
CHAPTER IV. SPECIFIC USE STANDARDS

Section 4.1 Applicability

The following standards apply to specified uses in all zoning districts in which such uses are allowed. Specified uses may be subject to conditional use review in accordance with Section 5.4 and/or site plan review under Section 5.5. If there is a conflict between a standard in this section and a standard in another section of these regulations, the more restrictive shall apply.

Section 4.2 Accessory Dwelling

(A) **Accessory to a Single Family Dwelling.** In accordance with the Act [§4412(1)(E)], one (1) accessory dwelling to a single family dwelling may be allowed in any zoning district in which a single family dwelling is allowed, except in the Shoreland Seasonal Home Management District, subject to the following requirements:

- (1) The accessory dwelling must meet *all* of the following requirements:
 - (a) The single family dwelling or accessory dwelling must be occupied by the owner.
 - (b) If a designated building envelope has been approved for the parcel, the accessory dwelling must be located within the building envelope.
 - (c) The accessory dwelling is not subject to district density requirements. It must, however, meet all applicable setback and coverage requirements specified in these regulations and, for nonconforming structures, shall not increase the degree of noncompliance in accordance with Section 3.8.
 - (d) The accessory dwelling must be clearly subordinate to the single family dwelling. The total floor area of the accessory dwelling shall not exceed 30% of the total habitable floor area of the single family dwelling, or 1,000 square feet, whichever is larger.
 - (e) The accessory dwelling shall share the same road access as the single family dwelling. Additional off-street parking space shall be provided for residents of the accessory dwelling, in accordance with Section 3.11.
 - (f) There must be sufficient water and wastewater system capacities to serve both the single family dwelling and the accessory dwelling, in accordance with Section 3.16.
- (2) Accessory dwellings are allowed as a permitted use unless one or more of the following apply, in which case the accessory dwelling is subject to conditional use review by the Board of Adjustment under Section 5.4:
 - (a) The accessory dwelling is to be located in a new accessory structure.
 - (b) The accessory dwelling results in an increase in the height or floor area of the existing single family dwelling or an existing accessory structure.
 - (c) The accessory dwelling will have two (2) bedrooms. (No accessory dwelling shall have more than two (2) bedrooms).

- (3) For the purposes of these regulations, dwellings that do not meet the above requirements shall be considered either two-family dwellings if attached, or two (2) detached, single family dwellings for which subdivision approval is also required under Chapter VI.

(B) Accessory Dwelling to an Agricultural Operation (Farm Worker Housing). In the Rural District dwelling units for housing farm labor, excluding the principal farm dwelling occupied by the farm owner or operator and any accessory dwelling to the principal dwelling as permitted under Subsection (A), may be allowed as accessory dwellings to an operating farm without prior subdivision review or approval under Chapter VI, subject to the following requirements:

- (1) The accessory dwelling(s) shall be occupied only by the owner, operator, and/or full-time employees (and their immediate families) of an active farm.
- (2) The accessory dwelling(s) may include single family dwellings multi-family dwelling(s), or accessory apartments within, or immediately adjacent to, or attached to another farm building.
- (3) The accessory dwelling(s) shall be located on the same parcel in the vicinity of other farm structures and utilities, and not on fields or other bare lands that are otherwise undeveloped. If a designated building envelope has been approved for that parcel, the accessory dwelling(s) must be located within the building envelope.
- (4) In the event of future subdivision, additional acreage shall be assigned to that portion that is developed and to be subdivided, as required to meet applicable district density requirements.
- (5) Accessory dwellings should share the same road access with the principal farm dwelling or other farm structures located on-site. Parking for accessory dwelling units shall be provided in accordance with Section 3.11.
- (6) There must be sufficient water and wastewater system capacities to serve the principal and all accessory dwellings, in accordance with Section 3.16.

(C) A zoning permit issued for an accessory dwelling under Subsections (A) or (B) shall clearly state that the dwelling is permitted only as an accessory to the principal residential or agricultural use of the property, and as such shall be retained in common ownership.

(D) Conversion of an Accessory Dwelling to a Principal Dwelling. An accessory dwelling may be subdivided and/or converted for conveyance or use as a principal dwelling only if it is found to meet all current municipal regulations applying to a single (or two) family dwelling, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be obtained prior to subdivision, conversion and/or conveyance as a principal dwelling.

Section 4.3 Adaptive Reuse of an Existing Structure

(A) Adaptive reuse is intended to encourage the continued viability, reuse, restoration and rehabilitation of historically, culturally or architecturally significant structures within the Town of Charlotte. The adaptive reuse of such a structure may be allowed in any zoning district except the Seasonal Shoreland Home Management District, subject to conditional use review under Section 5.4, site plan review under Section 5.5 and the provisions below.

(B) **Applicability.** Structures eligible for adaptive reuse are limited to those which:

- (1) are no less than 50 years old and are listed in, or eligible for listing in, the *Vermont Historic Sites and Structures Survey for the Town of Charlotte*; or
- (2) have historical, cultural or architectural significance to the town, as determined by the Board of Adjustment upon application. The Board of Adjustment may make a determination regarding the eligibility of a particular structure for adaptive reuse in consultation with the Vermont Division of Historic Preservation or a qualified architect or architectural historian.

A proposed business may be owned by a person other than the property owner.

(C) **Application Requirements.** In addition to development review application requirements under Section 5.2, the application for an adaptive reuse shall also include following:

- (1) Elevation drawings showing the existing view and proposed renovations for all walls that are proposed to have alterations, including new or altered windows or doors.
- (2) Written documentation of the structure's significance (particularly historical significance) prepared by a qualified architect, architectural historian, or the Vermont Division of Historic Preservation.

(D) **Density.** An adaptive reuse is not subject to the minimum district density requirement, except for residential uses as provided below.

(E) **Size.** An adaptive reuse is not subject to the maximum size (square footage) requirements that may be required for particular uses by the district standards.

(F) **Uses.** The following uses may be allowed in structures which are determined by the Board to be eligible for adaptive reuse:

- (1) any permitted and conditional use allowed within the district in which the structure is located;
- (2) accessory dwelling;
- (3) single and multi-family dwelling, at a density not less than the density (acres/unit) required for the district in which the building is located; except as allowed for planned residential developments (including noncontiguous PRDs) under Section 8.4 and affordable housing under Section 4.4;
- (4) home occupation III (see Section 4.11);
- (5) office(s).;
- (6) restaurant or snack bar;
- (7) bed and breakfast or inn;
- (8) agricultural processing, sales and service (e.g., specialty food production, commercial farm stand, food cooperative, farm services) excluding slaughter house facilities;
- (9) cultural facility (e.g., library, museum, theater, performance space);
- (10) community center or private club;
- (11) retail store;
- (12) enclosed storage facility, but not self storage facility;
- (13) health clinic
- (14) veterinary clinic
- (15) other similar uses; or
- (16) a combination of the above.

(G) **Conditional Use Review Standards.** In addition to conditional use review requirements under Section 5.4, it shall be demonstrated to the satisfaction of the Board of Adjustment that:

- (1) A structure intended for adaptive reuse which is accessory to a principal structure shall be retained in common ownership with the principle structure; however the proposed business may be separately owned by a person other than the property owner.
- (2) There shall be adequate water supply and wastewater system capacities to accommodate the proposed reuse in accordance with Section 3.16.
- (3) The Performance Standards identified in Section 3.12 shall also apply.

(H) **Site Plan Review Standards.** In addition to site plan review requirements under Section 5.5, it shall be demonstrated to the satisfaction of the Planning Commission that:

- (1) Access (curb cuts), driveways, and parking shall meet the requirements of Sections 3.2 and 3.11 and shall, to the extent feasible, be shared with other uses on the same parcel.
- (2) Any rehabilitation or restoration associated with an adaptive reuse shall not significantly alter the façade or historic character of the structure. Any proposed exterior renovations shall conform to guidelines set forth in the most recent edition of *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* [36 CFR 67].
- (3) The Planning Commission may require an independent technical review of the proposed rehabilitation or restoration, prepared by a qualified professional architectural historian, in accordance with Section 9.9(D). Administrative review and approval of completed renovations may also be required as a condition of site plan approval under Section 9.9(E).

Section 4.4 Affordable Housing

(A) **Intent.** The affordable housing provisions under this section are intended to:

- (1) provide incentives for residential development that meets the needs of Charlotte's population, including housing for low and moderate income individuals and families, in accordance with the Act [§§4412(1), 4417(a)(2) and(d)];
- (2) increase opportunities for home ownership and rental units;
- (3) allow for the development of a variety of affordable housing types including single and two family dwellings and multi-family units;
- (4) ensure that affordable housing units will remain affordable and available into the future; and
- (5) encourage mixed-income development.

(B) **Applicability.** For the purposes of these regulations, affordable housing shall be considered a specific type of use within West Charlotte Village, East Charlotte Village, Village Commercial, Commercial/Light Industrial, Rural and Shoreland Districts.

(C) **General Standards.**

- (1) Housing proposed under this section shall meet the definition of "affordable housing" in Section 10.2., except as allowed in subsection 4.4(D)(1)(d) below.
- (2) Affordable dwelling units shall be maintained as affordable units in perpetuity (see Section 10.2), through deed restrictions, covenants, or other accepted legal mechanisms.

