

Article 4 General Regulations

In accordance with Sections 4412 (required provisions) and 4413 (limitations) of the Act, the following provisions shall apply:

Section 400 Existing Nonconforming Lots

Any lot in individual and separate and nonaffiliated ownership from surrounding properties in existence on the effective date of this Regulation may be developed for the purposes permitted in the district in which it is located and in accordance with all applicable requirements of this Regulation, even though not conforming to minimum lot size or frontage requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.

1. If a lot rendered nonconforming by Halifax Zoning Regulations prior to January 1 2005 subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged. Existing small lots separated by a public road shall not be considered contiguous. Nonconforming lots shall not be deemed merged and may be separately conveyed if 1) they are conveyed in their preexisting configuration; 2) on the effective date of any zoning regulations, each lot had been developed with a water supply and wastewater disposal system; 3) each water supply and wastewater system is functioning in an acceptable manner; and 4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems.
2. Any lot conforming to Halifax Zoning Regulations on the date of adoption of this regulation that does not conform to minimum lot size or frontage requirements in this regulation may be developed for the purposes permitted in the district in which it is located in accordance with all applicable requirements, as long as such lot is not less than one-eighth acre with a minimum width or depth dimension of 40 feet.

Section 401 Required Frontage on or Access to Public Roads or Public Waters

No land development may be permitted on a lot that does not have either frontage on a public road or, public waters or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement.

1. *Requirements for Lots Without Public Road or Waters Frontage* Frontage requirements for a single lot served by an approved 50 foot right of way shall be reduced to the width of the right-of-way in all districts. Frontage on private lanes existing on the date of adoption of this regulation shall be included for the purpose of land development. All setback, area, dimension and coverage requirements of lots on existing private lanes or approved, dedicated rights of way shall conform to those listed in Article 3 of this Regulation. In accordance with Section 4412 (3) of the Act, the following standards and approval process apply to Planning Commission granting of rights of way:
 - a. *Standards* The Department of Highways Standards B-71 for Residential and Commercial Drives, are adopted for approved rights of way.
 - b. *Approval Process* Provisions detailed in Section 205(1)(b) and 205(2) and (3) of this Regulation shall be followed when considering approval of a proposed right of way access under this section.

Section 402 Accessory Dwelling Unit

In accordance with Section 4412(1)(e) of the Act, one accessory dwelling unit located within or appurtenant to an owner-occupied single-family dwelling is a permitted use in all districts, providing the property has sufficient wastewater capacity and that setback and coverage requirements listed in Article 3 of this Regulation are met. An approved health permit is required for all accessory units. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling and has facilities for sleeping, food preparation and sanitation. Floor space of the accessory unit shall not exceed 50% of the floor space of the existing living area of the single-family residence or 600 square feet, whichever is less. The unit may be attached to the single-family dwelling or may be free-standing. Accessory units may be located in any existing building. New detached units may be located no more than 100 feet from the main dwelling. This maximum detachment distance shall be measured from the single-family dwelling itself, not from any decks, breezeway or other accessory structure attached to the main dwelling.

Section 403 Multi-Family Dwelling

A multi-family dwelling consists of 3 or more residential dwelling units. All setback, area, dimension and coverage requirements detailed in Section 3 apply to multi-family dwellings. Any such dwelling must have adequate potable water and wastewater capacity as determined by the appropriate state agency or Halifax health regulations; if there is any conflict between the two, the more stringent standards apply. The maximum number of units allowed per lot is four times the maximum allowable permitted units, or eight. Only one multi-family dwelling is allowed per lot. The provision for accessory dwelling units does not apply.

Section 404 Agency of Natural Resources Consultation

The applicant is responsible for contacting the regional permit specialist employed by the Agency of Natural Resources to ensure timely action on any state-related permits that may be required.

