

Town of Middlebury

Proposed Bylaw Revisions dated 4/21/2022

(Revised) Section 320 – Definitions added several new definitions

See definitions document

(Revised) Section 430 - Interpretation of District Boundaries

Zoning District boundaries shall be interpreted by the Administrative Officer in conformance with the purposes of the Zoning Ordinance and the Town Plan and the following:

- (A) Boundaries indicated as approximately following streets, highways, roads, railroads or utility lines shall be construed as following the center lines of the rights of way.
- (B) Boundaries indicated as following significant topographic features such as the contours of steep embankments, or ridges, rivers, streams or other drainage courses shall be construed to follow such features as they physically exist rather than scaling from the map.
- (C) Boundaries indicated as following contour lines shall be construed to follow the line of the elevation indicated as determined on the ground rather than scaling the map.
- (D) Boundaries indicated as following property lines or platted lot lines shall be construed as following such lines as they exist on the effective date of these regulations.
- (E) Boundaries indicated as approximately following Town limits or tax district boundaries shall be construed as following the legal limits or boundaries as of their effective date.
- (F) Boundaries indicated as being parallel to or extensions of lines or features described in the subsections above shall be construed as parallel to or extensions of such lines or features.
- (G) Boundaries indicated as lines perpendicular to lines or features described above shall be construed to proceed at right angles from such lines or features.
- (H) The abandonment or relocation of a right-of-way or roadway, or the change in a line or feature which references a district boundary line, after the effective date of these regulations, shall not affect the location of the Zoning District boundary line.
- (I) When a lot is partly in the Town of Middlebury and partly in an adjacent town, the regulations and restrictions of this Ordinance shall be applied to that portion of such lot within the Town of Middlebury in the same manner as if the entire lot were situated therein.

- ~~(J) Where a boundary line between districts divides a lot or parcel of land, the regulations of the given district shall apply to that portion of the lot.~~
- ~~(K) Divisions of land and subdivision boundaries shall, wherever possible, result in lot lines that coincide with Zoning District boundaries.~~

(NEW) Section 431 – Lots in More Than One Zoning District

When a lot includes land in two or more zoning districts, proposed development on the portion of the lot in one zoning district may only extend across the district boundary if it conforms to the standards of the adjoining district(s). The development potential of a lot located in two or more zoning districts will be established by calculating the development potential of the land within each district separately and totaling the results.

To the maximum extent feasible, the boundaries of new lots must follow zoning district boundaries. A lot created under these regulations that will include land in more than one zoning district must meet the largest of the applicable minimum lot size requirements.

ARTICLE V - PERMIT REQUIREMENTS AND REVIEW PROCEDURES

Section 510 - What Requires a Permit? Added several commonly encountered items

Exemptions - No zoning permit is required nor are setbacks applicable for the following:
(Note: exemptions do not apply in the Special Flood Hazard Area. See Section 670).

- l. Public art will not require a permit.
- m. Community gardening activities and accessory structures, including but not limited to fences, raised beds, trellises, sheds and pavilions that do not exceed a footprint of 400 square feet or height of 15 feet
- n. Solar canopies within a public or private parking lot that meet district setback requirements and do not exceed a height of 15 feet.
- o. Holiday light displays on residential property (with no time limit) or on nonresidential property provided that they are illuminated for not more than 45 consecutive days and 90 days total in any calendar year.
- p. Development qualifying for state and federal exemptions, ex: certain types of roof-top solar energy devices, certain antennae and small telecommunications equipment, replacement of utility poles, development within road rights-of-way, rail carrier transportation structures and uses, and federal government land and facilities.

Section 540 - Conditional Use Review Process added criteria for determining when to grant a waiver. removed Downtown competition clause.

Note: This is the principal review procedure established under the Middlebury Zoning and Subdivision Regulations and the standards are designed to be used by the DRB as described below.

I. Applicability

A. This section shall apply to:

1. land development of a conditional use listed in Section 610.
2. review of planned unit developments (Section 550) and subdivisions (Section 560).
3. alterations or additions to, or removal of, an historic building or site (Section 690)
4. an application for a waiver of setback requirements (Section 724).
5. an application for waiver of height limits (Section 727).
6. change of a nonconforming use to another nonconforming use (Section 810).
7. extension or resumption of a nonconforming use (Sections 820 and 830).
8. resumption of discontinued conforming uses (Section 320).
9. other types of applications, where specified in these regulations.

Substantial change to pre-existing development or prior permitted projects

B. This Section shall apply to substantial changes to:

1. a pre-existing land development project (that would be subject to DRB review if now proposed); and,
2. a project approved under prior Zoning Ordinances as a conditional use or under site plan approval, or subdivision approval.

A change is “substantial” if it could reasonably have an undue adverse effect under any of the review standards in this ordinance.

Exemptions from hearing; administrative approval

- C. Where the Administrative Officer finds that a project or application is minor in nature and would not have an undue adverse effect under any of the review standards, the Administrative Officer may grant exemption from hearing after notice to the DRB and as provided in Section 910 III.

The types of projects eligible for consideration include:

1. Setback waivers to construct sheds, garages, covered porches, additions and other small structures.
2. Within a given zoning district, a change from one conditional use to another conditional use of the same category shall not require conditional use approval, provided that the new conditional use occupies no more floor area than the original conditional use. For example, within a zoning district that allows retail uses as a conditional use, a change from one retail establishment to another retail establishment in the same space shall not require conditional use approval.
3. On-farm accessory uses that are not expected to generate a significant number of new trips

or other undue adverse impacts

4. Changes of use within college-owned structures within the Middlebury College PUD (west of Otter Creek) that will not result in a significant increase in parking or traffic.
5. ~~The exemption may be granted subject to conditions to address the standards in these regulations. However,~~ Exemptions from hearing shall not be made ~~administratively~~ where the project involves new land subdivision or development, **construction of a new principal building construction** or substantial changes/increases in use.

II. Section II remains unchanged

III. Review Standards

The DRB shall make findings of fact and conclusions of law that the project will comply with all of the following standards, as it determines are applicable:

Remove the following from the list of Conditional Use standards. Zoning authority cannot be used to protect the economic interests of one property/business owners over another. Conditional use standards are described in state statute, but this was an addition made to the basic list and raises potential legal issues.

5. Downtown Impact. The project shall not have an undue adverse impact on the economic vitality of the downtown;
The DRB shall consider the following:
 - a. Will the project have any adverse impact?
 - i. Context – Evaluate the location of the project. Consider its relationship to the Downtown Improvement Tax Assessment District and/or the historic core of the downtown.
 - ii. Potential harms – Will the project be compatible and harmonious? Consider the nature of use, scale, style and potential impacts on the downtown and features (visibility and prominence).
 - a. Will it significantly affect downtown image and ambiance?
 - b. Will it discourage pedestrians, reduce parking or negatively affect cultural activities downtown?
 - c. Will the project draw people out of the downtown, either directly from institutions or businesses currently located in the downtown, or indirectly by causing secondary growth which will have this effect?
 - d. Will it undermine or be adverse to downtown improvement efforts?
 - e. Consider the economic effects of the project on the historic core of the downtown or upon the downtown district as a whole. In any economic analysis, care must be taken to distinguish individual business competition concerns from a project's impact on the economic vitality of the downtown. A project's impact on market competition is a relevant factor under this standard only to the extent that it will have an impact on the economic vitality of the core of the downtown, or on the downtown as a whole.
 - f. Consider cumulative effects.

- b. Will the adverse impact be undue, considering all of the following:
 - i. Would it reduce the ability of the public to access, circulate and easily conduct business or enjoy cultural activities downtown, or diminish downtown improvement efforts, to an unacceptable degree?
 - ii. Do the economic impacts unreasonably outweigh the economic benefits?
 - iii. Are there other relevant impacts that significantly outweigh the benefits to the downtown's vitality?
 - iv. Has the applicant taken reasonable mitigating steps that would reduce or minimize the undue impact? This would include customary project planning and market analysis, considering different types of projects, and reasonably sizing the project to avoid or reduce the adverse impact on the downtown.

(Revised) Section 550 - Planned Unit Developments and Review Process

Added a new type of PUD under Section 579 and made this applicable only to existing PUDs

New definitions, districts and use tables should reduce the requests for uses where they aren't allowed

I. General Provisions (no changes)

A Planned Unit Development (PUD) provides flexibility in the permitting process. It allows an applicant the opportunity to creatively explore the possibilities of land use within a given parcel or parcels of land while still subject to the criteria in the Section 540 Conditional Use review process. Similarly, the Town has the opportunity to allow certain types of uses that wouldn't traditionally be allowed in a given district while, at the same time, having the opportunity to regulate those uses in a way that benefits the community as a whole.

The purposes of the planned unit development provision are:

- A. To encourage innovation and efficiency in the design and layout of residential, commercial, industrial, institutional and multiple-use projects, and to encourage affordable housing;
- B. To maintain or establish significant open spaces for natural functions (including but not limited to wildlife corridors, wetlands, etc.), agriculture, forestry, recreation, scenic or public purposes which are reasonably related in both nature and extent to the impact of such projects and the needs of the existing and planned growth areas described in the Town Plan.

Accordingly, the DRB is hereby authorized to modify the use, area and dimensional requirements of these regulations simultaneously with the approval of the subdivision plat or other master plan for a Planned Unit Development (PUD). However, such modifications shall be limited as provided in 24 VSA Chapter 117 and as set forth below.

II. Applicability

Any application previously approved under this section will continue to be reviewed using the requirements of this section. New development on a site previously approved as a PUD under this section will be reviewed as a PUD Amendments. There shall be no new PUDs approved under this section for projects in Middlebury. New development of 5 or more units meeting the criteria under Section 579 may be reviewed as a Traditional Neighborhood Design (TND) PUD.

~~Any development involving three or more acres, or any site located in the CBD or VRC districts, may qualify for consideration as a Planned Unit Development. Any residential project involving less than four dwelling units shall not qualify. A PUD may involve single or multiple properties, and one owner or multiple owners as co-applicants, under the procedures and standards of this section.~~

~~The DRB shall have the right to require that projects meeting the above criteria be submitted as a PUD application. Additionally, the DRB shall have the right to require any subdivision, multiple-unit residential project, shopping center, commercial project with a cumulative square footage exceeding 3,000sf or any institutional complex including Middlebury College or Porter Medical Center, to be submitted as a PUD application.~~

Uses listed in Section 610 as a "PUD" shall also be subject to review under the following procedure, and in accordance with the specific standards for the particular use, as provided elsewhere in this Ordinance.

