

ARTICLE IV. SPECIFIC USE STANDARDS

Section 4.1 Applicability

The following standards apply to specified uses in all districts in which such uses are allowed under Article II. Specified uses also require site plan review under Section 5.3 or conditional use review under Section 5.4, as required under Table 2.1, District Summary Table. If a standard under this article differs from another applicable standard under these regulations, the more restrictive shall apply.

Section 4.2 Adaptive Reuse of Historic Structures

A. Adaptive reuse is intended to allow for the continued, economically viable use of historic structures, such as historic barns, that have outlived their original purpose but contribute to the historic, architectural and/or cultural fabric of the community. Accordingly, in designated zoning districts an alternative use may be allowed within the current dimensions of a historic structure, subject to conditional use review under Section 5.4, and the requirements of this section.

B. Structures eligible for adaptive reuse are limited to those which:

1. Are at least 50 years old and:

- a. are listed, or eligible for listing, on the Vermont Historic Sites and Structures Survey for the Town of Underhill, maintained by the Vermont Division for Historic Preservation; or
- b. have historical or architectural significance to the town, as identified in the Underhill Town Plan, or as determined by the Development Review Board based on application information and evidence presented in hearing.

2. Have a minimum habitable floor area of 600 square feet.

3. Can safely house and support the intended use.

C. The Development Review Board may consult with the Vermont Division for Historic Preservation and/or require that the applicant submit an independent evaluation prepared by a qualified architectural historian, to be paid for by the applicant, in order to make a determination regarding the structure's historic or architectural significance and structural integrity.

D. Structures determined to be eligible for adaptive reuse by the DRB may be used for one or more of the following uses in any zoning district, notwithstanding uses listed under Article II, subject to conditional use review under Section 5.4:

1. Accessory dwelling

- 1 2. Bed & Breakfast
- 2 3. Cultural facility (e.g., theater, museum, nature center, performance space)
- 3 4. Mixed Use (of uses allowed under the zoning district, or this section)
- 4 5. Multi-family dwelling (maximum: 4 units)
- 5 6. Office or Studio
- 6 7. Value-added production (e.g., specialty food or wood products)
- 7 8. Restaurant
- 8 9. Retail sales (limited to agricultural and wood products, antiques, arts and crafts; e.g., a
- 9 gallery, farmers market, furniture or antiques store)
- 10 10. Single family dwelling
- 11 11. Small equipment or engine repair
- 12 12. Storage facility (limited to enclosed, indoor storage)
- 13 13. Two-family dwelling

14
15 E. In addition to conditional use requirements under Section 5.4, it shall also be
16 demonstrated, to the satisfaction of the DRB that:

- 17
- 18 1. adequate water supply capacity, wastewater system capacity, and off-street parking
- 19 exist to accommodate the proposed use; and
- 20
- 21 2. any proposed exterior renovations will be compatible with the original architectural
- 22 design of the structure and maintain its historic integrity in accordance with accepted
- 23 standards for the treatment of historic properties, as set forth in the most recent edition
- 24 of the U.S. Secretary of the Interior's "Standards for Rehabilitation and Guidelines for
- 25 Rehabilitating Historic Buildings."

26
27 **Section 4.3 Camper (Recreation Vehicle, Temporary Shelter)**

28
29 A. Up to three campers or shelters (e.g. a tent, tepee or yurt) used for vacation or
30 recreational purposes may be stored and used occasionally to house family members or
31 guests on the lot of a single or two-family dwelling, or on an undeveloped parcel, provided
32 that they are:

- 33
- 34 1. located outside of required setback areas,
- 35 2. not occupied on the premises for more than 120 days in any one-year period, and
- 36 3. not connected to onsite water or wastewater systems.

37
38 a. A camper used as temporary housing during onsite construction may be sited on a
39 lot for more than 120 days if issued a zoning permit for a temporary structure under
40 Section 4.19).

41
42 B. Any camper or temporary shelter that is used for dwelling purposes for more than 120
43 days in any one-year period, or is connected to an onsite water or wastewater system, shall

1 be deemed an accessory or single family dwelling, and shall be subject to all applicable
2 requirements of these regulations pertaining to an accessory or single family dwelling.

3
4 C. Wastewater generated by a camper shall be disposed of only in accordance with all
5 applicable municipal and state regulations.

6
7 D. Campers (recreational vehicles) as defined under Section 11.3 which are stored within
8 the Flood Hazard Area Overlay District (Special Flood Hazard Areas) must also meet the
9 requirements of Section 6.6.

10
11 **Section 4.4 Campground**

12
13 A. **General Standards.** Any parcel of land occupied by more than three campers,
14 recreational vehicles, travel trailers, cabins, yurts, lean-tos, or tent sites for seasonal
15 occupancy, vacation or recreational use is considered a campground. A new or expanded
16 campground may be allowed in designated zoning districts subject to conditional use review
17 under Section 5.4, and the following provisions:

- 18
19 1. The parcel of land for a campground shall be no less than five acres in area, or the
20 minimum lot size for the district in which it is located, whichever is greater.
21
22 2. A minimum of 20% of the total area shall be set aside as open space for outdoor
23 recreation.
24
25 3. A campground shall meet minimum setback requirements for the district in which it is
26 located. In addition, vegetated buffer areas at least 50 feet wide along property
27 boundaries, 100 feet wide along public rights-of-way, and as specified for surface waters
28 and wetlands under Section 3.19 shall be maintained. No building, campsite, parking or
29 service area shall be located within a required buffer area.
30
31 4. Landscaping and/or fencing may be required along property boundaries or within
32 designated areas of the campground as necessary to provide security, privacy, and
33 screening from adjoining properties or public rights-of-way.
34
35 5. Each campsite shall have adequate vehicular or pedestrian access. Individual or shared
36 parking areas shall be provided.
37
38 6. Campgrounds shall provide lavatory facilities sufficient to serve all campsites.
39
40 7. Water and wastewater disposal systems shall be designed and installed in accordance
41 with state regulations. An enclosed area for the collection, storage and disposal of trash
42 and recyclables shall be provided.
43
44 8. The campground may include as accessory to the campground, subject to conditional
45 use review under Section 5.4, an office, caretaker's residence, communal dining,

laundry, indoor recreation, and/or camp store facility, and outdoor recreation facilities for the use of campers.

B. Primitive Campgrounds. For substantially undeveloped, primitive camping areas, consisting only of designated tenting areas, tent and yurt platforms or lean-tos, the Development Review Board may waive or modify any or all of the requirements of Subsection A above if it is demonstrated to the DRB’s satisfaction that access, total lot area, campsite area, setback distances and buffers are adequate to:

1. support the intended level of use; and
2. avoid any adverse impacts to water quality, critical wildlife habitat, or adjoining properties and uses.

Section 4.5 Commercial Lodging (Bed & Breakfast, Inn)

A. Two types of commercial lodging facilities, limited to bed and breakfasts and inns as defined under Section 11.2, may be allowed in designated zoning districts, subject to site plan review under Section 5.3, or conditional use review under Section 5.4, as specified for a particular zoning district under Article II.

B. A bed and breakfast is allowed in designated zoning districts only as an accessory use of a single family dwelling, carried on by the owner or resident of the single family dwelling, with a maximum of five guest rooms. For purposes of these regulations, all other types of commercial lodging facilities shall be considered inns, representing the principal use of the property.

C. Additional standards for both types of commercial lodging facilities are presented and summarized in Table 4.1:

Standard	Bed & Breakfast	Inn
Type of use	Accessory Use (single family dwelling)	Principal Use
Number of guest rooms	Maximum: 5	Maximum: 24
Owner/operator must reside on premises	Yes	No
Off-street parking required	Yes (Section 3.13)	Yes (Section 3.13)
On-site dining for guests	Breakfast only	All meals
On-site dining for non-guests (public)	No	As a “Mixed Use” only if a restaurant is also allowed in the zoning district
Exterior appearance	Must maintain residential character of the structure(s) and	Must be compatible with the character of the area (see Section 5.4)

	property	
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1
2 D. Documentation that all required state permits have been obtained must be submitted
3 to the Zoning Administrator prior to the issuance of a certificate of occupancy for a lodging
4 facility in conformance with Section 10.4.

5
6 **Section 4.6 Contractor’s Yard**

7
8 A. A contractor’s yard may be allowed as a type of home industry, as regulated under
9 Section 4.11, or as a principal use in designated zoning districts subject to conditional use
10 review by the Development Review Board under Section 5.4 and the following additional
11 requirements:

- 12
13 1. The outdoor storage of vehicles, heavy equipment, and materials, including building and
14 construction materials, shall be confined to a designated yard area approved by the
15 Board. Activities associated with the operation of the yard, including the maintenance
16 and repair of vehicles and equipment, shall be allowed only within the designated yard
17 area.
- 18
19 2. The designated yard area shall be set back a minimum of 50 feet from all road rights-of-
20 way and adjoining properties, and meet surface water and wetland setback
21 requirements under Section 3.19.
- 22
23 3. The DRB may require landscaping and/or fencing around one or more yard area
24 boundaries as necessary for public safety, or to screen the yard area year-round from
25 the view of neighboring properties and public rights-of-way.
- 26
27 4. Yard operation shall meet all performance standards under Section 3.14. The DRB may,
28 as a condition of approval, place conditions on the hours of operation to minimize
29 nuisances to neighboring properties and uses.
- 30
31 5. A contractor’s yard may include as accessory to the yard, subject to conditional use
32 review, an office or equipment storage and maintenance facility.
- 33
34 6. On-site storage of hazardous materials shall be allowed only in accordance with
35 applicable state and federal regulations. Fuel storage shall be limited to that needed for
36 heating and the operation of equipment and vehicles, in accordance with Section 3.12.

37 **Section 4.7 Day Care Facility (Home Child Care, Day Care Facility)**

38
39 A. A home child care business, the owner of which is licensed or registered by the state,
40 which serves up to ten children shall be considered to constitute a permitted single family
41 residential use of property. A zoning permit shall be required under Section 10.3 only for
42 purposes of documenting and recording the use in the land records of the town. A home

1 child care business that serves more than ten children shall be subject to site plan review
2 under Section 5.3, prior to the issuance of a zoning permit.

3
4 B. A nonresidential child care or adult day care facility may be allowed in designated
5 zoning districts subject to site plan review under Section 5.3 or conditional use review under
6 Section 5.4, depending upon which zoning district the facility is located.

7
8 **Section 4.8 Extraction & Quarrying**

9
10 A. **Purpose.** It is the intent of this section to:

- 11
12 1. Provide reasonable opportunities for the extraction of earth resources within
13 designated zoning districts in the Town of Underhill.
14 2. Protect public health, safety and welfare from known hazards associated with open
15 excavation areas, extraction operations, and the transport of earth resources.
16 3. Protect against excessive noise, vibration, dust and particulate matter, and other
17 dangerous, toxic, noxious or objectionable hazards and nuisances associated with
18 extraction operations.
19 4. Minimize the adverse impacts of extraction operations on the town's natural, cultural
20 and scenic resources, including natural drainage patterns and surface and ground water
21 supplies.
22 5. Minimize the adverse impacts of extraction operations on properties, uses and public
23 infrastructure in the vicinity, including public highways used to transport earth
24 resources.
25 6. Ensure ongoing and long-term site reclamation that includes slope stabilization and
26 revegetation, and allows for subsequent use of extraction areas.

