

# **TOWN OF SHELBURNE ZONING BYLAWS**

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# SHELBURNE ZONING BYLAWS

## ARTICLE I: PURPOSE.

These regulations shall be known and cited as the Shelburne Zoning Bylaws (the Bylaws). Vermont's Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117 (the Act), both grants municipalities the authority to adopt zoning bylaws and limits the purposes to which such bylaws may be used. Consistent with Section 4302(a) of the Act, these Bylaws are intended to, among other things:

- A. Ensure appropriate development which will promote the public health and safety.
- B. Promote prosperity, comfort, access to adequate light, air, convenience, efficiency, economy and general welfare;
- C. Encourage appropriate architectural design;
- D. Encourage appropriate development of renewable resources;
- E. Protect residential, agricultural and other areas from undue concentrations of population and overcrowding of land and buildings, from traffic congestion, from inadequate parking and the invasion of through traffic, and from the loss of peace, quiet and privacy;
- F. Preserve and protect the Town's scenic and natural resources; and
- G. Facilitate the appropriate growth of the village and its surrounding neighborhoods so as to create an optimum environment.

The Zoning Bylaws classify and guide the uses of land, buildings and structures in the Town of Shelburne in accordance with the Town's Comprehensive Plan (the "Plan") and the Act, as amended from time to time. The Bylaws are designed to implement the purposes and policies set forth in the Plan and the Act, while having due consideration for the property rights of all property owners.



## ARTICLE II: ZONING DISTRICTS

### 200 Classes of Districts.

200.1 For the purposes of these regulations, the Town of Shelburne is divided into the following zoning districts and overlay districts as shown on the official zoning maps which are filed in the Town office and incorporated herein by reference. Reduced copies of the official maps are attached to these Bylaws.

ZONING DISTRICTS	ABBREVIATION
RURAL	RUR
RESIDENTIAL	RES
VILLAGE RESIDENTIAL	VRES
MUSEUM	MUS
VILLAGE CENTER MIXED USE	V-CENT
SHELBURNE FALLS MIXED USE	SF-MIX
MIXED USE DISTRICT	MIX
COMMERCE & INDUSTRY	COMM
COMMERCE & INDUSTRY - SOUTH	COMM-S
CONSERVATION	CONS
OVERLAY DISTRICTS	ABBREVIATION
NEIGHBORHOOD OVERLAY	N-O/L
VILLAGE DESIGN REVIEW OVERLAY	VDES-O/L
VILLAGE CORE OVERLAY	VCORE-O/L
LAKESHORE OVERLAY	LKSHR-O/L
FLOODPLAIN & WATERCOURSE OVERLAY	FLOOD-O/L
STORMWATER OVERLAY	STM-OL
SHELBURNE ROAD FORM-BASED OVERLAY	SR-FBOD

**210 Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- 210.1 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- 210.2 Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- 210.3 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks or to be the centerline of the right-of-way if no tracks are present.
- 210.4 Boundaries indicated as following shorelines shall be construed to follow the mean low water mark (93') per National Geodetic Vertical Datum (NGVD) 29.

- 210.5 Boundaries indicated as parallel to or extensions of those features identified in Subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the official zoning map or described under each zone shall be determined by the scale of the map.
- 210.6 District Boundary Adjustment: Where a district boundary line divides a lot in single ownership at the time of passage of these regulations, the Development Review Board may permit, as a conditional use, the extension of the regulations beyond the boundary line into the remaining portion of the lot for a distance not to exceed fifty (50) feet.
- A. Approval of a district boundary adjustment under this provision must be obtained prior to submission of an application for approval of any development on the affected parcels.
  - B. An application for a district boundary adjustment must include a site plan showing anticipated improvements and a description of anticipated uses in the area where the district boundary adjustment will take place. If the district boundary adjustment will allow a totally different type of project than could occur without the adjustment, the Conditional Use review shall consider then entire project.
  - C. Any district boundary adjustment granted under this section shall expire within two years unless all final local approvals for any development requiring the adjustment have been obtained.
- 210.7 Any uncertainty as to the boundaries of a zoning district shall be determined in accordance with the above Subsections by the Zoning Administrative Officer.

**220 Allowable Uses.** Table 1 on the following pages is a generalized list of Permitted (P) and Conditional (C) uses allowed in each zoning district. More details on allowable uses and limitations are found in Articles III through XVIII which describe the individual zoning districts and overlay districts. In the event there is a conflict between Table 1 and text found in Articles III through XVIII, the text found in Articles III through XVIII shall control.

**221 Dimensional Requirements.** Table 2 below is a generalized list of dimensional requirements in each zoning district. More specifics on dimensional requirements are found in Articles III through XVIII which describe the individual zoning districts and overlay districts. In the event there is a conflict between Table 1 and text found in Articles III through XVIII, the text found in Articles III through XVIII shall control.

**TABLE 1**  
**TABLE OF PERMITTED (P) AND CONDITIONAL (C) USES**

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
<b>RESIDENTIAL</b>										
Single-Family	P	P	P	P	P	P	P		P(1)	P(3)
Two-Family	P	P	P	P	P	P	P			
Conversion to Two-Family	C		C		C	C	C			
Multiple-Family		C			P	C	P			
Mobile Home Park	C	C			C		C			
First Farm Labor dwelling	P									
Second Farm Labor dwelling	C									
Accessory Apartments (one and two bedroom)	P	P	P	P	P	P	P		P	P
Staff Quarters/Private Guest House	C									
Group/Residential Care Homes	P	P	P	P	P	P	P			
Elder housing		C			C	C	C			
Elder Care facilities		C			C	C	C			
Elderly Supportive Service Housing (ESSH)					C		C			
Continuing Care Retirement Community	C	C					C			
Nursing Homes		C					C			
<b>LODGING</b>										
Hotels or Inns or Motels	C				C		C		P(2)	
Bed & Breakfasts	P	C	C		C	C	C			
Rooming Houses		C	C	C						

- (1) If existing prior to January 1, 1994.
- (2) If existing as of March 17, 2009
- (3) If existing as of March 17, 2009 or where allowed by easement.

**TABLE OF PERMITTED AND CONDITIONAL USES (cont'd)**

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
<b>COMMERCIAL/INDUSTRIAL</b>										
Retail				C	P		P(1)			
Pharmacies without drive through facilities					P		P			
Drive through pharmacies					C		C			
Restaurants (except fast food)				C	P		C			
Restaurants (fast food)										
Community Farmers Market					P					
Personal Service Shops					P		P(1)			
Post office stores			C		P					
Existing gasoline station					C					
Indoor Movie Theaters							C			
Business/Professional Offices		C	C	C	P	C	P	P	P	
Medical/Dental Offices		C	C	C	P		P			
Banks/Financial Institutions					P		P			
Public Utility Facilities					C		C			
Artist's Studios	C	C	P	P	C	C	C	C	C	
Veterinary Clinics	C				C		C			
Kennels/Pet Day Care Facilities	C						C	C		
Wholesale Sales (enclosed)							C	C	C	
Vehicle Sales/Repair							C	C		
Building Material Sales (indoor storage)							C	C	C	
Lumber Yards	C						C	C		
Construction Services Facilities							C	C	C	
Research/Testing Laboratories							C	P	P	
Light Manufacturing (enclosed)							C	P	C	
Upholstery/Fabric Working							C	P	P	
Dry Cleaners								C		
Auto/Machinery Repair	C						C	C	C	
Warehouses (enclosed)/Storage							C	C	C	

(1) Conditional use approval required when use is proposed with drive through facility.

