

Town of Richmond
Planning Commission Meeting
AGENDA

Wednesday July 15th, 2020, 7:00 PM

Due to restrictions in place for COVID-19, and in accordance Bill H.681 **this meeting will be held by login online and conference call only**. You do not need a computer to attend this meeting. You may use the "Join By Phone" number to call from a cell phone or landline. When prompted, enter the meeting ID provided below to join by phone. For additional information and accommodations to improve the accessibility of this meeting, please contact Ravi Venkataraman at 802-434-2430 or at rvenkataraman@richmondvt.gov

Join Zoom Meeting: <https://us02web.zoom.us/j/82048699224?pwd=VVhKR2g0ZE51Yko2Q2R0Z3FsWEJDUT09>

Join by phone: (929) 205-6099

Meeting ID: 820 4869 9224

Password: 879100

1. Welcome and troubleshooting
2. Adjustments to the Agenda
3. Approval of Minutes
 - July 1st, 2020
4. Public Comment for non-agenda items
5. Resolution to pursue Municipal Planning Grant
6. Discussion on creating requirements for property owners claiming exemption per 24 V.S.A. §4413
7. Discussion of possible new zoning districts within the Richmond Village
8. Discussion of timeline and logistics of public outreach
9. Review List of Future Priorities
10. Other Business, Correspondence, and Adjournment

Table of Contents

3. Approval of Minutes

- Page 3: July 1st, 2020 Meeting Minutes

5. Resolution to pursue Municipal Planning Grant

- Page 6: Memorandum on FY2021 Municipal Planning Grant
- Page 8: FY21 Municipal Resolution for Municipal Planning Grant

6. Discussion on creating requirements for property owners claiming exemption per 24 V.S.A. §4413

- Page 10: Memorandum on Requirements for property owners claiming exemption per 24 V.S.A. §4413
- Page 12: Draft regulations for exemptions under 24 V.S.A. §4413
- Page 14: 24 V.S.A. §4413 in its entirety
- Page 17: Examples of Zoning Regulations from nearby municipalities

7. Discussion of possible new zoning districts within the Richmond Village

- Draft Zoning Maps (on standalone documents)
 - “NorthernVillageMap.pdf” – Draft zoning map of northern portion of Richmond Village showing a combined Village Commercial District and Residential Commercial District, and the Village Residential Neighborhoods District. Numbers within parcels are the acreages of each parcel
 - “CenterVillageMap.pdf” - Draft zoning map of center portion of Richmond Village showing a combined Village Commercial District and Residential Commercial District, and the Village Residential Neighborhoods District. Numbers within parcels are the acreages of each parcel
 - “SouthernVillageMap.pdf” - Draft zoning map of southern portion of Richmond Village showing a combined Village Commercial District and Residential Commercial District, and the Village Residential Neighborhoods District. Numbers within parcels are the acreages of each parcel
 - ArcGIS Online web map of draft zoning map: <https://arcg.is/1LiamD>

9. Review List of Future Priorities

- Page 22: List of future priorities (From February 19, 2020 Planning Commission Meeting Packet based on discussions during February 5, 2020 Planning Commission Meeting)

Richmond Planning Commission
REGULAR Meeting
UNAPPROVED MINUTES FOR July 1, 2020 MEETING

Members Present: Chris Cole, Scott Nickerson, Alison Anand (joined at 7:10 pm), Jake Kornfeld, Brian Tellstone (joined at 7:10 pm), Chris Granda, Mark Fausel
Members Absent: Joy Reap, Virginia Clarke
Others Present: Ravi Venkataraman (Town Planner/Staff)

Chris Cole opened the meeting at 7:07 pm.

2. Adjustments to the Agenda

None

3. Approval of Minutes

Motion by Scott Nickerson, seconded by Mark Fausel to approve the June 3rd, 2020 Planning Commission Meeting Minutes. Voting: 4-0 (Chris Granda abstained). Motion passed.

Motion by Granda, seconded by Nickerson to approve the June 17th, 2020 Planning Commission Meeting Minutes. Voting: 4-0 (Fausel abstained). Motion passed.

4. Public Comment for non-agenda items

None

5. Discussion on creation of Housing Advisory Committee

Cole provided stated that this is a continued item from the previous meeting. Cole asked the Planning Commission to review of red underlined text newly added in the meeting materials. Nickerson said he liked the update to the statement of purpose because it fits the commission's intent and promotes inclusivity.

Motion by Nickerson, seconded by Granda to recommend to the Selectboard the creation of the Town of Richmond Housing Committee with the charges outlined in the enclosure. Voting: unanimous. Motion passed.

Cole asked Ravi Venkataraman about timeline for forwarding the recommendation and charges to the Selectboard. Venkataraman said that this will be mentioned during the July 6th Selectboard meeting when he presents his proposal for a Municipal Planning Grant to help establish the housing committee, and that he expects the Selectboard to review the draft charge during the ensuing Selectboard meeting.

5. Discussion of Village Commercial and Residential Commercial Zoning Districts

Cole asked about the enclosed checklist in the meeting materials for this agenda item. Venkataraman said that he recommends the Planning Commission to use the checklist to guide the conversation about this topic this evening. Cole asked the commission to review the maps.