III. Standards

- A. Uses - The PUD shall be consistent with the Town Plan, and the land uses involved shall conform to those allowable for the district in which the project is located. However, at the discretion of the DRB, the PUD may include mixed uses such as apartments or retail, office or other business establishments appropriate to the neighborhood in the master plan, notwithstanding Section 610. **The burden is on the applicant to demonstrate that the uses proposed are consistent with the PUD master plan and together present a clear and coherent summary of community benefits.**

Principal buildings and mixed uses shall be so arranged as to be compatible and to ensure visual and aural privacy for the residents of the development and for adjacent properties.

- B. Intensity of Development - The DRB may approve a greater concentration of buildings than would normally be allowed under Section 620 of the Zoning Ordinance within some portions of the parcel, which concentration shall be offset by a lesser density (open or public space) on other portions. However, the minimum setback requirements for the district in which the project is located shall apply to the periphery of the development and may not be waived.

The total number of dwelling units or principal buildings shall not exceed that which would be permitted if the parcel were subdivided into buildable lots in conformance with the district minimum lot area requirement for one family dwellings.

In no case shall the maximum number of units in a multiple family dwelling exceed ~~six~~ **five**. **Units over five should be reviewed under Section 579.** ~~except in a VRC, INS or CBD zone, or except in the case of "affordable units" as defined below.~~

C. Incentives for Affordable Housing:

- ~~1. In the CBD, INS, HDR, VRC and OFA **MU** districts the DRB may increase the gross density from one family dwelling unit per 10,000 sq. ft. lot area to a maximum of one dwelling unit per 5,000 sq. ft. lot area provided that a significant portion of the additional units will be "affordable units" as defined below.~~
- ~~2. In the MDR districts, the DRB may increase the gross density to a maximum of one family dwelling unit per 15,000 sq. ft. lot area provided that:
 - ~~a. The Select Board has approved connection to Town water and sewer or have approved the project to be served by a municipal quality water and sewer system subject to such terms and conditions as the Select Board deems appropriate; and~~
 - ~~b. a significant portion of the additional units will be "affordable units" as defined below.~~~~
- ~~3. "Affordable units" means housing which the DRB finds to be designed and established to meet the needs of below median household incomes. Affordable units may include VHFA-eligible housing units, rental or owner-occupied dwelling units intended for long-term affordability, limited equity housing cooperatives, or perpetually restricted (housing land trust) projects.~~
- ~~4. Affordable units should be planned to provide an even distribution, diversity and integration of housing types and affordability levels, to the greatest extent possible, to meet the needs of the population. The DRB shall, notwithstanding the density incentives herein, review each PUD proposal to ensure there will be no undue adverse impact on the character of established residential neighborhoods.~~

C. Open Space Requirements

The DRB shall not approve an application as a PUD unless it finds that the PUD will result in the dedication of open or public space consistent with the purposes of this Section. Where the clustering of buildings results in open or undeveloped space on the tract, the DRB shall condition approval of the project upon the establishment of an open space easement, conservation restriction, or homeowner's association or similar provision or instrument for this portion of the tract, to ensure conformance with subsection (B) above.

The open space instrument or provision shall be legally enforceable by the Town

or by a designated land trust and shall run with the land. Further, the DRB may impose conditions as to the ownership, uses and nature of the project and the land to meet the purposes of this section. In addition, PUD open space shall meet the following specific objectives to be acceptable under this ordinance:

1. PHD (Protected Highway) District
PUD's in this district shall provide suitable landscaping and open areas which protect views and enhance the appearance of development along Route 7.
2. Flood Hazard/Shoreland Areas
PUD's in or adjacent to this district shall provide open space which (i) will maintain the flood-carrying capacity of the river without raising flood levels upstream or diverting flood flows onto other lands, (ii) will retain and provide vegetation along the riverbank, and (iii) will be reserved or developed for public recreational access.
3. CBD, MU, HI VRC, OFA, and GC Districts
PUD's in these districts shall include development of open space/facilities for recreation, parking, transit or other public purposes, as deemed appropriate by the DRB.
4. Other Districts
~~Residential~~ Projects in the INS and R-2 through R-12 HDR Zones shall provide at least 15% open space, ~~and in the MDR at least 30% open space for projects on Town water and sewer, or at least 50% open space for other MDR projects. Within this open space the developer shall provide developed playground or other suitable recreation facilities to meet the neighborhood needs of the project.~~ "Open space" shall not include parking lots or streets or private lots; ~~or wetlands.~~

Any permit condition which requires a property owner to deed land or easements to the Town (or other public entity), shall be justified in the findings of fact to ensure that the required dedication is reasonably related in both nature and extent to the impact of the proposed development.

- E. Master Plan Submission Requirements. The project shall be an efficient and unified treatment of the development possibilities of the site, and shall incorporate the following design requirements: a master plan shall be submitted with narrative and one or more maps/plans, to show how the requirements of this section and the provisions of the Town Plan will be met, as well as describing:
1. the general concept and how neighborhood identity will be established and retained; the Land Use section of the Town Plan shall be referenced;
 2. uses planned for each area and the phasing of build out;
 3. location of ~~preserved farm land~~ **dedicated open space**, natural or wildlife areas, resource and recreation areas;

4. ~~an economic analysis of the infrastructure, and, evidence of financial ability to support, and municipal service requirements of the project;~~
5. design control guidelines for the project; and such other information which the DRB may require.

F. Review Process and Standards.

1. The project shall be reviewed under the procedure and criteria in the Conditional Use Review Section 540, which are incorporated herein by reference. As provided in Section 530, preliminary layout plans and final PUD plans shall **may** be referred to the Design Advisory Committee for recommendations to the DRB.
2. A PUD shall also be subject to the applicable requirements and standards of Sections 560-580 below.

~~IV. Supplementary Rules and Regulations of PUDs~~

~~As provided in 24 V.S.A. Section 4417(g), the DRB may prescribe, from time to time; supplementary rules and regulations for any planned unit development. The DRB shall hold a public hearing prior to the establishment of any such rules and regulations.~~

IV. Approved Planned Unit Developments

Approved PUD's shall continue to be administered and implemented according to the conditions and plans under which originally approved, but extensions, enlargements or revision thereof not contemplated in the orders of approval creating them shall be subject to this Section. For a PUD that is preexisting and was not originally required to have a master plan, the existing site plan may be considered to be the master plan. Any prior conditions of approval that are unmet shall be completed prior to considering any application for extensions or substantial change. Any substantial change to a PUD shall require a public hearing and approval by the DRB.

(New) Section 579 – Traditional Neighborhood Development PUD

Added a new type of PUD incorporating planning best practices for creating new neighborhoods!

See Traditional Neighborhood Design regulations document

(New) Section 580 – Site Plan and Other Applications **Site Plan review will provide a streamlined alternative to Conditional Use review for less complicated applications**

I. General Conditions

Site Plan approval by the Administrative Officer shall be required for all uses marked in the Table of Uses as P/S, unless referred to the Development Review Board at the discretion of the Administrative Officer. Site Plan approval by the Development Review Board shall be required for uses marked in the Table of Uses as C/S and applications referred by the Administrative Officer. Unlike conditional use approval, Site Plan approval assumes that the use proposed is

appropriate for the district in which it is located. As such, it focuses solely on proper development within the site, not its compatibility or lack thereof with the surrounding area.

Any other applications or uses that require approval of the Development Review Board but are not specifically listed shall be reviewed under the procedure for site plan review.

II. Application for Site Plan or Other Approval

- A. The owner shall submit three sets of site plan maps and supporting data to the Development Review Board, which shall include the following information, presented in drawn form and accompanied by written text:
1. Property identification numbers of the property taken from the latest tax records; Name and address of the owner of record and the owners of adjoining lands; Name and address of person or firm preparing the map; Scale of Map, north point, and date.
 2. An accurate map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use, and deed restrictions.
 3. Site plan, showing proposed structure locations and land use areas, streets, driveways, traffic circulation, parking and loading spaces, and pedestrian walks; landscaping plans, including site grading, landscape design, and screening; lighting plans, including photometrics and fixture types.
 4. Construction sequences and time schedules for completion of each phase for buildings, parking spaces, and landscaped areas of the entire development.
 5. A description of energy utilization and conservation measures for each heated structure.
 6. Information pertaining to satisfying the Performance Criteria in Article 8.
 7. In accordance with State Highway Section 1111 Access Permits §36, site plans involving work in the State highway right-of-way must submit a letter from the Agency of Transportation determining if a highway access permit will be needed, and if so, any conditions of approval.

III. Public Notice and Review Procedure

- A. Public notice of hearing shall be given as specified in Section 341 A of these regulations. The Development Review Board shall review this application pursuant to the review procedure established in Section 341B of these Regulations and pursuant to any rules of procedure it adopts.

IV. Site Plan Review Criteria

- A. The Development Review Board may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking, landscaping and screening, and protecting the utilization of renewable energy resources.
- B. The Development Review Board shall review the site plan map and supporting data, taking into consideration the following objectives, before approval with or without conditions, or denial is rendered:
 - 1. Safety of vehicular circulation between the site and the street network pursuant to the requirements of these regulations and the public works specifications.
 - 2. Adequacy of circulations, parking, and loading facilities, with particular attention to safety pursuant to the requirements of these regulations and the public works specifications.
 - 3. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection to adjacent property.
 - 4. Adequacy of stormwater and drainage.
 - 5. Adequacy of landscaping and screening.
 - 6. Impacts to wetlands and wildlife habitat
 - 7. As part of the site plan review the DRB may also incorporate appropriate standards from Section 772 Signs and Section 750 Performance Standards.
- C. At the discretion of the Administrative Officer or Development Review Board, advisory opinions may be obtained from the Fire Chief, Police Chief, Middlebury Regional EMS, Middlebury Design Advisory Committee or Middlebury Conservation Commission. These opinions may be used in rendering a decision and writing conditions of approval.

V. Decisions

- A. Upon the close of the hearing, the Development Review Board shall issue its decision pursuant to the procedure outlined in subsection C of Section 341 of these regulations. In approving a project with conditions, the Development Review Board may require specific modifications to the design, scale, layout and/or design or configuration of the project.