(D) **Lot Size & Density Requirements.**

- (1) **Existing Lots & Subdivisions (including PRD’s & PUDs).** Notwithstanding minimum lot size and density requirements for zoning districts in Chapter II, or as otherwise specified in these regulations, lot size and density requirements that apply to affordable housing units and market rate units created within an affordable housing development, including affordable single family, two family, multi-family and elderly housing dwellings, shall be as specified in Tables 4.1a. and subsection (a), (b), (c) and (d) below.

Table 4.1a Affordable Housing Lot Size & Density Requirements For Existing Lots & Subdivisions:		
	Village & Commercial Districts [WCV, ECV, VCM, C/LI]	Rural and Shoreland Districts [RUR, SHR]
Minimum Lot Size	1/4 acre	New Construction: 1 acre Adaptive Reuse (see Section 4.3): 1/2 acre
Maximum Density	1 dwelling unit per 1/4 acre	New Construction: 1 dwelling unit per acre Adaptive Reuse: 1 dwelling unit per 1/2 acre
Maximum Units Using Affordable Density Provision Per Project [see (a) below]	10 dwelling units or 20 units of elderly housing	5 dwelling units or 10 units of elderly housing
Maximum Units Using Affordable Density Provision within Ten Year Period [see (b) below]	10 dwelling units or 20 units of elderly housing	5 dwelling units or 10 units of elderly housing

- (a) The density requirements provided herein may be applied to a maximum of ten (10) dwelling units or twenty (20) elderly housing units within a subdivision, development or project in the Village and Commercial Districts (WCV, ECV, VCM & C/LI), and five (5) dwelling units or ten (10) elderly housing units within a subdivision, development or project in the Rural and Shoreland Districts;
- (b) A maximum of ten (10) dwelling units or twenty (20) elderly housing units in the Village and Commercial Districts (WCV, ECV, VCM & C/LI) and five (5) dwelling units or ten (10) elderly housing units in the Rural and Shoreland Districts which are created using the density requirements provided herein may be created from a parent parcel within a 10-year period. The 10-year period shall be measured from the date of approval (of the earlier project) to the date of Sketch Plan Review (for the latter project).
- (c) Within planned residential, planned unit developments, and hamlets, lot sizes may be less than the minimum lot sizes indicated in Table 4.1a in accordance with Sections 8.4 and 8.5, but no additional density bonuses shall apply.
- (d) At least 75% of dwelling units in a subdivision, development or project which uses the densities allowed in this section must meet the definition of “affordable housing” in Section 10.2 (round up if 75% is not a whole number of units), and up to 25% of dwelling units in a subdivision, development or project which uses the densities allowed in this section may be market rate housing (round down if 25% is not a whole number of units), except for projects that consist of one two-family dwelling, which can be 50% affordable housing and 50% market rate housing.
- (2) **Maximum Units Per Structure.** The maximum number of affordable housing units per structure shall be as specified in Table 4.1b. Review under the Planned Residential Development or Planned

Unit Development provisions is not required for the development of one multi-unit structure unless a subdivision is proposed, or unless several buildings or uses are proposed to be located on one parcel.

Table 4.1b Affordable Housing--Maximum Units/Structure	
<i>Maximum Units/Structure</i>	All Districts: [RUR, SHR, WCV, ECV, VCM, C/LI]
New Structures	4 units
Conversion of Non-Historic Structures	6 units
Adaptive Reuse of Historic Structures (see Section 4.3)	10 units
Elderly Dwellings	10 units

(E) Design Requirements.

- (1) Although specific development standards and requirements may be modified or waived under Subsection (G); new and rehabilitated affordable housing, to the extent that it is not deemed exclusionary, shall be designed to:
 - (a) be energy efficient, to minimize utility costs;
 - (b) be physically and visually compatible with its setting and context, with regard to building orientation, size, scale, massing, height, and appearance, with due consideration given to the cost to the applicant;
 - (c) retain, to the extent feasible, a historic structure's historic setting, appearance and integrity, in association with an adaptive reuse, and to
 - (d) integrate, in mixed income housing developments, affordable housing with market rate housing.
- (2) The Planning Commission or Board of Adjustment may require increased setbacks, buffers, landscaping, screening or building design modifications to mitigate the physical and visual impacts of higher density development on adjoining properties, and to maintain the historic appearance and integrity of historic structures.

(F) Application Requirements. Affordable housing shall be reviewed by the Planning Commission in association with subdivision review where applicable (subdivisions and planned residential or planned unit development), or by the Board of Adjustment as a conditional use under Section 5.4 for development that does not require subdivision review (e.g., development on existing lots, including conversions, adaptive reuses, and mixed uses). Site plan review is also required as applicable under Section 5.5. Hearings may be combined.

In addition to a subdivision or site development plan, an application for affordable housing shall include the following information:

- (1) The number of affordable housing units to be created, and for affordable housing developments, the percentage of total units proposed as affordable units.

- (2) A general description of affordable units, including type, size, square footage, and number of bedrooms.
- (3) A description of the exterior appearance of affordable unit(s) in relation to existing structures on site and on neighboring properties and, where applicable, proposed market rate units.
- (4) Documentation of proposed selling prices and/or rental rates, financing requirements, housing costs, and associated household income limitations, in accordance with definitions of affordability. For the purposes of determining unit affordability based on median household income, as adjusted for household size, the following relationship between housing unit and household size shall apply:

Type of Unit	Household Size Income Limit
Efficiency	1-person
1 bedroom	2-person
2-bedroom	3-person
3 bedroom	4 person
4 bedroom	5 person

For example, the affordability of a 3-bedroom unit shall be determined based on the median income limit specified by the U.S. Department of Housing and Urban Development for a 4-person household.

- (5) Information on how resale prices shall be determined.
- (6) Information regarding the administration and management of affordable units, including the person(s) and/or organization who will be responsible for choosing purchasers or tenants, and monitoring and insuring long-term affordability.
- (7) Legal documentation to be approved by the Town including, at minimum, proposed deed restrictions or covenants for affordable units which require that such dwelling units be sold and leased at or below prices that will preserve their affordability, as defined herein, in perpetuity.
- (8) Any requested modification of standards or requirements as allowed under Subsection (G).
- (9) Any other information required by the Planning Commission or Board of Adjustment as needed to determine conformance with these regulations.

(G) **Modifications or Waivers.** The Planning Commission or Board of Adjustment, upon written request of the applicant, may modify or waive any of the following requirements if it finds that the modification or waiver is necessary to improve the financial feasibility of an affordable housing project, and that public health, safety, and welfare will not be jeopardized:

- (1) access requirements under Section 3.2;
- (2) parking requirements under Section 3.11, including a reduction in the minimum number of spaces required;
- (3) underground utility requirements under Section 3.17;
- (4) subdivision standards under Chapter VII, including but not limited to applicable road standards;
- (5) minimum lot size, frontage, setback, coverage and open space requirements, as allowed for planned residential and planned unit developments under Chapter VIII; and
- (6) application and development fees, as approved by the Charlotte Selectboard for affordable housing.

(H) **Administrative Requirements.** The Planning Commission or Board of Adjustment may require, as a condition of approval, a partnership agreement and/or covenant with an established public or nonprofit housing trust or provider that will be responsible for the long-term administration and management of affordable units, including the selection of tenants and buyers in accordance with income limits and federal and state fair housing laws, the resale of affordable units, and ongoing property management and monitoring activities.

Section 4.5 Camper

A camper trailer may be stored on a lot. Camper trailers may not be occupied for dwelling purposes for more than a cumulative time period of four (4) months during a calendar year. In no case shall a camper trailer be attached to a septic system. Any sewage generated by a camper trailer shall be disposed of off-site in accordance with all applicable town, state and federal regulations.

Section 4.6 Contractor's Yard

(A) A contractor's yard may be permitted in designated zoning districts subject to conditional use review under Section 5.4, site plan review under Section 5.5, and the following provisions:

- (1) The Planning Commission or Board of Adjustment may, as a condition of approval, require larger setback and buffer areas, and/or landscaping or screening as deemed necessary to protect neighboring properties, public rights-of-way, and water quality.
- (2) An associated accessory structure may include an office, garage, or other enclosed area for the storage of equipment and materials. The maintenance and repair of vehicles and equipment shall be conducted only within an enclosed building or designated yard areas.
- (3) The operation of the contractor's yard shall meet all performance standards under Section 3.12. The Board of Adjustment may, as a condition of approval, limit the hours of operation as appropriate.
- (4) There shall be no on-site storage of hazardous waste or materials. Fuel storage shall be limited to that needed for space heating and the operation of equipment and vehicles associated with the business, and meet the requirements of Section 3.10.

Section 4.7 Day Care Facility [Home Child Care, Day Care]

(A) **Home Child Care.** In accordance with the Act [4412(5)], a state registered or licensed family child care home that serves six (6) or fewer children, which is conducted within a single family dwelling by a resident of that dwelling, shall be considered an allowed use of the single family residence for which no zoning permit is required. The day care provider shall submit a letter to the Zoning Administrator detailing the use, which will be kept on file for informational purposes only. A registered or licensed family child care home that serves more than six (6) children on a full-time basis, or up to ten (10) children on a full- or part-time basis, shall be considered an allowed use of a single family dwelling, subject to site plan approval under Section 5.5 and the issuance of a zoning permit.