47 Fausel asked about the status of combining the Village Commercial and Residential
48 Commercial Zoning Districts. Cole said that at this stage this was a suggestion based on
49 Virginia Clarke's comments. Cole said that during the last meeting, the commission decided
50 that it wanted to protect existing neighborhoods, and to increase the density up to twofold in
51 certain parts of the Village. Venkataraman added that regarding density, he provided a number
52 of maps indicating acreage in order to help the commission come to a decision on density.
53 Venkataraman overviews the current zoning map that was enclosed in the meeting materials.
54 Alison Anand asked about the location of the nursing home. Cole asked which districts allowed
55 nursing home uses. Cole revised his question to ask if rezoning the parcel hosting the nursing
56 home was necessary. Tellstone said that parcels should be left mixed use wherever possible
57 and rezoning would not be necessary in this case. Cole asked about considering rezoning
58 portions of parcels. Venkataraman said placing different portions of parcels in different zones is
59 legal, but an annoyance for permitting and allowing uses. Cole asked about the status of the
60 lots as agricultural, and residential. Jake Kornfeld asked if zoning affects the tax rate. Cole said
61 that taxation would be based on the current use and structures on the property, not the most
62 valuable use the property could hold. Fausel said that expanding allowances south of the
63 Winooski River is practical, and that a lot of the land south of the river is conserved lands and
64 floodplains. Cole said that Clarke suggested placing the parcel hosting the Round Church to be
65 in its own district, possibly even a historic district. Fausel said that many of the buildings south
66 of the river are historic. Cole asked the commission questions from the checklist, starting with
67 the first question about purpose. Cole asked which districts should be set aside into distinct
68 districts, and the current zones of the areas the commission would like to protect. Fausel said
69 high density residential. Cole identified Esplanade, Church Street, Pleasant Street, Depot
70 Street, and the residential neighborhoods on West Main Street as residential neighborhoods
71 worth protecting. Cole asked if the residential neighborhoods on Church Street zoned
72 agricultural should be rezoned. Fausel said that the impact of rezoning would be minimal
73 because most of the land is conserved within a PUD. Anand said that during the Town Plan
74 process, they discussed bringing lots into conformance via zoning. Fausel and Nickerson said
75 that upzoning in the Tilden Avenue neighborhood was great concern to the residents. Fausel
76 said that further discussion about upzoning with the community is needed. Granda said that
77 upzoning would create conformity for the existing nonconforming lots, and allow for certain lots
78 to be redeveloped to the existing character of the district. Nickerson said that a reevaluation of
79 the high density residential district may be needed, and recommended creating a village
80 neighborhoods district encompassing the residential districts in the village the commission
81 wants to protect. Cole liked Nickerson's idea. Fausel said that most of the areas identified are
82 already fully developed. Cole said that the residential neighborhoods north of Route 2 and
83 south of I-89 are similar in character and density. All commissioners agreed. Cole asked
84 Venkataraman to place a marker recognizing the residential areas in the village as a separate
85 district. Fausel asked about the feasibility of extending water and sewer lines to areas north of
86 I-89. Anand mentioned the presence of deer yards in the areas north of I-89. Cole asked about
87 developability of those areas. Fausel asked if the commission wants to create the options for
88 developability in areas north of I-89. Cole asked about the form of possible developments in
89 this area, and how suburban it would look. Anand said that septic systems and steep slopes
90 would prevent further development. Cole suggested that further discussions on the feasibility of
91 development if upzoned and utility connections are needed. Cole and Nickerson identified four
92 neighborhoods to protect via the village residential district. Fausel discussed the inclusion of
93 Depot Street and Borden Street in the residential district. Venkataraman said that the large
94 parcel at the end of Borden Street and Church Street are probably part of a PUD with most of
95 the land protected as open space. Cole said that the commission should identify future areas of

96 growth and devise methods for responsible growth. Anand asked Venkataraman about
97 examples in which a non-alignment between the zoning map and parcel map created issues.
98 Venkataraman said he is not aware of issues currently, since he does not regularly issue
99 zoning permits, but can understand the difficulty if and when such issues arise. Cole discussed
100 establishing a plan going forward. Cole recommended providing the option for mixed use on the
101 west side of Main Street, thus allowing mixed use on Depot Street, West Main Street, and East
102 Main Street. Fausel discussed identifying infrastructure lines and prioritizing commercial
103 development based on infrastructure access. Cole said that this may promote strip
104 development, which goes against the state's initiatives. Cole asked about including residential
105 houses across from Stone Corral Brewery south of the Winooski River in the conceptual village
106 residential neighborhoods district. Fausel recommended mixed use for that area. Nickerson
107 agreed but called for respect to the Round Church. Fausel recommended integrating more
108 form-based zoning qualities to control the aesthetics of the neighborhood. Cole agreed.
109 Venkataraman said that the commission should be cautious about aesthetic and compatibility
110 standards, as a DRB is not equipped to retain the historic quality of an area. Fausel agreed that
111 the DRB and Zoning Administrator's determinations cannot rest on interpretation. Cole said that
112 form-based zoning are more commonly a feature in large cities rather than small towns.
113 Venkataraman said that there are small towns that do have form-based zoning, but none come
114 to mind. Fausel cited Waitsfield, Warren and Stowe with form-based zoning.