**TABLE OF PERMITTED AND CONDITIONAL USES (cont'd)**

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
Indoor Storage in Ag. Structures	P									
Roadside Farm Stands	P	P					C		C	
Garden Center/Nursery	C	C					C			
Marinas	C									
Yacht Clubs	C									
Adult Entertainment							C			
Transportation Passenger stations					C					
<b>CULTURAL/INSTITUTIONAL</b>										
Schools (certified by State Ed. Dept.)		C		C	P		C	P	P	
Museums		C		P	P		C			
Libraries				P	P					
Churches	C	C	C	C	C		C	C	C	
<b>CHILD CARE</b>										
Licensed Day Care (6 or less)	P	P	P		P	P	P		P	
Licensed Day Care (more than 6)	C	C	C		C		C		C	C
Registered Family Day Care Home	P	P	P		P	P	P		P	C
Day Care Center	C	C			C		C	C	C	
<b>GOVERNMENT</b>										
Municipal Offices					C					
Town Highway Garage & associated uses		C								
Waste Water Treatment Plants		C					C			
Police Stations					C					
Fire/Rescue Stations		C			C		C			

**TABLE OF PERMITTED AND CONDITIONAL USES (cont'd)**

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
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AGRICULTURAL										
Farming, as defined in Article XXI	P								P	P
Integrated Agriculture	C	C								
Keeping of Farm animals		C								
RECREATION/OPEN SPACE USES										
Outdoor Recreation (no structures)	P	P	P		P	P	P	P	P	P
Outdoor Recreation (minor structures)	C	C	C		C	C	C	C	C	P
Outdoor Recreation (major structures)	C									
Indoor Recreation							P	P	P	
Wildlife Management/Refuge Areas										P
Commercial Riding Stables	C									
Campgrounds	C						C			
Cemeteries	C	C	C	C	C	C	C			
ACCESSORY USES										
Planned Unit Developments per Article XIX	P	P	P	P	P	P	P	P(1)	P	C
	P	P	P	P	P	P	P	P	P	

(1) Uses accessory to permitted uses are permitted; uses accessory to conditional uses require conditional use approval.

**TABLE 2.**  
**TABLE OF DIMENSIONAL REQUIREMENTS**

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
<b>LOT SIZE</b>										
<b>Lot Area Minimum</b>										
Single-Family Dwelling	See Note (8)	20,000 sf	12,500 sf	15,000 sf	10,000 sf <sup>(2)</sup> or by formula. See Note (11).	12,500 sf	15,000 sf		2 Acres <sup>(6)</sup>	10 acres
Two-Family Dwelling	See Note (8)	30,000 sf	20,000 sf	20,000 sf	15,000 sf <sup>(2)</sup> or by formula. See Note (11).	20,000 sf	20,000 sf			
Multi-Family Dwelling		15,000 sf/unit			7,500 sf/unit <sup>(2)</sup> or by formula. See Note (11).	10,000 sf/unit	10,000 sf/unit			
Elder Housing		7,500 sf/unit			3,500 sf/unit <sup>(2)</sup>	<u>4,375 sf /unit</u>	<u>3,500-7,500 sf</u>			
Elder care facility		4,000 sf/ bed			2,000 sf/bed <sup>(2)</sup>	2,500 sf/bed	2,000 sf/bedrm			
Elderly Supportive Service Housing (ESSH)					2,500 sf/unit <sup>(2)</sup>					
Day Care Homes	See Note (8)	20,000 sf	12,500 sf	20,000 sf	10,000 sf	12,500 sf	20,000 sf		2 Acres <sup>(6)</sup>	10 acres <sup>(7)</sup>
Day Care Centers	5 Acres <sup>(7)</sup>	40,000 sf			15,000 sf		30,000 sf	2 Acres <sup>(6)</sup>	2 Acres <sup>(6)</sup>	
Mobile home parks	10 acres <sup>(10)</sup>	10 acres <sup>(10)</sup>			8000sf /unit <sup>(12)</sup>		10 acres <sup>(10)</sup>			
All other permitted uses	5 Acres <sup>(7)</sup>	20,000 sf	20,000 sf	20,000 sf	15,000 sf	20,000 sf	20,000 sf	2 Acres <sup>(6)</sup>	2 Acres <sup>(6)</sup>	
<b>Lot Frontage Minimum</b>										
Single-Family Dwellings	200 ft	100 ft	75 ft	100 ft	60 ft	75 ft	100 ft	-	150 ft	400 ft
Two-Family Dwellings	200 ft	150 ft	150 ft	150 ft	75 ft	100 ft	150 ft			
All other permitted uses	200 ft	150 ft	150 ft	150 ft	100 ft	150 ft	150 ft	150 ft	150 ft	400 ft
<b>Lot Width Minimum</b>										
	400 ft <sup>(1)</sup>	None	None	None	None	None	None	None	150 ft	None

See footnotes at end of table

## TABLE OF DIMENSIONAL REQUIREMENTS (cont'd)

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
<b>YARD REQUIREMENTS</b>										
Front Yard Minimum	75 ft	30 ft	30 ft	30 ft	30 ft <sup>(3)</sup>	30 ft	>=30 ft <sup>(3)</sup>	60 ft	60 ft <sup>(5)</sup>	75 ft
Side and Rear Yard Minimum										
Single-Family Dwellings	See Note (8)	15 ft	15 ft	15 ft	15 ft	15 ft	>=15 ft <sup>(3)</sup>		50 ft <sup>(4)</sup>	50 ft
Two-Family Dwellings	See Note (8)	15 ft	15 ft	15 ft	15 ft	15 ft	>=15 ft <sup>(3)</sup>			50 ft
Day Care Homes	See Note (8)	15 ft	15 ft	15 ft	15 ft	15 ft	>=15 ft <sup>(3)</sup>		50 ft <sup>(4)</sup>	50 ft
All other permitted uses	50 ft	30 ft	30 ft	30 ft	30 ft	30 ft	>=20 ft <sup>(3,4)</sup>	50 ft <sup>(4)</sup>	50 ft <sup>(4)</sup>	50 ft
<b>Building Coverage Maximum</b>										
All Uses		20%	20%	20%	20%	20%	30%	25%	25%	None
<b>Lot Coverage Maximum</b>										
							50%	50%	50%	None

<b>HEIGHT RESTRICTIONS</b>										
Farm Structures	None									
Religious Structures	None	35 ft	35 ft	35 ft	35 ft		35 ft	None	35 ft	
All Other structures	35 ft	35 ft	35 ft	35 ft	35 ft <sup>(9)</sup>	35 ft	35 ft	35 ft	35 ft	35 ft

- (1) Average Lot width as specified in District Regulations (Article III).
- (2) Net density in standard subdivisions; gross density in PUDs.
- (3) Varies depending on size, whether lot fronts on Shelburne Road, type of adjoining use (Article X).
- (4) When lot does not front on Shelburne Road and backs up to residential uses, rear yard setback shall be 100 ft.
- (5) From Route 7, 100 ft.
- (6) 2 acres = 87,120 sf
- (7) 5 acres = 217,800 sf
- (8) Lot size, density, and dimensional requirements for residential uses and day care homes are specified in Article III.
- (9) Except as modified by 830.4, which could result in height of up to 45 ft
- (10) Modified parks have alternative area requirements
- (11) Lot sizes and dimensional requirements specified in Article VIII.
- (12) Per sections 1925.3 and 1926.4.

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## ARTICLE III: RURAL DISTRICT

**300 Purpose.** The purpose of this district is to maintain and enhance open spaces, and to protect agricultural lands, soil, water and other scenic and natural resources. Development in this area shall be limited and must be designed to meet these goals. Land in this district will not be served by public sewer.