(B) **Day Care Facility.** Nonresidential day care facilities, adult day care facilities, and child care homes operated within a single family dwelling that do not meet the requirements of Subsection (A) may be allowed as a day care facility in designated zoning districts subject to conditional use review under Section 5.4, site plan review under Section 5.5, and the issuance of a zoning permit.

Section 4.8 Extraction of Earth Resources

(A) The extraction or removal of more than 300 cubic yards per year of topsoil, rock, sand, and gravel for sale or use off-site may be allowed in designated zoning districts subject to conditional use review under Section 5.4, site plan review under Section 5.5, and the following requirements. Extraction shall be limited to 5,000 cubic yards per year.

(B) In addition to application information required in Table 5.1, the applicant shall submit stormwater management, erosion control and site reclamation plans showing:

- (1) existing grades, drainage patterns and depths to bedrock and seasonal high water tables;
- (2) setbacks and buffers as required under Chapter II and Section 3.15 for streams, wetlands and shoreline;
- (3) the extent and magnitude of proposed extraction operations, including the type and proposed timing and/or phasing of extraction and processing activities;
- (4) the types and locations of proposed temporary and permanent stormwater management and erosion control measures;
- (5) finished grades and drainage at the conclusion of the operation; and
- (6) a detailed plan for site restoration, including final grading and revegetation.

(C) No extraction, excavation, dredging or filling activities shall occur within streams, wetlands, or buffer areas, in accordance with the requirements of Section 3.15, or within designated shoreland setback areas under Chapter II.

(D) In granting conditional use approval, the Board of Adjustment shall find that the proposed extraction will not cause any hazard to public health and safety, nor adversely affect neighboring properties or property values, public facilities and services, surface water and groundwater supplies or quality, or natural, cultural, historic or scenic features identified in the *Charlotte Town Plan*. To ensure compliance with this Section, the Board may impose conditions with regard to any of the following factors:

- (1) the storage of equipment and stockpiling of materials on-site;
- (2) hours of operation, (e.g., for blasting, and the processing and trucking of materials);
- (3) the depth of excavation; particularly in proximity to roads, adjacent properties and seasonal high water tables;
- (4) slopes created by the removal of materials;
- (5) effect on surface drainage on- and off-site;
- (6) effect on ground and surface water quality, and drinking water supplies in the vicinity;
- (7) effect on adjacent properties due to noise, dust, or vibration;
- (8) effect on traffic and road conditions, including potential physical damage to public highways;
- (9) effect on natural, cultural, historic, and scenic resources on-site or in the vicinity of the project,
- (10) effect on agricultural land
- (11) creation of public nuisances; and
- (12) effect on public health, safety and general welfare.

(E) Pursuant to the Act [§4464(b)(4)], a performance bond, escrow account, or other surety acceptable to the Charlotte Selectboard may be required to ensure reclamation of the land upon completion of the extraction activities, to include any re-grading, reseeding, reforestation or other activities specified in an approved reclamation plan.

(F) This section shall not apply to extraction activities associated with publicly owned and operated gravel pits used solely for road construction and maintenance, or extraction activities which are incidental

to exempted agricultural or forestry operations, the operation of cemeteries, or another permitted use or activity which involves the removal of less than 300 cubic yards of earth resources per year.

Section 4.9 Gasoline Station

(A) Gasoline stations may be allowed in designated zoning districts subject to conditional use review under Section 5.4, site plan review under Section 5.5, and the following requirements:

- (1) **The Board of Adjustment or Planning Commission may require, as necessary to avoid undue impacts** to adjoining properties and rights-of-way, that no vehicles may be parked or serviced within front, side or rear setback areas.
- (2) Additional curbing, landscaping and screening, and pedestrian walkways may be required by the Board of Adjustment and/or Planning Commission as needed to manage vehicle and pedestrian circulation on- and off-site, and to minimize adverse impacts to adjoining properties.
- (3) In addition to the signs allowed under Section 3.13, gasoline stations may have one (1) pricing sign which does not exceed 12 square feet in area, and/or pump-top pricing signs, each not to exceed two (2) square feet in area.
- (4) Station canopies, if determined by the Planning Commission under site plan review to be necessary and appropriate to their context, may be limited to the minimum area required for adequate pump and apron coverage, and the minimum ceiling height necessary to meet applicable state and federal safety requirements. Canopy scale and design shall be compatible with station design and with surrounding buildings. Corporate logos are specifically prohibited on station canopies. Canopy fascias shall not be illuminated or used for advertising.
- (5) The Planning Commission or Board of Adjustment may require the submission of an outdoor lighting plan for review and approval in accordance with Section 3.9. In addition:
 - (a) light fixtures mounted on station canopies shall either be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy; or for indirect lighting, mounted and shielded or skirted so that direct illumination is focused exclusively on the underside of the canopy; and
 - (b) interior station lighting shall not be used to contribute to or increase outdoor lighting levels, nor be used for advertising purposes.

(B) The use of a gasoline station is limited to the retail sale of gasoline, diesel fuel and other automotive fluids and products, and no more than 30 square feet of non-automotive retail products. The sale of other types of retail items (e.g., food or convenience items), or the provision of other services (e.g., motor vehicle repair, sales or rentals, car washes, towing services or restaurant seating) may be allowed only as a “Mixed Use” (see Section 4.12), and shall be required to meet applicable standards of these regulations pertaining to each use.

Section 4.10 Golf Course

(A) **Applicability.** New golf courses and driving ranges, may be allowed in designated zoning districts subject to conditional use review under Section 5.4, site plan review under Section 5.5, and the following requirements. Miniature golf courses and “chip and putts” shall be considered types of outdoor recreation facilities that are specifically exempted from the requirements of this section.

(B) **Application Requirements.** In addition to the application information required in Table 5.1, applicants for a golf course or driving range shall also submit the following:

- (1) A site development plan showing:
 - (a) site features (surface waters, wetlands, floodplains, vegetation, and natural areas),
 - (b) proposed site modifications, and
 - (c) the location of existing and proposed wells and water quality monitoring stations.

(C) **General Design Standards.** Golf courses shall be designed to:

- (1) preserve and enhance the ecological function of existing natural features, including but not limited to surface waters, wetlands, and critical wildlife habitats and corridors within and adjacent to the site;
- (2) incorporate natural terrain to the extent feasible to minimize the amount of site modification (e.g., grading, filling, clear cutting) required, and to avoid areas of steep slope;
- (3) minimize the number and length of stream crossings;
- (4) preserve and/or re-establish streambank habitat within required buffer areas; and
- (5) minimize the use of fertilizers and pesticides and associated impacts to water quality through the selection of disease resistant turf grass, integrated pest management, resource efficient irrigation and drainage systems, biofilters, and other accepted best management practices.

(D) **Monitoring.** The Board of Adjustment may require the establishment of preconstruction (baseline) surface and ground water quality conditions, and the subsequent monitoring of surface and ground waters to determine the effects of golf course development and operation on water quality.

Section 4.11 Home Occupation [I, II, III]

(A) **Applicability.** In accordance with the Act [§4412(4)], this section is intended to allow any resident to use a portion of their dwelling and/or all or a portion of an accessory structure for an occupation which is customary in residential areas in Vermont and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. For the purposes of these regulations, three types of occupations have been defined. All home occupations shall comply with the wastewater disposal requirements (see Section 3.16), parking requirements (see Section 3.11), sign requirements (see Section 3.13) and performance standards (see Section 3.12) of these regulations. Home Occupations are not subject to minimum district density requirements.

- (1) **Home Occupation I.** This includes home occupations that employ only the resident(s) of a dwelling; that occurs within a portion of the dwelling and/or within an accessory structure to the dwelling; and generates no more than 12 business-related vehicle trips per day. This type of home occupation does not require a zoning permit.
- (2) **Home Occupation II.** This includes home occupations that employ one (1) or more residents of a single family dwelling and no more than five (5) nonresident employees on-site at any time; occur within the dwelling or an accessory structure to the dwelling, and generate no more than 20 business-related vehicle trips per day. A zoning permit is required. Prior to the issuance of a permit, the Zoning Administrator shall find that the proposed home occupation also meets the requirements of Subsection (B).
- (3) **Home Occupation III.** This may be allowed in designated zoning districts subject to conditional use review under Section 5.4, site plan review under Section 5.5, and the requirements of Subsection (C).

(B) **Home Occupation II Standards.** A zoning permit issued in accordance with Section 9.3 is required for this type of home occupation. Prior to issuing a permit, the Zoning Administrator shall find that the proposed home occupation meets the following requirements:

- (1) The home occupation shall be conducted by residents of the dwelling and not more than five (5) nonresident employees on-site at any time.
- (2) The home occupation shall be carried out within the principal dwelling and/or within an accessory structure to the dwelling as provided for in Section 4.18; the total area used for the home occupation is not to exceed 2,500 square feet.
- (3) The storage of hazardous materials anywhere on the premises is prohibited, with the exception of materials customary and characteristic of residential uses (e.g., heating oil).
- (4) The home occupation shall generate no more than 20 business-related vehicle trips per day.
- (5) Parking areas shall be located in side or rear yard areas.
- (6) Outdoor storage and uses are limited to those materials, goods, equipment, or activities that are typical of a residential use and meet the requirements of Section 3.10.
- (7) The home occupation shall not change the character of the neighborhood.

