

Town of Lincoln Interim Zoning Regulations

Approved by the Lincoln Selectboard on November 21, 2022

I. Background and Purpose

Title 24 V.S.A., Section 4415(a) provides, in relevant part, as follows:

“If a municipality is conducting or has taken action to conduct studies, or has held or is holding a hearing for the purpose of considering a bylaw, a comprehensive plan, or an amendment, extension, or addition to a bylaw or plan, the legislative body may adopt interim bylaws regulating land development in all or a part of the municipality in order to protect the public health, safety, and general welfare and provide for orderly physical and economic growth. These interim bylaws shall be adopted, reenacted, extended, or amended by the legislative body of the municipality after public hearing upon public notice as an emergency measure. They shall be limited in duration to two years from the date they become effective”

The Town of Lincoln, through its Planning Commission, is currently conducting studies for the purpose of considering amendments to the Lincoln Zoning Regulations (hereinafter the “Regulations”). The Selectboard fully supports the work of the Planning Commission, but notes that a considerable period of time will be required to complete the process of developing and enacting a comprehensive set of revisions to the Regulations.

In the interim, the Selectboard has become aware of several issues with the current Regulations which have created a substantial risk of uncertainty and unintended consequences. These issues include the following:

1. The Regulations do not make clear whether uses not specifically listed as a permitted or conditional use in a given zoning district are allowable in that district.
2. Portions of the Regulations listing allowable permitted and conditional uses are worded unclearly, creating uncertainty as to which categories certain uses fall into.
3. The Regulations do not give effect to the provisions in the Town Plan calling for land development above 1,800 feet in elevation to be submitted to conditional use review.

Based on the foregoing, the Selectboard finds that the adoption of interim zoning regulations is necessary as an emergency measure to provide greater certainty to the residents and landowners of the Town of Lincoln and to better implement the provisions of the Town Plan.

II. Interim Regulations

The Lincoln Zoning Regulations are hereby amended, on an interim basis as set forth in Section III below, by adopting the following added and revised sections:

Section 114 is added as follows:

114. Prohibited Uses. A use not specifically listed as a permitted or conditional use in a zoning district is prohibited in that district unless the applicant establishes that the use:

1. qualifies as a nonconforming use under Section 522;
2. is required to be permitted by applicable state or federal law; or
3. is otherwise exempt from the requirement for a permit under the provisions of these Regulations.

Section 115 is added as follows:

115. Special Conditional Use Classifications. Any use that would otherwise qualify as a permitted use shall be classified as a conditional use in either of the following cases:

1. The combined square footage of the structure(s) on the property housing the use will exceed 3,500 square feet above grade; or
2. The use will involve land development occurring above 1,800 feet in elevation.

Section 116 is added as follows:

116. Materially Similar Uses. A proposed use shall be deemed materially similar to a use listed as a permitted or conditional use in the applicable zoning district if it will be (i) of generally similar character to the listed use; and (ii) will have no greater impacts on the neighborhood (such as, but not limited to, traffic, noise, hours of operation, lighting, aesthetic, and natural resource impacts) than the listed use. A use that is materially similar to a listed permitted use in a given zoning district shall be considered a permitted use in that district, and shall be allowed to the same extent and subject to the same standards and procedures as the listed permitted use. Likewise, a use that is materially similar to a listed conditional use in a given zoning district shall be considered a conditional use in that district, and shall be allowed to the same extent and subject to the same standards and procedures as the listed conditional use.

Sections 312, 313, 322, 323, 332, and 333 are revised by deleting the existing text of such sections and replacing it with the following:

312. PERMITTED USES

Except as otherwise provided in Section 115, the following uses shall be considered permitted uses in the Village District:

1. Single Family Dwellings
2. Mobile Homes
3. Two-Family Dwellings

4. Home Occupations
5. Exempt Uses (See Section 503)
6. Accessory Dwelling Unit
7. Accessory uses
8. Group Homes
9. Daycare Home (<6 Children)
10. Any use that is materially similar (as defined in Section 115) to one of the permitted uses listed in this Section.

313. CONDITIONAL USES

The following uses shall be considered conditional uses in the Village District:

1. Multi-Family Dwellings
2. Multi-Family Dwellings for the Elderly
3. Commercial Use
4. Industrial Use
5. Developed Recreational Use
6. Home Industry
7. Extraction of Soil, Sand and Gravel
8. Any use that would otherwise be a permitted use in the district, but which meets the criteria for classification as a conditional use pursuant to Section 115.
9. Any use that is materially similar (as defined in Section 116) to one of the conditional uses listed in this Section.

322. PERMITTED USES

Except as otherwise provided in Section 115, the following uses shall be considered permitted uses in the Transitional District:

1. Single Family Dwellings
2. Mobile Homes
3. Two-Family Dwellings
4. Home Occupations
5. Exempt Uses (See Section 503)
6. Accessory Uses
7. Accessory Dwelling Unit
8. Group Homes
9. Daycare Home (<6 Children)
10. Any use that is materially similar (as defined in Section 116) to one of the permitted uses listed in this Section.

323. CONDITIONAL USES

The following uses shall be considered conditional uses in the Transitional District:

1. Multi-Family Dwellings
2. Multi-Family Dwellings for the Elderly
3. Developed Recreational Use
4. Home Industry
5. Extraction of Soil, Sand and Gravel
6. Commercial Use
7. Industrial Use
8. Any use that would otherwise be a permitted use in the district, but which meets the criteria for classification as a conditional use pursuant to Section 115.
9. Any use that is materially similar (as defined in Section 116) to one of the conditional uses listed in this Section.

332. PERMITTED USES

Except as otherwise provided in Section 115, the following uses shall be considered permitted uses in the Outlying District:

1. Single Family Dwellings
2. Mobile Homes
3. Home Occupations
4. Exempt Uses (See Section 503)
5. Accessory uses
6. Accessory Dwelling Unit
7. Group Homes
8. Daycare Home (<6 Children)

333. CONDITIONAL USES

The following uses shall be considered conditional uses in the Outlying District:

1. Two-Family Dwellings
2. Commercial Use
3. Industrial Use
4. Developed Recreational Use
5. Home Industry
6. Extraction of Soil, Sand and Gravel
7. Any use that would otherwise be a permitted use in the district, but which meets the criteria for classification as a conditional use pursuant to Section 115.
8. Any use that is materially similar (as defined in Section 116) to one of the conditional uses listed in this Section.

III. Legal Effect

A. Effect on Existing Regulations. These Interim Zoning Regulations are intended to supplement and revise, on an interim basis, the Lincoln Zoning Regulations, which shall remain in full force and effect as permanent zoning bylaws, except as specifically modified by the provisions of Section II above.

B. Severability. If any section or provision of these Interim Zoning Regulations is determined to be invalid or unenforceable, that shall not affect the validity of any other section or provision of these Interim Zoning Regulations.

C. Enactment and Duration. These Interim Zoning Regulations are enacted pursuant to and shall be administered in accordance with 24 V.S.A. Section 4415, and shall be effective immediately upon enactment by the Selectboard. These Interim Zoning Regulations shall be limited in duration to two years from the date of enactment, unless the Selectboard votes to extend them in accordance with 24 V.S.A. Section 4415(f).

D. Repeal, Replacement, or Amendment. These Interim Zoning Regulations may be repealed, replaced, or amended at any time in accordance with the procedures set forth in either 24 V.S.A. Section 4415 or 24 V.S.A. Section 4442.