27
28 B. **Applicability.** The extraction or removal of topsoil, sand, gravel, rock, minerals or other
29 similar earth resources for use, off-site transport or sale, unless specifically exempt from
30 these regulations, may be allowed in designated zoning districts subject to conditional use
31 review under Section 5.4 and the requirements of this section.

- 32
33 1. **Exemptions.** The following are exempt from the requirements of this section:
34
35 a. Onsite excavation incidental to Accepted Agricultural Practices (AAPs) and Accepted
36 Management Practices for silviculture (AMPs) as defined by the state (see Section
37 10.2).
38 b. Onsite excavation incidental and limited to permitted construction activities,
39 including the installation of buried utilities, foundations, roads, driveways, and
40 parking areas.
41 c. Onsite excavation incidental to normal maintenance, repair and landscaping
42 activities.
43 d. Excavations for the installation of approved stormwater management, erosion
44 control flood control and stream stabilization measures.

- 1 e. Stream gravel removal as approved by the Vermont Agency of Natural Resources,
2 including the removal of up to 50 cubic yards annually by riparian landowners for
3 personal use.
- 4 f. The extraction of up to 400 cubic yards of material annually by a property owner for
5 personal use on site or on another property in common ownership.
- 6 g. Cemetery operations.
- 7 h. Extraction associated with an emergency, as declared by the Underhill Selectboard,
8 for the repair of roads and other public infrastructure.
- 9
- 10 2. **Grandfathered operations.** A pre-existing extraction or quarrying operation legally in
11 existence and continuous operation as of the effective date of these regulations [March
12 2, 2011] is exempt from the requirements of this section until such time as:
13
- 14 a. Its grandfathered status or Act 250 permit is revoked by the state.
- 15 b. Operations expand across property lines, public roads or surface waters.
- 16 c. The existing extraction area(s) on the site is increased by more than 50%.
- 17 d. The annual rate of extraction is increased by more than 25% over the average
18 annual rate established for the previous 10-year period, as measured in volume of
19 material (cubic yards) or trip generation rates (truck trips).
- 20 e. Additional onsite processing equipment is added, resulting in measurable increases
21 in offsite impacts.
- 22 f. Extraction operations are discontinued or abandoned for a period of two years.
- 23 g. Existing visual barriers that screen operations from public roads or neighboring
24 properties (e.g., topography, berms, and trees) are removed or altered such that
25 adverse visual (aesthetic) or physical (e.g., noise, dust) impacts are measurably
26 increased.
- 27
- 28 C. **Application Requirements.** In addition to application information required in Section
29 5.4 for conditional use review, the applicant shall submit operation, grading, stormwater
30 management and erosion control, and site reclamation plans that describe and depict the
31 following:
32
- 33 1. The location and extent of proposed extraction areas and any of the following located
34 on and within 1,000 feet of the proposed site: existing vegetation and soils; property
35 lines, structures, wells and septic systems, utilities, and road rights-of-way; surface
36 waters, wetlands and required buffers; special flood hazard areas and source protection
37 areas.
- 38
- 39 2. Existing grades and drainage patterns, mapped at a scale of 1inch=200 feet, including
40 existing elevation contours at intervals of not less than five feet within proposed
41 extraction areas and site cross sections.
- 42
- 43 3. Site geology and soils information, including bedrock and soil characteristics, and depths
44 to bedrock and seasonal high water tables as determined from at least four test borings

1 that extend to ledge, the seasonal high water table or a maximum of six feet below the
2 lowest proposed extraction limit.

- 3
- 4 4. An assessment of the impact of proposed extraction areas on surface and groundwater
5 supplies for any extraction area within a source protection area or within 1,000 feet of
6 an existing spring or well.
7
- 8 5. The extent and magnitude of proposed operations, to include a description of the type,
9 amounts and locations of materials to be extracted or quarried, annual extraction limits,
10 the areas to be allocated for onsite storage and processing, the types of processing
11 equipment, the dates and hours of operation, and the proposed phasing and timing of
12 development.
13
- 14 6. A traffic impact analysis, including information regarding site access, the type and
15 weight of vehicles to be used to transport materials, trip generation rates (average and
16 maximum number of truck trips per day at peak operation) and proposed truck routes
17 through town.
18
- 19 7. Stormwater management and erosion control practices to be used and installed on and
20 off-site, for all phases of the operation.
21
- 22 8. Fencing, landscaping, screening lighting and sign information.
23
- 24 9. Finished grades at the conclusion of operations, including final elevation contours at 5-
25 foot intervals and site cross-sections.
26
- 27 10. A detailed site restoration plan that includes and describes initial and final grades, slope
28 stabilization measures, site re-vegetation, and an indication of subsequent use(s) of the
29 reclaimed site.
30
- 31 11. State project review sheet identifying required state and federal permits, and a copy of
32 the applicant's Act 250 application.
33

34 **D. General Standards.**

- 35
- 36 1. Extraction and processing areas, as shown on the site plan, shall meet the minimum
37 following setback distances:
38
 - 39 a. Property Lines: 200 feet
 - 40 b. Road Rights-of-Way : 200 feet
 - 41 c. Residences: 500 feet (unless waived in writing by the owner)
 - 42 d. Public Properties: 500 feet (unless waived in writing by the owner)
 - 43 e. Surface Waters, Wetlands: See Section 3.19
44

- 1 The DRB, based on physical site and slope conditions, may require increased setback
2 distances as necessary to avoid or mitigate adverse impacts to adjoining properties and
3 road rights-of-way, or to residences, surface waters and wetlands in the vicinity.
4
- 5 2. No extraction, excavation, dredging or filling activities shall occur within riparian and
6 wetland buffer areas, in accordance with the requirements of Section 3.19, nor within
7 the Flood Hazard Overlay District (Special Flood Hazard Areas) under Article VI.
8 Extraction operations shall not have the effect of extending adjoining flood hazard areas
9 by excavating to or below base flood elevations.
10
- 11 3. Extraction operations shall occur only between March 15th and December 15th, except
12 for special circumstances such as declared emergencies, as approved in writing by the
13 Selectboard.
14
- 15 4. Extraction operations shall be phased so that no more than five acres are in active
16 operation and exposed at any time. Once a phase is completed, the extraction area shall
17 be reclaimed in conformance with an approved reclamation plan that meets the
18 requirements of Subsection F.
19
- 20 5. Extraction operations shall not extend below seasonal groundwater tables. Where
21 physically feasible, a layer of undisturbed material at least two feet in depth shall be
22 maintained above seasonal groundwater tables and underlying bedrock.
23
- 24 6. Extraction and processing operations shall not adversely affect the quantity or quality of
25 existing or permitted surface and ground water drinking supplies. Operations within
26 designated source protection areas shall be allowed only in conformance with approved
27 source protection plans. The installation of monitoring wells may be required as
28 necessary to monitor groundwater quality in the vicinity of extraction operations.
29
- 30 7. The removal of existing vegetation shall be limited to approved extraction areas in
31 active operation, as clearly marked on the ground. Vegetation and debris shall be
32 properly disposed of in designated locations on- or off-site.
33
- 34 8. No vegetation shall be removed within required surface water and wetland buffer areas,
35 or within 100 feet of a property line or public right-of-way where natural screening is
36 provided. If existing topography and vegetation are not sufficient to screen the
37 extraction site from view year-round, additional screening shall be provided. Screening
38 may include earthen berms and planted vegetated buffers that incorporate a mix of
39 native tree, shrub and groundcover species suited to site conditions, and shall be
40 maintained through the life of the operation.
41
- 42 9. Topsoil shall be stockpiled and stabilized in designated locations on or off site, for use in
43 site reclamation.
44

- 1 10. Stockpiled materials shall not exceed 35 feet in height, and shall not be visible from
2 adjoining properties or public rights-of-way.
3
- 4 11. All reasonable measures shall be taken to limit the amount of dust and particulates
5 generated from the extraction, processing and transport of materials. At minimum,
6 these shall include:
7
 - 8 a. Temporary stabilization of any materials stockpiled for one year or more with
9 vegetative cover adequate to prevent erosion.
 - 10 b. Use of water, calcium chloride or other accepted agents to reduce dust on haul
11 roads.
 - 12 c. Use of processing equipment only within active pit areas. No processing equipment
13 with a maximum rating of more than 150 tons per hour shall be used within 1,000
14 feet of any residence or public property.
 - 15 d. Covering trucks carrying materials off site.
- 16
- 17 12. In addition to applicable performance standards under Section 3.14, extraction and
18 processing operations shall meet the following requirements:
19
 - 20 a. Except under declared public emergencies, extraction, processing, dumping and
21 hauling operations may occur only between the hours of 7 a.m. and 6 p.m. on
22 weekdays, and 8 a.m. and 4 p.m. on Saturdays, and are prohibited on Sundays and
23 federal holidays.
 - 24
 - 25 b. Blasting may occur only during weekdays, from 8 a.m. to 4 p.m., and shall not occur
26 within 1,000 feet of principal structures, unless agreed to in writing by all affected
27 property owners. Blasting protocols shall be submitted to the DRB for review and
28 approval, and shall include a process to notify all property owners within 1,000 feet
29 of planned blasting schedules. All blasting shall be undertaken by a licensed and
30 insured expert, in conformance with applicable state and federal regulations.
31
 - 32 c. Noise levels generated by extraction and processing operations shall not exceed 70
33 decibels (dBA) for more than 30 minutes in any 24-hour period, and no more than
34 90 dBA at any time, as measured at the property line. Levels shall not exceed 55
35 dBA for more than 60 minutes in any 24-hour period at nearby residences and
36 public use areas, unless otherwise agreed to in writing by the property owners. To
37 the extent physically feasible, all crushing and screening equipment shall be located
38 on the pit floor for optimal noise suppression. The applicant is encouraged and may
39 be required by the DRB to use other noise reduction techniques, such as earthen
40 berms or other sound barriers, equipment placement, mufflers, sensed or
41 disengaged vehicle backup alarms, or limited hours of operation as necessary to
42 mitigate noise impacts.
43
 - 44 d. The onsite storage of explosives and hazardous materials is prohibited. All
45 reasonable measures shall be taken to prevent the release of fuels, oils or chemicals

1 used on site. Materials may used and stored on site only in accordance with
2 applicable state and federal regulations. Equipment and vehicles shall be fueled,
3 repaired and maintained off site, or on an impervious surface located outside of
4 extraction areas to prevent the release of fuels, oils, or chemicals.

5
6 13. The extraction areas shall be served by no more than one highway access, unless
7 otherwise approved by the DRB in consultation with the Selectboard or Vermont Agency
8 of Transportation under Section 3.2. No access shall be located within 500 feet of a
9 residential property unless agreed to in writing by the property owner. Access roads
10 shall be constructed to B-71 standards, and include an apron that will withstand heavy
11 truck traffic and minimize the transport of dust and other particulates from the site.