Section 405 General Performance Standards

In all districts and for all uses, the following general performance standards must be met, together with any applicable state standards and specific standards as required under this Regulation. The Zoning Administrator shall decide whether *proposed* or *existing* Permitted Uses and all other *existing* Conditional Uses meet the standards; the Zoning Board of Adjustment and/or the Planning Commission shall decide on the conformance of *proposed* uses with the standards for Conditional Use Review and Site Plan Approval Review, where applicable.

The following conditions must not exist at the individual property lines:

1. Noise in excess of seventy (70) decibels.
2. Non-farming or forestry related odors determined by the Department of Environmental Conservation to be offensive.
3. Emissions of dust, ash, smoke, or other particulates composed of liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot at the point of emission, or which cause soiling beyond the property boundary (dust or dirt from customary agricultural and forestry operations shall not be considered offensive under this provision).
4. Release of gases that can damage human or animal health, vegetation, or property by reason of concentration or toxicity.

5. Vibration, as a result of normal operation, that creates displacement of two one-thousandths (0.002) of one (1) inch.
6. Glare, lume, lights or reflection which could impair the vision of a driver of any motor vehicle, be detrimental to the general public safety, health or welfare, or which constitutes a nuisance to other property owners or tenants.
7. Existing or potential fire, explosion or safety hazard.
8. Discharge, runoff, or leaching of harmful wastes including, but not limited to, oils, fuels, pesticides, seepage, and other pollutants into aquifer recharge areas, groundwater, streams, ponds, lakes or other bodies of water. This condition shall not exist at or anywhere within the property lines of the parcel involved. Effluent disposal shall comply with the local and state sewer health standards.
9. Storm water discharge that may create an unsafe condition or cause damage to persons or property off the site.
10. Existing or potential health hazards which result from the improper storage, disposal or removal of garbage, trash, rubbish, noxious substances, or other similar materials.

Section 406 Nonconforming Uses and Structures

In accordance with Section 4412(7) of the Act, the following provisions shall apply to all buildings and uses existing on the effective date of this Regulation which do not conform to the requirements set forth in this Regulation, and to all buildings and uses that, in the future, do not conform by reason of any subsequent amendment to this Regulation. Any nonconforming uses or structures may be continued indefinitely, but shall not be moved, enlarged, altered, extended, reconstructed or restored, except as provided below.

1. *Nonconforming Use*

- a. *Change* A nonconforming use may be changed to another nonconforming use of equal or less intensity upon approval of the Zoning Board of Adjustment, but such use shall not then be permitted to change back to a more intensive, nonconforming use.
- b. *Re-establishment* If any nonconforming use of a structure ceases for any reason or is changed to a conforming use for a continuous period of more than one year, then any subsequent use must conform with all provisions of these regulations for the district in which it is located. A nonconforming use may be re-established or restored within one year from the time of discontinuance upon conditional use approval of the Zoning Board of Adjustment. Intent to resume a nonconforming use shall not confer the right to do so.
- c. *Enlarged or Rebuilt Structure* Structures housing a nonconforming use may be expanded, or reconstructed if destroyed, subject to all the provisions of these regulations. A nonconforming use may be continued in new or expanded structures, but it shall not be increased beyond its extent prior to reconstruction or expansion of the building.

2. *Nonconforming Structures*

- a. *Extension or Enlargement* Extensions or enlargements may be made to the complying portion of a nonconforming structure in accordance with all applicable requirements of this regulation. For example, one could extend to the sides and rear, but not the front, of a dwelling that does not meet the district's front-yard setback requirements from the road right-of-way.

- b. *Maintenance and Repair* Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of or create any new nonconformity with regards to the regulation pertaining to such structures.
- c. *Repair or Reconstruction* If any nonconforming structure is destroyed, repairs or reconstruction may be made to that structure provided that a zoning permit is applied for within one (1) year from the date of destruction and work is substantially completed within two (2) years. The repaired or reconstructed structure cannot increase the degree of noncompliance (e.g., the structure cannot encroach upon setbacks greater than it originally did prior to its destruction).