(C) **Home Occupation III Standards.** This type of home-based business may be allowed as an accessory to a single family dwelling in designated zoning districts subject to conditional use review under Section 5.4, site plan review under Section 5.5, and the following provisions:

- (1) The home business shall be conducted in the principal structure or an accessory structure by residents of the dwelling, and no more than nine (9) nonresident employees on-site at any time.
- (2) The home business shall be carried out primarily within the principal dwelling and/or an accessory structure to the dwelling as provided for in Section 4.18.
- (3) Outdoor areas for the storage of materials and equipment, and activities associated with the home business, may be approved by the Board of Adjustment provided that such areas are clearly designated and located or adequately screened so that they are not visible from public rights-of-way or neighboring properties. Designated storage areas at minimum shall meet all district setback requirements. The Board of Adjustment may also require increased setbacks and/or additional landscaping and screening to avoid impacts to neighboring properties.
- (4) The storage of hazardous materials anywhere on the premises is prohibited, with the exception of materials customary and characteristic of residential uses (in terms of type and quantity).
- (5) The home business shall not generate traffic, including delivery traffic, in excess of volumes characteristic of other uses allowed in the district in which the home business is located.
- (6) Parking areas shall be located in side or rear yard areas unless otherwise approved by the Board of Adjustment as a condition of approval under Section 5.4. The Board of Adjustment may also limit the number of commercial vehicles that may be parked on-site.
- (7) The home business shall not change the character of the neighborhood.

Section 4.12 Mixed Use

In the West Charlotte Village District, East Charlotte Village District, Village Commercial District, Commercial Light Industrial District, and Shoreland District, more than one principal use may be allowed as a mixed use within a single building, or on a single lot, subject to the following provisions:

- (1) Each of the proposed uses is allowed as a permitted or conditional use within the zoning district in which the mixed use is located. If any of the uses is a conditional use, the mixed use will be reviewed as a conditional use.
- (2) Only one residential dwelling unit will be allowed within the mixed use, unless the development is a planned unit development (PUD).
- (3) The uses, in combination, shall meet all applicable dimensional standards for the district in which the mixed use is located, including lot, frontage, setback and coverage requirements. If the mixed use is part of a planned unit development (PUD), it will be reviewed in accordance with Section 8.5.
- (4) For purposes of meeting the minimum lot-size and density requirements, the uses, in combination, shall be considered as one use. If residential uses are proposed as part of the mixed use development, the residential density requirement will be applied to the project.
- (5) There shall be sufficient water and wastewater system capacities to serve each of the proposed uses in accordance with Section 3.16.

Section 4.13 Mobile Home Park

(A) In accordance with the Act [§4412(1)(B)], a mobile home park may be permitted in designated zoning districts subject to conditional use review under Section 5.4, site plan review under section 5.5, and the following requirements:

- (1) Each mobile home shall be located on a dedicated site not less than 3,000 square feet in area, as shown on the site development plan. The density requirements as described for the zoning district (Table 2.2) apply unless units are perpetually affordable as defined in these regulations, in which case the density requirements for affordable housing (Section 4.4) apply.
- (2) A minimum of 20% of the total land area shall be set aside as common land for recreational use or open space.
- (3) Each mobile home and any accessory structure to a mobile home shall be set back a minimum of 10 feet from adjacent mobile home sites and park roads.
- (4) A minimum of 100 square feet of indoor storage space separate from individual mobile homes (e.g., storage sheds, or a common storage building) shall be allowed for each mobile home.
- (5) Parking spaces shall be provided in accordance with Section 3.12 for single family dwellings, however they may be at each mobile home or they may be in a shared (common) parking area(s).
- (6) At least one common, screened service area shall be provided for the storage and collection of trash and recyclables generated by park residents.

- (7) No new mobile home parks or mobile home park expansions are allowed within the Flood Hazard Overlay Area Overlay District. Replacement mobile homes within existing parks in this district must also meet district requirements under Section 5.6 for anchoring and elevation above base flood elevations.
- (B) The mobile home park owner, or designated operator, may be required as a condition of approval to maintain all park buildings, roads, parking areas, paths, utilities, infrastructure, landscaping, open space and common areas in good condition, and offer residents a contract for the regular collection and removal of recyclables, waste and garbage (in accordance with statute—see 10 V.S.A. § 6239).
- (C) Changes or alterations to park area, design, number of sites, layout or common facilities are subject to conditional use and site plan review in accordance with the above provisions; however:
- (1) The owner of a mobile home within an approved mobile home park may apply for a zoning permit under Section 9.3 for a deck or accessory structure which meets site setback requirements under Subsection (A)(6), without additional approval by the Board of Adjustment under Section 5.4 or the Planning Commission under Section 5.5.
 - (2) The replacement of a mobile home within an approved mobile home park shall require a zoning permit issued by the Zoning Administrator in accordance with Section 9.3, only to ensure ongoing compliance with all conditions of conditional use and/or site plan approval. In no case shall the application of standards under this section prohibit the replacement of a mobile home on a mobile home site legally in existence as of the effective date of these regulations.
- (D) In accordance with the Act [§4412(7)(B)], if a mobile home park, as defined in 10 V.S.A. Chapter 153, that is legally in existence as of the effective date of these regulations does not conform to these regulations, it shall be considered a nonconformity under Section 3.8. This nonconforming status shall apply to the park as a whole, and not to individual mobile home sites within the park. An individual mobile home lot that is vacant shall not be considered a discontinuance or abandonment of a nonconformity.

Section 4.14 Motor Vehicle Sales & Service

- (A) Motor vehicle sales and service stations may be allowed in designated zoning districts subject to conditional use review under Section 5.4, site plan review under Section 5.5, and the following requirements:
- (1) Motor vehicle sale and service facilities shall occupy a total area of not more than 20,000 square feet, to include all interior showroom, garage, storage and office areas, and exterior (outdoor) display areas.
 - (2) All service, parking and storage areas shall meet all district setback requirements, and setback and buffering requirements for surface waters and wetlands under Section 3.15, and shorelands under Chapter II. The Board of Adjustment or Planning Commission may require increased setback and buffer areas as needed to protect water quality, public rights-of-way or neighboring properties.
 - (3) All motor vehicle repair activities, including engine repair and body work, shall occur within an enclosed building. Vehicles to be repaired shall be stored in a designated area that is located behind the building, or otherwise screened from view of public rights-of-way and neighboring properties.

(B) The use of a motor vehicle sales and service facility is limited to the sale, rental and/or repair of motor vehicles, which may also include towing services as an accessory use.

Section 4.15 Public Facility

(A) In accordance with the Act [§4413(a)], the following public facilities are subject to conditional use approval under Section 5.4, and site plan review under Section 5.5, but may be regulated under these review proceedings only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking and loading facilities, traffic, noise, lighting, landscaping and screening requirements. Reasonable provision has been made for these uses within designated zoning districts as shown in Table 4.2.

(B) In accordance with the Act [§4413(b)], public utility power generating plants, transmission lines and other facilities that require a certificate of public good issued by the Vermont Public Service Board are specifically exempt from these regulations. All other such facilities must meet the requirements of these regulations.

TABLE 4.2 PUBLIC FACILITIES	
Facility	Zoning District(s)
Public utility power generating plants and transmission lines.	All Districts [see Subsection (B)]
State or community owned and operated institutions and facilities [see Public Facility].	See District Tables 2.1-2.10 for district-specific limitations
Public and private schools and other educational institutions certified by the Vermont Department of Education [see School]	East/West Charlotte Village, Village Commercial, Commercial/Light Industrial, & Rural Districts
Churches, convents and parish houses [see Place of Worship]	East/West Charlotte Village, Village Commercial & Rural Districts
Public and private hospitals [see Health Clinic, Health Care Facility]	Health Clinic: East/West Charlotte Village, Village Commercial Districts Health Care Facility: Village Commercial District
Regional solid waste management facilities certified by the State (10 V.S.A., Chapter 159). [see Transfer Station/Recycling Center, Waste Management Facility]	Transfer Station/ Recycling Center: Village Commercial, Commercial/ Light Industrial & Rural Districts Waste Management Facility: Commercial/Light Industrial District
Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A., §6606a] [see Waste Management Facility]	Commercial/ Light Industrial District

Section 4.16 Telecommunications Facility

(A) **Purpose.** The purpose of the following provisions is to protect the public health, safety, and general welfare of the citizens of the town of Charlotte and of those who visit this community, while accommodating the telecommunication needs of residents, visitors, community services and businesses. This section shall:

- (1) preserve the character and appearance of the Town of Charlotte, while allowing adequate telecommunications services to be developed;

- (2) protect the scenic, historic, environmental, and natural resources of the Town of Charlotte, and property values therein;
- (3) provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of telecommunications facilities and towers;
- (4) minimize tower and antenna proliferation by encouraging the sharing of existing telecommunications facilities, towers, and sites where possible and appropriate;
- (5) facilitate the provision of telecommunications services to the residences and businesses of the Town of Charlotte;
- (6) minimize the adverse aesthetic, health, and interference effects of towers through careful design and siting standards; and,
- (7) require, through performance standards, the location of towers and antennas in non-residential areas and away from other sensitive areas such as schools, hospitals, senior centers, and child care facilities.

