

Housekeeping Regulation Revisions Summary

10/27/2017

Summary for the 12/13/2017 Planning Commission public hearing

Note – Summarizes most proposed changes. Some minor changes not summarized below – e.g., typos, dependencies on sections summarized below, section references, etc. See the track changes version of the regulations to see all the changes.

Zoning Regulations

Section 2.1 – Accessory use allowance – Simply clarifies that accessory uses are allowed, even though not listed as specific permitted or conditional uses. Related to section 5.8 rewrite.

Section 2.5.3 – Setback requirement for structures only – Clarifies long-standing practice that the standard setbacks in Table 1 apply to structures and not other forms of land development like roads, driveways, etc.

Section 2.5.6 – Contiguous area requirement – Eliminates a dated provision that serves no purpose, especially given the flexibility for very small lots now in the regulations. This provision also presents an unnecessary impediment to the subdivision of certain properties with private roads passing through portions of them (e.g., Partridge Hill Road and Red Pine Road). This provision was first inserted into the regulations in 1986, and had a minor revision in 2003.

Section 2.6 & 10.1 – Corner parcels and street definition – Codifies long-standing practice. Clarifies that a private right of way serving as the principal means of access to a single property is a driveway, not a street. In other words, a single-access driveway right of way does not create the need for front yard setbacks the way a shared access/road would. This clarifies that a parcel bordered by a street and a single-access driveway is not a corner parcel.

Sections 3.2, 3.3, 3.4, 3.5, 3.7, 3.8, 3.9, 3.15 – Home occupations – No longer needs to be listed as an allowed use given changes to section 2.1 and section 5.8 on accessory uses/structures. Also not needed given special home occupation provisions (sections 5.1, 5.2, 5.3).

Sections 3.2, 3.3, 3.4, 3.5, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15 – Customary accessory uses and solar installations – No longer need to be listed as an allowed use given changes to section 2.1 and section 5.8 on accessory uses/structures. Added a new use, “solar installations”, to cover situations where these are installed off the grid (i.e., subject to municipal jurisdiction) – see definition.

Sections 3.3, 3.5, 3.7, 3.8, 3.9, 3.10, 3.15 – Bed & breakfast, inn, tourist homes – Makes allowed uses consistent across all districts based on the changes made for the rural area districts in 2013. Tourist home use replaced by the bed & breakfast and inn uses. Greater allowances for hotels, motels, hostels, and rooming houses retained in the Village and Commercial districts. Note – bed & breakfasts and inns not allowed in the commercial district since these are defined as an extension of an owner-occupied home, which are not allowed in the Commercial district. Such uses in the Commercial district could simply be reviewed as a hotel, motel, hostel, or rooming house.

Sections 3.5, 3.8, 3.9, 3.10, 3.15 – Agriculture and forestry uses – Uses added for consistency with the uses added in the rural areas (AG & RR2 districts) in 2013.

Sections 3.5.6 #3, 3.8.4 #9, 3.8.5 #4 & #5, 3.13.2 #6, 3.13.3 #3 – Drive-thru windows/service – See section 5.6.11 below for discussion of drive-thru prohibition.

Section 3.8.5 #3, 3.11.3 #6 – Public utilities and transmission lines – Eliminates this use type since municipalities are prohibited from regulating such uses – i.e., review happens at the State level via the Public Utility Commission process.

Section 3.8.5 #13 – Without regard to height limitations uses – Simply makes this language for the Commercial District consistent with the wording in all other districts. Unclear why this was divergent for so long.

Section 4.1.1 #6 & #8 – Zoning permits for demolition and for new businesses – Clarifies long-standing practice that demolition of structures in the Village District does not require a zoning permit. Conditional use review/approval is required for demolition of historic buildings in the larger village growth area. Also, clarifies long-standing practice to issue simple “change of use” zoning permits when a new business moves into an existing permitted space – even if the use is the same.