Section 580 590 – Official Map for Public ROW/Property Acquisition

Change this Section # and related references to make room for chapters on site plan review

ARTICLE VI - DISTRICT REGULATIONS

Section 610 - USES ALLOWED IN THE ZONING DISTRICTS *minor revision*

- I. A person shall not use any land or structure within a Zoning District unless such use falls into one or more of the following categories and such use complies with all other applicable provisions of these regulations:
 - A. The use conforms to a type or classification listed as a permitted use in the applicable

Zoning District, as set forth in the following tables. (Note: see definitions in Section 320.)

- B. The use conforms to a type or classification listed as a conditional use in the applicable Zoning District, as set forth in the following tables, and the use has received approval pursuant to Section 540. (Note: see definitions in Section 320).
 - C. The use qualifies as an accessory use, as that term is defined in Section 320.
 - D. The use qualifies as a lawful nonconforming use, in which case it may be continued subject to the provisions of Article VIII.
 - E. The use is subject to limited zoning authority pursuant to 24 V.S.A. 4413, in which case the provisions of these regulations shall apply to the extent permitted by said Section 4413.
 - F. **The use is considered exempt according to Sections 510 or 670.**
- II. Any use not falling into one of the above categories shall be deemed prohibited. Defined uses shall be strictly construed under Section 320 (**Definitions**). *See Sections 670 and 680 for regulations concerning the Flood Hazard Area and the Aquifer/Wellhead Protection Area.*

III. Multiple Principal Uses. A landowner may use a lot or structure in the MU, CBD, PHD, HI or GC districts for any combination of principal uses allowed in the applicable zoning district.

Section 620 – Lot Area, Width, Coverage, Height and Setback Requirements for Districts Replaced old table of dimensional requirements with fresh tables that include our new Downtown zoning districts. Replaced the old table of uses with fresh definitions and zoning district assignments.

(New) Section 622 - Downtown and Mixed Use Zoning Districts

I. PURPOSE (DOWNTOWN AND MIXED USE DISTRICTS)

- A. The Central Business, Heritage Industrial and Mixed-Use districts are intended to accommodate a high intensity and diversity of development reflective of Middlebury's role as a regional center for employment, commerce, services, culture and government. Specifically:

The Central Business district (CB) provides concentrated retail, service, office, entertainment, civic and residential uses in the heart of downtown Middlebury. It accommodates the highest intensity of development in town through a traditional built form characterized by high lot coverage, buildings oriented to the street, buildings built at or near the edge of the sidewalk, buildings with storefronts and facades that generate activity and interest from the sidewalk, and an inviting streetscape. Pedestrian circulation is prioritized over vehicular access and all parking is to the side or rear. The town seeks to promote appropriate rehabilitation of historic buildings, compatible new construction and additions, full occupancy (including of upper floors), and active ground floor uses along the street.

The Heritage Industrial district (HI) is located along the river and railroad in downtown Middlebury. It is characterized by historic manufacturing, warehousing and transportation buildings that have been adapted to contemporary uses as part of an integrated, walkable downtown. The town seeks to retain and enhance the distinctive sense of place created by the building forms and materials, the orientation of many buildings to the river or the railroad rather than the street, and the aesthetically pleasing interplay of the built and natural environment in this district.

The Mixed-Use district (MU) allows for complete and diverse neighborhoods composed of development that combines residential and non-residential uses. It allows an increased intensity of development than would typically be found in the surrounding residential areas and functions as a transitional buffer between higher-traffic streets and uses and lower-traffic residential neighborhoods. It provides convenient access to goods and services for residents of the town and broader region, as well as travelers. Over time, the town seeks to transform sites within this district that were previously developed in a lower-density, auto-oriented form to a more compact, pedestrian-oriented, mixed-use form.

The purpose of the Protected Highway District (PHD) is to assure that land development along U.S. Route 7 will not impede the flow of traffic or reduce highway capacity and to provide a well-planned entrance to Middlebury. Where water and sewer are not available uses will be limited accordingly. This district will continue to encourage campus-quality or corporate headquarters-type development and heavy commercial uses are to be designed so as not to detract from the aesthetic objectives of this district.

The General Commercial (GC) District provides for uses of a general commercial or light industrial type which are not possible or desirable in the CB, MU or PHD districts due to lack of space, the need for truck loading/unloading facilities or aesthetic concerns in those areas.

II. DIMENSIONAL STANDARDS (DOWNTOWN AND MIXED USE DISTRICTS)

A. Lots and structures must meet the dimensional standards below.

	CB	HI	MU	PHD	GC
Lots					
(1) Minimum lot size (sf)	4,000	10,000	10,000	43,560	43,560
(2) Minimum lot frontage (ft)	40	100	100	200	150
(3) Maximum lot coverage (%)	100	90	80	60	80
(4) Minimum lot area per dwelling, 3+ units (sf)	no max	no max	2,178	N/A	N/A
Setbacks Distance from structure to property lines					
(5) Minimum front setback (ft)	0	0	10	50	35
(6) Minimum side or rear setback (ft)	0	10	10	50	25
Structures					
(7) Maximum full stories	6.0	3.0	3.0	2.0	3.0
(8) Maximum building height (ft)	70	50	50	35	50
(9) Max. building footprint (sf)	12,000	18,000	24,000	24,000	24,000

III. ALLOWED USES (DOWNTOWN AND MIXED USE DISTRICTS)

- A. **Permitted Uses (P).** The Zoning Administrator may issue a zoning permit for the listed use.
- B. **Site Plan Review (S).** A landowner must obtain site plan approval before the Zoning Administrator may issue a zoning permit for the listed use.
- C. **Conditional Uses (C).** A landowner must obtain a conditional use approval before the Zoning Administrator may issue a zoning permit for the listed use.
- D. **Prohibited Uses (X).** The listed use is not allowed.

Residential Uses	CB	HI	MU	PHD	GC
(1) 1-unit residence	X	P	P	X	X
(2) 2-unit residence	X	P	P	X	X
(3) 3-unit residence	X	P/S	P/S	X	X
(4) 4-unit residence	P/S	P/S	P/S	X	X
(5) 5 or more unit residence	P/S	P/S	P/S	X	X
(6) Student housing	X	C/S	C/S	X	X
(7) Accessory dwelling	X	P	P	X	X
(8) Home occupation	P	P	P	X	X
(9) Home business	P/S	P/S	P/S	X	X
(10) Family childcare home	P	P	P	X	X
(11) Bed and breakfast	X	P	P	X	X
(12) Rooming and boarding house	X	P/S	P/S	X	X
(13) Short-term rental	P	P	P	X	X
(14) Residential care home	X	P	P	X	X

(15) Residential care facility	X	P/S	P/S	X	X
(16) Recovery residence	X	C/S	C/S	X	X
(17) Transitional housing	X	P/S	P/S	X	X
Commercial Uses	CB	HI	MU	PHD	GC
(18) Lodging facility*	P/S	P/S	P/S	C/S	C/S
(19) Office	P/S	P/S	P/S	C/S	C/S
(20) Service business*	P/S	P/S	P/S	X	X
(21) Retail store*	P/S	P/S	P/S	C/S	C/S
(22) Neighborhood market*	X	P/S	P/S	X	X
(23) Healthcare clinic/office	X	X	P/S	C/S	P/S
(24) Lawn, garden or farm supply	X	X	P/S	C/S	C/S
(25) Lumberyard or building supply	X	X	P/S	C/S	C/S
(26) Repair service	X	X	C/S	C/S	C/S
(27) Fueling station or carwash	X	X	C/S	C/S	C/S
(28) Sales lot	X	X	X	C/S	C/S
(29) Storage or distribution service	X	X	X	C/S	C/S
(30) Commercial school	P/S	P/S	P/S	P/S	P/S
(31) Publishing	P/S	P/S	P/S	X	P/S
(32) Veterinary or animal services	X	C/S	C/S	C/S	C/S
(33) Catering or commercial kitchen	P/S	P/S	P/S	X	P/S
(34) Restaurant*	P/S	P/S	P/S	P/S	P/S
(35) Bar*	C/S	C/S	C/S	X	C/S
(36) Mobile food service	P/S	P/S	P/S	X	P/S
(37) Performance venue	C/S	C/S	X	C/S	X
(38) Social club	P/S	P/S	P/S	P/S	X
(39) Event facility	C/S	C/S	C/S	C/S	C/S
(40) Farmer's market (§780)	P/S	P/S	P/S	P/S	P/S
(41) On-farm business	X	X	X	X	X
(42) Agricultural enterprise	X	C/S	C/S	C/S	C/S
(43) Commercial fruit & veg stand (§782)	X	X	P/S	P/S	P/S
(44) Slaughterhouse	X	X	X	C/S	C/S
(45) Retail cannabis	X	X	C/S	C/S	X
(46) Commercial outdoor rec facility	C/S	C/S	C/S	C/S	C/S
(47) Commercial forestry operations	X	X	X	C/S	X
(48) Contractor storage yard/ shop	X	X	X	X	C/S
(49) Salvage yard or recycling center	X	X	X	C/S	C/S
(50) Soil, sand & gravel extraction (§786)	X	X	X	X	X
(51) Quarrying (§788)	X	X	X	X	X
Manufacturing Uses	CB	HI	MU	PHD	GC
(52) Light industry	C/S	C/S	C/S	C/S	C/S
(53) Wood products manufacturing	C/S	C/S	C/S	C/S	C/S
(54) Machine or metal fabrication	X	X	C/S	C/S	C/S
(55) Food/beverage manufacturing*	C/S	C/S	C/S	C/S	P/S
(56) Laboratory or research facility	P/S	P/S	P/S	C/S	P/S
(57) Wholesale trade	X	X	P/S	P/S	P/S
(58) Transportation services	C/S	C/S	C/S	P/S	P/S