(B) **Consistency with Federal Law.** In addition to other findings required by these regulations, the Board shall find that its decision regarding an application is intended to be in agreement with federal law, particularly the Telecommunications Act of 1996 as it may be amended. This section is not intended to:

- (1) Prohibit or have the effect of prohibiting the provision of personal wireless services;
- (2) Unreasonably discriminate among providers of functionally equivalent services; or
- (3) Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions, to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

(C) **Exemptions.** The following telecommunications facilities and uses are exempt from the requirements of this Section:

- (1) police, fire, ambulance, and other emergency dispatch;
- (2) amateur (ham) radio, citizens-band radio, single-use local business radio dispatch;
- (3) television antennas for home use; and
- (4) temporary mobile facilities for television or radio broadcasts.

No FCC-licensed telecommunications facility or use shall be considered exempt from this section for any reason, whether or not said facility or use is proposed to share a tower or other structure with the aforementioned exempt facilities.

(D) **Authority to Hire Independent Consultants.** Upon review of an application for conditional use approval and/or site plan review for a tower or telecommunications facility, the Board of Adjustment and/or the Planning Commission may determine that it needs the assistance of an independent consultant or consultants to evaluate the application. Upon making such a determination, it may hire independent consultants, the reasonable costs of whose services shall be paid for by the applicant. Upon such determination, the applicant shall place in escrow sufficient funds to cover such costs, as estimated by said independent consultant. These consultants shall be qualified professionals with an appropriate

combination of training, record of service, and/or certification in one or more of the following areas of expertise:

- (1) telecommunications/radio frequency engineering;
- (2) structural engineering;
- (3) assessment of electromagnetic fields;
- (4) legal issues;
- (5) landscape architecture/visual impact assessment;
- (6) other areas, if determined necessary by the Board of Adjustment or Planning Commission.

The Board of Adjustment and Planning Commission may provide the full application to any independent consultant(s) hired pursuant to this section for their analysis and review. Consultants shall report directly to the Board and/or the Commission.

(E) **Applicability.** No construction, alteration, modification (including the installation of antennas for new uses), installation or operation of any tower or telecommunications facility shall commence without conditional use approval first being obtained by the Board of Adjustment in accordance with Section 5.4, and without site plan approval first being obtained from the Planning Commission in accordance with Section 5.5.

(F) **Conditional Use Review.** Telecommunications towers and/or facilities may be allowed as a conditional use within designated zoning districts in accordance with Section 5.4 and the following:

- (1) An applicant for a telecommunications tower or facility shall be a telecommunications provider, or must have a letter of intent or an executed contract to provide land or facilities to such an entity. A permit shall not be granted for a tower or facility built on speculation of a future letter of intent or contract with a telecommunications provider. A conditional use permit shall be granted only for a telecommunications facility with a user that has a current FCC license. In addition to requirements found in Section 5.4 of these regulations, conditional use applicants for telecommunications towers or facilities shall include the following information:
 - (a) The legal name, address, and telephone number of the applicant, tower owner (if other than applicant), and landowner(s) of record. If the applicant, tower owner or landowner is not a natural person, the name and address of the company, the type of business entity, the state in which the company is incorporated and has its principal office. Written permission of the tower owner and landowner(s) to apply for the conditional use permit shall be submitted along with written permission from the tower owner and landowner(s) allowing the town's independent consultant(s) to conduct any necessary site visit(s).
 - (b) The name, address and telephone number of the person to be contacted with regard to the application. Notice, orders, and other papers may be served upon the person so named, and such service shall be deemed to be service upon the applicant's registered agent.
 - (c) The name, address, and telephone number of someone who is available on a 24-hour basis that is authorized to act in the event of an emergency regarding the structure or safety of the telecommunications facility.
 - (d) A copy of the applicant's letter of intent or executed contract with the telecommunication service provider if the applicant is not the provider.
 - (e) The names and addresses of the landowners of record of all abutting property.

- (f) A report from qualified and Vermont-licensed professional engineer(s) that:
- (i) Describes the telecommunications facility height, design, elevation, width, support system and reasons and design implications for use or non-use of guy wires.
 - (ii) Documents the height above grade for all proposed mounting positions for antennas to be collocated on a tower or telecommunications facility and the minimum separation distances between antennas.
 - (iii) Describes the tower's proposed capacity, including the number, height, and type(s) of antennas, including manufacturer(s) and model number(s) that the applicant expects the tower to accommodate.
 - (iv) Describes the output frequency, number of channels and power output per channel for each proposed antenna.
 - (v) For each antenna, describes the antenna gain (projected and maximum), polarization and radiation pattern (composite pattern for an antenna array), the power input to antenna(s), including power input in normal use and at maximum output for each antenna and all antennas as an aggregate if tower is fully utilized.
 - (vi) Describes the output frequency of the transmitter(s).
 - (vii) For a telecommunications facility with multiple emitters, describes the results of an intermodulation study to predict the interaction of the additional equipment with existing equipment.
 - (viii) Demonstrates the tower's compliance with accepted structural engineering standards.
 - (ix) Provides proof that at the proposed site the applicant will be in at least minimum compliance with all federal, state, and local regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain such compliance with both radio frequency interference (RFI) and radio frequency radiation (RFR) standards including all Environmental Assessments and Historic Preservation requirements and the basis for such representations.
 - (x) Describes any foundations to be built upon which telecommunications towers and or facilities are located. Identifies any blasting and earth movement that may be required, and provides plans and elevations of the area to be blasted or affected and describes the steps to be taken to reduce or eliminate potential effects of the blasting including vibrations and impacts to foundations, wells and other structures in the area. Provides a plan to identify abutters prior to blasting. The Board may, in its discretion, require the Applicant to notify additional property owners prior to blasting that may be sufficiently close to the proposed location and may reasonably require additional information related to such site preparation.
 - (xi) Includes other information required by the Board that is necessary to evaluate the request and its impact upon the health and safety of the residents of Charlotte.
- (g) Documentation that the applicant can not achieve adequate coverage through the use of an existing structure located within a 30-mile radius of the proposed site, and/or that the applicant is not reasonably able to use repeaters or microcells on existing structures to achieve desired coverage from existing facilities, including written documentation from other facility owners that no suitable sites are available.
- (h) A written five-year plan for the utilization of the proposed facilities. This plan should include justification for capacity in excess of immediate needs, as well as plans for any further development within the town.

- (i) A letter of intent committing the tower owner and future tenant(s) to permit shared use of the tower by other telecommunications providers, without discrimination, if the additional users agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards, and requirements and provisions of these regulations.
- (j) For a telecommunications facility to be installed on an existing structure, a copy of the applicant's letter of intent or executed contract with the owner of the existing structure.
- (k) To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the expected impacts of the proposed telecommunications facility. To the extent the applicant claims that an EA is not required, it should provide an explanation as to why an EA is not required in the form of an opinion, ruling, or other certification from the FCC.
- (l) A copy of the application for an Act 250 permit, if it has been filed with the District Environmental Commission. If the applicant claims it is exempt from Act 250, s/he shall clearly provide the basis for the exemption to the Board.
- (m) Detailed plans for emergency power generation, including:
 - (i) Demonstration of percent of electrical demand being proposed in event of loss of commercial power.
 - (ii) Type of fuel, storage method, and expected means and frequency of fuel delivery to the site for power generation.
 - (iii) Amount of generator time, based on historical power reliability for the area of the telecommunications facility, proposed frequency and duration of tests, and description of muffler system and methods for noise abatement.
 - (iv) Feasibility of wind and/or solar power in conjunction with storage batteries.
- (n) Two (2) cross-sections of proposed tower and or facility, drawn at right angles to each other, showing any guy wires or supports. This shall show the proposed height of the tower above the average grade at the base. This shall also show all proposed antennas, including their location on the tower and or facility as well as all electrical wires, cables, and support equipment.
- (o) Illustration of the modular structure of the proposed tower indicating the heights of sections which could be removed or added in the future to adapt to changing telecommunications conditions or demands.
- (p) A professional structural engineer's written description of the proposed tower structure and its capacity to support additional antennas or other telecommunications facilities at different heights and the ability of the tower to be shortened if future telecommunications facilities no longer require the original height
- (q) An existing conditions and proposed site plan as defined in Subsection (G).
- (r) All pertinent submittals and showings pertaining to:
 - (i) FCC permitting/licensing;
 - (ii) Environmental Assessments and Environmental Impact Statements;
 - (iii) FAA Notice of Construction or Alteration;
 - (iv) aeronautical studies;
 - (v) all pertinent data, assumptions, and calculations relating to service coverage; and