Section 407 Temporary Uses and Structures

A temporary permit may be issued by the Zoning Administrator for the temporary structures or uses listed below for a period of one (1) year, conditioned upon written agreement by the owner to remove the structure or use upon expiration of the permit. If the permitted activities have not been completed within this period, reapplication must be made for a new temporary zoning permit. The combined maximum duration for such a use shall not exceed two (2) years from the date of the original permit. The following temporary uses are permitted:

1. Nonconforming uses incidental to a construction project, such as a tool shed, construction office, etc. Such use shall meet all setback requirements for the district in which the use is located unless there are physical conditions or circumstances, such as size of the lot or extreme topography, which prevent compliance with district standards.
2. *Temporary, single-family residential dwellings as follows:*
 - a. *Emergency Rebuilding* A property owner whose primary dwelling has been destroyed by fire, floods, winds or other such natural causes, may site and occupy a temporary residential structure on his or her property for the time period identified above. Every effort shall be made by the property owner to comply with all zoning setback requirements; the Zoning Administrator may, however, permit the establishment of a temporary residential dwelling in cases where such setbacks cannot be reasonably met by the property owner.
 - b. *Construction of a New Home* The owner of a parcel of land who intends to construct a new primary dwelling upon that parcel, may site and occupy a temporary residential structure for the time period identified above, in a manner which complies with all setback requirements for the district in which the parcel of land is located.
 - c. *Occupancy of One Residential Structure Per Lot* Only one residential structure may be occupied at any given time on a lot. Once a destroyed dwelling has been reconstructed and re-occupied, or a new dwelling has been occupied, the property owner shall vacate and cease to utilize the temporary dwelling for residential purposes.
 - d. *Removal of Structure* Unless the temporary dwelling is converted into a complying accessory structure (such as a garage, shed, etc.) and a zoning permit is secured for its permanent use, the temporary dwelling shall be diligently removed by its owner from the premises once the permanent dwelling has been occupied. In no case shall the temporary dwelling be permitted to remain on the parcel of land identified in a and b above for a period of time exceeding the terms of the temporary permit, or two years, which ever is less. Noncompliance with this section constitutes a violation of this Regulation and is subject to the enforcement remedies and penalties provided by this Regulation and State law.
 - e. *Required Water and Wastewater Disposal Facilities* No temporary dwelling may be occupied without adequate potable water supply and proper hook-up to an onsite septic system which meets the requirements of the Halifax Health Ordinance.

Section 408 Landscaping Requirements

1. *Purpose* Under its Site Plan Review and Planned Unit Development authority, the appropriate municipal panel is responsible for assessing the adequacy of landscaping involved with site development. Properly planned and installed landscaping can reduce the potential for conflicts between different, adjoining land uses; it can also help to reduce noise, glare and can provide privacy and separation.
2. *Applicability* Landscaping, where required under these regulations, will be installed and maintained in front, side and rear yards and shall take the form of shade trees,, deciduous shrubs, evergreens, well-kept grassed areas, natural wooded areas, or ground covers. Plantings shall be of a type and size which serves to adequately buffer or screen uses, where needed, to serve the purposes outlined immediately above. In addition, plant materials shall, to the extent practicable, be of native plant species indigenous to the region in order to reinforce the “spirit of natural surroundings.”
3. *Standards* Requirements for landscaping shall, at a minimum, include those listed below. Additional landscaping may be required by the Appropriate Municipal Panel in order to fulfill the purpose established in this section.
 - a. Where any non-residential land use abuts a residential land use, a strip of land, at least twenty-five (25) feet in width shall be maintained as a landscaped area or natural wooded area, in the front yard, side yards and rear yard, unless waived by the Appropriate Municipal Panel.
 - b. Commercial and industrial uses shall provide for a strip of land at least twenty-five (25) feet in width which shall be maintained as a landscaped area or a natural wooded area in the front, side and rear yards, unless waived by the Appropriate Municipal Panel. Parking facilities may not be located within this landscaped buffer area.
 - c. In any Planned Unit Development, as required by the ZBA pursuant to Section 509 of this Regulation.

Section 409 Signs

Purpose It is the intent of this section of this Regulation to provide for the orderly signing of activities in the Town and to ensure visual compatibility with the scale and character of the surrounding area.