115

116 **6. Timeline and logistics of public outreach**

117

118 Cole asked about the goals of the public outreach. Fausel said the purpose is a general heads
119 up via Front Porch Forum and other media, as well as specific people in the core village area.
120 Cole said that the commission would be ready for that after the next meeting with further
121 clarification on neighborhoods and density. Cole recommended sending out a general update
122 on the Planning Commission's work. Fausel recommended sending information out earlier to
123 allow the community to be more involved in the discussion. Nickerson said sharing a proposed
124 map would be helpful. Granda recommended establishing an overall vision, because a general
125 message may warrant fear and a vision focuses discussion. Cole agreed with Fausel,
126 Nickerson and Granda to include the community in the process but with a concrete
127 understanding of the process established first. Cole said he wants both agenda items on the
128 next meeting agenda.

129

130 **7. Other Business, Correspondence, and Adjournment**

131

132 Cole recommended discussing the Planning Commission work plan that was discussed during the
133 February 19, 2020 Planning Commission meeting during the next meeting.

134

135 Motion by Tellstone, seconded by Fausel to adjourn the meeting. Voting: unanimous. Motion carried.
136 The meeting adjourned at 9:09 pm.

137

138 Respectfully submitted by Ravi Venkataraman, Town Planner

TO: Richmond Planning Commission

FROM: Ravi Venkataraman, Town Planner

DATE: July 9, 2020

SUBJECT: FY2021 Municipal Planning Grant

Purpose

The purpose of this memorandum is to overview:

- The Municipal Planning Grant (MPG);
- The Planning and Zoning Department's proposal for the MPG;
- The Planning Commission's role in the MPG and
- A draft motion to facilitate action by the Selectboard.

Background on the Municipal Planning Grant

The purpose of the MPG is to promote municipal and regional planning projects that help advance the state planning goals as identified in 24 V.S.A. §4302. Such goals include: establishing a comprehensive planning process and policy framework; encouraging public participation in the planning process; managing natural resources with growth and development; and planning development in order to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

The Vermont Department of Housing and Community Development (DHCD) administers the MPG. DHCD evaluates and ranks projects using a rubric; this rubric, along with additional information about the grant can be found in the enclosed program description. While the grant aims to support all planning-related projects, DHCD prioritizes (and thus provides more points for) the following projects:

- COVID-19 economic recovery plans and/or investment
- Fair and affordable housing plans and/or regulations that implement "Zoning For Great Neighborhoods"
- Plans for a new Designated Area or specific-area visual/physical master planning for a Designated Area
- Innovative statewide model projects

Last year, the following projects earned MPG funds:

- A conceptual master plan for obtaining a New Town Center and Neighborhood Development Area designation
- Evaluations and updates to land use regulations (i.e. zoning and subdivision ordinances)
- Updates to Town Plans
- The development of strategies to enhance public spaces and create walkable environments in towns and village centers
- A housing needs assessment

Individual municipalities are allowed to submit one application per year, with a maximum grant amount of \$22,000. Applications for MPG must be submitted by October 1, 2020. Projects are awarded in December 2020. And, projects must be completed with all funds spent by May 31, 2022.

The Proposal

Richmond Planning and Zoning proposes applying for a MPG to establish inclusionary zoning regulations¹ that would increase the amount of affordable and diverse housing in Town. Project components would include public outreach to determine the needs of the community, an evaluation of current zoning regulations according to the needs of the Town, drafting of inclusionary zoning regulations with input from the Town, and implementation of inclusionary zoning regulations.

In addition to the work involved with this project, grant funds would be used to hire a consultant to facilitate the progress of the project, and to help establish a housing committee composed of Richmond residents and housing policy experts.

This housing committee would steer this project by overseeing outreach efforts, pinpointing town-specific housing issues, and creating policy solutions with the community at the forefront. The Planning Commission is currently creating a charge for this housing committee for the Selectboard to review and adopt.

This proposal aligns with the Selectboard's recent push to address affordable housing in town, housing goals listed in the 2018 Town Plan, and also DHCD's "Zoning for Great Neighborhoods" initiative. DHCD's initiative calls for the diversification of housing stock and the creation of walkable neighborhoods in order to fit the needs of Vermonters better. Inclusionary zoning regulations and overall revisions to the zoning regulations to increase the amount of affordable housing would lead to both aforementioned ends.

I have already discussed this proposal with representatives from CCRPC, VHFA, and DHCD. All three have expressed support for this proposal.

Having consulted with CCRPC, I have estimated this project to cost \$24,000. I will be requesting \$22,000 in the grant application

Planning Commission Actions

The Planning Commission must adopt the attached municipal resolution, and the Planning Commission Chair must sign said resolution. This resolution will be included in the MPG application.