- (vi) all pertinent calculations and/or measurement data related to non-ionizing radiation emissions and exposure, regardless of whether categorical exemption from routine environmental evaluation under the FCC rules is claimed.
 - (s) An emergency plan to be implemented in the event that the tower structure is deemed unsafe after inspection as described in Subsection (I). The plan shall include measures to warn abutting landowners of an unsafe situation, to evacuate a zone where injury or property damage may occur, and to notify local authorities.
 - (t) Details of proposed method of financial surety as required in subsection (H)(2) (Landscaping & Screening) and Subsection (N) (Abandoned, Unused, Obsolete, Damaged, or Dangerous Towers or Portions of Towers).
- (G) **Site Plan Review.** In addition to site plan requirements found in Section 5.5 of these regulations, site plan applications for telecommunications towers or facilities shall include the following information:
- (1) **Location Map.** A copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed tower site. It shall indicate the tower location including the exact latitude and longitude (degrees, minutes, seconds to the nearest tenth).
 - (2) **Vicinity Map.** A map at a scale of no smaller than 1 inch = 416 feet (or metric equivalent 1:5,000) with contour intervals no greater than 10 feet (or three meters) showing the entire vicinity within a 2,500-foot radius of the tower site, including the telecommunications facility and/or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites, and habitats for endangered species. It shall indicate the property lines of the proposed tower site parcel and all access easements or rights of way needed for access from a public way to the tower, and the names of all abutters or property owners along the access easement or who have deeded rights to the easement.
 - (3) **Existing Conditions Plan.** A recent survey of the area within 500 feet of the telecommunications facility site at a scale no smaller than 1 inch = 40 feet (1:480 or metric equivalent 1:500) with topography drawn with a minimum of 5 feet (1.5 meters) contour intervals, showing existing utilities, property lines, existing buildings or structures, wooded areas, existing water wells and springs. It shall show the boundary of any wetlands or flood plains or watercourses, and of any bodies of water included in the Official Flood Hazard Area within 500 feet from the tower or any related facilities or access ways or appurtenances. The survey plan shall have been completed, on the ground, by a Vermont-registered land surveyor no more than two years prior to the application date.
 - (4) **Proposed Site Plan.** Site plan(s) of the entire telecommunications facility site, indicating all improvements, including landscaping, utility lines, guy wires, screening, and roads, at the same scale as or larger than the Existing Conditions Plan showing the following:
 - (a) Proposed tower location and any appurtenances, including supports and guy wires, if any, and any accessory building (telecommunications facility or other). It shall indicate property boundaries and setback distances to the base(s) of the tower and the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements. Where protective fencing is proposed, it shall indicate setback distances from the edge of the fencing.

- (b) Proposed spot elevations at the base of the proposed tower and at the base of any guy wires, and the corners of all appurtenant structures.
- (c) Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or telecommunications lines, and whether underground or above ground.
- (d) Any direct or indirect wetlands alteration proposed.
- (e) Detailed plans for drainage of surface and sub-surface water, to control erosion and sedimentation both during construction and as a permanent measure.
- (f) Plans indicating locations and specifics of proposed screening, landscaping, grading, ground cover, fencing, and additional information that may be required; any exterior light(s) or sign(s).
- (g) Plans of proposed access driveway or roadway and parking area at the tower site. This shall include grading, drainage, and traveled width. This shall also include a cross-section of the access drive indicating the width, depth of gravel, paving or surface materials.
- (h) Plans showing any changes to be made to an existing telecommunications facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking or other infrastructure as a result of a proposed modification of said facility.
- (i) Horizontal and radial distances of proposed antenna(s) to nearest point on property line, and to the nearest primary or secondary residence, school, hospital, senior center, child care facility, religious structure, or any other public building.

(5) Proposed Tower/Facility and Appurtenances.

- (a) Details of proposed tower/facility and building foundations, including cross-sections and details at a scale no smaller than 1 inch = 10 feet. This shall show all ground attachments, specifications for anchor bolts and other anchoring hardware.
- (b) Proposed exterior finish and color of the tower.
- (c) The relative height of the tower to the tops of surrounding trees, as they presently exist and the height to which they are expected to grow in 10 years.

(6) Plans of Proposed Telecommunications Facility Shelter.

- (a) Floor plans and cross sections at a scale of no smaller than 3 inch = 1 foot (1:48) of any proposed appurtenant structure.
- (b) Elevation views, indicating exterior appearance and materials.

(7) Proposed Equipment Plan.

- (a) Plans, elevations, sections and details at a scale no smaller than 1 inch = 10 feet.
- (b) Number of antennas and repeaters, as well as the exact locations of antenna(s) and of all repeaters (if any) located on a map, as well as by degrees, minutes, and seconds to the nearest tenth of latitude and longitude.

- (c) Mounting locations on tower or structure, including height above ground.
 - (d) Identification of all mounting frames, arms, brackets or other devices or equipment used to hold antennas and other equipment in place.
 - (e) Identification of all equipment or devices either attached to the structure or on the ground.
- (8) **Visibility Maps & Visual Analysis.** The applicant shall provide photographs with a simulation of the proposed facility. Photographs shall show views towards the proposed site, from a two-mile radius around the site, at 45 degree intervals. A minimum of eight (8) views should be presented. The applicant shall also develop and submit to the Planning Commission a written analysis of the visual impact of the proposed tower by a registered landscape architect. This analysis shall include photographs of the balloon test, as described in Subsection (9), taken from at least 10 different perspectives within the town of Charlotte and any other visual analysis it may have developed or processed.
- (9) **Balloon Test.** Within 35 days of submitting an application, applicant shall arrange to fly, or raise upon a temporary mast, a three (3) foot-diameter, brightly colored balloon at the maximum height of the proposed tower and within 50 horizontal feet of the center of the proposed tower. The date, time, and location of this balloon test shall be advertised by the applicant at seven (7) and 14 days in advance of the test date in the *Charlotte News* and in the *Burlington Free Press*. The applicant shall inform the Board, the Planning Commission, and abutting property owners in writing of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least six (6) consecutive hours, between 7 a.m. and 5 p.m. (and/or at least two (2) hours before sunset as posted for the test dates by the National Weather Service) on the dates chosen. In the event of application for co-location at an existing telecommunications facility, the applicant shall be exempt from this balloon test. The applicant shall record the weather during the balloon test including the wind velocity and direction.
- (10) **Construction Plan.** Construction sequence and time schedule for completion of each phase of the entire project.
- (H) **General Requirements & Standards.** The following requirements and standards shall be applied to all applications reviewed under this Section:
- (1) **Access Roads & Utilities.** Where new telecommunications towers and facilities require construction of, or improvement to, access roads, roads shall follow the contour of the land and be constructed or improved at the edge of fields and/or forests. Utility or service lines shall be underground, and designed and located so as to minimize disruption to wildlife habitat, agricultural lands, and scenic areas.
 - (2) **Landscaping & Screening.** Natural or planted vegetative screening or other screening should be considered at the perimeter of the site as needed to ensure that ground equipment and structures associated with the tower or telecommunications facility are hidden from adjacent public roadways. Existing on-site vegetation outside the immediate site for the telecommunications facility shall be preserved. Disturbance to existing topography shall be minimized, unless the disturbance is demonstrated to result in less visual impact on the telecommunications facility from surrounding properties and other vantage points. The applicant shall obtain a financial surety to cover the cost of

remediation of any damage to the landscape resulting from clearing of the site or construction of facility, and also for the installation of landscaping.

- (3) **Fencing & Signs.** The area around the tower and telecommunications facilities shelter(s) shall be completely fenced and gated for security to a height of six (6) feet. Use of razor wire is not permitted. A sign no greater than two (2) square feet indicating the name of the telecommunications facility owner(s) and a 24-hour emergency telephone number, either local or toll-free, shall be posted adjacent to the entry gate. In addition, radio frequency radiation (RFR) warning signs, and the federal tower registration plate, where applicable, shall be posted on the fence or as required to meet federal requirements. "No Trespassing" signs may be posted at the discretion of the telecommunications facility/tower owner(s).
- (4) **Building Design.** Telecommunications facilities shelters and accessory buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.
- (5) **Height of Towers.** New towers shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed for use on the tower and allow for co-location consistent with the provisions of subsection (F). The Town may require an applicant to build a telecommunications tower to provide for the availability of co-location, although no tower may exceed 199 feet in height.
- (6) **Visual Impact.** Towers, antennas, and any necessary support structures shall be designed to blend into the surrounding environment. New towers shall have a galvanized finish unless otherwise required. The Board may require the tower(s) to be painted or otherwise camouflaged to minimize the adverse visual impact except in cases in which the Federal Aviation Administration (FAA) or other state or federal authorities have dictated color.

Proposed facilities shall not unreasonably interfere with the view from any public park, conservation area, natural scenic vista, historic building or district, or major view corridor or other special features as described in the *Charlotte Town Plan*. Narrow structures with guyed supports may be preferred for aesthetic purposes.