12
13 14. Truck traffic generated by an extraction operation shall not result traffic hazards,
14 reduced traffic speeds on collector or arterial highways, or the accelerated degradation
15 of highway infrastructure. The DRB, in consultation with the Selectboard or the Vermont
16 Agency of Transportation, may limit the type, weight, number, timing, frequency or
17 routing of truck trips generated by the extraction operation as necessary to mitigate the
18 adverse impacts of heavy truck traffic on existing traffic conditions, public highways and
19 affected properties.

20
21 15. Entrances shall be gated to generally limit public access to extraction areas. Additional
22 fencing, berms or other barriers at least six feet in height, located at least 15 feet from
23 the edge of excavation, shall be provided as necessary to restrict public access to areas
24 where temporary slopes exceed 2:1 (run:rise) or the depth of the pit exceeds 15 feet.

25
26 16. Stormwater management and erosion control measures, as shown on the stormwater
27 management plan, are required during all phases of operation to manage stormwater
28 on site, and prevent adverse impacts to surface waters, wetlands and adjoining
29 properties. Conditional use approval shall be contingent on the applicant receiving all
30 applicable state stormwater management, erosion control and construction permits, to
31 be filed with the town. The applicant shall also file annual inspection and compliance
32 reports with the town, as required by the state or DRB, that certify that stormwater
33 management and erosion control systems are being managed and maintained in
34 accordance with permit requirements.

35
36 E. **Annual Report and Monitoring.** The permit holder shall submit an annual report to the
37 DRB and Selectboard by December 1st that documents the amount of material removed
38 from the site during the previous year, total extraction area and site reclamation acreage,
39 and the results of any ongoing monitoring requirements; and that certifies that extraction,
40 processing and hauling operations comply with these regulations and any conditions of
41 approval. The permit holder shall also allow representatives of the town to access the site at
42 reasonable times for purposes of determining compliance with these regulations and any
43 conditions of approval.

44

1 F. **Site Reclamation.** Site reclamation shall occur immediately following each phase of
2 extraction, in accordance with an approved site reclamation plan that incorporates the
3 following standards:

- 4
- 5 1. All disturbed areas shall be reclaimed so that the land is left in a safe, attractive and
6 usable condition.
7
 - 8 2. All stockpiled materials and remaining debris shall be incorporated in or removed from
9 the site.
10
 - 11 3. Excavation areas shall be evenly graded and filled as necessary to blend into the natural
12 topography. All slopes, except for exposed bedrock, shall have finished grades that do
13 not exceed 4:1 (run: rise), unless otherwise approved by the DRB based on site specific
14 slope and soil conditions and the intended subsequent use of the property. No final
15 grade, except for exposed bedrock, shall exceed 2:1.
16
 - 17 4. All disturbed areas, except for exposed bedrock, shall be spread with a minimum of four
18 inches of topsoil and revegetated and maintained in conformance with current state
19 and federal guidelines (e.g., "Vegetating Vermont Sand and Gravel Pits," USDA Natural
20 Resource Conservation Service, May 2003, as revised).
21
 - 22 5. Natural drainage patterns shall be restored so that water draining from the site is
23 directed to natural drainage points at similar rates. Any standing bodies of water that
24 present a hazard to public health and shall be eliminated.
25

26 G. **Surety.** A performance bond, escrow account, or other surety acceptable to the
27 Underhill Selectboard shall be submitted prior to the start of each phase of extraction to
28 ensure permit compliance and site reclamation, to include any re-grading, reseeding,
29 reforestation or other required reclamation activities.
30

31 H. **Plan Amendments.**

- 32
- 33 1. Changes to approved plans that may be administratively approved by the Zoning
34 Administrator with the issuance of a zoning permit include the following:
35
 - 36 a. Changes in the location of structures and equipment to the extent that they comply
37 with all applicable setback requirements and conditions of DRB approval.
 - 38 b. Changes in the order of proposed extraction phases.
 - 39 c. Substitution of approved plant materials used in landscaping and screening, slope
40 stabilization and site reclamation to the extent that they will adequately serve the
41 same function.
 - 42 d. The replacement or addition of equipment used on site upon submission of
43 equipment specifications and documentation that there will be no increase in off-
44 site impacts (e.g., noise, dust, vibration) that exceed limits established by the DRB.
45

1 All other changes or modifications to approved plans shall require conditional use review
2 and approval by the DRB under Section 5.4 and the requirements of this section.

3
4 **Section 4.9 Gas Station**

5
6 A. A gasoline station may be allowed in designated zoning districts subject to conditional
7 use review under Section 5.4, and the following requirements:

- 8
- 9 1. All buildings, service, parking and storage areas shall meet all setback requirements,
10 including setback and buffering requirements for streams and wetlands under Section
11 3.19. No vehicles may be parked or serviced within front, side or rear setback areas. The
12 Development Review Board may require increased setbacks and/or buffers as needed to
13 protect water quality, based on local site and drainage conditions, or to protect
14 adjoining properties and uses.
 - 15
16 2. All pumps and other service equipment shall be located at least 30 feet from front, side
17 and rear lot lines.
 - 18
19 3. Notwithstanding the requirements of Section 3.2 (Access), there shall be no more than
20 two accesses (curb cuts) providing ingress and egress to adjoining roads. On corner lots,
21 one or both accesses may be limited to the secondary road. The width of each curb cut
22 shall not exceed 40 feet.
 - 23
24 4. A vegetated, landscaped area at least 15 feet in depth shall be maintained along all road
25 frontage, excluding designated access (curb cut) areas.
 - 26
27 5. Additional setbacks, curbing, landscaping and screening, and pedestrian walkways may
28 be required by the Board as needed to safely manage vehicle and pedestrian circulation
29 on- and off-site, and to minimize adverse impacts to adjoining properties.
 - 30
31 6. In addition to the signs allowed under Section 3.16, a gasoline station may have one
32 freestanding pricing sign which does not exceed 12 square feet in area, and/or pump-
33 top pricing signs, each not to exceed two square feet in area.
 - 34
35 7. Site layout and building design shall be compatible with the character of the
36 neighborhood in which the gasoline station will be located. Building facades shall not be
37 used for advertising purposes, except as allowed for the placement of wall signs or
38 graphics in accordance with Section 3.16.
 - 39
40 8. Station canopies, if determined by the Board to be necessary and appropriate to their
41 context, shall be limited to the minimum area required for adequate pump and apron
42 coverage, and the minimum ceiling height necessary to meet applicable state and
43 federal safety requirements. Canopy scale and design shall be compatible with station
44 design and with surrounding buildings. Corporate logos are specifically prohibited on
45 station canopies. Canopy fascias shall not be illuminated or used for advertising.

- 1
- 2 9. The Development Review Board may require the submission of an outdoor lighting plan
- 3 for review and approval in accordance with Section 3.11 (Outdoor Lighting). In addition:
- 4
- 5 a. Light fixtures mounted on station canopies shall either be recessed so that the lens
- 6 cover is flush with the bottom surface (ceiling) of the canopy; or for indirect
- 7 lighting, mounted and shielded or skirted so that direct illumination is focused
- 8 exclusively on the underside of the canopy.
- 9 b. Lights shall not be mounted on the top or sides (fascias) of canopies, nor shall
- 10 canopies be internally illuminated; and
- 11 c. Interior station lighting shall not be used to contribute to or increase outdoor
- 12 lighting levels, nor for advertising purposes.
- 13 d. All interior and exterior lights, with the exception of approved security lights, shall
- 14 be on only during hours of operation.
- 15
- 16 10. All underground storage tanks shall meet all applicable state and federal requirements
- 17 for design and installation. Monitoring may be required by the Development Review
- 18 Board as needed to ensure that ground water quality and wells in the vicinity are
- 19 protected from contamination in the event of a leak.
- 20
- 21 B. The use of a gasoline station is limited to the retail sale of gasoline, diesel fuel and other
- 22 automotive fluids and products. The sale of other types of retail items (e.g., food or
- 23 convenience items), or the provision of other services (e.g., motor vehicle repair, sales or
- 24 rentals, car washes, towing services or restaurant seating) may be allowed only as a "Mixed
- 25 Use" (see Section 4.12), as allowed within the zoning district, and as such shall be required
- 26 to meet applicable standards of these regulations pertaining to each use.
- 27

28 **Section 4.10 Group & Residential Care Homes**

- 29
- 30 A. In accordance with the Act [§4412(1)(G)], a state licensed or registered residential care
- 31 home or group home, serving not more than eight persons who are developmentally
- 32 disabled or physically handicapped, shall be considered by right to constitute a single family
- 33 residential use of property, except that no home shall be so considered if it locates within
- 34 1,000 feet of another such home. A zoning permit under Section 10.3 shall be required to
- 35 document and record the use in the land records of the town.
- 36
- 37 B. Other types of residential care facilities as defined under Section 11.2, may be allowed
- 38 in designated zoning districts as conditional uses subject to conditional use review under
- 39 Section 5.4.
- 40

41 **Section 4.11 Home Business (Home Occupation, Home Industry)**

- 42
- 43 A. In accordance with the Act [§4412(4)], no provision of these regulations may infringe
- 44 upon the right of any resident to use a minor portion of a dwelling for an occupation which is

1 customary in a residential area and which does not have an undue adverse impact on the
2 character of the residential area in which the dwelling is located.

3
4 **B. Home Office.** No zoning permit shall be required for a home office or studio within a
5 principal dwelling, an attached garage or an accessory structure which is carried on by a
6 resident of that dwelling, and which involves no signs, public access or outdoor storage or
7 displays, as exempt under Section 10.2.

8
9 **C. Home Occupation.** For home occupations that meet the following requirements, a
10 zoning permit issued under Section 10.3 shall be required to document and record the use in
11 the land records of the town:

12
13 1. **Employees.** The home occupation shall be conducted by residents of the dwelling and
14 up to a maximum of two nonresident employees on-site at any time.

15
16 2. **Area.** The home occupation shall be conducted within the principal dwelling, an
17 attached garage or an accessory structure on the same lot, and shall occupy no more
18 than 49% or 1,000 square feet of the gross floor area of the primary residence.

19
20 3. **Character.** The home occupation shall not have an undue adverse effect on the
21 character of the neighborhood, nor result in a change in the outward appearance of the
22 dwelling or accessory structure.

23
24 4. **Outdoor Storage.** No outdoor storage, displays or equipment associated with a home
25 occupation, other than those that are customarily associated with a residential use, are
26 allowed.

27
28 5. **Performance Standards.** The home occupation shall meet all performance standards set
29 forth in Section 3.14.

30
31 6. **Traffic.** No traffic shall be generated in substantially greater volumes than would
32 normally be expected from a residential use (a maximum of 10 vehicle trips per day).

33
34 7. **Parking.** Off-street parking for residents of the dwelling, employees and customers shall
35 be provided in accordance with Section 3.13. Up to two vehicles (e.g., a car, van, pickup
36 truck), associated with the business may be parked on the premises.

37
38 8. **Utilities.** Adequate provisions shall be made for water, wastewater and the disposal of
39 solid waste, in accordance with applicable municipal and state regulations.