Provided below is a draft motion to facilitate action by the Planning Commission.

I, _____, move to adopt the resolution for the FY21 Municipal Planning Grant.

¹ "Inclusionary zoning" is the technical term for affordable housing regulations. The term "inclusionary zoning" includes both mandatory and opt-in affordable housing requirements. Zoning regulations tend to use the term "inclusionary zoning" for mandatory requirements—and thus the semantic difference. In this project, my aim is to have all aspects of inclusionary zoning (both mandatory and opt-in affordable housing requirements) to be considered in order to create a solution that best fits the Town.

FY21 Municipal Resolution for Municipal Planning Grant

WHEREAS, the Municipality of Richmond, VT is applying for funding as provided for in the FY21 Budget Act and may receive an award of funds under said provisions; and

WHEREAS, the Department of Housing and Community Development may offer a Grant Agreement to this Municipality for said funding; and

WHEREAS, the municipality is maintaining its efforts to provide local funds for municipal and regional planning purposes or that the municipality has voted at an annual or special meeting to provide local funds for municipal and regional planning purposes,

Now, THEREFORE, BE IT RESOLVED

- 1. That the Legislative Body of this Municipality enters into and agrees to the requirements and obligations of this grant program including a commitment to match funds.
- 2. That the Municipal Planning Commission recommends applying for said Grant;

Chris Cole _____
 (Name of Planning Commission Chair) (Signature)

- 3a. That (Name) Josh Arneson Title Town Manager

who is either the Chief Executive Officer (CEO), as defined by 10 VSA §683(8), or is a Select Board Member, the Town Manager, the City Manager, or the Town Administrator, is hereby designated to serve as the Municipal/Authorizing Official (M/AO) for the Grant Electronic Application and Reporting System (GEARS), and to execute the Grant Agreement and other such Documents as may be necessary to secure these funds.

- 3b. (Alternate Authorizing Official for redundancy)

That (Name) David Sander Title Selectboard Chair

who is either the Chief Executive Officer (CEO), as defined by 10 VSA §683(8), or a Select Board Member, is the Town Manager, the City Manager, or the Town Administrator, is hereby designated to serve as the Municipal/ Authorizing Official (M/AO) for the Grant Electronic Application and Reporting System (GEARS), and to execute the Grant Agreement and other such Documents as may be necessary to secure these funds.

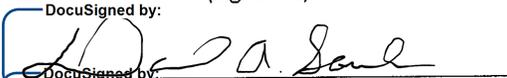
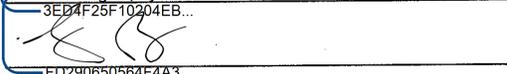
- 3c. That (Name) Ravi Venkataraman Title Town Planner

is hereby designated as the Grant Administrator, the person with the overall Administrative responsibility for the Municipal Planning Grant program activities related to the application, and any subsequent Grant Agreement provisions.

Passed this 6th day of July, 2020

- (For rural towns or consortia only) The regional planning commission will serve as agent for the municipality or consortium. (Check the box if the municipality authorizes its regional planning commission to prepare the application, support grant administration and be exempt from competitive selection if serving as project consultant.)

LEGISLATIVE BODY

(name)	(signature)
David Sander	
Bard Hill	
Roger Brown	
Katie Mather	
Christine Werneke	

INSTRUCTIONS FOR RESOLUTION FORM

- A. The Legislative Body of the Municipality must adopt this resolution or one that will have the same effect. This Form may be filled in or the adopted Resolution may be issued on municipal letterhead, filling in the name of the municipality, the Legislative Body (e.g. Selectboard), and the name and title of the Municipal/ Authorizing Official(s) (M/AOs); and the Grant Administrator.
- B. Following formal adoption, a majority of the legislative body must sign the Resolution. The Chair of the Planning Commission must also sign upon endorsement by vote of the Planning Commission.
- C. This form must be either uploaded to the online application or grant, or mailed to:
Municipal Planning Grant Program
Department of Housing and Community Development
One National Life Drive, Sixth Floor
Montpelier, VT 05620-0501
- D. If mailed, an electronic copy of the submitted Resolution document will be uploaded by DHCD staff and available online.
- E. Please note that the designated Municipal/Authorizing Official(s) and Grant Administrator must also register for an account in the online grants management system, if they have not done so already, before the application can be considered complete.

CONSORTIUM APPLICATIONS: For a consortium, each municipality must complete a separate Resolution form. All municipalities in a consortium must designate the same Municipal/Authorizing Official(s) and grant Administrator.

TO: Richmond Planning Commission

FROM: Ravi Venkataraman, Town Planner

DATE: July 9, 2020

SUBJECT: Requirements for property owners claiming exemption per 24 V.S.A. §4413

Background

Earlier this week, a paragraph from a court order filed in January 2017 caught my attention:

The Plaintiff agrees to a 2 year moratorium on the construction of any new exempt agricultural structures, thus giving the Town of Richmond the time to update the Richmond Zoning Regulations to provide clear requirements for property owners claiming exempt per state of Vermont 24 V.S.A. 4413.