300.1 For the purposes of this Article, an agricultural structure existing on the effective date of these regulations shall be defined as an agricultural structure that existed prior to March 17, 2009, which was destroyed by fire or natural disaster, provided that:

- A. The structure was rebuilt within seven years of the date of destruction, and
- B. The structure was used for agricultural uses for at least three years after being rebuilt.

### **310 Permitted Uses.**

310.1 Single-family dwellings.

310.2 Two-family dwellings.

310.3 One single-family dwelling per farm for on-site full-time agricultural employees, provided that the dwelling could be developed on a separate lot which meets the district standards.

310.4 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.

310.5 Group/Residential Care Homes, operating under state licensing or registration, serving no more than 8 residents, and not located within 1,000 feet of another such facility.

310.6 Bed and breakfast establishments with no more than 6 rooms to rent.

310.7 Commercial indoor storage in agricultural structures existing on March 17, 2009.

310.8 Roadside farm stands.

- 310.9 Licensed day care homes with 6 or fewer children.
- 310.10 Registered family day care homes.
- 310.11 Farming, dairying, orchards, nurseries, woodlots and forestry, truck gardening, livestock and poultry raising but specifically not including commercial slaughter of animals or poultry.
- 310.12 Passive, non-commercial, outdoor recreation uses such as parks and nature preserves, without structures except identification and directional signs.
- 310.13 Accessory uses except for those referred to in Section 320.2, 320.3, and 320.4.
- 310.14 Multiple uses where all proposed uses are permitted uses.

### **320 Conditional Uses.**

- 320.1 Conversion of a single-family structure built prior to June 1, 1981, to a two-family dwelling.
- 320.2 A second single-family dwelling per farm for on-site full-time agricultural employees, provided that the dwelling could be developed on a separate lot that meets the district standards.
- 320.3 Staff quarters/Private Guest House. Staff quarters for residential properties should be contained in the principal structure. However, properties that do not contain an approved accessory apartment may contain one detached staff dwelling or one detached guest house, provided that it contains no more than 1,500 square feet of finished, habitable, floor space, and that it could be developed on a separate lot which meets the district standards.
- 320.4 Mobile Home Parks on lots of no less than 10 acres.
- 320.5 Continuing Care Retirement Communities.
- 320.6 Hotels or Inns, as part of a Rural Mixed Use Planned Unit Development in accordance with the provisions of Article XIX of these Regulations.
- 320.7 Artist's studios in agricultural structures existing on March 17, 2009.
- 320.8 Veterinary clinics.

- 320.9 Kennels and Pet Day Care facilities, on lots of no less than 10 acres, with space for no more than 25 animals, with adequate screening from adjacent properties, and with provision for effective sound attenuation.
- 320.10 Lumber yards (with indoor storage), in agricultural structures existing on March 17, 2009.
- 320.11 Auto/Machinery Repair, in agricultural structures existing on March 17, 2009.
- 320.12 Garden Center/Nursery, in agricultural structures existing on March 17, 2009.
- 320.13 Marinas.
- 320.14 Yacht Clubs.
- 320.15 Churches and other places of worship.
- 320.16 Licensed day care home with more than 6 children. Licensed day care homes which were in operation prior to April of 1985, shall not be subject to conditional use approval unless they propose to increase the number of children they serve.
- 320.17 Day care centers with a maximum of 75 children.
- 320.18 Integrated Agriculture.
- 320.19 Outdoor recreation uses with minor structures customarily associated with such uses.
- 320.20 Outdoor recreation uses not regulated elsewhere in this Article, with major structures customarily associated with such uses, including but not limited to golf courses, bridle paths, nature trails, cross country ski areas, skating rinks, and open athletic field.
- 320.21 Commercial riding stables.
- 320.22 Campgrounds, not exceeding ten spaces, and not providing electric hook-ups, and not providing winter storage for recreational vehicles.
- 320.23 Cemeteries.

320.24 Uses associated with the provision of long term care, general services to elderly or medical services, provided that the Development Review Board finds that, in addition to those applicable general and specific standards set forth in these regulations, the proposed use meets the following specific standards:

- A. Such use is of the same general character as those uses set forth above.
- B. Such use will not have an undue adverse impact on the other uses within the district nor on adjoining uses.

320.25 Public and General Aviation Use Airport as of October 5, 2010, PUD-AIR

320.26 Multiple uses when one or more of the uses is a conditional use.

### **330 Dimensional Requirements.**

330.1 Maximum Density:

- |  |   |
|--|---|
| A. Single-family dwelling on parcel of 14.9 acres or less existing as of March 5, 2019, or new parcel divided from such 14.9 acres or less parcel, so long as such 14.9 acre parcel was developed with a single-family dwelling as of March 5, 2019. | One Single-family residential dwelling per 5.0 acres of land.             |
| B. Other single-family dwelling  | One Single-family residential dwelling per 5.0 acres of developable land. |
| C. Two-family dwelling   | One Two-family residential structure per 10.0 acres of developable land.  |
| D. Other allowed uses  | One use per 5.0 acres of developable land.                                |

330.2 Lot Size:

- |                           |   |
|---------------------------|---|
| A. Single-family dwelling | As required by review under Section 1930.3. |
| B. Two-family dwelling    | As required by review under Section 1930.3. |
| C. Other allowed Uses     | Minimum of 5.0 acres.                       |

- D. On lots existing on March 17, 2009, that contain less than 5.0 acres of land, the minimum lot size shall be the size of the existing lot.
- E. Minimum lot sizes for non-residential uses may be modified per the provisions of Section 1930.6 and 1930.11 of these regulations.
- F. Multiple uses involving non-residential use(s) plus 2 or more residential units - The area required for other allowed uses plus the applicable lot area required for each additional dwelling unit.

330.3 Other Dimensional Requirements:

- A. Lot frontage minimum - 200 feet
- B. Average Lot width:
  - On lots of 5.0 acres or less, not applicable
  - On lots of more than 5.0 acres, 400 feetIn the case of irregular lot shapes, the average lot width shall be determined by measuring lot width parallel to the street at twenty-foot intervals from the street to the rear lot line, and computing the average of all such measures.
- C. Minimum Front Yard Setback:
  - On lots of 5.0 acres or less, 75 feet
  - On lots of more than 5.0 acres, 100 feet
- D. Minimum Side and Rear Yard Setbacks:
  - On lots of 5.0 acres or less, 30 feet
  - On lots of more than 5.0 acres, 10% of the lot frontage, or 50 feet, whichever is greater

330.4 Height Restrictions.

- A. Farm structures - none
- B. All other structures - 35 feet

**340 Planned Unit Development-Residential.** Any subdivision proposing to create one or more lots for residential or related development purposes, including reserving for future development, must be reviewed as a Planned Unit Development-Residential in accordance with the provisions of Section 1930.3 of these regulations.

**345 Planned Unit Development- Public and General Aviation Use Airport.** A Planned Unit Development for a public and general aviation use airport may be permitted in accordance with the provisions of subsection 1930.11 of these regulations.

**350 Planned Unit Development-Rural Mixed Use.** A Planned Unit Development-Rural Mixed Use may be permitted in the Rural District in accordance with the provisions of Subsection 1930.6 of these regulations

**360 Site Plan Approval.** Site plan approval by the Development Review Board is required for all uses including Integrated Agriculture as defined in Article XVIII of these Regulations and any Multiple Uses of a property in accordance with applicable portions of Section 1900 of these Bylaws, but not for one and two family dwellings on single lots, including accessory uses to such residences, or for agricultural uses other than Integrated Agriculture.