Applicability No sign shall be erected, enlarged, redesigned, repainted, or altered in any way (except for regular maintenance) without a sign permit issued by the Zoning Administrator, with the exception of those noted in Section 409.1 below. Permits shall be issued only for signs in conformance with this Regulation.

Applications shall be made on the sign permit application form, specifying legend, size, shape, colors, location, material, height, supporting structures, lighting and such other information as may be necessary to determine and provide for the enforcement of these regulations.

1. *Signs Not Requiring a Permit* The following signs do not require a sign permit when located on the immediate property, or when located off-premises as otherwise specifically stated; no sign shall be located such that they block sight lines at intersections or otherwise impede traffic safety:
 - a. Signs erected, maintained or administered by the Town, including official traffic control signs, or by the State of Vermont under Title 10 V.S.A., Chapter 21.
 - b. Unlighted residential directional signs bearing property numbers, post box numbers, names of occupants of premises or announcing a home occupation, each of which does not exceed 4 square feet in area and is located on the respective premises.

- c. Temporary signs advertising real estate for sale on which the sign is located; required zoning permit approvals; and election signs not exceeding six (6) square feet in area; and temporary painting/construction signs, not exceeding sixteen (16) square feet in area, advertising work being performed on the property on which the sign is located. All such signs must be removed within two weeks after completion of the sale, election, or work.
 - d. Small signs without advertising displayed for the direction, instruction or convenience of the public, including signs which identify restrooms, posted areas or the like, with a total surface area not exceeding four (4) square feet, and provided such signs are on the premises of the activity served by the sign.
 - e. Signs erected by fairs or expositions or signs announcing a garage sale, yard sale or auction, or an event of a civic, political (ie elections) or philanthropic service, or religious organization. These signs may be located on-premise or, with the permission of the landowner, off-premise. All such signs are to be removed within one week by the owner following the event.
 - f. Flags and insignia of any government.
 - g. Fuel pump signs bearing the name, type, and price of fuel advertised for sale on the premises.
 - h. Directional signs, with a total surface area not to exceed four (4) square feet providing directions to places of business within the Town of Halifax offering for sale agricultural products harvested or produced on the premises where the sale is taking place. These signs may be located on-premise or, with the permission of the landowner, off-premise.
2. *Signs Which Require a Permit* The following list represents the number and size of signs permitted for different land uses in Halifax. All signs identified below require a sign permit from the Zoning Administrator. These signs must be located on-premise and meet the minimum requirements outlined in Section 409.3 below.
- a. One professional sign per dwelling, not to exceed four (4) square feet in total area.
 - b. Up to two signs identifying a non-residential use or business establishment not to exceed 12 square feet in total combined area. If there is more than one non-residential use or business located on a lot, then one free-standing combined sign is allowed, in addition to one wall sign for each business or use.
 - c. Agricultural signs identifying agricultural uses or products including, but not limited to, dairy or vegetable farms, tree farms, orchards, and maple syrup operations, not to exceed sixteen (16) square feet in total area.
3. *Sign Standards* The following standards shall apply to all signs identified in Section 4409.2 above. These standards represent the minimum required under this Regulation.
- a. Signs shall not be located within the limits of a public highway right-of-way.
 - b. Signs located in the Village District shall be set back a minimum of two (2) feet from the edge of the public right-of-way and a minimum of ten (10) feet from all side and rear property lines.
 - c. Signs locate in the Rural Residential and Conservation Districts shall be set back a minimum of five (5) feet from the edge of a public right-of-way and a minimum of twenty-five (25) feet from all side and rear property lines.
 - d. Illuminated signs shall have only steady, shielded light sources directed from the top solely onto the sign (ie box lights) so that no direct light shines onto adjacent roadways or properties.
 - e. Signs shall not be illuminated between the hours of 10 pm and 7 am. Businesses operating during those hours may illuminate signs on their property related to their business only during the hours they are operating between 10 pm and 7 am.