Based on Town records, no changes have been made to the zoning regulations in response to this court order.

24 V.S.A. §4413

The entire text for 24 V.S.A. §4413 is enclosed. To summarize the main points of the act:

- Zoning regulations cannot place an undue burden that would prevent the function of state- or community-owned and operated institutions and facilities; public and private schools and other educational institutions; churches and other places of worship; public and private hospitals; regional certified solid waste management facilities; and hazardous waste management facilities
- The aforementioned uses—except state-owned and operated institutions and facilities—can be regulated further within flood hazard areas and river corridors, and for the purposes of National Flood Insurance Program compliance
- Zoning cannot regulate public utility power generating plants and transmission facilities
- Zoning cannot regulate required agricultural practices, accepted silvicultural practices, and forestry operations
- Permits cannot be issued for farm structures. However, persons must notify the municipality their intent to build a farm structure, and comply with setback requirements approved by the Secretary of Agriculture, Food, and Markets.
- Development Review Boards can place reasonable conditions on projects involving aforementioned uses to protect wildlife habitats, or natural, historic, or scenic resources
- Zoning cannot regulate the installation and operation of solar energy devices.

24 V.S.A. §4413 in the Richmond Zoning Regulations

Currently, in the Town Zoning Regulations, the following sections refer to the exemptions under 24 V.S.A. 4413:

2.4.5 Accepted Agricultural and Silvicultural Practices – *In accordance with 24 VSA §4413, required agricultural practices as defined in the “Required Agricultural Practices Rule” from the Secretary of Agriculture, Food and Markets, and accepted silvicultural practices, as regulated by the “Acceptable Management Practices for Maintaining Water Quality on*

Logging Jobs in Vermont” from the Commissioner of Forests, Parks and Recreation, shall not be regulated by these Zoning regulations. However, a person shall notify the Administrative Officer in writing of the intent to build a Farm Structure and shall abide by all setback requirements approved by the Secretary of Agriculture.

5.10.4 Public Facilities and Utilities

a) In accordance with the Act [§4413(a)], the following public facilities or uses may be regulated only with respect to their location, size, height, building bulk, yards, courts, setbacks, density of buildings, off Road or Highway parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that such regulations do not have the effect of interfering with the intended functional use. The DRB shall apply these standards and require the Applicant to demonstrate how specific standards, when applied, interfere with the intended functional use of the proposed Land Development:

- i. State- or community-owned and operated institutions and facilities.*
- ii. Public and private schools and other educational institutions certified by the Vermont Department of Education.*
- iii. Churches and other places of worship, convents and parish houses.*
- iv. Public and private hospitals.*
- v. Regional solid waste management facilities certified by the state (under 10 V.S.A. Chapter 159).*
- vi. Hazardous waste management facilities for which a notice of intent to construct has been received by the state (under 10 V.S.A. §6606a).*

b) Public facilities must meet applicable requirements of these Zoning Regulations, and may be subject to site plan review under Section 5.5 or conditional use review under Section 5.6.

Associated conditions of approval, however, shall not exceed allowed municipal regulation of these facilities, as specified under the Act and subsection a).

c) In accordance with the Act [§4413(b)], public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board (under 30 V.S.A. §248) are specifically exempted from municipal regulation.

In addition, the definitions for “Farm Structure” and “Religious Uses” refer to 24 V.S.A. §4413.

Enclosures and Recommendations

I have enclosed recommended language based on language from nearby towns. My overall recommendations are to insert language specifying which uses are exempt from zoning regulations per 24 V.S.A. §4413 in Section 1.2 and 5.1 of the Zoning Regulations, and remove references to this act in other parts of the Zoning Regulations.

As a reference, I have also attached sections of the Town of Essex Zoning Regulations, Town of Hinesburg Zoning Regulations and Town of Williston Unified Development Ordinance which refer to 24 V.S.A. §4413.

When the Planning Commission is ready to accept the draft regulations, I have prepared the following draft motion:

I, _____, move to warn a public hearing for August 19, 2020 on the amendments to Richmond Zoning Regulations Section.

1.2 Application of Zoning Regulations

~~No “Land Development” (see definition, Section 7) shall commence without the issuance of a Zoning Permit, as provided in Section 5.1.~~

A Zoning Permit must be issued prior to the commencement of any land development, unless it is specifically exempted under Section 5.1.2.

5.1 Applicability

No Land Development may be commenced in the Town of Richmond without a Zoning Permit issued by the Administrative Officer, with exception to the exemptions listed under Section 5.1.2. No Zoning Permit may be issued by the Administrative Officer except in conformance with the Act (§§4448, 4449) and these Zoning Regulations. Also, no Zoning Permit shall be issued by the Administrative Officer for any use or structure that requires approval of the DRB or Selectboard until such approval has been obtained. A State of Vermont Wastewater System and Potable Water Supply Permit or demonstration of exemption must be presented by the Applicant before a Certificate of Occupancy will be issued. These Zoning Regulations shall not repeal, annul, or in any way impair any Zoning Permit which was previously issued and utilized for any completed project.