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## ARTICLE IV: RESIDENTIAL DISTRICT

**400 Purpose.** The purpose of this district is to protect and provide for moderate density, pedestrian friendly, residential neighborhoods in areas surrounding the Village, that are served by municipal sewer systems, to help meet the Town's present and future housing needs.

### **410 Permitted Uses.**

- 410.1 Single-family dwellings.
- 410.2 Two-family dwellings.
- 410.3 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.
- 410.4 Group/Residential Care Homes, operating under state licensing or registration, serving no more than 8 residents, and not located within 1,000 feet of another such facility.
- 410.5 Licensed day care homes with 6 or fewer children.
- 410.6 Registered family day care homes.
- 410.7 Outdoor Recreation facilities with no structures.
- 410.8 Roadside Farm Stand.
- 410.9 Accessory Uses.
- 410.10 Multiple uses where all proposed uses are permitted uses

### **420 Conditional Uses.**

- 420.1 Multi-family dwellings.
- 420.2 Mobile Home Parks existing on January 14, 1986.
- 420.3 Elder Housing, in PUDs only, with a maximum of 25 dwelling units in a single development.
- 420.4 Elder care facilities where rooms other than complete dwelling units are provided, in PUDs only, with a maximum of 60 bedrooms in a

- 
- single development.
- 420.5 Mobile Home Parks on lots of no less than 10 acres.
- 420.6 Nursing Homes with a maximum of 50 beds.
- 420.7 Bed and breakfast with no more than 4 rooms to rent.
- 420.8 Rooming Houses with no more than 3 rooms to rent
- 420.9 Business and Professional Offices.
- 420.10 Medical and Dental offices.
- 420.11 Artist's Studios.
- 420.12 Public and private schools certified by the Vermont Department of Education and other educational institutions certified by the Vermont Department of Education.
- 420.13 Museums and associated uses.
- 420.14 Churches and places of worship.
- 420.15 Licensed day care homes with more than 6 children. Licensed day care homes which were in operation prior to April of 1985, shall not be subject to conditional use approval unless they propose to increase the number of children they serve, to more than 6.
- 420.16 Day care centers with a maximum of 20 children.
- 420.17 Town Highway Garages and associated uses.
- 420.18 Municipal waste water treatment facilities.
- 420.19 Fire/Rescue stations.
- 420.20 Outdoor recreation uses with minor structures customarily associated with such uses.
- 420.21 Cemeteries.
- 420.22 Integrated Agriculture existing as of March 17, 2009.
- 420.23 Garden Center/Nursery.

- 420.24 Keeping of Farm Animals
- 420.25 Continuing Care Retirement Facilities existing as of August 3, 2011.
- 420.26 Multiple uses when one or more of the uses is a conditional use.

### 430 Dimensional Requirements.

#### 430.1 Minimum Lot Size.

##### A. Lot area minimum -

- Single-family dwellings 20,000 square feet
- Two-family dwellings 30,000 square feet
- Multi-Family dwellings 15,000 square feet per dwelling unit
- Elder Housing/Housing for the elderly 7,500 square feet per dwelling unit
- Continuing Care Retirement Community 3,500 square feet per independent living unit and community care/nursing home bed
- Elder Care facilities 4,000 square feet per resident bedroom
- Day care homes 20,000 square feet
- Day Care Centers 40,000 square feet
- Other allowed uses 20,000 square feet
- Minimum lot sizes may be modified per the provisions of Section 1930.3 and 1930.4 of these regulations.

##### B. Lot frontage minimum:

- Single-family dwellings 100 feet
- Two-family dwellings 150 feet
- Other allowed uses 150 feet

##### C. Multiple uses involving non-residential use(s) plus 2 or more residential units - The area required for another allowed use plus the applicable lot area required for each dwelling unit.

##### D. The Development Review Board may adjust the lot frontage requirements for new lots on curved roads or cul-de-sacs, if it determines that such adjustment will improve the lot layout.

430.2 Setback Requirements.

A. Minimum Front yard setback:

- Single and two-family dwellings and day care homes

Front Yard located on private street documentation of which is recorded in the Shelburne Land Records as of January 1, 1970	10 feet, or alternatively, 20 feet from the centerline of such private street, whichever is less.
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Front Yard located on any other street	30 feet
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- Other allowed uses 30 feet

B. Minimum Side and rear yard setback:

- Single and two-family dwellings and day care homes 15 feet
- Accessory structures not exceeding 120 square feet in floor area 10 feet
- Other allowed uses 30 feet

430.3. Building coverage maximum:

- Single and two-family dwellings and day care homes 20 percent
- Other allowed conditional uses 20 percent

430.4 Height Restrictions.

- All structures 35 feet

**440 Planned Unit Development-Residential.** A Planned Unit Development-Residential may be permitted in the Residential District upon approval of the Development Review Board in accordance with Section 1930.3 of these regulations.

**450 Planned Unit Development-Mixed Use.** A Planned Unit Development- Mixed Use may be permitted in the Residential District in accordance with the provisions of Subsection 1930.4 of these regulations.

**460 Site Plan Approval.** Site plan approval by the Development Review Board is required for all uses including any multiple use of a property in accordance with applicable portions of Section 1900 of these bylaws except one and two family dwellings on single lots, including accessory uses to such residences, and for agricultural uses.

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## ARTICLE V: STORMWATER-IMPAIRED WATERSHED OVERLAY DISTRICT

**500 Purpose.** It is the goal of this article is to protect water quality in watersheds where surface waters have been identified as being impaired due to water quality impacts from stormwater. New development projects and redevelopment projects, including those involving construction, alteration, or improvement exceeding 10,000 SF on previously developed land, may be subject to individual stormwater permit requirements under Environmental Protection Rules (EPR) Chapter 22 Stormwater Management Rule For Stormwater-Impaired Waters, promulgated by the Water Quality Division of the Vermont Agency of Natural Resources.

**510 Applicability.** The Stormwater-Impaired Watershed Overlay District shall be consistent with the boundaries of the Stormwater-Impaired Overlay Area, as depicted on the Zoning Overlay Map.

**520 Special Review Requirements.** Projects in this overlay district that result in a change in impervious surface area that triggers a new or renewed individual state stormwater permit shall provide documentation that the project is either exempt, or in compliance with EPR Chapter 22.

**530 Application and Review Procedure.** Projects in this overlay district that result in a change in impervious surface area shall either submit documentation that they are exempt from the requirements of EPR Chapter 22, or submit a copy of their Individual Stormwater Permit Application and attachments (including plans, specifications, and calculations) to the Town of Shelburne.



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## ARTICLE VI: VILLAGE RESIDENTIAL DISTRICT

**600 Purpose.** The purpose of this district is to continue to accommodate compact residential development in close proximity to the Village Center. This area is served by both municipal sewer and water and is close to available transit stops.

**610 Permitted Uses.**

610.1 Single-Family Dwellings.

610.2 Two-family dwellings.

610.3 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.

610.4 Group/Residential Care Homes, operating under state licensing or registration, serving no more than 8 residents, and not located within 1,000 feet of another such facility.

610.5 Licensed day care homes with 6 or fewer children.

610.6 Registered family day care homes.

610.7 Artist's Studio

610.8 Outdoor recreation facilities with no structures.

610.9 Accessory Uses.

610.10 Multiple uses where all proposed uses are permitted uses.

**620 Conditional Uses.**

620.1 Conversion of a single-family structure built prior to June 1, 1981, to a two-family dwelling.

620.2 Bed and Breakfast with no more than 4 rooms to rent.

620.3 Rooming houses with no more than 3 rooms to rent.

620.4 Post Office stores existing on March 17, 2009.

- 620.5 Business/Professional Offices on lots that front on Shelburne Road, Marsette Road, Harbor Road, or Falls Road.
- 620.6 Medical/Dental Offices on lots that front on Shelburne Road, Marsette Road, Harbor Road, or Falls Road.
- 620.7 Churches and other places of worship.
- 620.8 Licensed day care homes with more than 6 children. Licensed day care homes which were in operation prior to April of 1985, shall not be subject to conditional use approval unless they propose to increase the number of children they serve.
- 620.9 Outdoor recreation uses with minor structures customarily associated with such uses.
- 620.10 Cemeteries.
- 620.11 Multiple uses when one or more of the uses is a conditional use.