- f. No sign which is attached to a building may be more than twenty-five (25) feet above the ground nor extend above the eaves of that part and side of the building to which the sign is attached.
4. *Signs Not Permitted* The following signs shall not be permitted in any district.
- a. Signs located within the limits of a public highway right-of-way; however, this limitation shall not apply to the signs referred to in Section 409.1.
 - b. Advertising billboards.
 - c. Roof signs.
 - d. Flashing, oscillating or revolving signs.
 - e. Freestanding signs in excess of ten (10) feet in height.
 - f. Signs, including their illumination, which impair public safety.
 - g. Portable signs (signs mounted on wheels, trailers or motor vehicles if those vehicles or wheeled signs are regularly located for fixed display).

Section 410 Offstreet Parking Standards

Off-street parking spaces shall be provided as set forth below. These represent the minimum standards required under this Regulation. The Appropriate Municipal Panel may allow fewer or require more parking spaces or a different parking circulation and layout based on a review of the site and proposed use under Site Plan Approval or PUD approval, as applicable. In general, a parking space shall be at least nine (9) feet by eighteen (18) feet, and parking space shall not be within the required landscaped area and must be behind the front, side, and rear yard setback line.

1. *Residential*
 - a. One-family, two-family and multiple family dwelling units: one parking space for every unit.
 - b. Professional residence/office: one parking space, plus one additional parking space for every three hundred square feet of office space.
 - c. Bed and Breakfast, Tourist Home: one space per rented bedroom or sleeping room, plus one space for the owner of the property.
 - d. Home Industry: two parking spaces per dwelling unit, plus one additional parking space for each nonresident employee.
2. *Residential Care Home or Group Facility* (with more than 8 residents): One space per employee on the largest work shift, plus one space for every three (3) bedrooms or sleeping rooms.
3. *Agricultural Uses* Agricultural uses shall provide adequate offstreet parking necessary to meet the needs and ensure the safety of all residents, visitors and farm operators.
4. *Public Assembly/Facility Uses* One space per three patrons to the maximum capacity, plus one space per employee on the largest work shift.
5. *Health Care Facility* Two spaces per three patient beds, plus one space per staff doctor and one space per two (2) other employees on the largest work shift.
6. *Recreational Uses* One space per four expected patrons at capacity, plus one space per employee on the largest work shift.
7. *Commercial or Office Uses, Except Those Specified Below* One space per two hundred fifty square feet of service, storage or office floor area, plus one space per motor vehicle used in the business and stored on site.

8. *Hotel, Motel, Lodge or Inn* One space per sleeping room, plus one space for every three employees on the largest work shift, plus one space per three persons to the maximum capacity of each public meeting and /or banquet room. In addition, accessory uses (e.g. bar, restaurant) must follow their respective standards.
9. I One space per two hundred fifty square feet of gross floor area, plus five (5) off-street waiting spaces per drive-thru lane, plus one (1) space per employee on the largest work shift.
10. *Restaurant, Bar and Lounge* One space per three patron seats or one space per one hundred square feet of gross floor area, whichever is greater, plus one space per employee on the largest work shift.
11. *Industrial Uses* One space per employee on the largest work shift, plus one space per company vehicle stored on the premises.

Section 411 Land Development in Wetland Areas

No Zoning Permit shall be granted for the development of a wetland prior to the expiration of a period of thirty (30) days following the submission of a report to the Agency of Natural Resources by the Zoning Administrator. The report shall describe the proposed use, the location requested and an evaluation of the effect of such proposed use on the Town Plan and on the Windham Regional Plan.

1. *National Wetlands Inventory Maps* Wetlands have been identified on the National Wetlands Inventory Maps which are available for review at the Halifax Town Clerk's Office. The location of all proposed land development must be reviewed by the Zoning Administrator relative to these maps, prior to the issuance of a Zoning Permit, in order to ensure full compliance with mandatory State wetland protection rules.
2. The provisions of the written determination issued as a result of Agency of Natural Resources review shall be conditions of the Zoning Permit.