

VERMONT GENERAL ASSEMBLY

The Vermont Statutes Online

Title 24 : Municipal And County Government

Chapter 117 : Municipal And Regional Planning And Development

Subchapter 007 : Bylaws

§ 4412. Required provisions and prohibited effects

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw nor its application by an appropriate municipal panel under this chapter shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title or the effect of discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

(B) Except as provided in subdivisions 4414(1)(E) and (F) of this title, no bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. A municipality may establish specific site standards in the bylaws to regulate individual sites within preexisting mobile home parks with regard to distances between structures and other standards as necessary to ensure public health, safety, and welfare, provided the standards do not have the effect of prohibiting the replacement of mobile homes on existing lots.

(C) No bylaw shall have the effect of excluding mobile home parks, as defined in 10 V.S.A. chapter 153, from the municipality.

(D) Bylaws shall designate appropriate districts and reasonable regulations for multiunit or multifamily dwellings. No bylaw shall have the effect of excluding these multiunit or multifamily dwellings from the municipality.

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit means an

efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

(iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met.

(F) Nothing in subdivision (1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units;

(ii) a bylaw that requires conditional use review for one or more of the following that is involved in creation of an accessory dwelling unit:

(I) a new accessory structure;

(II) an increase in the height or floor area of the existing dwelling; or

(III) an increase in the dimensions of the parking areas.

(G) A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

(A) A municipality may prohibit development of a lot if either of the following applies:

(i) the lot is less than one-eighth acre in area; or

(ii) the lot has a width or depth dimension of less than 40 feet.

(B) The bylaw may provide that if an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

(i) The lots are conveyed in their preexisting, nonconforming configuration.

(ii) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.

(iii) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.

(iv) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

(C) Nothing in this subdivision (2) shall be construed to prohibit a bylaw that is less restrictive of development of existing small lots.

(3) Required frontage on, or access to, public roads, class 4 town highways, or public waters. Land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.

(4) Protection of home occupations. No bylaw may infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

(5) Child care. A "family child care home or facility" as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the State for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children

and four part-time children, as defined in 33 V.S.A. § 3511(7), shall be considered to constitute a permitted use of property but may require site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part-time children may, at the discretion of the municipality, be subject to all applicable municipal bylaws.

(6) Heights of renewable energy resource structures. The height of wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high on sloped roofs, any of which are mounted on complying structures, shall not be regulated unless the bylaws provide specific standards for regulation. For the purpose of this subdivision, a sloped roof means a roof having a slope of more than five degrees. In addition, the regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. § 248a, may be exempt from review under this chapter according to the provisions of that section.

(7) Nonconformities. All bylaws shall define how nonconformities will be addressed, including standards for nonconforming uses, nonconforming structures, and nonconforming lots.

(A) To achieve the purposes of this chapter set forth in section 4302 of this title, municipalities may regulate and prohibit expansion and undue perpetuation of nonconformities. Specifically, a municipality, in its bylaws, may:

(i) Specify a time period that shall constitute abandonment or discontinuance of that nonconforming use, provided the time period is not less than six months.

(ii) Specify the extent to which, and circumstances under which, a nonconformity may be maintained or repaired.

(iii) Specify the extent to which, and circumstances under which, a nonconformity may change or expand.

(iv) Regulate relocation or enlargement of a structure containing a nonconforming use.

(v) Specify the circumstances in which a nonconformity that is destroyed may be rebuilt.

(vi) Specify other appropriate circumstances in which a nonconformity must comply with the bylaws.

(B) If a mobile home park, as defined in 10 V.S.A. chapter 153, is a nonconformity pursuant to a municipality's bylaws, the entire mobile home park shall be treated as a nonconformity under those bylaws, and individual lots within

Courthouse: A building housing judicial courts and associated administrative offices.

Crisis Counseling Center: An establishment containing offices and facilities for providing direct services and support resources to victims of domestic abuse or sexual assault by certified crisis workers as defined under Vermont statute (12 V.S.A. §1614).

Crematory: A building containing a properly installed, certified apparatus, typically a furnace, intended for use in the act of cremation (burning a cadaver to ashes).

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 **Day Care Center:** (See Article 5 for specific provisions.)