(59) Information services	P/S	P/S	P/S	X	P/S
(60) Communications antenna	P/S	P/S	P/S	P/S	P/S
Institutional/ Community Facility Uses	CB	HI	MU	PHD	GC
(61) Childcare facility	P/S	P/S	P/S	P/S	P/S
(62) Religious institution	P/S	P/S	P/S	P/S	P/S
(63) Funeral services	X	X	P/S	C/S	X
(64) Public assembly facility	C/S	C/S	C/S	C/S	C/S
(65) Museum or library*	P/S	P/S	P/S	X	X
(66) Artist gallery or studio*	P/S	P/S	P/S	X	X
(67) Indoor recreation facility	P/S	P/S	P/S	C/S	C/S
(68) Public outdoor recreation facility	P/S	P/S	P/S	X	C/S
(69) Government facility*	P/S	P/S	P/S	P/S	P/S
(70) Community center*	P/S	P/S	P/S	X	X
(71) Supervision or rehabilitation services (includes residential)	C/S	C/S	C/S	X	X
(72) Social assistance, welfare and charitable services (excludes residential)	C/S	C/S	C/S	X	C/S
(73) Services for the elderly and disabled	C/S	C/S	C/S	X	C/S
(74) Educational institution, primary or secondary	P/S	P/S	P/S	X	X
(75) Educational institution, post-secondary	P/S	P/S	P/S	X	X
(76) Utility facility or essential services	P/S	P/S	P/S	P/S	P/S
(77) Public parking facility	P/S	P/S	P/S	X	X
(78) Private parking facility	X	X	C/S	X	X

IV. DISTRICT STANDARDS (DOWNTOWN AND MIXED USE DISTRICTS)

A. Central Business District (CB)

- Buildings fronting on Main Street, Merchants Row and Park Street must have active ground floor uses that attract pedestrian activity and are directly accessible from the sidewalk. The floor area within the building occupied by active ground floor uses must not be less than 30 feet deep as measured from the street-facing building facade. Allowed uses that qualify as “active ground floor uses” are indicated in the use table with an asterisk*.
- Drive-through facilities are prohibited.

B. Heritage Industrial District (HI)

- Drive-through facilities are prohibited.

C. Mixed Use District (MU)

- Drive-through facilities will require conditional use approval.

D. Protected Highway District (PHD)

- See Section 640, Special regulations for lands adjacent to Route 7
- Drive-through facilities are prohibited.

E. General Commercial District (GC)

- Drive-through facilities will require conditional use approval.

(New) Section 623 - Residential Zoning Districts

I. PURPOSE (RESIDENTIAL DISTRICTS)

A. The Residential 20, 12, 8, 4 and 2 districts are intended to promote a pattern of development that provides a full range of housing choices while protecting neighborhood character. The Residential districts implement Middlebury's Town Plan and the Downtown Master Plan. They promote the preservation and development of attractive, livable and pedestrian-friendly neighborhoods with inviting streetscapes in those areas of town served by municipal infrastructure. Specifically:

The Residential 20 (R-20) district will accommodate planned developments offering a diversity of housing types on many of the remaining large parcels of developable land within the town's sewer service area. These new neighborhoods are envisioned to be walkable with ample greenspace and other amenities.

The Residential 12 (R-12) district will provide flexibility for use of historic residential structures located close to downtown and along higher traffic streets primarily as housing and secondarily as compatible office, service and lodging businesses. Compatible businesses will be pedestrian-oriented uses that serve walk-in traffic and do not generate significant trips per day or parking needs. This district is envisioned to remain residential in scale and character with buildings that retain their residential appearance and with limited evidence of business activity visible from the street.

The Residential 8 (R-8) district will continue to accommodate housing on existing residential properties in the historic neighborhoods around downtown. This district is envisioned to remain primarily single-unit residences, but will also provide opportunity for duplexes and other small-scale multi-unit residences. To preserve the neighborhood housing stock necessary to sustain a diverse, multi-generational community, this district will not allow for conversion of existing residences to student housing.

The Residential 4 (R-4) district will continue to accommodate housing on existing residential properties largely developed from the 1960s through the present time in accordance with the town's adopted zoning and subdivision regulations. This district is envisioned to remain primarily single-unit residences, although it will also provide opportunity for moderate-density, small-scale multi-unit residences.

The Residential 2 (R-2) district will continue to accommodate housing in neighborhood settings around East Middlebury and other areas of town where compact residential development on village-scale lots exists or is planned. Most of these neighborhoods are served by municipal water. This district is envisioned to remain primarily single-unit residences, although it will also provide opportunity for low-density, small-scale multi-unit residences. These neighborhoods are too far away from Middlebury College to be suitable locations for student housing.

II. DIMENSIONAL STANDARDS (RESIDENTIAL DISTRICTS)

A. Lots and structures must meet the dimensional standards below.

	R-20	R-12	R-8	R-4	R-2
Lots					
(1) Minimum lot size (sf)	20,000	6,000	8,000	10,000	20,000
(2) Minimum lot frontage (ft)	100	60	75	75	100
(3) Maximum lot coverage (%)	40	70	60	40	30
(4) Minimum lot area per dwelling, 3+ units (sf)	2,178	3,630	5,445	10,000	20,000
Setbacks Distance from structure to property lines					
(5) Minimum front setback (ft)	20	10	15	20	30
(6) Minimum side or rear setback (ft)	20	10	10	10	10
Structures					
(7) Maximum full stories	4.0	3.0	2.0	2.0	2.0
(8) Maximum building height (ft)	55	45	35	35	35
(9) Maximum building footprint (sf)	18,000	6,000	4,000	4,000	4,000

III. ALLOWED USES (RESIDENTIAL DISTRICTS)

- A. Permitted Uses (P).** The Zoning Administrator may issue a zoning permit for the listed use.
- B. Site Plan Review (S).** A landowner must obtain site plan approval before the Zoning Administrator may issue a zoning permit for the listed use.
- C. Conditional Uses (C).** A landowner must obtain a conditional use approval before the Zoning Administrator may issue a zoning permit for the listed use.
- D. Prohibited Uses (X).** The listed use is not allowed.

Residential Uses	R-20	R-12	R-8	R-4	R-2
(1) 1-unit residence	P	P	P	P	P
(2) 2-unit residence	P	P	P	P	P
(3) 3-unit residence	P/S	P/S	P/S	P/S	P/S
(4) 4-unit residence	P/S	P/S	P/S	P/S	P/S
(5) 5 or more unit residence	P/S	P/S	C/S	X	X
(6) Student housing	C/S	C/S	X	X	X
(7) Accessory dwelling	P	P	P	P	P
(8) Home occupation	P	P	P	P	P
(9) Home business	X	P/S	X	C/S	C/S
(10) Family childcare home	P	P	P	P	P
(11) Bed and breakfast	P	P	P	P	P
(12) Rooming and boarding house	X	P/S	X	X	X
(13) Short-term rental	P	P	P	P	P
(14) Residential care home	P	P	P	P	P
(15) Residential care facility	P/S	P/S	C/S	C/S	C/S
(16) Recovery residence	X	C/S	X	X	X

(17) Transitional housing	P/S	P/S	X	X	X
Commercial Uses	R-20	R-12	R-8	R-4	R-2
(19) Lodging facility	X	C/S	X	X	X
(20) Office	X	P/S ³	X	X	X
(21) Service business	X	P/S ³	X	X	X
(22) Retail store	X	X	X	X	X
(23) Neighborhood market	P/S	P/S	P/S	X	X
(24) Mobile food service	P/S	X	X	X	X
(25) Farmer's market (§780)	P/S	P/S	X	X	X
Institutional/ Community Facility Uses	R-20	R-12	R-8	R-4	R-2
(26) Childcare facility	C/S	C/S	C/S	X	X
(27) Religious institution	P/S	P/S	P/S	P/S	P/S
(28) Funeral services	X	C/S	X	X	C/S
(29) Supervision or rehabilitation services (includes residential)	C/S ²	C/S ²	X	X	X
(30) Social assistance, welfare and charitable services (excludes residential)	X	X	X	X	X
(31) Services for the elderly and disabled	P/S	P/S	P/S	P/S	P/S

IV. DISTRICT STANDARDS (RESIDENTIAL DISTRICTS)

A. Residential 20 (R-20)

1. Any proposed major subdivision or development of five or more dwelling units or within this district must be designed and approved as a planned unit development in accordance with Section 579.
2. C/S²: Supervision or rehabilitation services only allowed in the R-20 for conversion of an existing structure subject to Conditional Use and Site Plan approval.

B. Residential 12 (R-12)

1. Any lot with one or more residential units as of [effective date] must not be converted entirely to a non-residential use. At least one dwelling unit must be retained on the lot, which may be located in the principal building or in an accessory building.
2. C/S²: Supervision or rehabilitation services only allowed in the R-12 for conversion of an existing structure subject to Conditional Use and Site Plan approval.
3. P/S³: An office or service business use in the R-12 must not occupy more than 2,000 square feet of floor area.

(New) Section 624 – Rural and Conservation Zoning Districts

I. PURPOSE (RURAL AND CONSERVATION ZONING DISTRICTS)

- A. The Agricultural/Rural (AR) and Forest/Conservation (FOR) zoning districts are intended to set apart rural areas of town where we seek to limit residential development to conserve the open space, views and working lands that comprise our rural character. These districts also contain valuable wildlife habitat areas, forests, conserved lands and other natural resources that require development to be cited in a thoughtful way.

(From town plan) The purpose of the Agricultural/Rural district (AR) is primarily to maintain the character and agricultural viability of the present rural and agricultural areas of the Town. This district includes rural residential properties, but predominant land uses are agricultural and forestry and earth resource extraction.

(From town plan) The Forest/Conservation district (FOR) includes areas where topography, natural resources, aquifer/wellhead protection, wetlands, wildlife habitats and/or poor access severely limit development or dictate it. Most of this district consists of National Forest and commercial timberlands. A substantial portion of the Forest District comprises the aquifer recharge and wellhead protection areas for the Middlebury and East Middlebury water systems. Remoteness from public services and the high cost of improving and maintaining roads make this district undesirable for development.

II. DIMENSIONAL STANDARDS (RURAL AND CONSERVATION ZONING DISTRICTS)

- A. Lots and structures must meet the dimensional standards below.