40
41 9. **Signs.** One sign shall be allowed in accordance with Section 3.16.

42
43 10. **Sales & Service.** On-site retail sales or services are limited to goods or services
44 produced on the premises and related products, and shall be available to the public by
45 appointment only.

1
2 D. **Home Industry.** Home industry, which includes expanded home-based businesses that
3 exceed the requirements for “home occupations” under Subsection C. above, may be
4 allowed as an accessory to a single family dwelling in designated zoning districts subject to
5 conditional use review under Section 5.4, and the following provisions:
6

- 7 1. **Employees.** The home industry shall be conducted on-site by residents of the dwelling,
8 and up to five nonresident employees routinely on site at any given time.
9
- 10 2. **Outdoor Storage.** Exterior storage of materials and equipment associated with a home
11 industry shall be limited to a clearly designated yard or storage area approved by the
12 Development Review Board, which meets all applicable setbacks for the district in which
13 the property is located. In addition:
14
 - 15 a. The DRB may require greater setbacks as deemed necessary to avoid adverse
16 impacts to neighboring properties or public rights-of way.
 - 17 b. The DRB also may require that such areas be adequately screened year-round from
18 public view and neighboring properties, and secured to protect public safety.
 - 19 c. Exterior yard or storage areas shall also meet surface water and wetland setbacks
20 and buffers as required under Section 3.19.
21
- 22 3. **Hazardous Materials.** The use and storage of hazardous materials anywhere on the
23 premises shall be limited to those materials necessary for the operation of the home
24 industry and shall be stored in accordance with all applicable state and federal
25 regulations.
26
- 27 4. **Character.** The home industry shall not have an undue adverse effect on the character
28 of the neighborhood, nor result in a change in the outward appearance of the dwelling
29 or the accessory structure.
30
- 31 5. **Traffic.** The home industry shall not generate traffic, including delivery traffic, in excess
32 of traffic volumes generated by other uses on the same road in the vicinity of the home
33 industry.
34
- 35 6. **Parking.** Off-street parking shall be provided for residents, employees, delivery vehicles
36 and customers in accordance with Section 3.13. Commercial vehicles or equipment
37 associated with the home industry shall be parked within designated yard or parking
38 areas approved by the DRB. The DRB may also require that parking areas be adequately
39 screened year-round from public view and adjoining properties.
40
- 41 7. **Utilities.** Adequate provisions shall be made for water, wastewater and the disposal of
42 solid waste, in accordance with applicable municipal and state regulations.
43
- 44 8. **Performance Standards.** A home industry shall meet all applicable performance
45 standards under Section 3.14. In addition to other conditions, the DRB may limit the

hours of operation as deemed necessary to minimize adverse impacts to neighboring properties and protect the character of the area.

9. **Signs.** One sign may be allowed in accordance with Section 3.16.

10. **Sales & Service.** Onsite retail sales or services are limited to the sale of goods or services produced on the premises, and related products.

Table 4.2 Summary of Home Occupation & Home Industry Standards

	Home Occupation	Home Industry
Zoning Districts	All	All
Type of Review Required	Administrative Review (Zoning Permit)	Conditional Use Review (DRB Conditional Use Approval)
Principal Use	Dwelling	Single Family Dwelling
Business owner must reside on premises	Yes	Yes
Character of Area	Must maintain residential character; no exterior alterations	Must have no undue adverse impact on the character of the neighborhood; no exterior alterations
Maximum Floor Area:		
Principal Dwelling	49% or 1000 sf of gross dwelling floor area	No limit
Accessory Structure	No limit	No limit
Nonresident Employees (on-site at same time)	Maximum: 2	Maximum: 5
Outdoor Storage, Display	None	Within designated yard areas
Hazardous Materials Storage	None	Allowed in conformance with applicable municipal, state and federal regulations
Parking	Parking for residents, employees, and up to two business vehicles	Parking for residents, employees, and for other commercial vehicles and equipment within designated yard or parking areas
Performance Standards	See Section 3.14	See Section 3.14
Traffic Generation	Residential Use (max: 10 vehicle trips per day)	Business Use (volume similar to other uses in vicinity, on the same road)
Sales & Service	Limited to goods, services produced or provided on the premises; open to the public by appointment only	Limited to goods, services produced or provided on the premises
Signs	One (see Section 3.16)	One (see Section 3.16)

Section 4.12 Mixed Use

1 A. In a zoning district more than one principal use may be allowed within a single building
2 or on a single lot, subject to site plan or conditional use review by the Development Review
3 Board under Sections 5.3 or 5.4 and the following requirements:

- 4
- 5 1. Each of the proposed uses must be allowed as a permitted or conditional use within the
6 zoning district in which the mixed use is located. For mixed uses that include one or
7 more conditional uses, conditional use review shall be required under Section 5.4;
8 otherwise site plan review under Section 5.3 shall be required.
- 9
- 10 2. The uses in combination must meet all applicable standards for the district in which the
11 mixed use is proposed, including but not limited to minimum lot, frontage and setback,
12 and maximum lot coverage and height requirements; or the mixed use must be part of a
13 planned unit development (PUD) that has been approved in accordance with Article VIII.
- 14
- 15 3. The mixed use must meet all applicable general regulations under Article III, including
16 but not limited to access, sign and parking requirements. Shared access and parking to
17 serve all uses shall be required unless it is determined by the Board that a safety hazard
18 may result due to site, traffic or road conditions.
- 19

20 **Section 4.13 Mobile Home Park**

21

22 A. In accordance with the Act [§4412(1)], these regulations shall not have the effect of
23 excluding mobile home parks from the town. New and expanded mobile home parks, as
24 defined under Section 11.2 to include three or more mobile homes on a single parcel, may
25 be allowed in designated districts subject to conditional use review in accordance with
26 Section 5.4 and the following provisions:

- 27 1. The parcel of land for a new mobile home park shall have a minimum area of no less
28 than three acres, or the minimum lot area for the district in which it is located,
29 whichever is greater.
- 30
- 31 2. A minimum of 20% of the total land area in any new mobile home park shall be set aside
32 for common recreational use or open space.
- 33
- 34 3. Mobile home parks shall meet minimum setback requirements along their perimeter for
35 the district in which they are located. Setback areas shall not be included in the
36 calculation of recreation land or open space required under Subsection A.2.
37 Landscaping along the perimeter of the park is recommended, and may be required by
38 the Board as it deems necessary to screen to the park year round from adjoining
39 residential properties.
- 40
- 41 4. A mobile home park shall meet all applicable requirements of these regulations,
42 including all applicable general requirements under Article III.
- 43

- 1 5. Proposed parks shall comply with all applicable state regulations, including regulations
2 pertaining to potable water supply, wastewater disposal systems, and stormwater
3 management systems.
4
- 5 6. Each mobile home shall be located on a dedicated site of not less than 10,000 square
6 feet in area as depicted on the site development plan required under Section 5.4. Each
7 site shall include adequate vehicle and pedestrian access, and shall be landscaped with
8 one or more trees of a native species.
9
- 10 7. Each mobile home, and associated accessory structures, shall be setback a minimum of
11 20 feet from adjoining mobile home site boundary lines.
12
- 13 8. All roads within a mobile home park shall comply with Section 8.6.
14
- 15 9. Pedestrian paths connecting mobile home sites to common facilities and areas, and to
16 public rights-of-way are required as necessary to provide safe, interconnected
17 pedestrian circulation.
18
- 19 10. Parking shall be provided in accordance with Section 3.13 and may include a
20 combination of individual and shared parking areas.
21
- 22 11. A mobile home park may include as accessory to the park, subject to conditional use
23 review, an office and common laundry, storage, parking and recreation facilities for use
24 by park residents and their invited guests.
25
- 26 B. **Owner/Operator Responsibilities.** The mobile home park owner, or designated
27 operator, as a condition of DRB approval, shall:
28
 - 29 1. Maintain all park buildings, roads, parking areas, paths, utilities, infrastructure,
30 landscaping, open space and common areas in good condition.
31
 - 32 2. Provide for the regular collection and removal of recyclables, waste and garbage.
33
 - 34 3. Remove snow from all park roads, parking and service areas.
35
- 36 Failure to meet these operation and maintenance requirements shall constitute a violation
37 of permit conditions and these regulations, subject to enforcement action under Section
38 10.6.
39
- 40 C. **Modifications.** Changes, modifications or alterations to park area, design, layout or
41 common facilities are subject to conditional use review by the Development Review Board in
42 accordance with the above provisions.
43
- 44 1. The owner of a mobile home within an existing or approved mobile home park may
45 apply for a zoning permit under Section 10.3 for a replacement home, deck, accessory

1 structure or addition which meets site setback requirements under Subsection A,
2 without approval from the Development Review Board.

3
4 **D. Nonconforming Mobile Home Parks.** In accordance with the Act [§4412], if an existing
5 mobile home park does not conform to these regulations, its nonconforming status applies
6 only to the mobile home park as a whole, and not to individual mobile home sites. In the
7 event that an individual site is vacated, it shall not be considered a discontinuance or
8 abandonment of a nonconformity under Sections 3.8 and 3.9. Unless waived by the
9 Development Review Board under Section 5.5 for nonconforming lots, a replacement mobile
10 home must meet site setback requirements under A.7.

11
12 **E. Flood Hazard Areas.** Mobile homes and mobile home parks located within the Flood
13 Hazard Area Overlay District (Special Flood Hazard Areas) must also meet all applicable
14 requirements for manufactured (mobile) homes as defined under Section 11.3 and regulated
15 under Section 6.6.

16
17 **F. Subdivision.** A mobile home park shall be considered the principal use of a parcel which
18 shall be retained in common ownership and management. Individual mobile home sites may
19 be subdivided from the rest of the park for sale only in accordance with all applicable
20 requirements of these regulations pertaining to subdivisions and single family dwellings.

21
22 **G. Mobile Home Sales.** Mobile home sales may be allowed in association with an
23 established or proposed mobile home park only as a “mixed use” subject to conditional use
24 review under Section 5.4.

25
26 **Section 4.14 Motor Vehicle Sales & Service**

27
28 **A. Motor Vehicle Sales.** The display of three or more vehicles for sale at any time on a
29 property shall be considered a commercial motor vehicle sales establishment allowed within
30 designated zoning districts subject to conditional use review under Section 5.4, and all other
31 applicable requirements of these regulations. The occasional and temporary display for sale
32 of up to two motor vehicles on a lot, which are owned by the resident or property owner,
33 are exempt from these regulations.

34
35 **B.** In addition to conditional use standards under Section 5.4, commercial motor vehicle
36 sales establishments must also meet the following requirements:

- 37
38 1. No more than ten vehicles for sale or lease may be parked in outdoor display areas at
39 any time.
40
41 2. Motor vehicles intended for sale or lease shall be displayed in an enclosed building or
42 within a designated exterior display area approved by the Development Review Board
43 that meets required side and rear setbacks for the district in which it is located. Exterior

display areas may be located within the front setback area, however no vehicle shall be parked within a public right-of-way.

