

SECTION 5.1 ACCESSORY DWELLING

A. Accessory dwelling units are a permitted use in all districts where single-unit detached dwellings are permitted. An accessory dwelling unit is an efficiency or one-bedroom apartment that is part of or detached from a single-unit owner-occupied dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

1. The property has a sufficient wastewater allocation;
2. The accessory unit does not exceed thirty (30) percent of the total habitable floor area of the single-unit dwelling; and,
3. Setback, coverage, and off-street parking requirements specified in the bylaws are met.

B. A Zoning Permit is required for any accessory dwelling unit. In addition, it shall require Conditional Use approval if it involves or requires any of the following:

1. Construction of an addition or new accessory structure;
2. An increase in the building height or habitable floor area of the existing dwelling; or
3. An increase in the dimensions of the parking area.

C. At time of sale or transfer of title the accessory residential use shall continue provided that one of the dwelling units is and remains owner-occupied.

SECTION 5.2 DAY CARE FACILITY (HOME CHILD CARE, DAY CARE FACILITY)

A. A home child care business, the owner of which is licensed or registered by the state, which serves no more than six children shall be considered a permitted accessory use to single-unit dwellings. A zoning permit shall be required under **Section 6.10** only for purposes of documenting and recording the use in the land records of the city. A home child care business that serves no more than six full time and four part-time children, is a permitted accessory use to single-unit dwellings, but shall be subject to site plan review under **Section 6.6**, prior to the issuance of a zoning permit.

B. A state-licensed nonresidential child care or adult day care facility may be allowed in Gateway, C-1, C-3, DC and I zoning districts subject to site plan review under **Section 6.6**, except Gateway and DC (see Appendix B and C for those review procedures).

SECTION 5.3 FILLING OR REMOVAL WITH EARTH PRODUCTS

A. In any district the removal or filling with loam, gravel, stone, fill, topsoil or other similar materials, except when incidental to or in connection with the construction of a building on the same lot, shall be permitted only upon issuance of a permit from the ZA. Any removal or filling incidental to or in connection with the construction of a building on the same lot shall be considered development. In considering such a permit the ZA may consider and impose conditions relating to the following factors:

1. Depth of excavation, especially in proximity to roads or adjacent properties.

2. Existing grade and proposed grade created by this removal or addition of material.
 3. Effect upon public health, safety and welfare.
 4. Erosion potential due to removal of vegetative cover.
 5. Slope stability problems created by the activity.
 6. Effect upon use of adjacent properties by reason of noise, dust or vibrations.
 7. Effect upon traffic hazards in residential areas or excessive congestion or physical damage on public ways.
- B. Permit Conditions. When issuing a zoning permit, the ZA may:
1. Limit the duration of the permit to any length of time deemed appropriate;
 2. Require the submission of an acceptable plan for the rehabilitation of the site at the conclusion of operations;
 3. Limit the hours of operation, routes of transportation or materials removed; and
 4. Require a suitable bond or escrow deposit to assure compliance with provisions of this Section for the proper rehabilitation of the site.
- C. Any such activity proposed for the floodplain shall be permitted only if it meets regulations in **Appendix A: Inundation Hazard Area Regulations**.

SECTION 5.4 GARAGE SALES

- A. Garage sales are permitted provided such sales conform to the following provisions:
1. One garage sale not to exceed ten consecutive days, or two garage sales not exceed 72 hours each shall be permitted per residential unit in one calendar year.
 2. One temporary sign per garage sale is permitted on the property provided that such sign conforms to **Section 4.14.f** of this ordinance. Such sign shall not create a public hazard. The ZA may remove or cause to be removed any unsafe sign.
 3. The ZA shall request the cessation of any non-conforming garage sale.

SECTION 5.5 GAS STATION AND FUEL SALES

- A. Gas Stations and fuel sales are only allowed in the Gateway Zoning Districts and are subject to review and approval under **Appendix B** of these regulations.
- B. Sale of fuel is not an allowed accessory use of convenience stores.

SECTION 5.6 GROUP, BOARDING AND RESIDENTIAL CARE HOMES

A residential care home or group home, to be operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined in 9 VSA § 4501, shall be considered a permitted single-unit residential use of property. A zoning permit shall be required to document and record the use in the land records of the city. A residential care home or group home within 1,000 feet of another existing or permitted home shall be subject to Conditional Use Review and approval, prior to the issuance of a zoning permit.

SECTION 5.7 HOME OCCUPATION

1. Customary home occupations are permitted residential accessory uses in all districts. Nothing in this regulation shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character thereof, and which meets the following standards:

1. The home occupation shall be carried on wholly within the principal dwelling;
2. The home occupation shall be carried on by residents of the household and no more than one non-household employee;
3. No exterior displays or signs or other advertising material shall be permitted, except as allowed under **Section 4.14** of this regulation;
4. Exterior storage of material shall not be permitted and the home occupation shall not include servicing of motorized vehicles or motorized equipment;
5. No traffic shall be generated in greater volumes than would normally be expected in the neighborhood;
6. No objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall be produced;
7. The home occupation shall not utilize more than twenty-five percent (25%) of the total square footage of the dwelling.

