

## Chapter 18

### Compatibility Potential Hazards Potential Nuisances

The standards adopted in this chapter help ensure land use compatibility by adopting standards that prevent hazards and nuisances. Compatibility is also a goal of many other requirements of this bylaw, including the prohibition of certain uses in certain zoning districts and Chapter 23's standards for landscaped buffers.

#### 18.1 Basic Requirement - Applicability

**18.1.1 What is the basic requirement of the chapter?** The basic requirement of this chapter is that no development should present a hazard to or constitute a nuisance for the occupants of adjoining lands.

**18.1.2 Does the town have the authority to address existing or continuing nuisances that may not be "development?"** Yes. 24 V.S.A. § 2291(12-17) provide clear authority for the town to define and regulate nuisances.

**18.1.3 Do the standards adopted here apply to all development?** Yes. The only exceptions from these standards are those explicitly noted in this chapter or those permitted by variance.

**18.1.4 Can the Administrator refer uses that would otherwise be permitted with only an administrative permit, but that have the potential to become a nuisance to the DRB?** Yes. The Administrator may refer uses that will generate smoke, odor, or other potential nuisances to the DRB, which may require that the application for an administrative permit be converted to an application for a discretionary permit.

#### 18.2 Dangerous Buildings

**18.2.1 Does this bylaw regulate dangerous buildings?** Yes. Buildings that meet the criteria established in WDB 18.2.2 are public nuisances. As such, they are violations of this bylaw, subject to enforcement as provided in WDB 7.4-7.6.

**18.2.2 What constitutes a dangerous building?** The intent here is to define buildings that pose a hazard to public safety personnel - including fire fighters, emergency medical technicians, police officers, and others who may be required to enter these buildings if they are flooded or on fire, to perform a search or rescue, or to enforce the law - as dangerous, and therefore, as public nuisances. There is no intent to declare a building dangerous on aesthetic grounds, due to a temporary lack of maintenance, or due to the fact that it is awaiting renovations for which an application for a permit has been submitted. The criteria the Administrator will use to determine whether a building is dangerous are listed below. A building need not meet all of these criteria to be considered dangerous.

---

18.2.2.1 ... the presence of charred or burnt surfaces and/or structural members, like framing or girders, remaining from an explosion or fire;

18.2.2.2 ... the presence of exposed structural members, like framing or girders, that were not intended to be exposed when the building was built;

18.2.2.3 ... the absence of window glass, or the presence of broken windows, and glass litter on the floors or the surrounding ground;

18.2.2.4 ... the presence of a roof, stairs, or a floor that will not reliably support the weight of a fire fighter, or of open pits, shafts, or wells;

18.2.2.5 ... the presence or suspected presence of abandoned hazardous materials or wastes; and

18.2.2.6 ... that the building is open to unauthorized entry via a door, window, or other opening.

18.2.2.7 The Administrator will consult with the Williston Fire and Police departments and with the town's Public Health Officer before determining that a building is dangerous.

***18.2.3 Will I get some warning before being required to fix or demolish a dangerous building?***

Yes. The town will begin enforcement of these standards for dangerous buildings using the procedure established at WDB 7.4. This procedure gives a property owner seven days to respond to a notice of violation.

**18.3 Air Quality.** Air quality in Williston is regulated by the State of Vermont. The standards adopted here seek to prevent some common air quality problems by anticipating the impacts of proposed developments.

**Where can I learn about state air quality regulations?** The Air Pollution Control Division of the Vermont Department of Environmental Conservation is on-line at: <http://www.anr.state.vt.us/air/>

***18.3.1 Are there standards for dust suppression?*** Yes.

18.3.1.1 During Construction. Dust suppression shall be provided at construction sites in accord with the *Public Works Standards*.

18.3.1.2 After Construction. Generally sites will be stabilized with buildings, paving, and landscaping, and produce only incidental dust. Some industrial and mining processes are expected to produce dust, however, and so are recreational uses that use dirt trails or roads. These uses are confined to the ARZD and the industrial zoning districts. Within those districts, the DRB may require applicants to provide dust suppression and/or additional landscaped buffering to protect adjoining properties and/or prevent dust blowing across public ways.

***18.3.2 What about uses that generate smoke?*** No development shall generate smoke that could adversely affect occupants or users of adjoining properties. Where the DRB finds that smoke will not ordinarily be confined on the property where it is generated or at least within an industrial zoning district, it may simply prohibit the proposed use. The DRB may also, consistent with state air pollution laws, require measures that would mitigate the anticipated nuisance.

***18.3.3 Are there standards for the placement of exhaust fans, stacks, vents, and similar equipment?*** Yes. The plans submitted with applications for administrative or discretionary permits for uses that will have these types of equipment or installations must demonstrate that proposed

exhaust vents, stacks, fans, and similar equipment will not direct cooking odors, gases, hot air, smoke, steam, or vapor onto adjacent properties or public ways.