3. Parking and display yard areas shall also meet surface water and wetland setback and buffer requirements, as specified under Section 3.19.

4. The DRB may require landscaping and/or fencing as it deems appropriate for public safety, and to screen exterior display areas from adjoining properties.

5. The motor vehicle sales facility and associated display area shall comply with applicable requirements of these regulations, including but not necessarily limited to outdoor lighting standards under Section 3.11, parking requirements under Section 3.13, performance standards under Section 3.14, and sign requirements under Section 3.16.

6. Motor vehicle service and repair may be allowed in association with a motor vehicle sales facility provided that the requirements of Subsection B are met.

C. Motor Vehicle Service Facility. A motor vehicle service facility may be allowed as a type of home industry subject to review and associated standards under Section 4.11; or as a principal use in designated zoning districts subject to conditional use review by the Development Review Board under Section 5.4 and the following requirements:

1. Vehicles scheduled for repair shall be parked within an enclosed structure or within a designated yard or parking area approved by the Development Review Board, which meets all setback requirements for the district in which it is located. To the extent physically feasible, yard or parking areas shall be located to the side or the rear of the garage or maintenance building. The Board may require landscaping and/or fencing as it deems appropriate for public safety, and to screen the yard or parking area year-round from adjoining properties and public rights-of-way.

2. Parking and yard areas shall also meet surface water and wetland setback and buffer requirements, as specified under Section 3.19.

3. No more than three unregistered vehicles shall be stored on-site unless the property also has been approved by the Development Review Board as “mixed use,” to also include a salvage yard (see Section 4.17), in districts in which all such uses are allowed.

4. All maintenance and repair work shall be conducted within an enclosed structure which meets all applicable municipal and state regulations for water supply, wastewater and waste disposal.

5. Fuel and hazardous materials stored and used on the premises shall be limited to those materials necessary for the operation of the business, and shall be stored in an enclosed and secure structure in accordance with all applicable state and federal regulations.

- 1 6. The motor vehicle service facility and associated yard and display areas shall comply
- 2 with applicable requirements of these regulations, including but not necessarily limited
- 3 to outdoor lighting standards under Section 3.11, parking requirements under Section
- 4 3.13, performance standards under Section 3.14, and sign requirements under Section
- 5 3.16.
- 6
- 7 7. The sale or lease of new or used vehicles may be allowed in association with a motor
- 8 vehicle service facility provided that the requirements of Subsection A are met.
- 9

10 **Section 4.15 Multi-Dwelling Structures (Accessory Dwellings, Two-Family**

11 **Dwellings and Multi-Family Dwellings)**

12

13 A. **Accessory Dwellings.** In accordance with the Act [§4412], one accessory dwelling unit

14 which is located within or attached to a principal single family dwelling, or within an existing

15 accessory structure to the principal dwelling, may be allowed in any zoning district in which a

16 single family dwelling is allowed:

17

- 18 1. **Attached Accessory Dwellings.** An attached accessory dwelling may be allowed as a
- 19 permitted use in any zoning district in which a single family dwelling is allowed, subject
- 20 to the issuance of a zoning permit by the Zoning Administrator under Section 10.3, and
- 21 the following requirements:
- 22
- 23 a. The dwelling unit does not exceed 30 percent of the total habitable floor area of the
- 24 single-family dwelling, which excludes unfinished areas of the structure;
- 25
- 26 b. The dwelling unit does not exceed more than one-bedroom.
- 27
- 28 c. The single family dwelling or the accessory dwelling must be occupied by the
- 29 owner, or a member of the owner’s family.
- 30
- 31 d. The principal structure containing the single family dwelling and the attached
- 32 accessory dwelling shall meet all setback, building and lot coverage requirements
- 33 for the district in which it is located, unless a waiver is granted by the Development
- 34 Review Board under Section 5.5. If an accessory dwelling is to be located within a
- 35 pre-existing, nonconforming structure, it shall not increase the degree of
- 36 nonconformance, except in accordance with Section 3.9.
- 37
- 38 e. Sufficient water supply and wastewater capacity must exist to serve both the
- 39 principal and accessory dwellings, as documented by a wastewater and potable
- 40 water supply permit issued by the state.
- 41
- 42 f. Shared driveway access, and one additional onsite parking space shall be provided
- 43 for residents of the accessory dwelling, unless otherwise approved by the

1 Development Review Board under Section 3.13.

- 2
- 3 2. **Detached Accessory Dwellings.** A detached accessory dwelling may be allowed in any
- 4 zoning district in which a single family dwelling is allowed as a permitted use in an
- 5 existing accessory structure so long as the accessory structure is not enlarged or
- 6 expanded, or subject by conditional use review by the Development Review Board
- 7 under Section 5.4 if the detached accessory dwelling requires the construction of a new
- 8 accessory structure or the expansion of an existing structure. All detached accessory
- 9 dwellings are subject to the following requirements:
- 10
- 11 a. The dwelling unit does not exceed 50 percent or 1,000 square feet, whichever is
- 12 less, of the total habitable floor area of the single-family dwelling, which excludes
- 13 unfinished areas of the structure;
- 14
- 15 b. The accessory structure containing the accessory dwelling unit shall be appurtenant
- 16 to the principal structure;
- 17
- 18 c. The single family dwelling or the accessory dwelling must be occupied by the
- 19 owner, or a member of the owner's family, except in the following cases:
- 20
- 21 i. In the event that the owner, or a member of the owner's family is
- 22 compelled to vacate the single family dwelling or accessory dwelling, or
- 23 dies, the owner occupancy requirement is waived for a period not to exceed
- 24 24 months, at which time one of the dwelling units must conform with the
- 25 familiar occupancy rule;
- 26
- 27 ii. An owner is entitled to a one time, 24 month renewal of the owner
- 28 occupancy exception provided under Section 4.15.A.2.c.i above by providing
- 29 the Zoning Administrator express written notification prior to the expiration
- 30 of the initial 24 month period;
- 31
- 32 iii. In the event a subject property containing both a single family dwelling and
- 33 a detached accessory dwelling is owned by an entity other than a person(s),
- 34 and both dwelling units are being occupied, a local agent shall be appointed
- 35 and that information shall be provided to the Zoning Administrator. For the
- 36 purpose of this subsection only, a local agent shall be someone residing in
- 37 the State of Vermont.
- 38
- 39 d. The principal structure containing the single family dwelling and the accessory
- 40 structure containing the accessory dwelling unit shall meet all setback, building and
- 41 lot coverage requirements for the district in which it is located, unless a waiver is
- 42 granted by the Development Review Board under Section 5.5. If an accessory
- 43 dwelling is to be located within a pre-existing, nonconforming structure, it shall not
- 44 increase the degree of nonconformance, except in accordance with Section 3.9;
- 45

1 e. Sufficient water supply and wastewater capacity must exist to serve both the
2 principal and accessory dwellings, as documented by a wastewater and potable
3 water supply permit issued by the state; and

4
5 f. Shared driveway access, and one additional onsite parking space shall be provided
6 for residents of the accessory dwelling, unless otherwise approved by the
7 Development Review Board under Section 3.13.
8

9 **B. Two-Family Dwellings.** A two-family dwelling may be allowed as a permitted use as
10 identified in District Summary Table under Table 2.1, subject to the issuance of a zoning
11 permit by the Zoning Administrator under Section 10.3, and the following requirements:
12

- 13 1. Any structure containing two dwelling units, one of which does not meet the
14 requirements of an attached accessory dwelling under Section 4.15.A.1, shall be
15 considered a two-family dwelling.
16
- 17 2. The principal structure containing both dwelling units shall meet all setback, building
18 and lot coverage requirements for the district in which it is located, unless a waiver is
19 granted by the Development Review Board under Section 5.5. If a two-family dwelling is
20 to be located within a pre-existing, nonconforming structure, it shall not increase the
21 degree of nonconformance, except in accordance with Section 3.9.
22
- 23 3. Sufficient water supply and wastewater capacity must exist to serve both the dwellings
24 units, as documented by a wastewater and potable water supply permit issued by the
25 state.
26
- 27 4. Shared driveway access, adequate onsite parking spaces as required under Section 3.13
28 shall be provided for both dwelling units, unless otherwise waived by the Development
29 Review Board under Section 5.5.
30

31 **C. Multi-Family Dwellings.** A multi-family dwelling may be allowed as a conditional use as
32 identified in District Summary Table under Table 2.1, subject to conditional use review by
33 the Development Review Board under Section 5.4, and the following requirements:
34

- 35 1. The principal structure containing all dwelling units shall meet all setback, building and
36 lot coverage requirements for the district in which it is located, unless a waiver is
37 granted by the Development Review Board under Section 5.5. If a multi-family dwelling
38 is to be located within a pre-existing, nonconforming structure, it shall not increase the
39 degree of nonconformance, except in accordance with Section 3.9.
40
- 41 2. Sufficient water supply and wastewater capacity must exist to serve all the dwellings
42 units, as documented by a wastewater and potable water supply permit issued by the
43 state.
44

3. Shared driveway access, adequate onsite parking spaces as required under Section 3.13 shall be provided for all dwelling units, unless otherwise waived by the Development Review Board under Section 5.5.

D. **Additional Requirements.** Accessory dwelling shall also conform to the following requirements:

1. Conditional use review under Section 5.4 shall be required prior to the issuance of a zoning permit for any accessory dwelling that results in an increase in total floor area of the existing single family dwelling.

2. An existing single family dwelling with a total floor area of no more than 1,000 square feet may be converted to a detached accessory dwelling in association with the construction of a new principal dwelling on the same lot, subject to conditional use review under Section 5.4 and all other applicable requirements of this section. The new principal dwelling shall have a total habitable floor area that is at least 150% of the total floor area of the existing (converted) dwelling.

3. The zoning permit issued for an accessory dwelling shall clearly state the dwelling is permitted only as accessory to the principal residential use of the property and shall be retained in common ownership. An attached accessory dwelling may be subdivided and/or converted for conveyance or use as principal dwellings only if it is found to meet all current municipal regulations for a two-family dwelling. A detached accessory dwelling may be subdivided and or converted for conveyance or use as principal dwellings only if they are found to meet all current municipal regulations for two single family dwellings in the district where it is located. All applicable municipal permits and approvals shall be obtained prior to conversion to or conveyance as a principal dwelling.

4. Any additional accessory structures to a permitted accessory dwelling that do not include or increase any interior living space do not require conditional use review.