Section 4.1.2 – Zoning permits for projects with DRB approval – Extends exemption from needing a zoning permit to any project that has received specific DRB approval, and does not involve a structure. Currently, only subdivisions enjoy this exemption. It is duplicative and unnecessarily adds delay to require a follow up zoning permit for site plan review, conditional use review, etc. when no structures are being built, modified, etc.

Sections 4.2.4 & 4.3 – Combined conditional use, site plan review – Clarifies what the current regulations already say – i.e., that projects requiring both conditional use and site plan review will get one combined review and decision. Also revises the language of what requires site plan review so as to be consistent with State statutory language – same result as the current regulations, but clearer.

Section 4.3.4 – Site plan review standards – Adds references to the already in place energy standards (section 5.23), and the proposed outdoor lighting standards (section 5.29).

Section 4.3.8 #2b & #2f – Landscaping standards for growing medium and plant health – Adds a standard requiring special attention to site preparation and adequate soil growing medium for plantings – especially trees. Greater emphasis on growing medium as recommended by the Town Tree Warden. Also clarifies that trees must be maintained so as to enable continued growth to maturity.

Section 5.1.1 #2 – Home occupation allowed size for simple zoning permit – Corrects a loophole in the regulations. The intent of the regulation was to cap the size of home occupations eligible for a simple zoning permit at 20% of the livable floor area of the home. As currently worded, someone using an attached garage for the home occupation actually has no size limit since the garage is not part of the livable floor area of the dwelling. New language is a minor change, but corrects that.

Section 5.1.1 #5, 5.1.2 #4, 5.2.6 – Home occupation traffic allowance – Eliminates arbitrary and inflexible traffic volume allowances for home occupations of all types: simple zoning permit, conditional use permit, larger home occupation & cottage industry. Consistent with many other municipalities and DRB recommendations. Retains requirement that traffic still be characteristic of the neighborhood, but recognizes that different types of roads have different “background” traffic volumes.

Section 5.2.2 #2 – Cottage industry as a principal structure – Deleted unnecessary language. Language implied it could be on a lot with another principal structure if that parcel had received all necessary permits to be divided into separate lots. “All necessary permits” would mean a subdivision approval, and once that is granted, the cottage industry would be on its own separate lot anyway.

Section 5.4.5 #1 – Sign illumination, internal illumination prohibition – Creates a prohibition on internally illuminated signs including traditional and electronic message boards with two exceptions – 1) one illuminated “open” sign in a window; 2) gas station price signs. Existing, internally illuminated signs can continue as pre-existing non-conforming sign lighting – e.g., Jiffy Mart, University of VT Health Center, Kinney Drugs, Jolley Mobil, CVU, etc.

Section 5.4.5 #2 – Sign lighting placement and intensity guidance – Requires that sign lighting be above signs shining downward so as to prevent illumination of the night sky. Also clarifies that sign lighting intensity must be the minimum needed for visibility. Existing up-lit signs can continue as pre-existing non-conforming sign lighting – e.g., Good Times Café, Hart & Mead Car Wash, etc.

Section 5.5.1 – Parking lot access – Simple clarification that parking lot access must be to a street – either public or private. Current regulations specify a public street.

Section 5.5.2 – Parking lot ADA requirement – Replaces an incorrectly specified parking space dimension with a reference to the ADA design guidelines which provide multiple ADA-complaint parking space configurations.

Section 5.6.3 – Front yard parking allowance – Clarifies that new parking spaces in the front yard of existing buildings are prohibited unless well screened and approved by the DRB – consistent with existing language is section 5.22. Also, specifically allows gas station parking in the front yard at fueling islands or parking spaces between fueling islands and the principal building. Gas station allowance also added to section 5.22 for consistency. Also, specifically allows for display of car and equipment sales in front yard parking areas.

Section 5.6.4 – Exterior lighting requirements – Simply requires conformance with the proposed outdoor lighting standards in section 5.29.