5.1.2 Exempted Land Development

a) The following uses are specifically exempted from local regulations in accordance with 24 V.S.A. §4413 and do not require a Zoning Permit prior to land development:

- Required agricultural practices, including the construction of farm structures, as defined by the Vermont Secretary of Agriculture, Food, and Markets. However, a person must provide written notification and a sketch plan showing structure setback distances, property lines, and surface waters to the Administrative Officer prior to any construction, pursuant to 24 V.S.A §4413(d) (3).
- Accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation
- Forestry operations
- Public utility power generating plants and transmission facilities regulated under 30 VSA, §248

b) The following uses are partially exempted from local regulations in accordance with 24 V.S.A. §4413:

- State- or community-owned and operated institutions and facilities.

c) The following uses are partially exempted from local regulations in accordance with 24 V.S.A. §4413 unless the use is located within the Flood Hazard Overlay District. If the use is located within the Flood Hazard Overlay District, it is subject to all regulations under Section 6.8.

- Public and private schools and other educational institutions certified by the Vermont Department of Education.

- Churches and other places of worship, convents and parish houses.
- Public and private hospitals.
- Regional solid waste management facilities certified by the state certified under 10 V.S.A. Chapter 159.
- Hazardous waste management facilities for which a notice of intent to construct has been received by the state under 10 V.S.A. §6606a

c) Permit Requirements for Partially Exempted Developments. Permits are required for the uses listed above. The aforementioned uses may be regulated only with respect to their location, size, height, building bulk, yards, courts, setbacks, density of buildings, off Road or Highway parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that such regulations do not have the effect of interfering with the intended functional use.

[Remove Sections 2.4.5 and 5.10.4]

The Vermont Statutes Online

Title 24 : Municipal And County Government

Chapter 117 : Municipal And Regional Planning And Development

Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4413)

§ 4413. Limitations on municipal bylaws

(a)(1) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

(A) State- or community-owned and operated institutions and facilities.

(B) Public and private schools and other educational institutions certified by the Agency of Education.

(C) Churches and other places of worship, convents, and parish houses.

(D) Public and private hospitals.

(E) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.

(F) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

(2) Except for State-owned and -operated institutions and facilities, a municipality may regulate each of the land uses listed in subdivision (1) of this subsection for compliance with the National Flood Insurance Program and for compliance with a municipal ordinance or bylaw regulating development in a flood hazard area or river corridor, consistent with the requirements of subdivision 2291(25) and section 4424 of this title. These regulations shall not have the effect of interfering with the intended functional use.

(b) A bylaw under this chapter shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

(c) Except as otherwise provided by this section and by 10 V.S.A. § 1976, if any bylaw is enacted with respect to any land development that is subject to regulation under State statutes, the more stringent or restrictive regulation applicable shall apply.

(d)(1) A bylaw under this chapter shall not regulate:

(A) required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets;

(B) accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; or

(C) forestry operations.

(2) As used in this section:

(A) "Farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

(B) "Forestry operations" has the same meaning as in 10 V.S.A. § 2602.

(3) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

(4) This subsection does not prevent an appropriate municipal panel, when issuing a decision on an application for land development over which the panel otherwise has jurisdiction under this chapter, from imposing reasonable conditions under subsection 4464(b) of this title to protect wildlife habitat, threatened or endangered species, or other natural, historic, or scenic resources and does not prevent the municipality from enforcing such conditions, provided that the reasonable conditions do not restrict or regulate forestry operations unrelated to land development.

(e) A bylaw enacted under this chapter shall be subject to the restrictions created under section 2295 of this title, with respect to the limits on municipal power to regulate hunting, fishing, trapping, and other activities specified under that section.

(f) This section shall apply in every municipality, notwithstanding any existing bylaw to the contrary.

(g) Notwithstanding any provision of law to the contrary, a bylaw adopted under this chapter shall not:

(1) Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, "flat roof" means a roof having a slope less than or equal to five degrees.

(2) Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (1) of this subsection, clotheslines, or other energy devices based on renewable resources.

(h)(1) Except as necessary to ensure compliance with the National Flood Insurance Program, a bylaw under this chapter shall not regulate any of the following:

(A) An ancillary improvement that does not exceed a footprint of 300 square feet and a height of 10 feet.

(B) The following improvements associated with the construction or installation of a communications line:

(i) The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.

(ii) The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

(2) For purposes of this subsection:

(A) "Ancillary improvement" shall have the same definition as is established in 30 V.S.A. § 248a(b).

(B) "Communications line" means a wireline or fiber-optic cable communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes. (Added 2003, No. 115 (Adj. Sess.), § 95; amended 2009, No. 45, § 15c, eff. May 27, 2009; 2011, No. 53, § 14, eff. May 27, 2011; 2011, No. 170 (Adj. Sess.), § 16f, eff. May 18, 2012; 2013, No. 92 (Adj. Sess.), § 272, eff. Feb. 14, 2014; 2013, No. 107 (Adj. Sess.), § 2, eff. April 18, 2014; 2015, No. 64, § 52; 2015, No. 171 (Adj. Sess.), § 19.)