Table 4.3 Summary of Multi-Dwelling Structures

	Attached Accessory Dwelling	Two Family Dwelling	Detached Accessory Dwelling	Multi-Family Dwelling
Zoning Districts	All	All	All	Underhill Flats Village Center & Underhill Center
Type of Review Required	Administrative Review (Zoning Permit)	Administrative Review (Zoning Permit)	Administrative Review (Zoning Permit)/Conditional Use Review (Section 5.4)	Conditional Use Review (Section 5.4)
Square Footage Requirement	≤ 30% of the Total Habitable Area of Principal Dwelling	None	≤ 50% of the Total Habitable Area of Principal Dwelling or ≤ 1000 sq. ft.,	See Maximum Building Coverage Requirements Under Table 2.1

Table 4.3 Summary of Multi-Dwelling Structures				
	Attached Accessory Dwelling	Two Family Dwelling	Detached Accessory Dwelling	Multi-Family Dwelling
			Whichever is Less	
Owner Occupancy Requirement	Principal Dwelling or Accessory Dwelling Occupied by Owner or a Family Member	None	Principal Dwelling or Accessory Dwelling Occupied by Owner or a Family Member (see Exceptions Under § 4.15.A.2.c)	None
Bedroom Requirement	≤ One Bedroom	None	None	None
Vicinity Requirement	Attached to Principal Dwelling	Both Dwelling Units Located in Principal Structure	Detached Accessory Dwelling is Appurtenant to Single-Family Dwelling	All Dwelling Units located in Principal Structure

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Section 4.16 Public Facility

A. In accordance with the Act [§4413], the following public facilities or uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that such regulations do not have the effect of excluding, or interfering with their intended use or function:

1. State or community owned and operated institutions and facilities.
2. Public and private schools and other educational institutions certified by the Vermont Department of Education.
3. Churches and other places of worship, convents, monasteries, and parish houses.
4. Public and private hospitals.
5. Regional solid waste management facilities certified by the state (under 10 V.S.A. Chapter 159).
6. Hazardous waste management facilities for which a notice of intent to construct has been received by the State (under 10 V.S.A. §6606a).

B. Reasonable provision has been made for locating the above public facilities and uses within specified zoning districts under Article II. Such facilities or uses must meet applicable district requirements and may be subject to site plan review under Section 5.3 (as permitted uses) or conditional use review under Section 5.4 (as conditional uses), however associated conditions of approval shall not exceed allowed regulation, as specified in Subsection A.

C. Public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board (under 30 V.S.A. §248) are specifically exempt from municipal

1 land use regulation. This includes wind generation facilities that are “net metered” and
2 connected to the electric grid.

3
4 D. Telecommunications facilities as defined in 30 V.S.A. §248a are also exempt from
5 municipal regulation when and to the extent that jurisdiction over such facilities is assumed
6 by the Vermont Public Service Board under §248a.

7
8 E. These regulations shall not have the effect of prohibiting the installation of solar
9 collectors, clotheslines, or other energy devices based on renewable energy resources.

10
11 **Section 4.17 Salvage Yard**

12
13 A. **Purpose.** Well managed salvage yards provide important services as material salvage
14 and recycling facilities. The purpose of this section is to regulate new and expanded salvage
15 yards within the Town of Underhill in order to:

- 16
17 1. Allow salvage yards that are located and managed under applicable municipal, state and
18 federal regulations to be established within designated zoning districts.
19 2. Avoid adverse environmental and aesthetic impacts of poorly maintained yards,
20 including discharges into surface and ground waters.
21 3. Avoid public nuisances and undue adverse impacts to properties and public facilities,
22 including public roads and infrastructure, in the vicinity of yard areas.

23
24 B. **Applicability.** This section applies to any place of outdoor storage within the Town of
25 Underhill for depositing, storing, keeping, processing, buying or selling junk, including four or
26 more junk motor vehicles, as these terms are defined under Section 11.2.

- 27
28 1. The requirements of this section specifically do not apply to:
29
30 a. The limited outdoor storage of materials or equipment that is customary and
31 incidental to an allowed use (such as a single family dwelling, an approved home
32 industry or a contractor's yard), as long as such materials or equipment are located
33 outside of required setback areas, do not adversely affect neighboring properties,
34 and do not result in hazards to public health and safety (also see Section 3.12).
35 b. Permanent scrap metal processing facilities, which are prohibited in all zoning
36 districts.
37 c. Approved transfer stations and other solid or hazardous waste management
38 facilities regulated under 10 V.S.A. Chapter 159 (see Section 4.16), or approved
39 motor vehicle sales and service facilities (see Section 4.14).
40
41 2. A new or expanded salvage yard, including an outdoor storage area on any property
42 that meets the definition of "salvage yard," may be allowed within designated zoning
43 districts subject to conditional use review under Section 5.4 and the requirements of
44 this section. No zoning permit for a new or expanded yard shall be issued until
45 conditional use approval has been obtained.

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- 3. In addition to these regulations, salvage yards must meet all other applicable municipal, state and federal requirements, and must operate under:
 - a. A "certificate of approved location" issued by the Underhill Selectboard following public hearing (under 24 V.S.A. Chapter 61) for a period not to exceed five years and subject to renewal thereafter, as filed with the Agency of Natural Resources.
 - i. No certificate of approved location shall be issued for a new or expanded salvage yard that has not received conditional use approval from the DRB, nor for any approved salvage yard that has been noticed in violation of these regulations or any conditions of approval until the violation has been resolved.
 - ii. The Selectboard may consider the findings, determinations and conditions of conditional use approval as evidence that a proposed salvage yard meets applicable location and screening requirements, or may impose additional or more restrictive requirements as deemed necessary in accordance with their statutory review authority under Chapter 61. The more restrictive requirements shall apply.
 - b. A "certificate of registration" issued by the Secretary of the Agency of Natural Resources under applicable state rules, as filed with the town and displayed on site. If current state requirements differ from the requirements of this section, the more restrictive shall apply.
- 4. Violations of these land use regulations pertaining to salvage yards are subject to enforcement and 15-year statutory limits under Section 10.6; however this limitation specifically does not apply to certificates of approved location issued by the Underhill Selectboard under 24 V.S.A. Chapter 61, in accordance with the Act [§4454(a)].
- B. **Application Requirements.** In addition to application requirements under Section 5.4, the application for a new or expanded salvage yard shall include the following, unless waived by the DRB as not applicable to a particular project:
 - 1. A description of existing and proposed salvage and processing operations, including all equipment to be stored and used on site.
 - 2. A description of the type and volume of salvaged materials to be stored on site, including any hazardous materials or pollutants.
 - 3. A site plan that identifies the location and extent in area of existing and proposed salvage yards, including all accessory structures and storage and processing areas, and distances from property boundaries, public streets, wetlands, surface waters and public and private wells on-site and in the vicinity.
 - 4. Test boring results indicating soil types and depths to bedrock and seasonal high water tables within the proposed area of operation, and existing and/or proposed ground water monitoring well locations, if any.

- 1 5. A screening and landscaping plan for the perimeter of the salvage yard, particularly for
- 2 those areas within view of public rights-of-way and adjoining properties.
- 3 6. A state project review sheet identifying required state and federal permits.
- 4
- 5 C. **Standards.** New and expanded salvage yards, including associated storage and
- 6 processing facilities and functions must meet the following standards, as applicable:
- 7
- 8 1. Salvage yards are allowed as conditional uses only within designated zoning districts
- 9 under Article II, and are specifically prohibited within special flood hazard areas (Section
- 10 6.4), surface water and wetland setback and buffer areas (Section 3.19), and within
- 11 water supply source protection areas (Section 3.17)
- 12
- 13 2. The salvage yard area(s), in total, shall not exceed five acres, the boundaries of which
- 14 shall be clearly and permanently marked on the ground. All activities associated with
- 15 the operation of the yard, including the storage and processing of scrap materials, shall
- 16 be confined to designated yard area(s).
- 17
- 18 3. A salvage yard shall meet minimum setback requirements under Table 4.4 as measured
- 19 horizontally from the nearest point of the yard to the listed feature. Where these
- 20 setback requirements differ from other requirements of these or state regulations, the
- 21 more restrictive shall apply. Required setback distances may be increased as deemed
- 22 necessary by the DRB, based on specific site conditions, to protect water quality and
- 23 adjoining properties.
- 24

Feature	Minimum Required Setback
Property Lines	100 feet
State or Town Highway (right-of-way)	100 feet
Surface Waters (top of bank or slope)	150 feet
Wetland (Class I, II, III?) (delineated boundary)	150 feet
Potable Water Supply (except for that serving the yard)	300 feet
Residential Dwelling (located off-property)	500 feet
School, church or public park	1,000 feet

- 25
- 26 4. Salvage yard areas shall be screened year-round from view of public rights-of-way and
- 27 from adjoining properties in conformance with an approved screening and landscaping
- 28 plan.
- 29
- 30 a. Screening materials may include any combination of the following:
- 31
- 32 i. existing natural topography and vegetation,
- 33 ii. earthen berms,

- 1 iii. opaque fencing at least six feet in height, supplemented by landscaping under
- 2 (iv), and
- 3 iv. landscaping that incorporates a mix of native vegetation that includes
- 4 deciduous and coniferous trees, shrubs and ground cover.
- 5
- 6 b. No waste, scrap, parts or materials shall be stacked, piled or stored higher than the
- 7 fence or screen.
- 8
- 9 c. All screening and landscaping shall be maintained in good condition. A
- 10 performance bond or other form of surety may be required as a condition of
- 11 approval to ensure that screening and landscaping are installed and maintained as
- 12 approved.
- 13
- 14 5. Fencing shall be used as necessary to limit public access to the yard and shall not be
- 15 used for purposes of advertising. Yard areas shall be gated except during regular
- 16 business hours.
- 17
- 18 6. The on-site storage and processing of materials shall not adversely affect surface,
- 19 ground or drinking water supplies, or other identified natural or cultural features on
- 20 site, or in the vicinity of the yard. No discharges or releases of hazardous materials,
- 21 fluids or pollutants into the air, surface waters, wetlands or ground waters shall be
- 22 allowed.
- 23
- 24 a. Salvage yard operations shall incorporate state-accepted best management
- 25 practices for such yards, for example under "Vermont's Best Management Practices
- 26 for the Auto Salvage Outreach Program" as most recently issued by the Vermont
- 27 Department of Environmental Conservation's Environmental Assistance Division.
- 28
- 29 b. Vehicles shall be drained and crushed only within designated yard areas, on
- 30 impervious surfaces designed to prevent any release or discharge of fluids into
- 31 surface or ground waters.
- 32
- 33 c. Fluids shall be stored on site in conformance with applicable state and federal
- 34 regulations, in enclosed areas or containers as required.
- 35
- 36 d. Stormwater shall be managed on site in conformance with state requirements and
- 37 best management practices for stormwater management.
- 38 e. The DRB may require, as a condition of approval, periodic or occasional site
- 39 inspections, monitoring, and reporting requirements to ensure that surface and
- 40 ground waters have not been adversely impacted by yard operations.
- 41
- 42 7. A salvage yard shall meet all other applicable requirements of these regulations,
- 43 including but not necessarily limited to outdoor lighting standards under Section 3.11,
- 44 parking requirements under Section 3.13 performance standards under Section 3.14,
- 45 and sign requirements under Section 3.16.

1
2 D. **Accessory Structures and Uses.** A salvage yard also may include one or more accessory
3 structures for use as office space, equipment and vehicle storage and maintenance, or for
4 the storage and processing of materials within enclosed areas. All accessory structures
5 located on the property outside of the salvage yard area shall meet minimum district setback
6 requirements.