	AR	FOR
Lots		
(1) Minimum lot size (ac)		25 ac
Town water and on-site septic	1 ac	
Well and on-site septic	2 ac	
(Note that the total number of homesites in AR district is limited by Schedule A)		
(2) Minimum lot frontage (ft)	200	600
(3) Maximum lot coverage (%)	-	-
(4) Minimum lot area per dwelling, 3+ units (sf)	N/A	N/A
Setbacks		
Distance from structure to property lines or street centerline (CL).		
(5) Minimum front setback (ft)	75' from centerline	125' from centerline
(6) Minimum side setback (ft)	25	100
(7) Minimum rear setback (ft)	50	100
Structures		
(8) Maximum full stories	2.0	2.0
(9) Maximum building height (ft)	35	35
(10) Maximum building footprint (sf)	12,000	4,000

III. ALLOWED USES (RURAL AND CONSERVATION ZONING DISTRICTS)

- A. **Permitted Uses (P).** The Zoning Administrator may issue a zoning permit for the listed use.
- B. **Site Plan Review (S).** A landowner must obtain site plan approval before the Zoning Administrator may issue a zoning permit for the listed use.
- C. **Conditional Uses (C).** A landowner must obtain a conditional use approval before the Zoning Administrator may issue a zoning permit for the listed use.
- D. **Prohibited Uses (X).** The listed use is not allowed.

Residential Uses		AR	FOR
(1)	1-unit residence	P	P/S
(2)	2-unit residence	P	X
(3)	3-unit residence	X	X
(4)	4-unit residence	X	X
(5)	5 or more unit residence	X	X
(6)	Student housing	X	X
(7)	Accessory dwelling	P	P
(8)	Home occupation	P	X
(9)	Home business	P/S	X
(10)	Family childcare home	P/S	X
(11)	Bed and breakfast	P	X
(12)	Rooming and boarding house	P/S	X
(13)	Short-term rental	P	P
(14)	Residential care home	P	P/S
(15)	Residential care facility	C	X
(16)	Recovery residence	X	X
(17)	Transitional housing	X	X
Commercial Uses		AR	FOR
(18)	Lodging facility	X	X
(19)	Office	X	X
(20)	Service business	X	X
(21)	Retail store	X	X
(22)	Neighborhood market	X	X
(23)	Healthcare clinic/office	X	X
(24)	Lawn, garden or farm supply	C	X
(25)	Lumberyard or building supply	X	X
(26)	Repair service	X	X
(27)	Fueling station or carwash	X	X
(28)	Sales lot	X	X
(29)	Storage or distribution service	X	X
(30)	Commercial school	C	X
(31)	Publishing	X	X
(32)	Veterinary or animal services	C	X
(33)	Catering or commercial kitchen	X	X

(34) Restaurant	X	X
(35) Bar	X	X
(36) Mobile food service	X	X
(37) Performance venue	X	X
(38) Social club	P	X
(39) Event facility	C/S	X
(40) Farmer's market (§780)	P/S	X
(41) Accessory on-farm business	P/S	X
(42) Agricultural enterprise	C/S	C/S
(43) Commercial fruit & veg stand (§782)	P	X
(44) Slaughterhouse	P/S	X
(45) Retail cannabis	X	X
(46) Commercial outdoor rec facility	C/S	X
(47) Commercial forestry operations	C/S	C/S
(48) Contractor storage yard/ shop	P/S	X
(49) Salvage yard or recycling center	X	X
(50) Soil, sand & gravel extraction (§786)	C/S	X
(51) Quarrying (§788)	X	X
Manufacturing Uses	AR	FOR
(52) Light industry	X	X
(53) Wood products manufacturing	C/S	X
(54) Machine or metal fabrication	X	X
(55) Food/beverage manufacturing	X	X
(56) Laboratory or research facility	X	X
(57) Wholesale trade	X	X
(58) Transportation services	X	X
(59) Information services	X	X
(60) Communications antenna	P/S	P/S
Institutional/ Community Facility Uses	AR	FOR
(61) Childcare facility	C	X
(62) Religious institution	C	X
(63) Funeral services	X	X
(64) Public assembly facility	X	X
(65) Museum or library	C	X
(66) Artist gallery or studio	X	X
(67) Indoor recreation facility	C	C
(68) Public outdoor recreation facility	C	C
(69) Government facility	C	C
(70) Community center	X	X
(71) Supervision or rehabilitation services (includes residential)	X	X
(72) Social assistance, welfare and charitable services (excludes residential)	X	X
(73) Services for the elderly and disabled	X	X
(74) Educational institution, primary or secondary	C/S	X
(75) Educational institution, post-secondary	X	X

(76) Utility facility or essential services	C	C
(77) Public parking facility	X	X
(78) Private parking facility	X	X

IV. DISTRICT STANDARDS (RURAL AND CONSERVATION ZONING DISTRICTS)

A. Agricultural/Rural District (AR)

1. Drive-through facilities are prohibited.

B. Forest/Conservation District (FOR)

1. See Section 742
2. Drive-through facilities are prohibited.

(New) Section 625 - Other Zoning Districts

I. PURPOSE (OTHER ZONING DISTRICTS)

- A. The Institutional, Industrial and Airport zoning districts are intended to set apart areas for those uses needed to ensure the successful operations of Middlebury College, UVM Porter Medical Center, the Middlebury Industrial Park and Middlebury Airport. Specifically:

(From town plan) The Institutional district (INS) includes public and private institutional facilities, particularly Middlebury College and UVM Porter Medical Center. Institutional uses such as education, recreation, health, residential, offices and assembly functions should be provided for in this district. New development must compliment the scale and character of existing neighborhood buildings and uses. Development of Middlebury College and UVM Porter Medical Center shall be consistent with their approved PUD master plans and other sections of this Plan.

(From town plan) The Industrial district (IND) has been created to encourage the best and fullest use of the Town's prime industrial land to create manufacturing jobs and other economic benefits for the community and surrounding area. The IND is designed to attract clean industry of a diverse nature.

(From town plan) The Airport district (AIR) includes the State Airport and supporting facilities such as storage and maintenance. AIR District activities include light freight and passenger services, and airplane storage and maintenance. Light industry, warehousing and other commercial uses, when consistent with height limitations and safety regulations, are allowed in AIR. New residential development is not a permitted use in this district.

II. DIMENSIONAL STANDARDS (OTHER ZONING DISTRICTS)

- B. Lots and structures must meet the dimensional standards below.

	INS	IND	AIR
Lots			
(1) Minimum lot size	10,000 sf	3.5 ac	2 ac
(2) Minimum lot frontage (ft)	100	275	200
(3) Maximum lot coverage (%)	60	40	45
(4) Minimum lot area per dwelling, 3+ units (sf)	5,445	N/A	N/A
Setbacks Distance from structure to property lines			
(5) Minimum front setback (ft)	15	0	10
(6) Minimum side or rear setback (ft)	10	10	10
Structures			
(7) Maximum full stories	4.0	3.0	2.0
(8) Maximum building height (ft)	60	no max	35
(9) Maximum building footprint (sf)	18,000	30,000	10,000

V. ALLOWED USES (OTHER ZONING DISTRICTS)

- E. **Permitted Uses (P).** The Zoning Administrator may issue a zoning permit for the listed use.
- F. **Site Plan Review (S).** A landowner must obtain site plan approval before the Zoning Administrator may issue a zoning permit for the listed use.
- G. **Conditional Uses (C).** A landowner must obtain a conditional use approval before the Zoning Administrator may issue a zoning permit for the listed use.
- H. **Prohibited Uses (X).** The listed use is not allowed.

Residential Uses		INS	IND	AIR
(1)	1-unit residence	P	X	X
(2)	2-unit residence	P	X	X
(3)	3-unit residence	P	X	X
(4)	4-unit residence	P/S	X	X
(5)	5 or more unit residence	P/S	X	X
(6)	Student housing	P/S	X	X
(7)	Accessory dwelling	P	X	X
(8)	Home occupation	P	X	X
(9)	Home business	P/S	X	X
(10)	Family childcare home	P	X	X
(11)	Bed and breakfast	P/S	X	X
(12)	Rooming and boarding house	P	X	X
(13)	Short-term rental	P	X	X
(14)	Residential care home	X	X	X
(15)	Residential care facility	X	X	X
(16)	Recovery residence	X	X	X
(17)	Transitional housing	X	X	X
Commercial Uses		INS	IND	AIR
(18)	Lodging facility	P/S	X	X
(19)	Office	P/S	X	X
(20)	Service business	P/S	X	X
(21)	Retail store	P/S	X	X
(22)	Neighborhood market	X	X	X
(23)	Healthcare clinic/office	C/S	X	X
(24)	Lawn, garden or farm supply	X	X	X
(25)	Lumberyard or building supply	X	X	X
(26)	Repair service	X	X	C/S
(27)	Fueling station or carwash	X	X	X
(28)	Sales lot	X	X	C/S
(29)	Camping and related establishments	X	X	X
(30)	Commercial school	P/S	P/S	P/S
(31)	Publishing	X	X	X
(32)	Veterinary or animal services	X	X	X
(33)	Catering or commercial kitchen	P/S	P/S	X

(34) Restaurant	P/S	X	X
(35) Bar	C/S	X	X
(36) Mobile food service	P/S	P/S	X
(37) Performance venue	C/S	X	X
(38) Social club	P/S	X	X
(39) Event facility	C/S	X	X
(40) Farmer's market (§780)	P/S	X	X
(41) Accessory on-farm business	X	X	X
(42) Commercial fruit & veg stand (§782)	P/S	X	X
(43) Slaughterhouse	X	C/S	X
(44) Retail cannabis	X	X	X
(45) Commercial outdoor rec facility	C/S	C/S	C/S
(46) Commercial forestry operations	X	X	X
(47) Contractor storage yard/ shop	X	C/S	X
(48) Salvage yard or recycling center	X	P/S	C/S
(49) Soil, sand & gravel extraction (§786)	X	C/S	C/S
(50) Quarrying (§788)	X	X	X
Manufacturing Uses	INS	IND	AIR
(51) Light industry	X	C/S	C/S
(52) Cabinet or furniture shop	X	C/S	X
(53) Machine or metal fabrication	X	X	X
(54) Food/beverage manufacturing	C/S	C/S	X
(55) Laboratory or research facility	C/S	P/S	X
(56) Wholesale trade	X	X	C/S
(57) Transportation services	X	C/S	C/S
(58) Information services	C/S	P/S	X
(59) Communications antenna	P/S	P/S	P/S
Institutional/ Community Facility Uses	INS	IND	AIR
(60) Childcare facility	P/S	P/S	X
(61) Religious institution	P/S	P/S	X
(62) Funeral services	X	X	X
(63) Public assembly facility	C/S	C/S	X
(64) Museum or library	P/S	P/S	X
(65) Artist gallery or studio	P/S	P/S	X
(66) Indoor recreation facility	P/S	P/S	X
(67) Public outdoor recreation facility	P/S	P/S	X
(68) Government facility	P/S	P/S	P/S
(69) Community center	P/S	P/S	X
(68) Educational institution, primary or secondary	P/S	P/S	X
(69) Educational institution, post-secondary	P/S	P/S	X
(70) Supervision or rehabilitation services (includes residential)	P/S	X	X
(71) Social assistance, welfare and charitable services (excludes residential)	P/S	X	X
(72) Services for the elderly and disabled	P/S	X	X
(73) Utility facility or essential services	P/S	P/S	P/S

(74) Public parking facility	P/S	P/S	P/S
(75) Private parking facility	X	X	C/S

VI. DISTRICT STANDARDS (DOWNTOWN AND MIXED USE DISTRICTS)

A. Institutional District (INS)

1. Middlebury College projects west of Battell Bridge are subject to PUD Amendment approval.

B. Industrial District (IND)

C. Airport District (AIR)

1. State and Federal Airport activities may be exempt from zoning.

Section 660 – Shorelands **and** Riparian Buffers ~~and Fluvial Erosion Hazard~~

~~Areas~~ Temporarily removes fluvial erosion hazard areas from the list of what we regulate until we can get new mapping and/or consider VT river corridor regulations. We continue to regulate floodplains as we did before.