Examples from Zoning Regulations in nearby municipalities regarding 24 V.S.A. 4413

From Town of Essex Zoning Regulations:

1.2 Application and Interpretation: These Regulations are subject to all requirements of the Act as most recently amended, and shall apply to all land development within the Town of Essex, outside of the incorporated Village of Essex Junction. Accordingly:

(A) No land development shall be undertaken in the Town of Essex except in conformance with these Regulations, with the exception of the following:

- (1) Land development within the incorporated Village of Essex Junction, as it exists on the effective date of these Regulations.
- (2) The subdivision of land as regulated under the Town of Essex Subdivision Regulations.
- (3) Land development that, in accordance with the Act (§ 4446), has been determined by the Town to have little or no impact on the surrounding area and the overall pattern of development, as listed in Table 1.1.
- (4) Land development that, in accordance with the Act (§ 4413), is excluded from municipal regulation, as listed in Table 1.1.

Land Development: The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land or extension of use of land.

Table 1.1 Exemptions from these Regulations

(A) Municipal. Pursuant to the Act (§4446), the following uses and structures have been determined by the Town of Essex to impose minimal or no impact on the surrounding area and overall pattern of land development in the Town, and are therefore exempted from the requirements of these Regulations:

- (1) The normal maintenance and repair of legally established structures, utilities and infrastructure which does not result in any change to the location, footprint or height of a structure or use, nor result in a change in the type or intensity of use.
- (2) Structures or other development projects that cost less than \$1,000, including labor and materials, and meet all setback and lot coverage requirements. Sheds that are 100 square feet or smaller may be placed two (2) feet from the side and rear property lines.
- (3) Additions or alterations to existing structures that are less than seventy-five square feet (75 SF) in floor area and meet all setback and lot coverage requirements.
- (4) The construction of accessory structures that are less than one-hundred square feet (100 SF) in floor area, and meet all setback and lot coverage requirements.
- (5) Fences and walls as exempted under Section 3.4.
- (6) Signs as exempted under Section 3.10.
- (7) Landscaping projects, gardens, paths and unimproved trails associated with single- or two family residential uses.
- (8) Residential entry stairs (excluding decks and porches), handicapped ramps and walkways, which do not obstruct public rights-of-way nor interfere with corner visibility or sight distances for vehicular traffic.
- (9) A home office or studio within a dwelling, for use only by residents of the dwelling, which involves no signs, general public access, or outdoor storage or displays.

(B) Statutory. The following uses are specifically exempted from local regulation in accordance with the Act (§4413):

- (1) Accepted agricultural practices (AAPs), including farm structures (except for dwellings), as defined by the Vermont Secretary of Agriculture, Food and Markets. However, written notification, including a sketch plan showing structure setback distances from public rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, in accordance with the AAPs. Structures shall meet all required setback distances under these Regulations unless waived by the Secretary.
- (2) Accepted management practices (AMPs) for silviculture (forestry operation) as defined by the Vermont Commissioner of Forests, Parks and Recreation.
- (3) Public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board under 30 VSA, §248, including solar panels and wind generators that are connected to the power grid.
- (4) Antennae that are part of a telecommunications facility for which jurisdiction has been assumed by the Vermont Public Service Board (under 30 V.S.A. §248a).
- (5) Hunting, fishing or trapping on public or private land as specified under 24 VSA §2295.

From Town of Hinesburg Zoning Regulations:

To note, Town of Hinesburg identifies specifically exempt uses in the “Definitions” section of its zoning regulations.

Section 2.3 SPECIAL USES (V.S.A. TITLE 24, CHAPTER 117, SECTION 4413a)

Pursuant to State statute (V.S.A. Title 24, Chapter 117, Section 4413a), certain special uses (listed below) may only be regulated by municipalities with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use.

All relevant provisions of the Hinesburg Zoning Regulations shall apply to these special uses (listed below) so long as the intent of the regulation is consistent with the above list of allowable review components. For conditional uses, the standards in section 4.2.2 shall still apply, but only as they relate to the allowable review components listed above. These special uses shall be allowed in locations as set forth in each specific zoning district (i.e., see list of permitted and conditional uses). For those uses not specifically mentioned in any zoning district, allowable locations shall be as shown below. The intent is to provide a reasonable opportunity for these uses to locate in compatible portions of Hinesburg.

1. State- or community-owned and operated institutions and facilities. Locations: as per zoning districts, except that State highway garages and other high traffic/impact State uses (e.g., State police barracks, State prison, etc.) shall be allowed as a conditional use in the Industrial 1 district.
2. Public and private schools and other educational institutions certified by the state department of education. Locations: as per zoning districts.
3. Churches, other places of worship, convents, parish houses. Locations: per zoning districts.
4. Public and private hospitals. Locations: as per zoning districts.
5. Regional solid waste management facilities certified under 10 V.S.A. chapter 159. Locations: as per zoning districts, as well as suitable municipally owned property in the VG, VG-NW, VG-NE, R-1, R-2, AG, RR 1 & 2 districts.
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a. Locations: as per zoning districts, as well as suitable municipally owned property in the VG, VG-NW, VG-NE, R-1, R-2, AG, RR 1 & 2 districts.