**630 Dimensional requirements.**

630.1 Minimum Lot size.

- A. Lot area minimum -
  - Single-family dwellings 12,500 square feet
  - Two-family dwellings 20,000 square feet
  - Day care homes 12,500 square feet
  - Other allowed uses 20,000 square feet
  - Minimum lot sizes may be modified per the provisions of Section 1930.3, and 1930.9 of these regulations.
- B. Lot frontage minimum:
  - Single-family dwellings 75 feet
  - Two-family dwellings 150 feet
  - Other permitted and conditional uses 150 feet
- C. Multiple uses involving non-residential use(s) plus 2 or more residential units - The area required for other of permitted and conditional uses plus the applicable lot area minimum for each dwelling unit.

630.2 Setback Requirements.

- A. Minimum Front yard setback:
  - All uses 30 feet

- B. Minimum Side and rear yard setback:
- Single and two-family dwellings and Day care homes 15 feet
  - Accessory structures not exceeding 120 square feet in floor area 10 feet
  - Other allowed uses 30 feet

630.3. Building coverage maximum:

- All uses 20 percent

630.4 Height Restrictions.

- All structures - 35 feet

**640 Planned Unit Development-Residential.** A Planned Unit Development-Residential may be permitted in the Village Residential District upon approval of the Development Review Board in accordance with Section 1930.3 of these regulations.

**650 Redevelopment Planned Unit Development.** A Redevelopment Planned Unit Development may be permitted in portions of the Village Residential District located within the Village Core Overlay upon approval of the Planning Commission in accordance with Section 1930.9 of these Regulations, on sites that contain at least 40,000 square feet of land and have at least 100 feet of frontage on a public road.

**660 Site Plan Approval.** Site plan approval by the Planning Commission is required for all uses including any multiple use of a property in accordance with applicable portions of Section 1900 of these bylaws except one and two family dwellings on single lots, including accessory uses to such residences.



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## ARTICLE VII: MUSEUM DISTRICT

**700 Purpose.** The purpose of this district is to continue to accommodate the institutions and museums that are currently located in this portion of the Village. This area is served by both municipal sewer and water and is close to available transit stops.

**710 Permitted Uses.**

710.1 Single-family dwellings.

710.2 Two-family dwellings.

710.3 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.

710.4 Group/Residential Care Homes, operating under state licensing or registration, serving no more than 8 residents, and not located within 1,000 feet of another such facility.

710.5 Museums and associated uses.

710.6 Libraries.

710.7 Artist's Studios

710.8 Accessory uses.

710.9 Multiple uses where all proposed uses are permitted uses.

**720 Conditional Uses.**

720.2 Rooming Houses as a part of a Planned Unit Development-Museum.

720.3 Retail sales to the general public as a part of a Planned Unit Development-Museum.

720.4 Restaurants as a part of a Planned Unit Development-Museum.

720.5 Business and professional offices.

720.6 Medical and Dental offices.

- 720.7 Public and private schools certified by the Vermont Department of Education and other educational uses linked to the primary activities of the museum.
- 720.8 Churches and other places of worship.
- 720.9 Cemeteries.
- 720.10 Multiple uses when one or more of the uses is a conditional use.

**730 Dimensional Requirements.**

730.1 Minimum Lot size.

- A. Lot area minimum -
  - Single-family dwellings 15,000 square feet
  - Two-family dwellings 20,000 square feet
  - Day care homes 20,000 square feet
  - Other permitted and conditional uses 20,000 square feet
- B. Lot frontage minimum:
  - Single-family dwellings 100 feet
  - Two-family dwellings 150 feet
  - Other permitted and conditional uses 150 feet
- C. Multiple uses involving non-residential use(s) plus 2 or more residential units - The area required for other permitted and conditional uses plus the applicable lot area required for each dwelling unit.

730.2 Setback Requirements.

- A. Minimum Front yard setback:
  - All uses 30 feet
- B. Minimum Side and rear yard setback:
  - Single and two-family dwellings and Day care homes 15 feet
  - Accessory structures not exceeding 120 square feet in floor area 10 feet
  - Other permitted and conditional uses 30 feet

730.3 Building coverage maximum

- All uses 20 percent

730.4 Height Restrictions.

- All structures - 35 feet

- 740** **Planned Unit Development--Museum.** A Planned Unit Development-Museum may be permitted in the Museum District upon approval of the Development Review Board in accordance with Section 1930.8 of these regulations.
- 750** **Site Plan Approval.** Site plan approval by the Development Review Board is required for all uses including any multiple use of a property in accordance with applicable portions of Section 1900 of these bylaws except one and two family dwellings on single lots, including accessory uses to such residences.



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## ARTICLE VIII: VILLAGE CENTER DISTRICT

**800 Purpose.** This is the central, most compact, mixed-use core of the Village. It is intended to accommodate the variety of retail and office uses, government facilities, residential uses, churches and schools and other uses that serve the community while enhancing the pedestrian qualities of the area and, as reasonably practicable, preserving and protecting the historic structures and patterns located in the village. This area is served by both municipal sewer and water and is close to available transit stops. Note that a portion of this district is included in the Village Core Overlay District.

### **810 Permitted Uses.**

- 810.1 Single-family dwellings.
- 810.2 Two-family dwellings.
- 810.3 Multiple family dwellings.
- 810.4 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.
- 810.5 Group/Residential Care Homes, operating under state licensing or registration, serving no more than 8 residents, and not located within 1,000 feet of another such facility.
- 810.6 Retail Sales uses without drive through facilities.
- 810.7 Pharmacies without drive through facilities.
- 810.8 Restaurants, without drive through services, and where all designated outdoor eating areas are screened from and adjacent residential properties.
- 810.9 Personal Service Shops.
- 810.10 Post Office stores.
- 810.11 Business or Professional Offices.
- 810.12 Medical or Dental Offices.

- 810.13 Banks or other financial institutions.
- 810.14 Public and private schools certified by the Vermont Department of Education and other educational institutions certified by the Vermont Department of Education, including craft schools.
- 810.15 Museums and associated facilities.
- 810.16 Libraries.
- 810.17 Licensed day care homes with 6 or fewer children.
- 810.18 Registered family day care homes.
- 810.19 Outdoor Recreation involving the use of no structures.
- 810.20 Community Farmers Market
- 810.21 Accessory uses.
- 810.22 Multiple uses where all proposed uses are permitted uses.

## **820 Conditional Uses.**

- 820.1 Conversion of a single-family structure existing on March 16, 2009, to a two-family dwelling.
- 820.2 Mobile Home parks existing on January 14, 1986.
- 820.3 Elder Housing, in PUDs only, with a maximum of 40 dwelling units in a single structure.
- 820.4 Elder Care Facilities where rooms other than complete dwelling units are provided, in PUDs only, with a maximum of 100 bedrooms in a single structure.
- 820.5 Elderly Supportive Service Housing in PUDs only, with a maximum of 80 dwelling units in a single structure.
- 820.6 New Mobile Home Parks on lots of no less than 10 acres.
- 820.7 Hotels and Inns.
- 820.8 Bed and Breakfast with no more than four rooms to rent.
- 820.9 Gasoline stations existing on March 17, 2009.

