

100 Legal Framework**1001 TITLE**

Legal provision. No substantive change.

1002 AUTHORITY

Legal provision. No substantive change.

1003 PURPOSE

Legal provision. No substantive change.

The purpose statement of the regulations is not by itself regulatory. If a provision of the regulations is challenged in court, the judge will look to the purpose statement to determine whether the provision in question is in fact furthering a stated purpose(s) of the regulations.

1004 APPLICABILITY

Legal provision. No substantive change.

1005 RELATIONSHIP WITH OTHER LAWS OR REGULATIONS

Legal provision. No substantive change.

1006 EFFECTIVE DATE

Legal provision. No substantive change.

1007 AMENDMENT OR REPEAL

Legal provision. No substantive change.

1008 SEVERABILITY

Legal provision. No substantive change.

1009 DISCLAIMER OF LIABILITY

Legal provision. New language – it has become common practice to include a liability disclaimer in the regulations.

110 Exemptions and Limitations

1101 GENERAL EXEMPTIONS

Significant expansion to current exemption in * of adopted regulations. The reason for expanding the list is to improve the clarity of the regulations.

This is a section where the PC has considerable latitude to set policy and you should review this list closely. Consider the benefits of exempting the small projects that most landowners are not going to think need a permit any way, and that don't have any potential for substantive impacts off the property. The failure to get permits leads to a cloud on the title at time of sale or refinance, and creates potential violations that can be used by feuding neighbors. Processing minor permits also consumes staff time and town resources.

The following exemptions are mandated by state statute or rules: 5 ([Wastewater System and Potable Water Supply Rules](#)), 18 ([24 V.S.A. § 4412\(6\)](#)) and [24 V.S.A. § 4413\(g\)\(1\)](#)), 19 ([24 V.S.A. § 4412\(8\)](#)), 20 ([24 V.S.A. § 4413\(h\)\(1\)\(A\)](#)), 21 ([24 V.S.A. § 4413\(h\)\(1\)\(B\)](#)), 27 ([24 V.S.A. § 2295](#)), 29 ([24 V.S.A. § 2291\(1\)](#)). Exemptions 30 and 31 are mandated by federal law.

1102 DEVELOPMENT WITH A CERTIFICATE OF PUBLIC GOOD

Statutory requirement ([24 V.S.A. § 4412\(8\)](#) and [24 V.S.A. § 4413\(b\)](#)).

1103 FARMING AND FORESTRY

Statutory requirement ([24 V.S.A. § 4413\(d\)](#)). No substantive change. Note: cannabis cultivation is not defined as agriculture under Vermont statute.

1104 GOVERNMENT AND COMMUNITY FACILITIES

Statutory requirement ([24 V.S.A. § 4413\(a\)](#)). No substantive change.

There has not been a clear legal determination on the meaning of the term 'location' in this section of Vermont statute with regard to whether municipalities can prohibit these facilities in certain districts. It is also not clear whether statute supports requiring conditional use approval for them. Federal law also limits a municipality's ability to prohibit religious institutions from a district where any other public assembly use is allowed.

1105 GROUP HOMES

Statutory requirement ([24 V.S.A. § 4412\(1\)\(G\)](#)). Interpretation of statute is now that municipalities cannot require a zoning permit when an existing dwelling is converted to a group home.

120 Prior Applications, Approvals and Uses

1201 PRIOR APPLICATIONS

This is consistent with Vermont case law. Vermont is an “early vesting” state, giving a landowner vested rights in the law as it stood at the time of the application for a permit.

1202 PRIOR PERMITS AND APPROVALS

This is standard Vermont land use practice. One of the protections subdivision approvals provide landowners is the statutory provision ([24 V.S.A. § 4463](#)) that lawfully recorded subdivision plats approved under the subdivision review authority do not expire.

1203 CHANGE IN OWNERSHIP

This is a basic tenet of land use law.

1204 CHANGE OF USE

This is a basic tenet of land use law.

1205 EXPANSION OF USE

This is a basic tenet of land use law.

1206 DISCONTINUED USES

The PC can set the time limits for discontinuance but 12 months is typical. It is common land use practice in Vermont that residential use of a dwelling is not considered discontinued even if the dwelling is vacant for an extended period.

1207 ABANDONED DEVELOPMENT

The time period for which a zoning permit will be valid and during which the work must be substantially completed is established in the administrative procedures chapter.

1208 DAMAGED OR DESTROYED STRUCTURES

The PC can set the time limits for acting to demolish or reconstruct a damaged or destroyed structure. The terms “damaged structure” and “destroyed structure” will be included in the definitions.

130 Nonconformities

1301 NONCONFORMING STRUCTURES

This would grant the ZA more authority to approve modifications to nonconforming structures in order to meet code or accessibility requirements only.

1302 NONCONFORMING USES

This would grant the ZA more authority to approve minor expansions of nonconforming uses.

1303 NONCONFORMING LOTS

Provisions related to existing small lots are statutory ([24 V.S.A. § 4412\(2\)](#)).

‘Deemed merger’ is no longer mandated by statute. As of 2020, statute requires a revised plat be filed for any change in lot boundaries. The administrative procedures included a process for legal lot merger that would eliminate a lot line permanently.

1304 CREATION OF A NONCONFORMITY

Consistent with Vermont land use practice.