4.2 Exemptions from the Requirements of this Bylaw

4.2.1 Are there exemptions from this bylaw? There are a few, which are listed below. There are also some partial exemptions, which are listed in WDB 4.2.2

4.2.1.1 State-Regulated Utilities. As provided by 24 V.S.A § 4413(b), this bylaw does not apply to public utility power generating plants and transmission facilities.

4.2.1.2 Agricultural and Silvicultural Practices. As provided by 24 V.S.A § 4413(d), this bylaw does not apply to specific Required Agricultural Practices and Accepted Management Practices in forestry defined by the secretary of agriculture, food, and markets or the commissioner of parks, forests, and recreation, respectively. Farmers must notify the Administrator in writing of the proposed construction activity. This notification must include a sketch of the proposed structure including how it meets local setbacks from adjoining property lines and road rights-of-way.

What are Required Agricultural Practices? Agricultural practices that are governed by these regulations [regulations promulgated by the Vermont Agency of Agriculture Food and Markets] include, but are not limited to, the following: (a) the confinement, feeding, fencing, and watering of livestock; (b) the handling of livestock wastes and by-products; (c) the collection of maple sap and production of maple syrup; (d) the preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops; (e) the ditching and subsurface drainage of farm fields and the construction of farm ponds; (f) the stabilization of farm field streambanks constructed in accordance with the USDA-Natural Resources Conservation Service standards and specifications or other standards approved by the Commissioner; (g) the construction and maintenance of farm structures in accordance with Federal Flood Insurance Management Program standards, the construction and maintenance of farm ponds, farm roads, walls, fences, structures to control the grade and head cutting in natural or artificial channels, and an irrigation, drainage or other water management system that conveys water, controls the direction or rate of flow, or maintains a desired water surface elevation; (h) the on-site production of fuel or power from agricultural products produced on the farm; (i) the on-site storage, preparation and sale of agricultural products principally produced on the farm; and (j) the on-site storage of agricultural inputs including, but not limited to, lime, fertilizer and pesticides. **Farm Structure** means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(23) of Title 10, but excludes a dwelling for human habitation.

4.2.2 Are there partial exemptions from this bylaw? As provided by 24 V.S.A § 4413(e), this bylaw applies to the following developments only to the extent that it does not have the effect of interfering with their intended functional use:

4.2.2.1 ... institutions and facilities owned and operated by the state or a municipality;

4.2.2.2 ... public and private schools and other educational institutions certified by the state department of education;

4.2.2.3 ... churches and other places of worship, convents, and parish houses;

4.2.2.4 ... public and private hospitals;

4.2.2.5 ... regional solid waste management facilities certified under 10 V.S.A. Chapter 159;
and

4.2.2.6 ... hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A § 6606a.

4.2.2.7 Permit Requirement for Partially Exempted Developments. Permits are required for the uses listed above. The town is specifically authorized to regulate the “location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening” of these developments. However, the statute then states that the town may not interfere with the intended functional use. In order to clarify the local application of this language, the town adopts the policy stated in WDB 4.2.2.8.

4.2.2.8 Policy on the Regulation of Partially Exempted Developments. The town strongly discourages partially exempted development on sites that are not zoned for the proposed use. In compliance with the statute cited above, however, the town will accept an application for a discretionary permit for a partially exempted development in any zoning district. The DRB will then apply all standards of this bylaw to the proposed development and impose any conditions it finds necessary to maximize compliance. The burden of demonstrating that a condition imposed on a partially exempted development interferes with the intended functional use rests with the applicant.

List of Future Priorities (From 2/5/2020 PC Meeting):

- Correct the Village Downtown Zoning District
- Address recommendations from the DRB
- Address request from the Farris for a self-storage facility
- Address request from the Cochran's
- Address the Town Plan Implementation items
- Revise the Gateway District regulations
- Address short-term rentals
- Strategize for engaging the Richmond community and gaining their input
- Address housing affordability
- Integrate stretch code into the zoning regulations
- Establish subcommittees, such as housing subcommittee
- Incrementally update the zoning regulations
- Develop renewable Energy siting standards (Section 248)
- Establish Unified Development Ordinance
- Modify the zoning map (after the commission gains public input)

Items Staff recommends pursuing in addition to the abovementioned items:

- Adopt inclusionary zoning policies, or affordable housing bonuses
- Consider applying for the Downtown Designation program to promote growth in the downtown area
 - Benefits of state designation programs: Reduced Act 250 review and fees, additional grants, and priority for grants
 - Richmond currently has a Village Center designation
- Establish a Design Review District and become a Certified Local Government
 - Benefits: Increases access to funding to protect historic resources in town
- Put in place Tactical Urbanism standards (To fulfill ED 1,5 and 4,4)
- Integrate SmartCode into zoning regulations to foster sustainable development and walkable neighborhoods

Other ideas worth considering

- Additional PUD standards to protect core forests, prime ag soils, other natural resources, and trail networks, as well as to encourage the clustering of development