met:

- (1) The Facility will not be built on speculation. If the applicant is not a Telecommunication Service Provider, the Board of Adjustment may require the applicant to provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Telecommunication Facility on lands owned or leased by the applicant.
- (2) The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate collocation of facilities.
- (3) No wireless telecommunication facility shall be located within 500 feet of an existing residence.
- (4) The minimum distance from the base of any tower to any property line is not less than 100% of the total elevation of the tower, including antenna or equipment, unless otherwise permitted by the Board of Adjustment in accordance with one of the following:
 - (a) if tower design and construction guarantees that, if it collapses, it will collapse inwardly upon itself, and that no liability or risk to adjoining private or public property shall be assumed by the municipality; or
 - (b) to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public health, safety or welfare results.
- (5) The tower including attached antennas does not exceed a height of 180 feet.
- (6) The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, this bylaw, or as needed for the safe operation of the facility.
- (7) The applicant will remove the Facility, should the Facility be abandoned or cease to operate. The Board of Adjustment may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Board of Adjustment to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.

- (8) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.
- (9) The applicant will maintain adequate insurance on the Facility.
- (10) The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Board of Adjustment may condition a permit on the provision of appropriate fencing.
- (11) The proposed equipment cannot be reasonably collocated at an existing Telecommunication Facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the Board of Adjustment shall consider the following factors:
 - (a) The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
 - (b) The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.
 - (c) The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.
 - (d) Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.
 - (e) Collocation of the equipment upon existing tower would cause an undue aesthetic impact.
- (12) The Facility provides reasonable opportunity for collocation of other equipment.
- (13) The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- (14) The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Board of Adjustment shall consider the following factors:
 - (a) The results of the balloon test, if conducted.
 - (b) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
 - (c) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
 - (d) The duration and frequency with which the Facility will be viewed on a public highway or from public property.
 - (e) The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.
 - (f) Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.
 - (g) The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.
 - (h) The sensitivity or unique value of a particular view affected by the Facility.
 - (i) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.

- (15) The Facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.
- (16) The Facility will not generate undue noise.
- (17) The extent to which utility lines (e.g. power) serving telecommunications facilities follow access roads and does not involve extensive clearing; the Board of Adjustment may require that such utilities be buried where they are likely to otherwise have an adverse visual impact.

(I) **Small Scale and Temporary Facilities.** Notwithstanding the requirements of Article 2, the following may be permitted in any zoning district by the Administrative Officer without conditional use approval:

- (1) Small scale wireless telecommunications equipment, including antennas, microcells or repeaters, which are to be installed on existing towers, utility poles, or other structures; or the installation of ground facilities less than 20 feet in height, provided that:
 - (a) no such device is located within 50 feet of an existing residence;
 - (b) no changes are made to the height or appearance of such structure except as required for mounting;
 - (c) the height of the facility as mounted does not extend the total height of the structure by more than 10 feet;
 - (d) no panel antenna shall exceed 72 inches in height or 24 inches in width;
 - (e) no dish antenna shall exceed 3 feet in diameter; and
 - (f) any accompanying equipment shall be screened from view.
- (2) Wireless communications facilities designed for temporary use, provided that:
 - (a) the temporary facility is permitted for the duration of the intended use or event, as specified in the permit, which shall not exceed 60 days, and is removed immediately upon the expiration of the permit,
 - (b) the height of the facility does not exceed 50 feet from grade, and
 - (c) the facility complies with all other applicable provisions of these regulations.

(J) **Continuing Obligations for Wireless Telecommunication Facilities** The owner of a Telecommunication Facility shall, at such times as requested by the Board of Adjustment, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Board of Adjustment, shall mean that the Facility has been abandoned.

(K) **Removal of Abandoned or Unused Facilities** Unless otherwise approved by the Board of Adjustment, an abandoned or unused Telecommunication Facility shall be removed within 90 days of abandonment or cessation of use. If the Facility is not removed within 90 days of abandonment or cessation of use, the Board of Adjustment may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.

Unused portions of a Telecommunication Facility shall be removed within 180 days of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit.

Section 4.16 Temporary Structure or Use

(A) **Temporary Structure.** Structures used for temporary office or storage space (e.g., trailers, mobile homes), or for special events requiring a permit under Subsection (B), may be allowed as a temporary accessory structure to a preexisting or permitted use. Such structures shall be set back a minimum of 5 feet from all property boundaries and shall not be used for dwelling purposes unless specifically approved under Section 4.2. A zoning permit is required for a temporary structure that is located on a parcel for greater than one year. All temporary structures shall be dismantled and/or removed after one year, or the owner shall obtain a zoning permit in accordance with Section 7.1 and all relevant standards contained in these bylaws.

(B) **Temporary Dwellings.** Temporary dwellings and campers are subject to Section 4.4.

(C) **Special Events.** Special events (e.g., weddings, receptions, concerts, festivals, fairs and other cultural events, trade and antique shows), may be allowed as a temporary use, provided that such use occurs for no more than seven days within any twelve month period, and adequate off-street parking and circulation, sanitary and trash collection facilities are provided. Special events may be issued a zoning permit by the Zoning Administrator, for a specified period of time not to exceed one year from the date of issuance, with the provision that the use will be discontinued upon the expiration of the permit. In addition:

- (1) Family or household events associated with a residential use (e.g., weddings, reunions) are exempt from this provision, and shall not require a zoning permit.
- (2) Special events with an expected attendance of over 100 people, or extending more than seven days within a twelve month period, shall be subject to conditional use review by the Board of Adjustment under Section 5.2 prior to the issuance of a zoning permit.
- (3) No zoning permit shall be issued for any event or use which also requires the approval of the Hardwick Selectboard and/or the Hardwick Chief of Police until such approval is issued.