SECTION 5.8 MOBILE HOME PARK

A. In accordance with the Act [§ 4412(1)], these regulations shall not have the effect of excluding mobile homes and mobile home parks from the city. For the purposes of this ordinance, all mobile homes used for residential purposes shall be considered single-family detached dwellings. Mobile home parks shall be allowed where all single family homes are allowed, and constructed and operated in accordance with 10 V.S.A. Chapter 153. Each mobile home in a mobile home park shall meet the requirements of this ordinance applicable to single-family detached dwellings.

SECTION 5.9 NEIGHBORHOOD COMMERCIAL USES

A. Neighborhood Commercial Uses. Neighborhood commercial uses are intended to primarily serve the nearby residential area in the R-B and R-C zoning districts subject to the following:

1. Neighborhood commercial uses shall be limited to a single story on the street level of any structure.
2. Neighborhood commercial uses shall be treated as a conditional use.
3. The neighborhood commercial use shall be counted against the property's allowable residential density; every 1,000 ft² counts as one residential unit or portion thereof.
4. The sale of fuel for motor vehicles, or new or expanded gas station canopies, servicing of motor vehicles, and exterior storage of material shall be prohibited.
5. Hours of operation shall be limited to 6:00am to 11:00pm seven days per week. Any expansion in the hours of operation of an existing neighborhood commercial use shall require conditional use review by the DRB.
6. All building height and setback requirements for the underlying residential district shall apply, and the lot coverage shall not exceed 60%.
7. Signage shall be subject to **Section 4.14** of this regulation.
8. No objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall be produced.
9. Home occupations as defined and regulated under this article are not restricted by the provisions of this section.

SECTION 5.10 PROTECTED USES, PUBLIC FACILITY

A. The following uses may be regulated only with respect to the 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:

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

SECTION 5.11 SWIMMING POOLS

A. Outdoor swimming pools are permitted and shall be considered accessory use provided they conform to the following requirements:

1. Such a swimming pool shall be located within the dimensional setback requirements applicable to the district in which the pool is to be located;
2. Such a swimming pool shall be completely enclosed by a wall, fence or other substantial structure adequate to prevent the accessibility to the pool by small children;
3. The owner obtains an electrical permit detailing the installation of electrical appliances for such a swimming pool; and
4. No swimming pool be constructed on a required front yard.

SECTION 5.12 TEMPORARY STRUCTURES

A. Temporary Structures in Residential Districts. Temporary structures shall be considered residential accessory uses when they are incidental to the principal residential use or structure located on a residential lot. Any temporary structure with a permanent foundation or which exceeds 100 square feet shall conform to the requirements of this regulation for the district in which it is located.

B. Temporary Structures in All Other Districts. Temporary structures shall be considered accessory uses when they are incidental to the principal use or structure located on a lot. The DRB may grant conditional use approval for a temporary non-conforming use provided that the use is in conformance with the following provisions:

1. That such a use is incidental to the development of a neighborhood or project.
2. That a bond or an escrow account has been properly filed with the City Manager conditional upon the payment to the City of the costs of the removal of such a building or use upon the revocation or the expiration of such a permit if such a use or building is not removed by the owner within the permit period.
3. That conditional use approval for such a use shall limit the period of time to a maximum of one (1) year; and

That, upon application, the DRB may grant an extension for one (1) year, provided that the total time for any such permit and extensions shall not exceed two (2) years.

SECTION 5.13 VEHICLE SERVICE & SALES

A. **Motor Vehicle Service and Sales.** The display of three or more vehicles for sale at any time on a property shall be considered a commercial motor vehicle sales establishment allowed within designated zoning districts in accordance with Table 2.4, and all other applicable requirements of these regulations. The occasional and temporary display for sale of up to two motor vehicles on a lot, which are owned by the resident or property owner, are exempted from these regulations.

B. In addition to applicable sections of Article IV, site plan standards and, if required, conditional use standards, commercial motor vehicle service and sales establishments must also meet the following requirements:

1. No more than ten vehicles for sale or lease may be parked in outdoor display areas at any time.
2. Motor vehicles intended for sale or lease shall be displayed in an enclosed building or within a designated exterior display area approved by the DRB that meets required side and rear setbacks for the district in which it is located. Exterior display areas may be located within the front setback area, however no vehicle shall be parked within a public right-of-way.
3. The DRB may require landscaping and/or fencing as it deems appropriate for public safety, and to screen exterior display areas from adjoining properties.
4. Vehicles scheduled for repair shall be parked within an enclosed structure or within a designated yard or parking area approved by the DRB, which meets all setback requirements for the district in which it is located and shall be located to the side or the rear of the garage or maintenance building. The Board may require landscaping and/or fencing as it deems appropriate for public safety, and to screen the yard or parking area year-round from adjoining properties and public rights-of-way.
5. No more than three unregistered vehicles shall be stored on-site unless the property is a licensed salvage yard.
6. All maintenance and repair work shall be conducted within an enclosed structure which meets all applicable municipal and state regulations for water supply, wastewater and waste disposal.
7. Fuel and hazardous materials stored and used on the premises shall be limited to those materials necessary for the operation of the business, and shall be stored in an enclosed and secure structure in accordance with all applicable state and federal regulations.