Sections 5.6.11 – Drive-thru windows/service – Extends prohibition on drive-thru windows/service from restaurants to all uses. Clarity needed due to inconsistency in existing regulations regarding bank drive thru allowances – i.e., bank drive thru specifically allowed in Commercial district but not mentioned for the allowed bank use in the Village district. Current regulations are also silent on drive thru for retail uses – hence approval for the Kinney Drugs drive thru in 2010-2011. This is a policy decision to eliminate new drive thrus to improve site planning and emphasize pedestrian access. The three existing drive thrus can continue as a pre-existing non-conforming use, including: Community Bank (Ballards Corner Road), Kinney Drugs (Route 116), National Bank of Middlebury (Commerce Street).

Section 5.7.1 – Access strip allowance – Clarifies that an access strip doesn’t in and of itself create front yard setback requirements. Such front yard setback requirements are created when a right of way is shared by two or more dwellings or lots – per definition of a street. Also, allows development on lots created prior to zoning with access strips that are below the minimum 50’ width.

Section 5.8 – Accessory uses and structures – Wholesale rewrite of this section to:

- Distinguish accessory uses for accessory structures.
- Differentiate between residential and non-residential.
- Create more comprehensive lists with examples.
- Include section references for those accessory uses/structures that have additional standards or permitting.
- Address special exceptions – e.g., agricultural and forestry accessory uses, utility uses/structures.
- Address accessory structures on lots without a principal structure.

Section 5.9 – Accessory Apartments – Allows for larger accessory apartments. Allows for the creation of new access points (i.e., driveway) for the accessory apartment. Replaces the current prohibition on creating new access points with avoidance of primary and secondary resources (e.g., wetlands, steep slopes, streams, etc.) in the Agricultural and Rural Residential 2 zoning districts – consistent with the rural area zoning adopted in 2013.

Section 5.10.3 – Demolition and replacement of non-complying structures – Clarifies when allowances for a non-complying structure can be maintained when that structure is demolished and replaced. Differentiates between non-residential structures (non-compliances to be eliminated) and residential structures (non-compliances can be continued under certain circumstances). Current regulations only address normal maintenance, repairs, additions – i.e., not full demolition and replacement.

Section 5.11 – Existing small lots – Clarifies that existing small lots (created prior to zoning) need not meet minimum lot size requirements in Table 1 to allow for development, but still must meet use-specific minimum lot size requirements. In other words, building a house on an existing small lot of 0.25 acres is fine as it always has been, but getting a permit for a larger home occupation (which requires a two-acre minimum lot size) on such a small lot would not be possible.

Section 5.15 – Conversion of camps – Eliminates current section 5.15.1 that requires a structure to have a livable floor area of 576 square feet or more to be converted from a seasonal camp to a year-round residence. Unnecessary limitation that discourages smaller dwellings (e.g., tiny homes) that might be very appropriate and have fewer impacts than a larger year-round residence or camp. Also revised current section 5.15.2 & 5.15.3 to refer to State water/wastewater rules.

Section 5.18.5 – Temporary structures – Clarifies when a temporary structure like the ubiquitous tent garage is considered permanent and requires a zoning permit. Current regulations are unclear – requiring a permit if the structure is up for more than six months, but also classifying such structures as permanent if up for more than one year. The revision clarifies that temporary structures are considered permanent and require a zoning permit if up for more than six months.

Section 5.19.2, 5.19.3, 5.19.9 – Mobile home replacement in a mobile home park – Clarifies and simplifies language requiring a zoning permit to replace a mobile home in a mobile home park. Also clarifies when conditional use and site plan review/approval are needed for changes to the overall park – i.e., addition of dwelling units and substantial alterations as defined. Allows for non-mobile homes to be built in a mobile home park – e.g., modular homes, traditional stick built homes, tiny homes. Creates flexible setback requirements for the replacement of mobile homes in Hinesburg’s three existing mobile

home parks. This flexibility emulates long-standing practice in the P&Z Office, and is required per State statute.