- (a) **Family Day Care Home:** A state-registered or licensed daycare facility serving up to six (6) pre-school plus four (4) school-aged children. A family day care shall be considered by right to constitute a permitted accessory use to single detached dwellings.
- (b) **Small Day Care Center:** A state-registered or licensed daycare facility serving no more than twenty (20) full-time children in total.
- (c) **Large Day Care Center:** A state-licensed facility providing day care services for more than twenty (20) full-time children.

Demolition: The destruction and physical removal of any structure or portion of a structure.

Demolition by Neglect: Any neglect in the maintenance and repair of a structure which results in the deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows; the lack of adequate waterproofing; or the deterioration of interior features which will or could result in permanent damage, injury, or loss of foundations, exterior walls, roofs, chimneys, doors, or windows or so as to create or permit a hazardous or unsafe condition to exist.

Density Calculation: A calculation based on the lot size and the allowable units per acre or FAR in a given zoning district.

PART 4: SPECIAL USE REGULATIONS

The following provide specific regulatory requirements for each use listed that shall apply in all cases where such uses are otherwise permitted or conditionally permitted pursuant to the provisions of Article 4.



Sec. 5.4.1 Small Day Care Center

In addition to the provisions of Art 3, Part 5 for conditional uses, and applicable site and design review standards in Art 6, the following additional regulations shall be applicable to an application involving a small day care center:

- (a) No playground equipment shall be located within the front yard;
- (b) No more than twenty (20) full-time children are to be served;
- (c) The site plan review shall insure adequate and safe drop-off and pickup space is provided and that traffic problems are not created;
- (d) Any additions, signage, or site improvements shall be residential in character;
- (e) The facility shall be licensed or registered by the State of Vermont;
- (f) No more than one residential unit may be converted for the creation of a single small day care center. Such a conversion shall be exempt from the requirements of Article 9, Part 2-Housing Replacement; and,
- (g) The neighborhood is not overburdened with other day care centers.

Sec. 5.4.2 Historic Inns

In addition to the applicable provisions of Art 3, Part 5 for conditional uses, and site and design review standards in Art 6, the following additional regulations shall be applicable to an application involving a historic inn:

(a) Historic Building:

The principal building shall be listed or eligible for listing on the State or National Register of Historic Places, and located on a lot of record as of January 1, 2007 a minimum of one-half (1/2) acre (21,780 square feet) in size and located on a major street.

(b) Owner-Occupied:

In districts where a Historic Inn is a conditional use, the premises shall be occupied by a person as their primary residence who is an owner of the property or of the business. For purposes of this subsection only, an "owner" is defined as someone who holds, at least, a twenty-five (25%) percent ownership interest in the property or in the business.

(c) Guestrooms:

The maximum number of guestrooms allowed shall be based on an overall density of twelve (12) rooms per acre. In districts where a Historic Inn is a conditional use, the DRB