- I. In order to protect water quality, prevent erosion, protect fish and wildlife habitat and preserve the natural beauty of shorelands and riparian buffer areas, there are hereby established shoreland/riparian buffer protection areas abutting all rivers and year-round flowing streams in Middlebury as shown on the Town GIS maps. The protection areas shall extend back from the edge of a river or stream as follows:
 - (A) Along the Otter Creek, Middlebury River and Muddy Branch (downstream from VT 116/Case Street):
 1. The protection/buffer areas shall be a minimum of 100 ft. or to the limit of a flood hazard area where such limit is over 100 ft. from the river bank; and
 2. Where embankments forming the edge of the flood hazard area are 25% or steeper in slope, the protection area shall extend to 100 ft. back from the top of the embankment; and
 - ~~3. Where embankments forming the edge of the flood hazard area are structurally reinforced (wall, berm) the protection area shall extend to 50 feet back from the top of the embankment.~~
 - ~~4. To the limits of the Fluvial Erosion Hazard (FEH) zone that has been prepared by the Agency of Natural Resources and accepted by the Select Board, dated February 8, 2011 (see maps in appendix); hereby adopted by reference.~~
 - (B) Along all other streams shown on the Town GIS maps, the protection/buffer areas shall be the distances provided for the rear setback (see Section 620).

- II. Within the above-defined shoreland/riparian buffer protection areas, the following regulations shall apply:
- (A) Trees which provide shade and hold the soil on banks and other existing natural vegetative growth shall not be removed except that the Administrative Officer may permit specific removal of trees which are dead or which represent an imminent threat to the safety of people or structures, or other vegetative modification/restoration projects as recommended by the U.S. Soil Conservation Service or VT Agency of Natural Resources.
 - (B) There shall be no dumping or filling, berming or dredging, in these areas.
- III. ~~Any land development or other changes in the Special Flood Hazard Areas (SFHA) shall be subject to Section 670. Any land development outside of the SFHA but in the FEH shall be subject to the following:~~
- ~~(A) New structures or additions shall not exceed 600 sq ft in net additional coverage of the lot, cumulatively from the effective date hereof (January 9, 2013).~~
 - ~~(B) New structures shall be located within 50 feet of the existing primary building and no closer to the top of bank than the existing principal building.~~
 - ~~(C) Development shall not increase the susceptibility of the subject property or other properties to fluvial erosion damage.~~
 - ~~(D) Development shall not increase the potential of materials to be swept onto other lands or into the stream that would cause damage to other properties from fluvial erosion.~~
 - ~~(E) Development shall not cause an undue burden on emergency service providers during and after fluvial erosion events.~~
- IV III. This section shall not apply to existing agricultural fields, nor to the CBD or to bridges or Town water or sewer facilities, or other utilities which must cross the river or stream. Also, this section shall not apply to Planned Unit Developments in the VRC where the requirements of paragraph II above would be inconsistent with DRB required improvements and public access to riparian or shoreland areas under Section 550 III(d)(2).
- ∇ IV. Subject to a determination that the purposes in Section 660 I will be satisfied, the requirements of the subsections above may be waived or reduced, under the conditional use review procedure in Section 540.

Section 665 – Wetland Buffers

The State of Vermont regulates Class I and Class II wetlands and a 50' buffer from the delineated edge of the wetland. For Class III wetlands there is no State regulated setback at this time.

~~Wetlands are classified by the State of Vermont as Class I, II, or III wetlands. Setbacks from class I and II wetlands are regulated by the State and are 50' from the delineated edge of the wetland. For class III wetlands there is no State regulated setback at this time. Under Town zoning the~~

~~required setback for a class III wetland is at least 50', unless State regulations specifies otherwise.~~

Section 670 – Special Flood Hazard Area Regulations Update the regulations on plantings to match State law.

VI. Development Review in Hazard Areas

A. Permit process – *no changes*

B. Exempted Activities

1. Routine maintenance of existing property, such as walks, paths, roads, utilities and storm water drainage, is exempt, however floodwall maintenance /reconstruction does require a permit.
2. Lawns and gardens are exempt. (Grading, fill, terracing and structures associated with lawn and garden improvements require permits).
3. Silvicultural (forestry) activities are exempt * if they are conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices [see 24 VSA 4413(d)]. * = Subject to required ANR Stream Alteration and Corps of Engineers Permits
4. Agricultural activities are exempt if they are conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer (property owner) must notify the ZA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks. [See 24 VSA 4413(d)] = Subject to required ANR Stream Alteration and Corps of Engineers Permits
5. A planting project in a flood or other hazard area or river corridor protection area shall be considered to have a municipal land use permit by operation of law. However, a planting project will not be considered to have a permit by operation of law if it is part of a larger undertaking that includes construction or other physical disturbance of land or is a forestry operation or a component of such an operation. The permit applies to “planting projects” – planting vegetation to restore natural and beneficial floodplain functions, as defined in 42 U.S.C. § 4121(a), that include floodwater storage, water quality improvement, and supporting riparian and aquatic habitat. The Act amends the required provisions and prohibited effects of 24 V.S.A. 4412, prohibiting a bylaw from requiring an application or the issuance of a permit by the municipality for a planting project considered to have a permit by operation. The permit by operation is detailed in 24 V.S.A. § 4424(c). (See 24 V.S.A. § 2291, 4412 and 4424

Section 721 - Rear Yards

- I. The rear yard setback is the required building setback from a rear lot line. The rear lot line

means a lot line opposite and most distant from the front lot line. There is no rear lot line of a corner lot. See diagram in Section 620.

- II. Accessory buildings may be built within the required yard defined by the rear yard minimum setback. ~~No such accessory building shall be less than ten feet from any rear lot line, occupy more than 40 percent of the required rear yard nor exceed twenty feet in height.~~ A garage built into or attached to a dwelling shall not be considered an accessory building, but part of the principal building. This exception shall not apply adjacent to wetlands or streams.
- III. For any lot in any district with a rear lot line abutting the edge of a railroad right-of-way, there shall be no rear yard setback requirements.

Section 724 – Setback Waivers added criteria for determining when to grant a waiver

Following the procedure and using the standards for conditional review in Section 540, an applicant may apply for a waiver of the setback requirements set forth in Section 620, 640, 710, 713, 715, 718, 721, or 780(I)(A). In no case shall a waiver be granted under this provision which would result in a yard setback of less than five feet (5'), except in the Central Business District (CBD); nor shall a waiver be granted which would increase the size of a retail store beyond the 50,000 square foot limit of Section 698. A waiver of 0ft may be approved by the DRB in the CBD by following the procedure for approving setback waivers using the process described in Section 540. The Administrative Officer or DRB may require appropriate plantings or screening or other reasonable conditions that mitigate the impact of the reduced setback upon adjacent property owners.

- I. In reviewing a request for Dimensional Waiver, the Development Review Board or Administrative Officer (per Section 501):
 - A. May approve dimensional waivers as specifically authorized in these regulations
 - B. May approve dimensional waivers that authorize an adjustment of up to 30% to a dimensional standard (as established for the applicable zoning district) of these regulations
 - C. Must not approve dimensional waivers within the Flood Hazard Overlay District
 - D. Must not approve dimensional waivers to reduce any riparian or wetland setback or buffer required under these regulations; and
 - E. Must not approve a dimensional waiver to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.
- II. The applicant must file a complete zoning permit application and a written request for a dimensional waiver with the Zoning Administrator that includes all the following:
 - A brief description of the subject property and proposed development

- A reference to the standard(s) of these regulations that the applicant is requesting a dimensional waiver from
- The specific modification(s) that the applicant is requesting; and
- A response to each of the criteria that the Development Review Board will use to decide whether to approve the dimensional waiver (see **Error! Reference source not found.**).

III. Unless the hearing is waived per the criteria for minor applications in Section 540, the Development Review Board must hold a public hearing and act on the dimensional waiver request in accordance with this Section 724.

IV. To approve a dimensional waiver, the Development Review Board must find that all the applicable criteria specified in the table below have been met.

Section 727 – Height Regulations ~~Left criteria for granting a height waiver, but removed the 110ft max height, because that was the old ladder truck and not all heights need to be served by ladder.~~

As provided by 24 V.S.A. 4412(6), this Section shall apply to all structures, including antennae, wind turbines and other renewable energy resource structures, except where local jurisdiction is preempted by 30 VSA Section 248.