**18.3.4 What if my development will stink? Are there standards for odors?** Different people experience odors in different ways, making regulation difficult. Industrial processes or other uses that may reasonably be expected to produce odors that some people will find offensive shall be confined in the Industrial Zoning District West. Where the DRB finds that the anticipated odor will not or cannot ordinarily be confined on the property where it is generated, or at least within an industrial zoning district, it may simply prohibit the proposed use. The DRB may also, consistent with state air pollution laws, require measures that would mitigate the anticipated nuisance.

**Do the standards adopted here apply to landfill odor?** No. State law protects regional landfills from local regulations that would interfere with their intended function. See WDB 4.2.5). **Do these standards apply to odors generated by farming operations?** No. Accepted agricultural practices are exempted by WDB 4.2.1.2 and protected by Vermont's Right-To-Farm law, 12 V.S.A. § 5751. et seq)

**18.4 Buffering.** See Chapter 23 for this bylaw's standards for landscaped buffers between uses.

**18.5 Hazardous Materials.** Hazardous materials will be as defined by the *Uniform Fire Code* (UFC).

**Fire Code Definition.** Here are the basic definitions of "hazardous material" from the *Uniform Fire Code*. More details may be found in that code. It is important to have a clear understanding of the fire code and of the applicable state and federal regulations when proposing a use that will involve the storage, handling, or disposal of hazardous materials.

3.3.186.3 Hazardous Material. A chemical or substance that is classified as a physical hazard material or a health hazard material, whether the chemical or substance is in usable or waste condition. (See also 3.3.186.5, Health Hazard Material, and 3.3.186.10, Physical Hazard Material.) [5000, 2006]

3.3.186.5 Health Hazard Material. A chemical or substance classified as a toxic, highly toxic, or corrosive material in accordance with the definitions set forth in this Code. [5000, 2006]

3.3.186.10 Physical Hazard Material. A chemical or substance classified as a combustible liquid, explosive, flammable cryogen, flammable gas, flammable liquid, flammable solid, organic peroxide, oxidizer, oxidizing cryogen, pyrophoric, unstable (reactive), or water-reactive material. [5000, 2006]

**18.5.1 Will the Williston Fire Department review my plans for a development that involves hazardous materials?** Yes. Proposed developments that may reasonably be expected to involve the storage, handling, or disposal of hazardous materials will be referred to the Williston Fire Department for review.

**18.5.2 What standards will be used in reviewing my plans for a development that involves hazardous materials?** The town will rely on Chapter 60 of the *Uniform Fire Code*, which is hereby adopted by reference. Plans submitted with an application for an administrative or discretionary permit for a proposed development that involves the storage, handling, or disposal of hazardous materials must clearly show how that development complies with Chapter 60 and supporting requirements of the UFC.

**18.5.3 Will I be required to submit a Hazardous Materials Management Plan?** Possibly. The DRB, with the advice of the Williston Fire Department, may require submission of a hazardous materials management plan.

**18.5.4 Must I maintain the measures required by Chapter 60 of the Uniform Fire Code?** Yes. Failure to maintain the hazardous materials management measures required by Chapter 60 of the UFC is a violation of this bylaw, subject to enforcement as provided by WDB 7.4-7.6.

**18.6 Hours of Operation.** The DRB may limit the hours of operation of commercial, industrial, and institutional uses to protect the residents of nearby dwellings and/or or the residents of mixed use buildings. These limits may set the hours when deliveries and solid waste collection are permitted, as well as the hours when the use is open.

**18.7 Light/Glare.** Standards for outdoor lighting are found in Chapter 24 of this bylaw. The standards adopted here address glare from other sources.

**18.7.1 Must welding equipment or other sources of intense light be screened from public view?** Yes. Intense sources of light, like welding equipment, must be fully screened from view from adjoining properties and public ways by enclosure in a building or by an opaque screening fence or wall.

**18.7.2 What about building materials that shine or reflect?** Designers should choose building materials that do not generate glare. The DRB may require that roof, wall, or other materials be non-reflective. The DRB may also limit the glass area presented by a building to minimize glare. WDB 31.9.8.3 provides additional authority to limit the use of reflective materials in the ARZD.

## **18.8 Litter**

**18.8.1 Is litter removal a continuing condition of approval?** Yes. Litter removal is part of the continuing maintenance required by Chapter 7 this bylaw.

**18.8.2 Must areas where solid waste or other materials that may become windborne be fenced or screened to suppress blowing litter?** Yes. See WDB 18.12.3.

**18.9 Livestock.** As explained by WDB 4.2.1.2, Vermont municipalities cannot regulate accepted agricultural practices, including the keeping of livestock. See WDB 20.10 re the keeping of livestock on residential premises.

## **18.10 Noise**

**18.10.1 Doesn't Williston already have a noise ordinance?** Yes. That ordinance, which is attached as Appendix F, regulates all sources of noise, including existing land uses. These standards do not take the place of that ordinance. Their purpose is to provide a basis for the DRB's review of proposed developments, with the goal of ensuring that new uses will not generate excessive levels of sound.

**18.10.2 What are the limits on the level of sound generated by proposed developments?** No development that can reasonably be expected to generate sound exceeding the maximum levels set in Table 18.A shall be permitted.