Section 5.20 – Camping – Clarifies when non-commercial camping on a property needs a zoning permit. Establishes a clear limit to prevent someone from allowing camping on their property for more than 180 days per year. Also requires review as a campground if a property is occupied by four or more camping units for more than 14 days per year, even if not a commercial campground.

Section 5.21.5 – Affordable housing incentives – Removes two incentives for perpetually affordable housing pursuant to decisions by the Town Water and Wastewater department and the Selectboard.

Section 5.22.2 #2 – Front yard parking, gas station allowance - Allows gas station parking in the front yard at fueling islands or parking spaces between fueling islands and the principal building. Also, specifically allows for display of car and equipment sales in front yard parking areas. These allowances also added to section 5.6.3 for consistency.

Section 5.27.3 – Stormwater control for small projects – Closes an unintended loophole in the stormwater regulations adopted in 2015 that technically requires no stormwater control for development projects creating under 10,000 square feet of new impervious surface. Simply requires that such small projects address stormwater control and treatment, including proper design for steep slopes and poorly drained areas. Continues to hold such smaller projects to additional, incremental treatment standards in the village growth area.

Section 5.29 – Outdoor lighting standards – Completely new section to create clear and specific standards for outdoor lighting (residential, non-residential, etc.) based on industry norms, dark sky recommendations, other Chittenden County municipalities, and recent developments in Hinesburg.

Section 8.2 – Development Review Board – Eliminates extraneous language about DRB organization and rules of procedure that are either defined in State statute or defined by the DRB.

Section 8.4.1 – Appeals – Corrects an error in the deadline for appeals so as to be in keeping with State statute. Also, clarifies how appeals are received and processed in the P&Z office.

Section 10.1 – Definitions – Various new and revised definitions:

- **Accessory Use/Structure** – Eliminated. Definition and provisions contained in section 5.8.
- **Building Envelope** – Added from the Subdivision Regulations.
- **Building Height** – Revised to be consistent with International Building Code and many other municipalities. Such that height is measured to midpoint of the highest roof (eave to ridge) instead to the highest point.
- **Campground** – Revised pursuant to section 5.20 – i.e., when non-commercial camping triggers review as a campground.
- **Camping Vehicle** – Clarification regarding exclusion of mobile homes and tiny homes.
- **Commercial** – New definition.
- **Dwelling Unit** – Revised to account for elimination of tourist home language.
- **Finished Space** – New definition to codify long-standing practice. Also needed given revisions to “Floor Area, Livable” definition.

- **Floor Area, Livable** – Revised to simplify assessment of attic space, and clarify access to basements and attics.
- **Foot Candle** – New definition related to outdoor lighting section (5.29).
- **Gas Station** – Revised to recognize that gas stations need not be motor vehicle service and repair facilities.
- **Green Infrastructure** – New definition consistent with the Town Plan.
- **Green Stormwater Infrastructure (GSI)** – New definition consistent with the Town Plan.
- **Light Loss Factor** – Added from the Illuminating Engineering Society (IES). Term included in new outdoor lighting section (5.29).
- **Lot Area** – Revised to ensure only exclusions are related to rights of way for access, not other sorts of private easements.
- **Lot Coverage** – Revised for clarification.
- **Low Impact Development (LID)** – Revised for consistency with definition in the Town Plan.
- **Lumen** - New definition related to outdoor lighting section (5.29).
- **Modular homes** – New definition to help differentiate between modular and mobile homes.
- **Mobile homes** – Revised for clarification.
- **Mobile Home Park** – Revised for consistency with State statute.
- **Motor Vehicle Service and Repair Facility** – Revised given gas station definition.
- **Path (or Pathway)** – New definition for clarity. Used in the regulations but not previously defined.
- **Road** – New definition for clarity. Simply refers to definition of “Street”
- **Setback** – Revised to clarify that ramps (like stairs) don’t constitute a building face for setbacks, and to clarify that a private right of way serving a single principal dwelling doesn’t create a front yard setback.
- **Sign** – Revised to clarify that the base of a sign doesn’t count toward maximum size area unless it is integrated or uses business specific colors, patterns, etc.
- **Solar Installation** – New definition.
- **Street** – Revised to clarify that a private right of way serving a single principal dwelling is a driveway and not a street.
- **Structure or Building** – Revised definition: eliminates requirement for a fixed location on the ground (no more loophole for structures on wheels or skids); clarifies that all buildings are structures regardless of size; provides a longer list of exemptions (e.g., fuel tanks, stairs or ramps for ingress/egress, recreation structures, etc.).
- **Sub-Parcel** – Eliminated. No longer needed if section 2.5.6 (contiguous area) is eliminated.
- **Tiny Home** – New definition.