1. Height limitations. The maximum allowable height of a building or other structure shall be calculated by the vertical distance from the average elevation of the finished lot grade at the front of a building or structure, to the highest point of the roof or structure, except in the case of gable-roofed buildings with roof pitches between 6/12 and 12/12, where the measurement shall be to the average height between the eaves and the ridge.
2. A building or other structure may be permitted to exceed the maximum height limitation in any district under the procedure and standards in Section 540, provided:
 - A. Fire protection is adequately provided for, and all minimum front, side and rear yard setbacks are met plus the height of the structure (eg: if district setback is 15' a 60 ft. high structure must be set back $60+15=75$ feet from the lot line); and
 - B. The structure is any of the following and does not constitute a hazard to the Middlebury State Airport: wind energy system, television or radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, non-farm silos, cooling towers, ornamental cupolas, and chimneys, elevator bulkheads, smokestacks, conveyors, flagpoles and telecommunications poles or towers; and
 - C. The structure shall not be lighted in any manner (except for historic landmarks). In the event FAA requires lighting, the structure shall be lowered so that lights will not be required.
 - ~~D. Notwithstanding the above, no structure (including anything attached thereto) shall exceed 110 ft. in overall height.~~

Section 733 - Conversion of Accessory Buildings Clarify that a structure does not need to conform to setbacks to be converted into an accessory apartment (owner occupying the premises).

Accessory buildings such as a garage or barn, may be converted to other principal uses allowable in the district, but only if the structure will conform to the setbacks, parking and other requirements applicable to principal buildings. Accessory apartments as defined by Section 736 are not considered a principal use.

Section 736 - Accessory Apartment or Accessory Dwelling Unit (ADU)
Update to match State Law

As required by 24 VSA §4412(1)(E), **one** accessory apartment shall be a permitted accessory use to a single-family dwelling, notwithstanding the minimum lot or density requirements of the zoning district, subject to the following provisions:

I. The accessory apartment is clearly subordinate to a single-family dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

II. The accessory apartment may be within or attached to the single-family dwelling, or within or attached to an accessory structure such as a garage or carriage barn on the lot.

III. The floor area of the accessory apartment shall not exceed the larger of either 30% of the total habitable floor area of the ~~single-family~~ principal dwelling prior to creation of the apartment or 850 900 square feet. The accessory apartment shall contain no more than two bedrooms.

IV. The property owner must occupy either the principal single-family dwelling or the accessory apartment. If the owner is an irrevocable trust, documentation may be required to demonstrate that the on-site occupant is a legal beneficiary of the trust. Corporations shall not be eligible to apply as owners for an accessory apartment.

V. The accessory apartment shall:

A. For new construction, meet all setback and building height requirements for the district in which it is located. For a unit that involves an addition to (or replacement of) a preexisting nonconforming structure, the degree and aspect of noncompliance shall not be increased by the addition of the accessory apartment unit;

B. have adequate potable water and wastewater systems in accordance with applicable municipal and state regulations;

C. have adequate off-street parking for the residents of the principal dwelling and the accessory apartment in accordance with Section 760. No front yard lawn space shall be used or converted to parking space. Any added parking associated with addition of an accessory apartment shall be in an existing driveway or in a parking space established behind the front line of the principal dwelling; and

D. require a completed Certificate of Occupancy, if the accessory apartment is detached

from the one-family dwelling.

VI. A zoning permit issued for an accessory apartment unit shall only authorize the development of a use that is accessory to the principal residential use of the property and as such shall be retained in common ownership and under continuing jurisdiction. If the owner relocates his or her principal domicile longer than one year, the accessory unit may be subject to dimensional standards and review as a conditional use under Section 540.

VII. If the unit is located in an accessory structure, it may be subdivided and/or converted for conveyance or use as a principal dwelling only if it is found to meet all subdivision requirements for ~~new single family lots~~ **an additional primary dwelling** including lot sizes, density and dimensional requirements for the district in which it is located, and only if the structures will be served by individual, separate water and sewer services.

VIII. One caretaker's apartment or dwelling unit may qualify as an accessory use to a nonresidential principal use, subject to conditional use approval under Section 540.

(NEW) Section 737 - Manufactured Homes and Tiny Houses provides guidance for regulating these house types, for 3 different development scenarios

I. **Applicability.** The provisions of this section apply to all manufactured homes, tiny houses or other structures built on a permanent chassis intended to be occupied as a dwelling unit (also see minimum standards for dwelling units in Section 3010).

Tiny house means a dwelling unit with 400 square feet or less of floor space.

II. **Manufactured Home Installation.** All manufactured homes to be used as a dwelling unit must be installed by a licensed installer in compliance with HUD's Model Manufactured Home Installation Standards and the following:

A. All wheels, hitches, axles, transporting lights and removable towing apparatus must be removed prior to installation of the manufactured home.

B. The foundation must have continuous skirting or backfill, leaving no uncovered open areas except for access to vents and crawl spaces.

C. The applicant must provide the Administrative Officer with a copy of the certification signed by the licensed installer prior to occupying the home.

III. **Installation of Tiny Houses or Other Structures.** All tiny houses or structures built on a chassis to be used as a dwelling unit must be installed as follows:

A. All wheels, hitches, axles, transporting lights and removable towing apparatus must be removed prior to installation of the structure.

B. The structure must be located on a permanent foundation that meets the minimum foundation requirements of HUD's Permanent Foundations Guide for Manufactured Housing.

C. The foundation must have continuous skirting or backfill, leaving no uncovered open areas except for access to vents and crawl spaces.

IV. Individual Lots. A manufactured home, tiny house or other structure built on a chassis to be located on an individual lot will be treated the same as any other single-family dwelling under these regulations. They require a zoning permit and must comply with setbacks, as well as all other State and local regulations.

V. Shared Lots. Property owners must obtain a zoning permit to construct, install or locate a tiny house on their parcel.

A tiny house intended to be occupied as a dwelling must conform to all applicable provisions of these regulations for 1-unit or accessory dwellings, as applicable, including but not limited to providing evidence that the structure will be served by water and wastewater systems in conformance with state regulations.

VI. Multi-Unit Developments. The following standards apply to a residential development intended to accommodate multiple manufactured homes, tiny houses or other structures built on a chassis. Such developments:

A. Will be allowed in all districts where multi-family dwellings are allowed;

B. Must conform to the residential density standards of the zoning district in which they are located;

C. Must be designed, reviewed and approved as a planned unit development in accordance with Section 579;

D. Must be designed so that each dwelling unit will be located on a delineated site as shown on the approved site plan that is not less than 4,000 square feet in area;

E. Must be designed so that each dwelling unit will be located no closer than 20 feet to any other dwelling unit within the development unless specified otherwise by the State Fire Marshall; and

F. Must be accessed from a single access unless otherwise approved by the Development Review Board to provide adequate emergency access or improve traffic safety.

VII. Water Supply and Wastewater Disposal. All manufactured homes, tiny houses or other structures built on a permanent chassis intended to be occupied as a dwelling unit must have safe, functioning water supply and wastewater disposal systems in accordance with VT Agency of Natural Resources permitting requirements.

Section 739 - Group Homes and Child Care Homes updated to match state law

As required by 24 V.S.A. Section 4412(1)(G) and 4412(5), the following shall be allowed in the

same districts and to the same extent as one family dwellings are allowed under these regulations:

- I. A residential care home or group home meeting the definition in 24 V.S.A. § 4412(1)(G), operating under state licensing and registration, serving up to 8 people who have a disability as defined in 9 V.S.A. § 4501 as follows. This also includes recovery residences that can obtain a Level IV residential care home license.

Per 9 V.S.A. § 4501(2) “Disability,” with respect to an individual, means:

- (A) a physical or mental impairment that limits one or more major life activities;
- (B) a history or record of such an impairment; or
- (C) being regarded as having such an impairment. 9 V.S.A. § 4501(3)

“Physical or mental impairment” means:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine.

(B) Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or **mental** condition, and specific learning disabilities.

(C) The term “physical or mental impairment” includes diseases and conditions such as orthopedic, visual, speech, and deafness or being hard of hearing, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, developmental disability, emotional disturbance, and substance use disorders, including drug addiction and alcoholism.

An individual with a disability does not include any individual with a substance use disorder who, by reason of current alcohol or drug use, constitutes a direct threat to property or safety of others. People who are neuroatypical meet this definition according to other Vermont administrative rules and are eligible to reside in a residential care home under this Section.

Remove old portion of section: 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. Section 4501, provided that no such home shall be so considered if it is located within 1,000 feet of any other such home, existing or permitted.

Section 747 – Multiple Dwelling Units in **OFA, VRC, and CBD**

In the ~~OFA, VRC~~ **MU, HI** and CBD Districts, subject to conditional use approval in accordance with Section 540, dwelling units may be added notwithstanding lot area. **The other dimensional requirements of Section 620 remain in effect and may constrain the development potential of the parcel.** Adequate off-street parking shall be available in accordance with Section 760.

Section 748 – Affordable Housing Inclusion Requirement Remove this section in favor of the affordability/inclusivity requirements in new Section 579, which will apply to most developments of 5 or more units.

- I. In every residential development, the DRB shall consider ways to achieve greater affordability for low and moderate income persons, including wherever appropriate:
 - A. elimination of curbs (except in village commercial projects)
 - B. elimination of sidewalks on side streets but to have sidewalks on major collector streets or as needed for school safety
 - C. minimizing excessive street width
 - D. allowing above ground power, in sites that are substantially wooded.
- II. The approval shall refer to Select Board-adopted development standards and specifications for public roads, water, sewer and drainage.
- III. In consideration of the above and the availability of density bonus provisions in Section 550III(c), the following affordable housing requirement is imposed: In residential projects of 10 or more units by a developer in any 5 year period (starting with those approved after 7/1/88) the DRB shall require that at least 20% of the dwelling units be VHFA eligible (or comparably affordable). The DRB may allow this requirement to be met by an agreement to construct such affordable housing in a subsequent separate development or by payment of an affordable housing impact fee or payment to an affordable housing development fund, if established by the Select Board.

Section 760 - Parking Requirements add provision for EV charging stations

- I. A. Residential Requirements: Every structure used for dwelling purposes in all districts except for ~~VRC~~ **MU, HI**, and ~~CBD, and OFA~~ district shall have provided, on the same lot as the structure, or on a lot adjacent thereto under the same ownership or under a permanent easement, two (2) automobile parking spaces for each dwelling unit in the structure, up to four (4) dwelling units, and for each additional dwelling unit in the structure, one and one-half (1 1/2) parking spaces will be required, rounded to the next highest whole number. In the ~~VRC, CBD~~ **MU, HI** and ~~CBD OFA~~ districts, every structure used for dwelling purposes shall have provided, on the same lot as the structure, or on a lot adjacent thereto under the same ownership or under a permanent easement, off-street automobile parking spaces equal to the number of dwelling units in the structure.