- 820.10 Drive-Through Pharmacies.
- 820.11 Artist's Studios.
- 820.12 Veterinary Clinics.
- 820.13 Churches and other places of worship.
- 820.14 Licensed day care homes with more than 6 children.
- 820.15 Day Care Centers.
- 820.16 Municipal Offices
- 820.17 Police stations.
- 820.18 Fire/Rescue stations.
- 820.19 Public utility facilities.
- 820.20 Transit passenger stations.
- 820.21 Outdoor Recreation involving the use of no more than minor structures.
- 820.22 Cemeteries.
- 820.23 Multiple uses when one or more of the uses is a conditional use.

### **830 Dimensional Requirements.**

#### 830.1 Minimum Lot size.

- A. Lot area minimum -
  - Single-family dwellings 10,000 square feet or six times the total usable, above-ground temperature-controlled (heated and/or cooled) space within the structure, whichever is less.
  - Two-family dwellings 15,000 square feet or five times the total usable, above-ground temperature-controlled (heated and/or cooled) space within the structure, whichever is less.

- Multi-Family dwellings 7,500 square feet per Dwelling unit or four times the total usable, above-ground temperature-controlled (heated and/or cooled) space within the structure, whichever is less.
- Elder Housing/Housing for the elderly 3,500 square feet per dwelling unit
- Elderly Supportive Service Housing 2,500 square feet per dwelling unit
- Elder Care facilities 2,000 square feet per resident bedroom
- Day care homes 10,000 square feet
- Other allowed uses 15,000 square feet
- Minimum lot sizes may be modified by the provisions of Section 1930.3, 1930.4, 1930.8, and 1930.9 of these regulations.

B. Lot frontage minimum:

- Single-family dwellings 60 feet
- Two-family dwellings 75 feet
- Other permitted and conditional uses 100 feet

C. Multiple uses involving non-residential use(s) plus 2 or more residential units - The area required for other permitted and conditional uses plus the applicable lot area minimum for each dwelling unit.

D. Lot area maximum-

- Single-family dwellings on lots created after March 17, 2009 25,000 square feet
- Two-family dwellings on lots created after March 17, 2009 37,500 square feet

830.2 Setback Requirements.

A. Minimum Front yard setback:

- All uses 30 feet, or average of adjacent parcels

B. Minimum Side and rear yard minimum setback:

- Single and two family dwellings and day care homes 15 feet
- Other permitted and conditional uses 30 feet

830.3. Building coverage maximum

- All uses 20 percent

830.4 Height Restrictions.

- A. Structures outside Mixed Use PUDs
  - All structures 35 feet

- B. Structures within Mixed Use PUDs
  - A Fire Protected Structure located at least 200 feet from the nearest edge of the Shelburne Road Right Of Way (ROW) shall have an average height not exceeding 35 feet and maximum height consistent with the following specifications:

<u>Location of Structure (point closest to ROW)</u>	<u>Maximum Height:</u>
i. between 200 and 250' from Shelb. Road ROW	35 feet
ii. between 250' and 300' from Shelb. Road ROW	40 feet
iii. more than 300' from Shelb. Road ROW	45 feet

For the purposes of this section, average height shall be calculated as a weighted average combining the height as defined in 2110.61 of each discrete section of the structure and the portion of the building footprint underneath that discrete section.

- All other structures 35 feet (maximum)

**840 Planned Unit Development—Mixed Use.** A Planned Unit Development---Mixed Use may be permitted in the Village Center Mixed Use District in accordance with the provisions of Subsection 1930.4 of these Regulations, on sites that contain at least 40,000 square feet of land and have at least 100 feet of frontage on a public road.

**841 Planned Unit Development—Mixed Use Density Bonus.** The number of dwelling units allowed in a PUDMU may, at the discretion of the Development Review Board, be increased by up to 25 percent of the number that the Development Review Board determines could be provided on the site in conformance with Sections 830.1, 1930.2, and 1930.4. Density bonuses shall be granted only for developments which demonstrate exceptional affordable housing creation and open space conservation as specified in sections 841.1 and 841.2 below and which reflect exceptional design in transition zones as specified in section 841.3 below. Transitions zones are designated as those portions of lots located between 200 and 400 feet from the edge of the Route 7 ROW.

- 841.1 Affordable Housing Creation. Exceptional Affordable Housing Creation shall be demonstrated when:
- A. At least two-thirds (2/3) of all units proposed to be constructed using an awarded density bonus consist of affordable housing units per the definition in this bylaw; and
  - B. Legal and other mechanisms acceptable to the Town are proposed to maintain the affordability of affordable housing units on a perpetual basis.
- 841.2 Open Space Conservation. Exceptional Open Space Conservation shall be demonstrated when:
- A. At least 35 percent of the total land area of the project is set aside as project open space;
  - B. Project open space is protected from future development by conveyance of fee simple ownership or easement to the Town of Shelburne or other qualified conservation organization; and
  - C. Project open space provides for non-motorized public access to a degree compatible with the natural resource values of the open space.
- 841.3 Exceptional Design. Exceptional Design shall be demonstrated when new construction is energy certification eligible and, further, when such construction is determined to be compatible with the surrounding area. In evaluating the compatibility of the development with the surrounding area the DRB, upon written recommendation of the HP&DRC, shall consider the scale and general size of the proposed development or structure in relation to existing surroundings, including consideration of such factors as the height of buildings, building width, number of stories, roof type, facade opening (window, door, etc.), and architectural details.

**850 Planned Unit Development---Residential.** A Planned Unit Development-Residential may be permitted in the Village Center District upon approval of the Development Review Board in accordance with Section 1930.3 of these Regulations.

**860 Planned Unit Development---Museum.** A Planned Unit Development—Museum, may be permitted in the Village Center District upon approval of the Development Review Board in accordance with Section 1930.8 of these Regulations.

**870 Redevelopment Planned Unit Development.** A Redevelopment Planned Unit Development may be permitted in portions of the Village

Center District located within the Village Core Overlay upon approval of the Development Review Board in accordance with Section 1930.9 of these Regulations, on sites that contain at least 40,000 square feet of land and have at least 100 feet of frontage on a public road.

**880 Site Plan Approval.** Site plan approval by the Development Review Board is required for all uses including any multiple use of a property in accordance with applicable portions of Section 1900 of these bylaws except one and two family dwellings on single lots, including accessory uses to such residences.



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## ARTICLE IX: SHELBURNE FALLS MIXED USE DISTRICT

**900 Purpose.** The purpose of this district is to support the traditional compact, mixed-use, development pattern that has evolved around the LaPlatte River. This area is served by both municipal sewer and water, and is very close to the center of Shelburne Village.

### 910 Permitted Uses.

- 910.1 Single-family dwellings.
- 910.2 Two-family dwellings.
- 910.3 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.
- 910.4 Group/Residential Care Homes, operating under state licensing or registration, serving no more than 8 residents, and not located within 1,000 feet of another such facility.
- 910.5 Licensed day care homes with 6 or fewer children.
- 910.6 Registered family day care homes.
- 910.7 Accessory uses.
- 910.8 Multiple uses where all proposed uses are permitted uses.

### 920 Conditional Uses.

- 920.1 Conversion of single-family dwelling in existence on March 17, 2009, to a two-family dwelling.
- 920.2 Multi-Family dwellings.
- 920.3 Elder Housing, in PRD's only, with a maximum of 10 dwelling units in a single development.
- 920.4 Elder Care facilities where rooms other than complete dwelling units are provided, in PRD's only, with a maximum of 12 bedrooms in a single development.