- (7) **Zoning Compliance.** All telecommunications facilities shall be located on lots which meet the minimum size requirement and other regulations for the zoning district in which they are to be located, in addition to the setback requirements as provided in Subsection (8), below.
- (8) **Setback Requirements.**
 - (a) No telecommunications facility or tower, including guy-wire anchors and protective fencing, if any, shall be located:
 - (i) Closer than 500 feet horizontally to any structure existing at the time of application which is used as a primary or secondary residence, school property (both public and private), a hospital, senior center, child care facility, building used for religious worship, or to any other building used regularly by the public. Primary or secondary residences are those dwelling units that include toilet facilities and facilities for food preparation and sleeping;
 - (ii) Within the habitat of any state-listed rare or endangered wildlife or plant species;
 - (iii) Within stream setbacks or riparian buffers (see Section 3.15); or
 - (iv) Within the town, state or federal setback requirements of an archeological site or historic structure.

- (b) Telecommunications towers shall be located a distance from all property lines and public rights of-way that is at least equal to their total height, including attached antennas, unless otherwise permitted by the Board of Adjustment if tower design and construction guarantees that it will collapse inwardly upon itself, and that no liability or risk to adjoining private or public property shall be assumed by the municipality.

(I) **Monitoring Protocol.** The Selectboard may, as the technology changes, amend these bylaws to require the use of testing protocols other than the approved monitoring protocol. A copy of the currently approved monitoring protocol (see Monitoring Protocol in Subsection (F)) shall be on file with the Town Clerk.

(1) **Pre-transmission Testing.** After the granting of a conditional use permit and before applicant's telecommunications facilities begin transmission, the applicant shall submit a report, prepared by a qualified telecommunications or radio frequency engineer, on the cumulative background levels of non-ionizing radio frequency radiation around the proposed telecommunications facility site and/or any repeater locations to be utilized for applicant's telecommunications facilities. The engineer shall use the monitoring protocol, or one substantially similar. This report shall be submitted to the Zoning Administrator, who may verify the results using an independent consultant.

(2) **Post-transmission Testing.** After transmission begins, the owner of the tower or facility shall provide testing of the site as follows:

- (a) There shall be routine annual monitoring of emissions/exposure by a qualified engineer using actual field measurement of radiation, utilizing the Monitoring Protocol. This monitoring shall measure levels of non-ionizing radio frequency radiation (RFR) exposure at the telecommunications facility site and any repeaters. Each permittee shall provide a list of the most recent RFR readings at or near the site, their distances from the tower/transmitter, dates of the readings, and the name of the person and company who took the readings and verify the operational levels of each telecommunications transmitter at the time of testing. In addition, each permittee shall provide additional RFR readings taken at sensitive areas within 3 miles of the proposed tower. A report should indicate whether other permittees at the facility were notified prior to testing that RFR monitoring would occur. The notification should be attached to the report.
- (b) A report of the monitoring results shall be prepared by the engineer and submitted to the Zoning Administrator, who may verify the results using an independent consultant. In the case of co-located telecommunications equipment, permittee may bill all telecommunications providers and the telecommunications facilities owner(s) equally or according to a predetermined proportionality.
- (c) In the event of any major modification of existing telecommunications facility, or the activation of any additional channels, the telecommunications facility owner(s) shall immediately perform new monitoring, as described in this Section. Minor changes, such as slight changes in frequency, shall not require additional monitoring.

Permittees shall have the opportunity to demonstrate reasons for inability to comply with these provisions.

- (3) **Excessive Exposure.** Should the monitoring of a telecommunications facility site reveal that the site exceeds the current FCC standard and guidelines in existence at the time of the violation, the owner(s) of all telecommunications facilities utilizing that site shall be notified. In accordance with FCC requirements, the telecommunications facility owner(s) shall immediately reduce power or cease operation as necessary to protect persons having access to the site, tower, or antennas. Additionally, the telecommunications facility owner(s) shall submit to the Deputy Health Officer a plan for the correction of the situation that resulted in excessive exposure. Failure to act as described above shall be a violation of these regulations and subject to fines and other sanctions consistent with these regulations and the Act.
- (4) **Structural Inspection.** Tower owner(s) shall arrange for a qualified consultant (a licensed professional structural engineer) to conduct inspections of the tower's structural integrity and safety. Guyed towers shall be inspected every three (3) years unless there is cause to conduct an inspection more frequently. Monopoles and non-guyed lattice towers shall be inspected every five (5) years unless there is cause to conduct an inspection more frequently. A report of the inspection results shall be prepared by the consultant, and a copy shall be sent to the Zoning Administrator within 10 business days. In the event of any major modification of the existing tower, which includes changes to tower dimensions, increase in number or types of antennas or other devices or structural modifications, the tower owner(s) shall immediately perform a new structural inspection.
- (5) **Unsafe Towers.** Should the inspection required in subsection (4), above, reveal any structural defect(s) which, in the opinion of the qualified consultant (a licensed professional structural engineer), render(s) that tower unsafe, the tower owner(s) shall undertake the following action:
- (a) Immediately upon notification of any structural defect(s) which render(s) a tower unsafe, post warnings of same at access points to the tower; notify appropriate emergency authorities; notify the Zoning Administrator, and notify the landowner and owners of record of the abutting properties within the unsafe area (minimally a 360-degree area the radius of the height of the tower); when appropriate, in consultation with emergency authorities, restrict access to the unsafe area and/or encourage evacuation of residents.
 - (b) Within 10 business days of notification of any structural defect(s) which render(s) a tower unsafe, submit to the Zoning Administrator a plan to correct the structural defect(s) as soon as reasonably possible. The tower owner(s) shall implement its remediation plan immediately but in no event later than 10 business days.
- (J) **Amendments to Existing Facilities.** Conditional use and site plan approval are required when any of the following are proposed:
- (1) Change in the number of buildings or telecommunications facilities permitted on the site;
 - (2) Material change in technology used by the telecommunications facility; or
 - (3) Addition or change of any equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennas, not specified in the original application.
- (K) **Lighting, Signage & Noise.** The following standards apply to all telecommunications towers:
- (1) Towers shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA, FCC or other federal or state authority. In the event that any lighting is required solely as a result of tower height, the tower owner(s) shall submit for review by

the Planning Commission (under site plan review or site plan amendment, as applicable). The Planning Commission may:

- (a) require that the tower height be reduced to eliminate the need for lighting;
 - (b) require another suitable location be utilized; or
 - (c) make selection among lighting alternatives.
- (2) No commercial signs shall be placed on towers.
 - (3) Manually operated emergency lights are permitted for use only when telecommunications facility operating personnel are on site.
 - (4) The owner(s) of the facilities shall take reasonable measures to minimize noise from the operation of any machinery or equipment, as detected at the site perimeter. The noise level of the machinery shall be no louder than 40 decibels at the site perimeter.

(L) **Antennas Mounted on Existing Structures.** Antennas mounted on structures, roofs, and walls, and on existing towers shall be subject to this Section, except as exempted under Subsection (C). Antennas hidden within buildings or structures such as in a steeple or façade are not necessarily preferred to antennas mounted in visible locations.

(M) **Temporary Wireless Telecommunications Facilities.** Temporary wireless telecommunications facilities (as defined in this Section) are subject to the following:

- (1) Use of a temporary wireless telecommunications facility requires a conditional use permit from the Board.
- (2) Temporary wireless telecommunications facilities are allowed for no longer than five days use during a special event.
- (3) The maximum height of a temporary telecommunications facility is 50 feet from grade.
- (4) Temporary wireless telecommunications facilities shall comply with all applicable provisions of this Section.

(N) **Abandoned/Dangerous Towers.** Abandoned or unused towers or portions of towers and their facilities shall be removed as follows:

- (1) The owner of a telecommunications facility/tower shall annually, on January 15th, file a declaration with the Zoning Administrator certifying the continuing safe operation of every telecommunications facility/tower installed subject to these Regulations. Failure to file a declaration shall mean that the telecommunications facility/tower is no longer in use and considered abandoned.
- (2) Abandoned or unused towers and associated facilities shall be removed within 180 days of cessation of operations at the site, unless a time extension is approved by the Board of Adjustment within the 180-day period. In the event the tower is not removed within 180 days of the cessation of operations at a site, the Zoning Administrator shall initiate enforcement in accordance with Section 9.8 and, following the expiration of the period for remediation of the violation, shall request the Town of Charlotte to remove the tower and all associated facilities. Costs of removal shall be assessed against the tower owner, including any regulatory costs, disposal costs, clean up, and final landscaping costs.

- (3) Unused portions of towers shall be removed by tower owner(s) within 180 days of the time that such portion is no longer used for antennas. The replacement of portions of a tower previously removed shall require the issuance of a new telecommunications facility conditional-use permit by the Board.
- (4) An owner who has failed to file an annual declaration with the Zoning Administrator by January 15th may, by February 15th, file a declaration of use or intended use and may request the ability to continue use of the telecommunications facility/tower.