VII. Electric vehicle charging stations (**NEW**)

Electric vehicle charging stations may be provided within off-street parking areas as an allowed accessory use in any zoning district. Additional parking will not be required when

(NEW) Section 774 - Outdoor Dining Areas

Restaurants in the Central Business (CBD) District may offer **outdoor dining** with a zoning permit, in accordance with Section 580 (Site Plan review) and other applicable town ordinances. Outdoor dining areas that utilize a portion of the sidewalk/public right-of-way require an agreement with the Town of Middlebury.

Outdoor dining areas extending onto or adjacent to the sidewalk must be defined with a barrier (which may be temporary or portable) between 3 and 4 feet in height that provides a clear separation between the business and pedestrian areas. All site furniture, including umbrellas, must be contained within the defined outdoor dining area. No advertising shall be displayed on umbrellas or sunshades not affixed to a permanent structure. The outdoor dining area must be kept clean and free of litter at all times. Live or recorded music must not be played within the outdoor dining area unless specifically approved by the Administrative Officer or Development Review Board with limitations on hours of operation and noise level off the premises.

(NEW) Section 775 - Mobile Food Service

Mobile food service vendors may apply for a zoning permit to operate on private property, subject to site plan review. Mobile food service vendors on public property must be associated with an event and shall obtain a public assembly permit under the Public Assemblage Ordinance.

Mobile food service may be located in a private parking lot with an approved site plan demonstrating conformance with the following standards:

- (1) the number of parking spaces is not reduced below the minimum currently required for the principal use(s) under these regulations;
- (2) the mobile food service location is delineated by a barrier (which may be temporary or portable) between 3 and 4 feet in height that provides a clear separation between vehicular and pedestrian use areas; and
- (3) the mobile food service location does not interfere with safe traffic circulation or emergency vehicle access on the site. The site owner or vendors must provide and maintain private trash and recycling receptacles for customer use.
- (4) mobile food service locations must leave adequate clear passage on public sidewalks.

Mobile food service locations must meet the requirements of Section 774 for outdoor dining areas and must not operate between the hours of 9 p.m. and 7 a.m. The site owner or vendors must remove all waste from the mobile food service location at the end of business each day.

Vendors may: (1) paint their business name and logo on their vehicle or stand; (2) have a menu board built into their vehicle or stand; and (3) may display one sandwich board sign in conformance with Section 772. All vendors must display a copy of a valid operating license from the Vermont Department of Health.

(NEW) Section 776 - Temporary Structures and Uses useful for “pop-up uses”

The Administrative Officer may issue a zoning permit, subject to site plan review, for temporary structures or uses on private property. A temporary structure or use will be subject to all applicable standards of these regulations for a comparable permanent structure or use including, but not limited to, the dimensional standards of the applicable zoning district and the performance standards of Section 750. The permit for a temporary structure or use will be limited to a maximum of 12 months and cannot be extended. Note that zoning permits run with the land (not the person obtaining the permit). The regulations must apply equally to applicants who own the subject property and applicants who are tenants on the subject property.

The Administrative Officer may issue a temporary zoning permit, subject to administrative site plan approval, for a temporary use (such as a “pop-up” market) to be located in any existing, vacant storefront on Main Street, Merchants Row or Park Street. The temporary use must qualify as an active ground floor use. A temporary business may have a temporary window sign in accordance with Section 772. The permit may be issued for a period not to exceed 6 months and may be extended once for a total period not to exceed 12 months. Pop-up businesses must conform to all applicable regulations, including but not limited to the performance, lighting and signage standards of these regulations.

Mobile food service uses are not regulated under this Section (see Section 775).

Section 780 – Agricultural and Forestry Uses *new language addressing on-farm businesses (events, etc.) and Farmer’s Markets (making them better for Downtown)*

The following special regulations shall apply to agricultural and forestry uses, except that nothing in this Section shall be deemed to prohibit or otherwise regulate “accepted agricultural and silvicultural practices,” as those terms are defined by the Vermont Secretary of Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation pursuant to 24 V.S.A. 4413 (d).

I. Agricultural uses shall comply with the following:

- A. Barns, feed lots, pens, stockpiles of animal wastes, and similar intensively used facilities for animal raising and care and manure management facilities shall not be located within 200 feet of a dwelling other than the farm owner’s and shall not be located within 50 feet of a public highway right of way and shall comply with all other setback requirements for the applicable Zoning District. Provided, however, that if such facilities qualify as “farm structures” under 24 V.S.A. 4413(d), these setback requirements shall only apply to the extent that the Secretary of Agriculture, Food and Markets has not approved a petition for other setback requirements pursuant to the procedures set forth in the Vermont Accepted Agricultural Practice Regulations.
- B. Temporary and seasonal roadside stands, for the sale of locally grown agricultural products and Christmas trees only, may be permitted if sufficient room is provided for customers’ vehicles off the traveled surface of the highway. At the Administrative Officer’s discretion, a site plan or permit may be required.
- C. **(New version)** Farmers’ markets, which are locations outside a public street right-of-way used to accommodate an event or series of events at which two or more farmers gather to sell their

agricultural products direct to the general public, may be approved subject to site plan review under Section 580 and the following requirements:

1. Each market event must not exceed 5 hours in duration. Market events must not occur more than twice in any week. If no market events will be held for a period of more than 14 days, any temporary or seasonal signs or structures must be removed from the market location.
2. Approval for a market will be conditioned on a specified maximum number of vendors to be based on the capacity of the proposed location and the availability of parking. The applicant must demonstrate that there is adequate vehicular access for market vendors, parking (motor vehicle and bicycle) for market customers and access for emergency services. The market may meet all or a portion of its vehicular parking demand through public parking but must demonstrate that its demand will not unreasonably limit public parking available to serve other uses in the area.
3. Live or recorded music must not be played at the market unless specifically approved by the Development Review Board with limitations on noise level off the premises.
4. At each market event, at least 60% of the vendors must be selling raw agricultural products or processed foods that meet the definition of “local to Vermont” in 9 V.S.A. § 2465a. At each market event, not more than 30% of vendors may be operating food stands selling meals, snacks and beverages primarily for immediate consumption. If there will be food stands at the market, the market must also meet the standards of Section 775.

Replaces: Farmers’ markets, which are markets conducting retail sales of primarily locally produced agricultural products in outdoor areas or inside buildings, may be approved subject to conditional use review under Section 540 and the following requirements:

1. Over 50% of the market vendors must sell agricultural produce or other agricultural products, such as vegetables, fruits, meat, cheese, eggs, honey, maple syrup, herbs, plants, and flowers. Hot and cold meals served or sold at the market will not be counted as agricultural products for the purpose of this section. Food and beverage products such as jellies, jams, pickled or canned goods, wine, cider and other beverages will be considered agricultural products for the purposes of this section as long as the product’s ingredients are sourced from Vermont.
2. All products sold at such a farmers’ market must be grown, prepared or made in Addison County or adjacent counties in Vermont.
3. The DRB may require a farmers’ market to seek an annual renewal of its application to account for substantial changes in vendors, attendance and other factors.

D. (New) “Accessory on-farm businesses” are allowed as permitted uses in all districts. Qualifying “Accessory on-farm businesses” shall be subject to Site Plan Review pursuant to Section 580 of these regulations.

1. Applicants desiring to open an “Accessory on-farm business” shall file a zoning application with the Administrative Officer. The application shall contain the following information:
 - a. All information required in Section 520 of these regulations governing permit applications;

- b. Information demonstrating that the proposed use meets the eligibility requirements for Accessory on-farm businesses listed in section 3b(i)-(iii) below. (Applicants may file a letter from the Vermont Agency of Agriculture Food and Markets finding that the proposed business use and the farm on which the activity is proposed meets the eligibility criteria as one way to satisfy this requirement).
 - c. Information listed in the Site Plan Review Criteria contained in Section 580.
 2. Upon acceptance of a complete application by the Zoning Administrator, the ZA shall pass the application to the DRB for its review.
 - a. The DRB shall determine whether a proposed activity qualifies as an “Accessory on Farm Business” by complying with the following definitions and eligibility requirements:
 - i. Definitions, contained in Section 320 of these regulations that apply to Accessory on- farm businesses include: "Accessory on-farm business", “Farm”, “Farming”, “Qualifying Product” and “RAP Rules”.
 3. Eligibility. Qualifying “Accessory on-farm businesses” shall comply with each of the following:
 - a. The business is operated by the farm owner, one or more persons residing on the farm parcel, or the lessee of a portion of the farm.
 - b. The “Farm” meets the threshold criteria for the applicability of the “RAP rules” as set forth in those rules.
 - c. An accessory on-farm business sells “qualifying goods or services”, which occur on the farm, outside or inside a new or existing structure.
 4. Once the DRB finds that the activity qualifies as an “accessory on-farm business”, the DRB shall review the application subject to the Site Plan Review process as listed in Section 580 of these regulations.
 5. Other permits, including a potable water and wastewater system permit under 10 V.S.A. Chapter 64, may be necessary from the State of Vermont.

Replaces: D. The processing of agricultural by-products within those districts where agricultural uses are permitted shall be permitted as accessory uses. Such uses shall include, but not be limited to, sugaring, moderate sized smoke houses and milk processing for resale at retail on a limited basis. New energy generating and biomass processing facilities, not identified by the VT Secretary of Agriculture as “accepted agricultural practices” may be approved by the DRB subject to conditional review in Section 540.

I. Horses, pigs, goats, sheep, cows and other cattle shall not be kept in the village HDR, MDR, OFA, INS, VRC, CBD, and GC districts. Chicken and other poultry shall be permitted in all districts, provided that poultry shall be kept in an enclosure or a fenced area and confined to the owner’s property.

II. Prior to construction of any “farm structure,” as that term is defined in 24 V.S.A. 4413, the person who intends to construct the structure must notify the Administrative Officer of such intent and must otherwise comply with all provisions of 24 V.S.A. 4413.

Remove (mentioned in 780)

Section 782 - Fruit and Vegetable and Christmas Tree Stands

The DRB may grant conditional use approval to allow a commercial fruit and vegetable stand for the sale of locally-grown fresh agricultural products or Christmas trees, in districts other than the AR or in other commercial zones.