- 920.5 Bed and breakfast with no more than 3 rooms to rent.
- 920.6 Business or Professional Offices.
- 920.7 Artist's studios.
- 920.8 Outdoor recreation involving the use of minor structures.
- 920.9 Cemeteries
- 920.10 Multiple uses when one or more of the uses is a conditional use.
- 920.11 Local Market with Delicatessen

**930 Dimensional Requirements.**

- 930.1 Minimum Lot size.
  - A. Lot area minimum –

Single-family dwellings	12,500 square feet
Two-family dwellings	20,000 square feet
Multi-Family dwellings	10,000 square feet per dwelling unit
Elder Housing/Housing for the elderly	4,375 square feet per dwelling unit
Elder Care facilities	2,500 square feet per resident bedroom
Day care homes	12,500 square feet
Other permitted and conditional uses	20,000 square feet
  - B. Lot frontage minimum-

Single-family dwellings	75 feet
Two-family dwellings	100 feet
Other permitted and conditional uses	150 feet
  - C. Multiple uses involving non-residential use(s) plus 2 or more residential units - The area required for other permitted and conditional uses plus the applicable lot area required for each dwelling unit
  - D. The Development Review Board may adjust the lot frontage requirements for new lots on curved roads or culs-de-sac, if it determines that such adjustments will improve the lot layout.

930.2 Setback Requirements.

- A. Minimum Front yard setback:
- |          |  |
|----------|--|
| All uses | 30 feet, or average of<br>Adjacent parcels |
|----------|--|
- B. Minimum Side and rear yard setback:
- Single and two family dwellings  
and day care homes 15 feet
  - Accessory structures not exceeding  
120 square feet in floor area 10 feet
  - Other permitted and conditional uses 30 feet

930.3 Building coverage maximum

All uses	20 percent
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930.4 Height Restrictions.

All structures	35 feet
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**940 Planned Unit Development- Mixed Use.** A Planned Unit Development-Mixed Use may be permitted in the District upon approval of the Development Review Board in accordance with the provisions of Subsection 1930.4 of these regulations

**950 Planned Unit Development-Residential.** A Planned Unit Development-residential may be permitted in the District upon approval of the Development Review Board in accordance with Section 1930.3 of these regulations.

**960 Site Plan Approval.** Site plan approval by the Development Review Board is required for all uses including any Multiple Use of a property in accordance with applicable portions of Section 1900 of these Bylaws except one and two family dwellings on single lots, including accessory uses to such residences.



## ARTICLE X: MIXED USE DISTRICT

**1000 Purpose.** The purpose of the Mixed Use District is to accommodate the commercial uses presently in the area and to encourage an integrated, compatible mix of new commercial and residential development (with a variety of housing types) that is pedestrian friendly, to facilitate access among the various uses without utilizing Shelburne Road, to encourage development of small visual scale and “grain”, to present an interesting and varied streetscape along Shelburne Road, to avoid the appearance of “strip” development; and to encourage low traffic generating uses so as to minimize the number of turning movements on Shelburne Road. In addition, development in this district should be designed to encourage the use of public transit.

### **1010 Permitted Uses.**

- 1010.1 Single-family dwellings.
- 1010.2 Two-family dwellings.
- 1010.3 Multiple family dwellings.
- 1010.4 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.
- 1010.5 Group/Residential Care Homes, operating under state licensing or registration, serving no more than 8 residents, and not located within 1,000 feet of another such facility.
- 1010.6 Retail uses, without drive through facilities.
- 1010.7 Pharmacies without drive through facilities
- 1010.8 Personal Service Shops, without drive through facilities.
- 1010.9 Business or Professional Offices.
- 1010.10 Medical or Dental Offices.
- 1010.11 Banks and other Financial Institutions.
- 1010.12 Licensed day care homes with 6 or fewer children.

- 1010.13 Registered family day care homes.
- 1010.14 Outdoor Recreation involving the use of no structures.
- 1010.15 Indoor Recreation facilities.
- 1010.16 Accessory uses.
- 1010.17 Multiple uses where all proposed uses are permitted uses.

**1020 Conditional Uses.**

- 1020.1 Conversion of a single-family dwelling existing on March 17, 2009, to a two-family dwelling.
- 1020.2 Mobile Home Park existing on (January 14, 1986).
- 1020.3 New Mobile Home Parks on 10 or more acres
- 1020.4 Elder Housing, in PUDs only, with a maximum of 40 dwelling units in a single development.
- 1020.5 Elder care facilities where rooms other than complete dwelling units are provided, in PUDs only, with a maximum of 100 bedrooms in a single development.
- 1020.6 Continuing Care Retirement Facilities.
- 1020.7 Nursing Homes.
- 1020.8 Retail uses, with drive through facilities.
- 1020.9 Drive-Through Pharmacies.
- 1020.10 Roadside stands for the seasonal sale of farm products.
- 1020.11 Personal Service Shops, with drive through facilities
- 1020.12 Hotels/Motels.
- 1020.13 Bed and Breakfast with no more than six rooms to rent.
- 1020.14 Restaurants, without drive through services, and where any designated outdoor dining areas are screened from any adjacent residential properties.

- 1020.15 Indoor Movie Theaters.
- 1020.16 Public Utility Facilities.
- 1020.17 Artists' Studios
- 1020.18 Veterinary Clinics.
- 1020.19 Kennels on lots of no less than 3 acres with space for no more than 25 animals, with adequate screening from adjacent properties, and with provision for effective sound attenuation.
- 1020.20 Pet Care Facilities with space for not more than 25 animals.
- 1020.21 Vehicle Sales and Repair.
- 1020.22 Auto and machinery repair.
- 1020.23 Research and Testing Laboratories.
- 1020.24 Garden Center/Nursery facilities.
- 1020.25 Lumber Yard.
- 1020.26 Building materials sales with all indoor storage.
- 1020.27 Construction Services Facilities
- 1020.28 Public and private schools certified by the Vermont Department of Education and other educational institutions certified by the Vermont Department of Education.
- 1020.29 Museums and associated facilities.
- 1020.30 Churches and other places of worship.
- 1020.31 Licensed day care homes with more than 6 children.
- 1020.32 Day Care Centers.
- 1020.33 Municipal Waste Water Treatment Plants.
- 1020.34 Fire/Rescue Stations.
- 1020.35 Outdoor Recreation facilities involving the use of minor structures.

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- 1020.36 Campgrounds, existing on March 17, 2009.
- 1020.37 Cemeteries.
- 1020.38 Upholstery / Fabric Working.
- 1020.39 Wholesale Sales (enclosed).
- 1020.40 Enclosed light manufacturing.
- 1020.41 Warehouses where all storage is enclosed.
- 1020.42 Adult Entertainment
- 1020.43 Any use substantially, materially, and outwardly similar to those set forth above in Sections 1010 and 1020, provided that the Development Review Board finds that, in addition to other specific and general standards set forth in these regulations, the proposed use meets the following specific standards:
- A. Such use is of the same functional and physical character as those permitted or allowed as conditional uses in the district. To establish whether such use has the “same functional and physical character” as a permitted or conditional use in the district, an applicant must demonstrate to the DRB that the contemplated use shares the following features with a use specified in Section 1010.1-1010.15. or 1020.1-1020.40 above:
    - 1. Inherent character of primary activity or activities,
    - 2. Typical predominant sound levels and qualities,
    - 3. Typical exterior activity levels,
    - 4. Typical exterior lighting requirements,
    - 5. Typical predominant odor, if any,
    - 6. Typical vehicular traffic,
    - 7. Seasonal and diurnal patterns of sound, lighting, smells, and exterior activity levels.
  - B. Such use will not be detrimental to adjoining land uses as measured by compliance with the performance standards contained in Article XIX.
- 1020.44 Multiple uses when one or more of the uses is a conditional use.