7
8 E. **Site Closure.** All materials shall be removed from the site within twelve months of the
9 cessation or abandonment of operations, and the site shall be restored to a safe, usable
10 condition. Site restoration, including the cleanup and disposal of hazardous materials, shall
11 be subject to all applicable state and federal regulations. The submission of a site restoration
12 plan and performance bond or other form of surety, immediately upon closure,
13 abandonment or the cessation of operations, may be required by the DRB as a condition of
14 approval to ensure that the site is properly restored.

15
16 **Section 4.18 Telecommunications Facility**

17
18 A. **Purpose.** The purpose of these regulations shall be to regulate the placement, design,
19 construction, removal, and modifications of wireless telecommunications facilities in order
20 to preserve the character and the appearance of the Town of Underhill and protect the
21 scenic, historic, cultural, and natural resources of Underhill while accommodating the
22 telecommunications needs of residents and businesses. The Town’s goal is to minimize the
23 number of towers in town while still allowing for adequate coverage. New facilities will be
24 required to co-locate with existing facilities whenever possible.

25
26 B. **Consistency with Federal & State Law.** These regulations are intended to be consistent
27 with Section 704 of the Federal 1996 Telecommunications Act and applicable state
28 regulations under the Act [§4412] and 30 V.S.A. §248a. Accordingly:

- 29
30 1. These regulations shall not prohibit or have the effect of prohibiting the provision of
31 personal wireless communication services; shall not unreasonably discriminate among
32 the providers of functionally equivalent services; and shall not regulate personal
33 wireless services based on the environmental effects of radio frequency emissions to
34 the extent that these facilities comply with Federal Communications Commission (FCC)
35 regulations concerning such emissions.
36
37 2. Except to the extent required to protect historic landmarks and structures listed on the
38 state or national register of historic places, no municipal permit shall be required for
39 placement of antennae used to transmit and/or receive communications signals on a
40 property owner's premises if the aggregate area of the largest faces of the antennae is
41 not more than eight square feet, and if the antennae and any mast support does not
42 extend more than 12 feet above the roof of that portion of the building to which the
43 mast is attached.
44

1 3. Telecommunications facilities as defined in 30 V.S.A. §248a (see Section 11.4) are
2 exempt from municipal regulation when and to the extent that jurisdiction over such
3 facilities is assumed by Vermont Public Service Board under that section of statute.
4

5 C. **Applicability.** Wireless telecommunications facilities shall include all facilities subject to
6 licensing or regulation by the FCC, including towers, associated accessory structures,
7 buildings and/or equipment, except as specifically exempt under Subsections B or E.
8

9 1. New, modified or expanded wireless telecommunication facilities, except as specified
10 for small scale and temporary facilities under Subsection (H), may be allowed as
11 conditional uses subject to review by the Development Review Board under Section 5.4
12 and the requirements of this section.
13

14 2. A new telecommunications tower shall not be permitted unless it is found by the Board
15 that the equipment planned for the proposed tower cannot be accommodated on an
16 existing or approved tower, or other structure or building.
17

18 3. New telecommunications towers intended for speculative purposes are prohibited.
19

20 D. **Permit Requirements.** No construction, alteration, modification or installation of a
21 wireless telecommunications facility shall commence without first obtaining all applicable
22 permits and approvals as required under municipal, state and federal regulations. Any
23 alteration or addition to a previously approved telecommunications facility shall require a
24 permit amendment when any of the following are proposed:
25

- 26 1. a change in the number of buildings or facilities permitted on the site;
- 27 2. a change in telecommunications technology used on the site; or
- 28 3. the addition or change of any equipment resulting in greater visibility or structural wind
29 loading, or additional tower height, to include the profile of additional antennas not
30 specified in the original application.
31

32 E. **Exemptions.** The following are specifically exempt from the provisions of this section:
33

34 1. Telecommunications facilities as specified under Subsection B.
35

36 2. Ground or building mounted radio or television antenna, or satellite dishes not
37 exceeding 36 inches in diameter, which are intended solely for residential use, and
38 which do not, as mounted, exceed 40 feet in height above the lowest grade at ground
39 level.
40

41 3. Single use local business radio dispatch equipment.
42

43 4. Citizens band radio antennas operated by federally licensed amateur (ham) radio
44 operators which do not exceed a height of 50 feet above the grade level, whether free

1 standing or mounted, and which meet all setback requirements for the district in which
2 they are located.

3
4 5. Police, fire, ambulance, and other emergency dispatch telecommunications facilities.

5
6 F. **Application Requirements.** In addition to application requirements for conditional use
7 review under Section 5.4, an application for a new telecommunications facility shall also
8 include the following as applicable:

- 9
10 1. The name and address of the applicant, landowners of record and authorized agents,
11 and contact information for the person(s) authorized to operate, maintain and ensure
12 the safety of the facility.
13
14 2. The name and addresses of all adjoining property owners of record.
15
16 3. For a facility to be installed on an existing structure, a copy of the applicant's executed
17 contract with the owner of the existing structure.
18
19 4. A coverage map (USGS Quadrangle) that shows existing topography, the extent of
20 existing and proposed coverage(s), and the location of other towers, suitable buildings
21 or structures located within at least a five mile radius of the proposed site.
22
23 5. Information regarding the feasibility of using antennas, repeaters or microcells on
24 existing structures to achieve desired coverage, including written documentation from
25 other telecommunications facility owners that no other suitable sites are available.
26
27 6. A vicinity map showing the entire vicinity within 2,500 feet of the facility site, including
28 topography and steep slopes (equal to or greater than 15%), existing vegetation, surface
29 waters, wetlands, critical habitat areas, structures, roads, driveways, utility corridors,
30 property lines, rights-of-way and easements.
31
32 7. A site plan, drawn to a scale of 1 inch = 40 feet, showing the footprint of all existing and
33 proposed facilities, including towers, supporting and accessory structures; access roads
34 and utility corridors, and landscaping, fencing and screening, in relation to existing site
35 features and adjoining properties.
36
37 8. A report from a qualified professional which documents:
38
39 a. facility height, design, construction and structural capacity, including materials,
40 cross-sections, elevations, antennae and equipment mounting locations, and fall
41 zones;
42 b. proposed modifications, if any, to existing facilities, sites or structures to achieve
43 desired coverage;
44 c. the number and type of antennas or other equipment to be accommodated;

- 1 d. the output frequency, number of channels and power output per channel for each
- 2 antenna;
- 3 e. the steps that will be taken to avoid interference with any established public safety
- 4 telecommunications system, to include an intermodulation study that indicates no
- 5 likely interference problems, and written notification to that effect to appropriate
- 6 public safety agencies; and
- 7 f. that the facility and equipment will operate in compliance with all FCC regulations,
- 8 standards and requirements regarding both radio frequency interference (RFI) and
- 9 radio frequency radiation (RFR) at the proposed site, and will agree to
- 10 unannounced, independent evaluations of compliance with FCC regulations as may
- 11 be required by the Board as a condition of approval.
- 12
- 13 9. A written five-year plan for use of the proposed telecommunications facility, including
- 14 reasons for seeking capacity in excess of immediate need if applicable, as well as plans
- 15 for additional development and coverage.
- 16
- 17 10. An indication of the timing and construction sequence for each phase of the entire
- 18 project.
- 19
- 20 11. Copies of any state-required Act 250 permit application and/or federally-required draft
- 21 environmental assessment (EA) or impact statement (EIS) which describe the probable
- 22 impacts of the proposed facility.
- 23
- 24 12. A letter of intent committing the facility owner and his/her successors to allow shared
- 25 use of the facility if an additional user agrees in writing to meet reasonable terms and
- 26 conditions for shared use, including compliance with all applicable federal, state, and
- 27 municipal regulations and associated permits and approvals.
- 28
- 29 13. Any additional information as needed to determine compliance with the provisions of
- 30 these regulations, including but not limited to visual impact assessments or independent
- 31 evaluations of the proposed facility, to be paid for by the applicant, as specified under
- 32 Subsection G.
- 33
- 34 14. **Independent Review.** The Development Review Board may retain independent
- 35 consultants whose services shall be paid for by the applicant in accordance with Section
- 36 10.7, as necessary to determine project compliance with one or more standards under
- 37 these regulations. These consultants shall be qualified professionals in
- 38 telecommunications engineering, structural engineering, monitoring of electromagnetic
- 39 fields and other such fields as determined by the DRB. The consultants shall work at the
- 40 DRB's direction and shall provide the DRB such reports and assistance as the DRB deems
- 41 necessary to review an application.
- 42
- 43 G. **Specific Standards.** In addition to meeting conditional use standards under Section 5.4,
- 44 the Board, in granting conditional use approval, shall also find that the proposed
- 45 telecommunications facility complies with the following standards:

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1. **Collocation.** New towers shall be designed to accommodate the collocation of both the applicant's antennas and comparable antennas for one or more additional users, depending on tower height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights. For new towers or for proposed telecommunications equipment that cannot be accommodated on an existing or approved tower or other structure, a licensed professional shall document as applicable that:
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- a. There is no existing or approved tower or other suitable structure in the area in which coverage is sought.
 - b. Proposed telecommunications equipment exceeds the structural or spatial capacity of an existing tower or structure; and the existing tower or structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
 - c. Proposed telecommunications equipment will cause interference which materially impacts the usefulness of other existing or permitted equipment at the site, and such interference cannot be prevented at a reasonable cost.
 - d. Proposed telecommunications equipment, either alone or together with other existing equipment, would create RFI or RFR in violation of federal standards or requirements.
 - e. Existing or approved towers and structures cannot accommodate the planned equipment at the height needed, or are too far from the area of needed coverage to function reasonably.
 - f. Aesthetic or other specific considerations under these regulations make it unreasonable to locate the planned telecommunications equipment on an existing or approved tower or building.
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2. **FCC Compliance.** Telecommunications facilities, including tower construction and wiring, shall meet all state and federal requirements, including but not limited to FCC requirements for transmissions, emissions and interference.
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- a. No telecommunication facility shall be located or operated in such a manner that it poses a potential threat to public health or safety, nor interferes with public safety telecommunications.
 - b. Prior to the siting of new antennas at existing sites, written certification of FCC compliance shall be provided based on the results of a cumulative RFR emissions study performed by the applicant.

1
2 c. The DRB may also require, as a condition of approval, monitoring and the
3 submission of annual reports by an independent, qualified engineer to document
4 ongoing compliance with FCC regulations.

5
6 3. **Setbacks.** All telecommunications facilities, including associated support and accessory
7 structures, shall meet the minimum setback requirements for the district in which they
8 are located. In addition, telecommunications towers shall be set back a minimum of:

- 9
10 a. 150 feet from a named river, and 100 feet from all other surface waters and
11 designated wetlands;
12 b. 500 feet from the habitat of any state listed rare, threatened or endangered
13 species;
14 c. 500 feet from any property listed on the state register of historic sites and
15 structures survey for the Town of Underhill, and 100 feet from known
16 archaeological sites;
17 d. 500 feet from a designated scenic road or highway;
18 e. the fall zone distance from all property lines, at minimum to be calculated as the
19 total vertical height of the tower including all attached equipment, as measured
20 from its base.