Subdivision Regulations

Section 2.1 – Boundary adjustments and transfer of land to adjoiner – Revised to collapse two similar land transfer options into one broader category. Eliminates awkward and perfunctory DRB review of larger land transfers in favor of simple administrative review/approval. Eliminates a requirement that further DRB review is needed if there is ever development on the transferred land. Adds a new requirement to provide a survey of the boundary adjustment area.

Sections 3.1, 3.2, 3.3 – Application submission, hearing notice, decisions – Revised to remove outdated time horizons for application submission, and to clarify public notice and decision requirements per State statute.

Section 3.2.4 and 4.1.1 – Road access permit information – Adds a new submission requirement, per current practice, to provide evidence that the any access to a public road has been reviewed by the appropriate entity – i.e., Town Highway Department or VT Agency of Transportation.

Section 6.6.3 – Stormwater control for small projects (same as Zoning change, section 5.27) – Closes an unintended loophole in the stormwater regulations adopted in 2015 that technically requires no stormwater control for development projects creating under 10,000 square feet of new impervious surface. Simply requires that smaller projects address stormwater control and treatment, including proper design for steep slopes and poorly drained areas. Continues to hold such smaller projects to additional, incremental treatment standards in the village growth area.

Section 6.8.4 – Septic system permit/certification – Eliminates old language that required certification that a septic system was installed as approved prior to getting a certificate of occupancy for a structure. Septic systems are permitted by the State, and installation certifications are part of their permitting process. Not needed at the Town level. Furthermore, our zoning regulations require evidence of a State septic permit prior to issuance of a zoning permit, so the check happens prior to construction.

Section 6.10.7 – Building envelopes - Added language to provide the DRB guidance on the use and delineation of building envelopes to define buildable areas on a lot. Allows for multiple building envelopes at the discretion of the DRB.

Section 6.12.2 #1 – Buffer between residential wells and agricultural operations – Revised one word; “may” to “shall” to clarify that residential wells must be sited with a 200’ buffer zone to agricultural operations, unless it can be demonstrated that there will be no adverse impact.

Section 7.1 – Digital application materials – Revised to require application materials be submitted digitally, along with retaining requirement for three hard copies of any full size plans. P&Z office staff will continue to help applicants with digital submissions – e.g., scanning hard copies provided, map making for minor subdivision sketch plan applications, etc.

Section 7.7 – Subdivision revision protocol – Revised to clarify the review process for various types of subdivision revisions, including allowance for administrative review – some require more public notice than others.

Section 8.3 – Enforcement and penalties – Revised to eliminate outdated language and fine amounts; revised to simply reference relevant State statute.

Article 9 – Definitions – Various new and revised definitions:

- **Building Envelope** – Revised. Clarified that a building envelope applies to the location of all structures requiring a zoning permit, not just principal structures. Deleted reference to delineation on a survey/plat so that delineation on engineering plans can suffice.
- **Subdivision – Not Subdivision** – Revised. As noted above for section 2.1 with regard to boundary adjustments.