(O) **Insurance Requirements.** The telecommunications facility owner(s) shall maintain adequate property and liability insurance on all telecommunications facilities within the Town of Charlotte. The minimum insurance coverage shall be \$1 million for the telecommunications tower/facility owner unless there are reasons for the insurance to be more or less. If the tower/facilities owner(s) wishes to reduce the insurance coverage he/she shall have the burden to demonstrate why the coverage should be reduced. The owner(s) shall arrange with the insurance carrier(s) for original certificates of insurance for all renewals or cancellations of said insurance coverage to be delivered to the Zoning Administrator. At a minimum the following insurance requirements shall be satisfied:

- (1) The required insurance must be obtained and maintained for the entire period the telecommunications facility is in existence from pre-construction through final decommissioning and rehabilitation. If the operator, its contractors or subcontractors do not have the required insurance, the town will order such entities to cease operation of the facility until such insurance is obtained.
- (2) Certificate(s) of insurance verifying such insurance shall be filed with the Zoning Administrator at the time of application. For entities that are entering the market, the certificate(s) shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse of coverage. Such certificate(s) should provide the name, address and phone number of the insurance carrier and identify an agent in case of inquiries.
- (3) The certificate(s) of insurance shall contain a provision that coverages afforded under such policies shall not be canceled until at least 30 days prior written notice had been given to the town. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Vermont.

Section 4.17 Temporary Structure or Use

Temporary Structure. A temporary structure used for office or storage space (e.g., trailer, mobile home), or for special events may be allowed as a temporary accessory structure to a permitted use. Such a structure shall comply with all set back standards and other dimensional standards for the district in which it is located, and shall not be used for dwelling purposes unless specifically approved under Section 4.2. Temporary structures may be issued a zoning permit by the Zoning Administrator, for a specified period of time not to exceed one (1) year from the date of issuance, with the provision that the structures will be dismantled and/or removed upon expiration of the permit. The Zoning Administrator may renew a permit for a temporary structure for a period not to exceed one (1) additional year.

Section 4.18 Accessory Structure

An accessory structure with a footprint larger than 2,000 square feet or with a building height greater than 25 feet requires a conditional use permit in accordance with Section 5.4.

Section 4.19 Farm Café

(A) A farm café may be allowed in the designated zoning district subject to conditional use review under Section 5.4, site plan review under Section 5.5, and the following requirements:

- (1) An enclosed building, or portion thereof, dedicated to this use, including food preparation and seating areas, shall occupy no more than 1,000 square feet of gross floor area.
- (2) Designated outdoor seating shall occupy a total area of not more than 1,000 square feet.
- (3) The parcel on which the Farm Café is to be located must be at least 10 acres, unless the parcel has frontage on Route 7, in which case the parcel must be at least 20 acres.
- (4) The farm associated with a Farm Café must have gross sales of at least \$10,000 of agricultural products per year, unless the Farm Café is to be located on a parcel with frontage on Route 7, in which case the farm must have gross sales of at least \$20,000 of agricultural products per year.
- (5) Annual gross farm income must not be less than 33% of annual gross income derived from the Farm Café. Farm products sold at the café or used as ingredients in products sold at the café can be valued at fair market value for the purpose of calculating gross farm income for this criterion.

4.20 Energy Facility Siting and Development Standards

General Standards

Prioritization

The Town will support the following types of energy development in order of priority:

- Increased system capacity through state, utility and municipally-supported energy efficiency and conservation programs.
- Individual and small-scale¹ renewable and distributed energy projects.
- In-place upgrades of existing facilities including transmission and distribution lines and substations.
- New community-scale² renewable and distributed energy projects.

Areas of High Public Value (AHPV)

Land development in Charlotte is evaluated and sited so as to avoid and / or minimize impacts to the following AHPV as identified in Charlotte's Town Plan and Land Use Regulations:

- Land in active agricultural use,
- Primary (prime & statewide) agricultural soils,
- Steep slopes (equal to or in excess of 15%),

¹ Small scale renewable energy projects are defined as those that generate less than 150kW of energy.

² Community scale projects generate 150 kW to 1 mW and utility scale generate over 1 mW. Small and community scale projects would be considered locally sourced meaning the energy produced is produced and used in Vermont. Utility projects generate power that is available to the broader, merchant market.

- Flood hazard areas,
- Surface waters, wetlands and associated setback and buffer areas,
- Shoreland setback and buffer areas,
- Special natural areas (identified in *Charlotte Town Plan*),
- Wildlife habitat (as identified in *Charlotte Town Plan* or as field delineated),
- Water supply source protection areas (SPAs),
- Historic districts, sites and structures (as listed in Vermont State Historic Register),
- Scenic views and vistas (as identified in *Charlotte Town Plan*), or
- Conserved land on adjacent parcels.

Excluded Areas

Energy projects will be evaluated like other forms of land development; however, the following areas will be excluded from consideration for development of new energy projects:

- Conservation District
- Areas 150' or less from mean high water level for Lake Champlain, unless mounted on an existing structure.
- Steep slopes (equal to or in excess of 15%),
- Flood hazard areas (Flood Hazard Overlay District), and river (and stream) corridors as defined by VTANR,
- Lands conserved for purposes contrary to energy project development (e.g. buffer to neighboring property during subdivision review, agriculture, other utility easement areas etc.)

Use Classification

A small-scale, net-metered or off-grid renewable energy facility (generally less than or equal to 15kW) intended solely to serve an individual residence or business, will be considered an accessory structure allowed in all zoning districts in which structures are allowed.

Larger scale projects, including power generation facilities; transmission and distribution lines; group, net-metered facilities; substations; and other projects requiring a certificate of public good from the Public Service Board will be reviewed utilizing the standards under Section 5.5 Site Plan Review as amended herein. These projects will also be subject to review under Section 3.12 Performance Standards.

Specific Use Standards

Height – Zoning district height limitations under local bylaws should be waived for renewable energy projects as enabled under 24 V.S.A. Section 4414. The maximum tower height for net-metered or similar off-grid wind energy facilities shall not (a) exceed 120 feet in total height, as measured vertically from the natural ground level to the rotor tip blade at its highest point, or (b) extend in total height more than 30 feet above the existing tree canopy or other obstructions within 300 feet of the

tower, whichever is greater.

No monopole or attached accessory antenna on a monopole shall exceed 120 feet in height as measured from natural ground level at the base of the pole. No monopole shall be constructed which requires guy wires. Monopoles shall not be located on buildings.

Setbacks – Except for transmission and distribution utility lines and connections, all energy facilities including substations; small-scale net-metered or off-grid renewable energy projects; and group net-metered projects, must meet the minimum setback requirements³ for the zoning district in which they are located. In addition, all ground-mounted wind energy facilities must be set back a distance equal to 1.5 times the overall height of the facility, as measured vertically from the natural grade to the rotor blade tip at its highest point, from nearest existing residential or commercial structure on abutting properties and from the nearest property line and private⁴ or public right-of-way (including road, overhead utility line, trail).

A building-mounted wind turbine or solar panel must meet minimum setback requirements for the building on which it is mounted. The installation of a net-metered or off-grid energy system on a nonconforming structure will not constitute an increase in the degree or amount of nonconformance under local regulations.

Ground Clearance – The blade tip of any horizontal wind turbine at its lowest point shall have a ground clearance of no less than 30 feet.

Noise – Noise generated by any energy facility shall not exceed the lesser of (a) 70 decibels as measured at any property line or (b) 10 decibels above the ambient sound level.

Shadow Flicker – Wind energy facilities shall be sited or screened so that shadows cast by rotor blades will not result in shadow flicker on occupied buildings located in the vicinity of the project.

Burial – Utility controls and onsite line connections shall be wireless or buried, except at the point of connection with distribution lines.

Signs – Energy facilities and structures shall not be used for display or advertising purposes. Signs, except for owner and manufacturer identifications and safety warnings that do not exceed six square feet in total area, are prohibited on all structures. Signs shall not be higher than 10 feet from the average grade of the surrounding ground to the highest point of the sign or supporting structure, whichever is higher.

Lighting – In accordance with Section 3.9 of the Land Use Regulations, all outdoor lighting including that associated with energy facilities shall be kept to the minimum required for safety, security and intended use.

In the event FAA required navigation lighting is required for a project, then an Obstacle Collision Avoidance System (OCAS) or other lighting control system approved by the FAA shall be used to minimize visual lighting impacts. The FAA lighting alternative that results in the least amount of visual disturbance and minimizes project visibility from public roads and vantage points shall be incorporated into the design.

³ Applicants should plan for necessary shadow easements as rights to such an easement are not implied through approval of a project that meets the minimum setback requirements.

⁴ Project may be permitted closer to a private right-of-way subject to signed agreement with others who use / manage right-of-way if applicable.

Guidance for Planning Solar Projects

Careful planning of solar projects, particularly larger projects, will often incorporate several of the following characteristics:

- Roof-mounted systems; where feasible
- Active engagement with neighboring property owners early in the planning stages;
- Systems located in close proximity to, or screened by, existing large-scale commercial, industrial or agricultural buildings;
- Proximity to existing hedgerows, evergreen vegetation, berms, hills, or other topographical features that naturally minimize the aesthetic impact of the proposed solar project;
- Reuse of former brownfields or otherwise impacted property, which otherwise complies with the setback requirements of these regulations.

Projects that have not been carefully planned often fail to consider the following:

- Natural screening;
- Placement within topography that causes the solar project to be highly visible against the skyline, or a dominant feature when viewed from public, historic or scenic places, and common vantage points like roads, neighborhoods or within a significant viewshed. Significant viewsheds within the Town of Charlotte include the Town's scenic roads and vistas (Town Plan Map 13) ;
- A location that requires clear-cutting or fragmentation of the working landscape;;
- Disruption of wildlife habitat including core habitat areas, migratory routes, and travel corridors;