**18.10.3 Can I be required to present a study of potential sound levels?** Yes. Where there is a question about compliance with this standard, the DRB may require the applicant to provide evidence in the form of a report prepared by a qualified firm whose qualifications are acceptable to the Administrator. Such reports shall show projected noise contours around the proposed source,

extending as far out as the 50 dBA<sub>L10</sub> contour. Such a report may also be required to show the sound transmission coefficient of the proposed building materials.

**18.10.4 Can the DRB require noise mitigation measures? Yes.**

18.10.4.1 Mitigation Measures. The DRB may require the construction or installation of noise mitigation measures including landscaped berms, walls, and the use of sound-proofing architectural techniques. This requirement may be imposed both on new noise sources and on proposed developments that will be exposed to noise from existing sources.

18.10.4.2 Operating Hours. The DRB may also limit operating hours of commercial, industrial, and institutional uses in order to mitigate potential noise conflicts. See also WDB 18.6.

18.10.4.3 Where Uses are Mixed. Compliance with this standard is particularly important in buildings where different intensities of use will be mixed. As provided in Chapter 22 of this bylaw, the DRB may require an applicant to demonstrate that night-time interior sound levels in the residential portions of mixed-use developments will not exceed 40 dBA<sub>L10</sub>.

**Table 18.A - Maximum Anticipated Sound Levels**

| The maximum sound levels given in this table are measured in A-weighted decibels (dBA). Maximum sound levels may briefly exceed these levels, but for no more than 10 minutes out of an hour, making these levels dBA <sup>L10</sup> . For enforcement purposes, maximum sound levels are measured on the property line of the receiving use at the point nearest the use generating the sound. |  |
|---|--|
| receiving zoning district   | maximum sound level dBA <sub>L10</sub> |
| ARZD  |  |
| daytime   | 60                                     |
| nighttime   | 50                                     |
| Business Park   | 70                                     |
| Gateway North   | 75                                     |
| Gateway South   | 70                                     |
| Industrial East   | 75                                     |
| Industrial West   | 75                                     |
| Residential and Gateway West  |  |
| daytime   | 60                                     |
| nighttime   | 50                                     |
| Mixed Use Commercial  | 70                                     |
| Mixed Use Residential   |  |
| daytime   | 60                                     |
| nighttime   | 50                                     |
| Taft Corners  | 65                                     |
| Village   |  |
| daytime   | 60                                     |
| nighttime   | 50                                     |

**18.11 Outdoor Sales and Storage.** Where they are permitted, outdoor sales and storage may take place only within areas specifically delineated on the approved final plan and in compliance with the standards for outdoor sales and storage in the applicable zoning district.

## **18.12 Screening**

**18.12.1 What must be screened?** The plans submitted with applications for administrative or discretionary permits must clearly show how utility installations, mechanical equipment, solid waste containers, and the like will be effectively screened from view from neighboring properties and public ways.

### **18.12.2 How should ground level screening be provided?**

18.12.2.1 Hedge. Screening for utility installations, mechanical equipment, solid waste containers, and the like must include a dense evergreen hedge and other plant materials that are at least five (5) feet deep. The DRB may permit an exception to this standard where space or technical limitations make landscaped screening infeasible. Where the DRB permits an exception, a screening fence or wall shall be provided, in compliance with WDB 18.12.2.2.

18.12.2.2 Berm, Fence, or Wall. The DRB may require that a berm, fence, or wall be used to supplement the landscaped screening. Fence or wall materials, patterns, and colors must match or complement the materials, architectural details, and colors used on buildings on the site.

18.12.2.3 Blowing Litter. The DRB will require a fence or wall where necessary to trap blowing litter or other debris.

**18.12.3 Must roof-mounted equipment be screened?** Yes. Roof-mounted utility installations, mechanical equipment, and the like must be fully screened from view from neighboring properties and public views using location on the roof or parapets or other architectural extensions of the building. This standard does not require that roof-mounted equipment be screened from views from a taller building or higher ground. For the purposes of this standard, visibility will be determined from ground level from the centerline of the adjoining public way/s. Note that telecommunications equipment is generally exempt from this requirement, but see Chapter 21 of this bylaw.

## **18.13 Vibration**

**18.13.1 What are the limits on vibrations generated by a proposed development?** No use that may reasonably be expected to generate vibrations that may be sensed at the property line without instruments shall be permitted. The DRB may permit exceptions to this standard in the industrial zoning districts, but only where a vibration study, as required by WDB 18.13.2, clearly demonstrates that there will be no adverse impact on neighboring properties or public ways.

**18.13.2 Can I be required to present a study of potential vibrations?** Yes. Where there is a question about compliance with this standard, the DRB may require the applicant to provide evidence in the form of a report prepared by a qualified firm whose qualifications are acceptable to the Administrator. Such reports shall show the projected levels of vibration generated by the proposed development along all property lines.

**18.14 Water Quality.** Water quality in Williston is regulated by the State of Vermont and Chapter 29 of this bylaw.

**Where can I learn about state water quality regulations?** Visit the Water Quality Division of Vermont's Department of Environmental Quality at <http://www.vtwaterquality.org>.

**18.15 Weeds.** The required maintenance of landscaped and open space areas includes the suppression of invasive species and other weeds. See WDB 7.2.3.