21
22 4. **Height.** Towers are exempt from district height requirements; however towers shall not
23 extend vertically more than 20 feet above the average height of the adjoining tree
24 canopy, as measured within 200 feet of the highest vertical element of the proposed
25 facility, unless the Board finds that the additional height is necessary to provide
26 adequate coverage to the town or to allow for collocation. The DRB may require the
27 submission of a management plan to maintain average tree height and screening
28 provided by the tree canopy.

29
30 5. **Visibility and Aesthetic Impacts.** New telecommunications facilities, including towers,
31 supporting and accessory structures, shall be sited and designed to minimize their
32 visibility. The facility shall not have an undue adverse aesthetic impact. Accordingly:

- 33
34 a. Towers shall not be sited in the middle of open fields or on exposed ridgelines or
35 hilltops in view of public rights-of-way, unless the Board determines the specific
36 location is necessary to provide adequate coverage to the town or to allow for
37 collocation.
38
39 b. New or modified towers and antennas shall be designed to blend into the
40 surrounding environment to the greatest extent feasible, through the use of natural
41 topography, existing vegetation, landscaping and screening, the use of compatible
42 materials and colors, and/or other camouflaging techniques.
43
44 c. The DRB, to assist in its review, may require that the applicant provide a visual
45 impact assessment of the proposed facility from specified vantage points, to include

1 visual representations (e.g., photographic simulations) and/or field tests (e.g.,
2 balloon tests). Such impact assessments shall consider the following:

- 3
4 i. the scenic sensitivity of particular views;
5 ii. the frequency and length of time the facility would be viewed by the traveling
6 public from a public highway, trail or public body or water;
7 iii. the degree to which the facility would be screened by existing topography,
8 vegetation and structures;
9 iv. background features that may emphasize or obscure the facility;
10 v. the distance of the proposed facility from public vantage points and the degree
11 to which it is visible above the skyline;
12 vi. the sensitivity or unique value of a particular view affected by the proposed
13 tower; and
14 vii. any significant disruption of a viewshed that provides context to an important
15 historic or scenic resource.

16
17 d. Balloon Tests. The DRB may require the applicant to fly a four-foot diameter
18 brightly colored balloon at the location and maximum elevation of any proposed
19 tower. If a balloon test is conducted:

- 20
21 i. The applicant, in consultation with the Zoning Administrator, shall advertise the
22 date, time, and location of this balloon test at least seven days in advance of
23 the test in a newspaper with a general circulation in the Town. The applicant
24 shall also inform the DRB in writing of the date, time, and location of the test at
25 least 15 days in advance of the test.
26
27 ii. The balloon shall be flown for at least eight consecutive daylight hours on two
28 days. If visibility and weather conditions are inadequate for observers to be
29 able to clearly see the balloon test, further test may be required by the DRB.
30

31 6. **Fencing.** Towers shall be enclosed by security fencing at least six feet in height and
32 gated, and shall be equipped with anti-climbing devices and warning signs. The use of
33 razor wire is prohibited. The Board may require landscaping or screening adjacent to the
34 security fence to minimize visual impacts as viewed from neighboring properties or
35 public vantage points.
36

37 7. **Signs.** No commercial signs, lettering, logos or other advertising shall be placed on
38 telecommunications towers or associated support and accessory structures. Signs shall
39 be limited to those required under state and federal regulations, and for safety
40 purposes.
41

42 8. **Illumination.** Towers shall not be illuminated by artificial means and shall not display
43 strobe lights unless such lighting is specifically required by the Federal Aviation
44 Administration (FAA) or other federal or state authority for a particular tower because

1 of its height. The Board may require tower relocation, or a reduction in tower height to
 2 eliminate the need for lighting.

3
 4 9. **Access.** Access roads or driveways and utility corridors, to the extent feasible, shall be
 5 shared, and designed to minimize site disturbance, to follow natural contours and linear
 6 features (e.g., tree lines, field edges), and to aesthetically blend in with the surrounding
 7 environment. The Board may require closure of access roads to vehicles following
 8 facility construction where it is warranted by site conditions and where maintenance
 9 personnel can reasonably access the facility site on foot or by air transport.

10
 11 10. **Utilities.** All utilities proposed to serve a telecommunications site, to the extent
 12 feasible, shall be installed under ground. If burial is not feasible, utilities shall be
 13 installed at ground level.

14
 15 11. **Interference.** No new telecommunications facility shall be placed or constructed in such
 16 a way as to interfere with public safety communications. The applicant shall certify that
 17 all inter-modulation studies accompanying the application have been provided to
 18 appropriate public safety officials. Providers also shall notify the municipal and public
 19 safety officials at least 10 calendar days in advance of testing a new service, or changes
 20 to an existing service, to allow monitoring for potential interference.

21
 22 12. **Landscaping.** Landscaping shall be provided in a manner that preserves and
 23 incorporates existing vegetation onsite and in the immediate vicinity of the facility, and
 24 fully screens ground mounted equipment from the view of neighboring properties and
 25 public vantage points. The Board may require increased setbacks, landscaping and
 26 screening as appropriate to minimize adverse impacts to adjoining properties, and/or
 27 the submission of a landscaping plan, to include provisions for long-term maintenance.

28
 29 13. **Wildlife Habitat.** Telecommunications facilities shall not destroy or have an undue
 30 adverse impact on significant wildlife habitat as defined under 11.2. Mitigation
 31 measures shall be used as necessary to minimize and mitigate adverse impacts to
 32 wildlife and wildlife habitat in the vicinity of the facility.

33
 34 H. **Small Scale & Temporary Facilities.** Notwithstanding the requirements of Subsections C
 35 through G, the following facilities may be issued a zoning permit in any zoning district by the
 36 Zoning Administrator without conditional use approval:

37
 38 1. **Small Scale Facility.** Small scale wireless telecommunications equipment, including
 39 antennas, microcells or repeaters, that will be installed on or within approved towers,
 40 utility poles, or other structures; or the installation of ground facilities less than 20 feet
 41 in height, provided that:

- 42
- 43 a. no such device is located within 50 feet of an existing residence;
- 44 b. no changes are made to the height or appearance of the structure except as
- 45 required for mounting;

- 1 c. the height of the facility as mounted does not extend the total height of the
- 2 structure by more than 12 feet, unless otherwise allowed by the DRB for previously
- 3 approved towers; and
- 4 d. any accompanying equipment will be screened from view.

5

6 **2. Temporary Wireless Facility.** Wireless communications facilities designed for

7 temporary use, provided that:

- 8
- 9 a. the temporary facility is permitted for the duration of the intended use or event,
- 10 not to exceed five days, as specified in the zoning permit, and is removed
- 11 immediately upon the expiration of the permit,
- 12 b. the height of the facility does not exceed 50 feet from grade, and
- 13 c. the facility complies with all other applicable provisions of these regulations.

14

15 **I. Continuing Obligations.**

16

17 **1.** By January 15th of each year, the owner of a telecommunications facility shall:

- 18
- 19 a. Certify in writing that the facility is in compliance with FCC standards, and provide
- 20 the Zoning Administrator with a list of the most recent RFR readings at the site,
- 21 their distances from the tower or transmitter, dates of the readings, and the name
- 22 of the person or company who took the readings.
- 23
- 24 b. Certify in writing that the facility continues to be operated in accordance with all
- 25 other applicable federal, state and municipal requirements.
- 26
- 27 c. Provide documentation that adequate insurance coverage is being maintained on
- 28 all telecommunications facilities.

29

30 **2.** Failure to file required certifications and documentation by January 15th may result in

31 the issuance of a notice of violation by the Zoning Administrator under Section 10.6. If

32 certification of continued operation is not filed within period of time specified in the

33 notice, or by February 15th, whichever is sooner, the telecommunications facility shall

34 be considered abandoned for the purposes of these regulations.

35

36 **J. Removal.** All abandoned, unused, obsolete or noncompliant wireless

37 telecommunications facilities, including towers, accessory structures and/or equipment,

38 shall be removed within 180 days of the cessation of operations, and the site shall be

39 restored to its original condition. In the event that facilities are not removed within the 180

40 period, the municipality may, following notification of the owner, remove the facilities and

41 assess the cost of removal against the property or tower owner.

42

43 **1.** A copy of the relevant portions of any signed lease which requires the applicant to

44 remove the tower and associated facilities shall be submitted at the time of application.

- 1 2. A bond or other form of surety acceptable to the Selectboard, in an amount sufficient to
2 cover the costs of tower removal and site reclamation, also may be required as a
3 condition of approval.
4

5 **Section 4.19 Temporary Structure or Use**

6
7 **A. Temporary Structure.** Structures used for temporary office or storage space, including
8 construction trailers and shipping containers, temporary housing during home construction,
9 including mobile homes, or for special events requiring a permit under Subsection B, may be
10 allowed as a temporary accessory structure to an existing or permitted use in any zoning
11 district, in accordance with the following:
12

- 13 1. Temporary structures shall not be used for dwelling purposes, except for campers, tents
14 or yurts permitted to house participants at special events, and structures approved for
15 use as temporary housing during the construction of a permanent dwelling, that will be
16 removed from the site when construction is completed.
17
18 2. Temporary structures shall meet setback requirements, including minimum zoning
19 district setbacks for accessory structures, and required setbacks from surface waters
20 and wetlands under Section 3.19.
21
22 3. A temporary structure requires a zoning permit issued by the Zoning Administrator
23 under Section 10.3 for a specified period of time, not to exceed one year from the date
24 of issuance, with the provision that the structure will be dismantled and/or removed
25 upon expiration of the permit. A one-time administrative extension of the zoning
26 permit for a temporary structure may be issued by the Zoning Administrator for no
27 more than one year, in accordance with Section 10.3.
28
29 4. Temporary structures in the Flood Hazard Area Overlay District (Special Flood Hazard
30 Areas) are specifically prohibited within floodway areas, and must meet any applicable
31 requirements for structures within this district under Section 6.6.
32

33 **B. Temporary Uses (Special Events).** Special events (e.g., weddings, receptions, concerts,
34 festivals, fairs and other cultural events, trade and antique shows) may be allowed as a
35 temporary accessory use to an existing use within any zoning district, in accordance with the
36 following:
37

- 38 1. Temporary uses shall require the issuance of a zoning permit by the Zoning
39 Administrator under Section 10.3 for the scheduled period of the event(s). All facilities
40 associated with the event shall be removed from the premises at the end of the event
41 or the expiration of the zoning permit.
42
43 2. The zoning application shall include a description of the type, location and date(s) of the
44 event, the type and number of event facilities including access and parking areas, and
45 the number of anticipated participants and/or attendees.

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3. The applicant shall demonstrate that adequate off-street parking and traffic circulation, traffic management, and sanitary and trash collection facilities will be provided based on the number of participants or attendees anticipated.
4. The following uses or activities are specifically exempt from the requirements of this section, and shall not require the issuance of a zoning permit:
 - a. Family or household events associated with a residential use (e.g., weddings, reunions, private concerts). Such events may also include temporary shelters on-site, such as campers or tents, to house guests.
 - b. Auctions, yard and garage sales, in accordance with Section 10.2 (Exemptions).
 - c. Special events that are held within or on municipal, school or church property.