Appendix A-Use Table – All Zoning Districts

USES	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
Automobile/Vehicle Repair	N	N	N	N	N	N	N	N	N	N	N	N	N	CU ^{9, 12, 14}	CU ^{9, 12, 14}	CU ¹⁴	N	Y
Automobile Sales – New & Used	N	N	N	N	N	N	N	N	Y ¹⁰	N	N	CU ¹⁰	Y ¹⁰	N	Y	Y	N	CU
Bakery - Retail	N	CU	N	N	N	N ²²	N ²²	CU ^{8, 13}	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Bakery - Wholesale	N	N	N	N	N	N	N	N	Y	Y	N	CU	CU	N	Y	Y	Y	Y
Bank, Credit Union	N	N	N	N	CU	N ²²	N ²²	N ²²	Y	Y	N	Y	Y	Y	Y	Y	N	N
Bar, Tavern	N	N	N	N	N	N	N	N	Y	Y	N	N	CU	CU	CU	CU	N	N
Beauty/ Barber Shop	N	N	N	N	CU	N ²²	N ²²	CU ^{8, 13}	Y	Y	N	Y	Y	Y	Y	CU	N	N
Bicycle Sales/Repair	N	N	N	N	CU	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y
Billiard Parlor	N	N	N	N	N	N	N	N	Y	Y	N	CU	CU	CU	Y	CU	N	N
Boat Repair/Service	N	N	CU	N	N	N	N	N	N	CU	(See Sec.4.4.1(d) 2)	CU	CU	N	CU	CU	N	Y
Boat Sales/Rentals	N	N	CU	N	N	N	N	N	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	N	Y	Y	N	Y
Boat Storage	N	N	CU	N	N	N	N	N	N	CU	N	CU	CU	N	CU	CU	N	Y
Bowling Alley	N	N	N	N	N	N	N	N	CU	N	N	N	CU	CU	Y	Y	N	N
Building Material Sales	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	Y	N	Y
Café	N	CU ¹⁷	CU	N	CU	N ²²	N ²²	CU ^{8, 13}	Y	Y	(See Sec.4.4.1(d) 2)	CU	Y	Y	Y	Y	CU	CU
Camp Ground	N	Y	Y	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N	N
Car Wash	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	Y	N	CU
Cemetery	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Cinema	N	N	N	N	Y	N	N	CU ⁸	Y	Y	N	Y	Y	CU ¹⁴	Y	N	N	N
Club, Membership	N	N	Y	N	CU	N	Y	Y	Y	N	N	Y	Y	CU	CU	N	N	N
Community Center	N	N	CU	N	CU	CU ¹³	CU ¹³	Y ¹³	Y	Y	N	Y	Y	Y	Y	Y	N	CU
Community Garden	N	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Conference Center	N	N	N	N	CU	N	N	N	Y	N	N	CU	CU	N	N	N	N	N
Composting	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Contractor Yard	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	N	Y
Convenience Store (See Sec.5.4.3)	N	N	N	N	N	N	N	CU ^{8, 12}	Y	Y ¹²	N	CU	Y	Y ¹²	Y	Y	N	Y
Convention Center	N	N	N	N	N	N	N	N	CU	CU	N	CU	CU	N	N	N	N	N
Courthouse	N	N	N	N	Y	N	N	CU	Y	Y	N	Y	Y	N	N	N	N	N
Crematory	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	N	N
Crisis Counseling Center	N	N	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	N	N
Daycare - Large (Over 20 children)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	Y	Y	N	CU	CU	Y	Y	Y	N	CU ¹⁷
Daycare - Small (7-20 children) (See Sec.5.4.1)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	Y	Y	N	CU	CU	Y	Y	Y	CU	CU ¹⁷
Daycare - Home (6 children or less)	N	N	N	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Dental Lab	N	N	N	N	CU	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y



Appendix A-Use Table – All Zoning Districts

USES	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
Research Lab	N	CU	N	N	CU	N	N	N	CU	CU	(See Sec.4.4.1(d) 2)	CU	CU	N	CU	CU	CU	Y
Restaurant	N	N	N	N	N	N ²²	N ²²	CU ^{8, 13}	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y ¹³	Y	Y	N	N
Restaurant – Take Out	N	N	N	N	CU ¹³	N ²²	N ²²	N	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y ¹³	Y	Y	N	Y ¹³
Salon/Spa	N	N	N	N	CU	N ²²	N ²²	N	Y	Y	N	Y	Y	Y	Y	Y	N	N
School - Post-Secondary & Community College	N	N	Y	N	CU	N	CU	CU	CU	N	N	CU	CU	CU	CU	CU	N	N
School - Primary	N	N	N	N	CU	CU	CU	CU	CU	N	N	CU	N	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	CU	N	N	CU	N	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	Y	N	N	CU	CU	CU	N	N	N	CU
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N ²²	N ²²	CU ⁸	Y	Y	N	Y	Y	Y	Y	Y	N	N
Warehouse	N	CU	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	Y ¹⁵	Y	Y
Warehouse, Retail ⁹	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU ¹⁵	CU ¹⁵	CU	CU
Warehouse, Self-Storage ⁹	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	CU
Wholesale Sales ⁹	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁵	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	Y	N	N	Y	Y	Y	CU	CU	N	N

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Reserved.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use.
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	Zoning District
RCO - A	RCO - Agriculture
RCO - RG	RCO - Recreation/Greenspace
RCO - C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
D	Downtown
DW	Downtown Waterfront
DT	Downtown Transition
BST	Battery Street Transition
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC - Riverside Corridor
E-AE	Enterprise - Agricultural Processing and Energy
E-LM	Enterprise - Light Manufacturing