## 1030 Dimensional Requirements.

### 1030.1 Minimum Lot size.

- A. Lot area minimum -
- Single-family dwellings 15,000 square feet
  - Two-family dwellings 20,000 square feet
  - Multi-family dwellings 10,000 square feet  
Per dwelling unit
  - Housing for the elderly 7,500 square feet per dwelling unit when constructed as detached housing;  
3,500 square feet per dwelling unit when constructed in congregate/attached housing.
  - Elder Care facilities 2,000 square feet per resident bedroom
  - Continuing Care Retirement Community 3,500 square feet per independent living unit and community care/nursing home bed.
  - Hotels/motels 3,500 square feet per room, or 20,000 square feet, whichever is greater
  - Day care homes 20,000 square feet
  - Day Care Centers 30,000 square feet
  - Other permitted and conditional uses 20,000 square feet
- B. Lot frontage minimum:
- Single-family dwellings 100 feet
  - Two-family dwellings 150 feet
  - Other permitted and conditional uses 150 feet
- C. Multiple uses involving non-residential use(s) plus 2 or more residential units - The area required for other permitted and conditional uses plus the applicable lot area minimum for each dwelling unit.

1030.2 Setback Requirements.

A. All uses on lots with frontage on Shelburne Road

1. Minimum structure and parking setback from Shelburne Road ROW on lots 1.5 acres or less: 30 feet
2. Minimum structure and parking setback from Shelburne Road ROW on lots of more than 1.5 Acres: 50 feet
3. Minimum side yard structure and parking setback: 20 feet
4. Minimum rear yard structure and parking setback when abutting a Residential use: 50 feet
5. Minimum rear yard structure and parking setback when abutting a Non-Residential use: 20 feet
6. If a lot has frontage on Shelburne Road and on another road, the minimum structure and parking setback from the other road ROW shall be: 30 feet

B. Uses on lots not having frontage on Shelburne Road

1. Minimum front yard structure and parking setback (all uses): 30 feet
2. Minimum side/rear yard structure and parking setbacks:
  - Single family dwellings and day care homes 15 feet
  - Other allowed uses: 25 feet, except that when residential use of an adjacent property existed as of June 1, 2011 or predates a proposal to initiate an “other allowed use”, the setback shall be 100 feet.

1030.3 Building coverage maximum 30 percent

1030.4 Lot coverage maximum 50 percent

1030.5 Maximum individual building footprint 30,000 square feet

1030.6 Consolidation of existing buildings

- A. Notwithstanding Section 1030.5, a lot that contains multiple buildings on March 17, 2009 or a lot or lots approved by the Development Review Board as a commercial or mixed use Planned Unit Development (PUD-MU, PUC-C), where such lot or lots contained multiple buildings existing as of May 1, 2012 may be redeveloped to consolidate the existing floor area into a single building with a total footprint not to exceed 130% of the total footprint of all existing buildings having a footprint of more than 200 square feet, provided that the Development Review Board determines that doing so is an integral part of the overall design for the redevelopment, that the architectural design of the front façade of the proposed building is consistent with the provisions of Section 1930.7-B-7 of these Regulations, and that the requirements of paragraphs B and C below are met.
- B. The land uses conducted in any buildings approved under 1030.6.A. shall be the same as the land uses conducted in the existing buildings on which the footprint area is based.
- C. The floor area of any structure considered by the Development Review Board when authorizing the construction of buildings over 30,000 square feet may be applied in such manner only once and shall be deemed ineligible for any future calculations of the same manner.

1030.7 Height restrictions. 35 feet

**1040 Planned Unit Development—Residential.** Any residential development project on a lot in excess of five acres, except for a single family dwelling or a Mobile Home Park, shall be reviewed as a Planned Unit Development-Residential in accordance with Section 1930.3 of these regulations, unless eligible and submitted for review as a Redevelopment Planned Unit Development in the Mixed Use District in accordance with the provisions of Subsection 1930.9

**1050 Planned Unit Development—Commercial.** Any commercial development project on a lot in excess of two acres shall be reviewed as a Planned Unit Development—Commercial in accordance with the provisions of Subsection 1930.5 and 1930.7 of these Regulation, unless eligible and

submitted for review as a Redevelopment Planned Unit Development in the Mixed Use District in accordance with the provisions of Subsection 1930.10. \*

**1060 Planned Unit Development—Mixed Use.** Any mixed use development project combining residential and non-residential uses on a lot in excess of two acres shall be reviewed as a Planned Unit Development—Mixed Use in accordance with the provisions of Subsection 1930.4 and 1930.7 of these Regulations, unless eligible and submitted for review as a Redevelopment Planned Unit Development in the Mixed Use District in accordance with the provisions of Subsection 1930.9.

**1070 Site Plan Approval.** Site plan approval by the Development Review Board is required for all uses including any multiple use of a property in accordance with applicable portions of Section 1900 of these bylaws except one and two family dwellings on single lots, including accessory uses to such residences.

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\* [NB: The text previously incorrectly referenced 1930.9]

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## ARTICLE XI: COMMERCE AND INDUSTRY DISTRICT

**1100 Purpose.** The purpose of the Commerce and Industry District is to implement the goals and objectives of the Economic Development section of the Town Plan and to help meet the Town's and region's economic needs.

### **1110 Permitted Uses.**

- 1110.1 Business or Professional Offices.
- 1110.2 Research and Testing Laboratories.
- 1110.3 Upholstery/Fabric Working.
- 1110.4 Enclosed light manufacturing.
- 1110.5 Public and private schools certified by the Vermont Department of Education and other educational institutions certified by the Vermont Department of Education.
- 1110.6 Outdoor Recreation facilities with no structures.
- 1110.7 Indoor recreation facilities including but not limited to bowling alleys, gymnasium, dance studios, indoor racquet sport facilities, etc.
- 1110.8 Accessory uses, including retail and other services accessory to a principal on-site manufacturing operation or other permitted use, where the service is clearly subsidiary to the principal permitted use.
- 1110.9 Multiple uses where all proposed uses are permitted uses.

### **1120 Conditional Uses.**

- 1120.1 Artist's studios.
- 1120.2 Wholesale Sales (enclosed).
- 1120.3 Vehicle Sales and Repair facilities.
- 1120.4 Building Materials Sales with all indoor storage.
- 1120.5 Lumber yards.
- 1120.6 Construction Services facilities.

- 1120.7 Dry cleaning establishments where the actual cleaning is done on site.
- 1120.8 Auto/machinery repair facilities.
- 1120.9 Warehouses where all storage is enclosed.
- 1120.10 Churches and other places of worship.
- 1120.11 Day care centers with a maximum of 75 children.
- 1120.12 Pet Care Facilities with space for not more than 100 animals.
- 1120.13 Outdoor recreation facilities with minor structures.
- 1120.14 Multiple uses when one or more of the uses are a conditional use.
- 1120.15 Accessory uses, including retail and other services accessory to the principal on-site conditional use, where the service is clearly subsidiary to the principal conditional use.
- 1120.16 Any use substantially, materially, and outwardly similar to those set forth above in Sections 1110 and 1120, provided that the Development Review Board finds that, in addition to other specific and general standards set forth in these regulations, the proposed use meets the following specific standards.

A. Such use is of the same functional and physical character as those permitted or allowed as conditional uses in the district. To establish whether such use has the “same functional and physical character” as a permitted or conditional use in the district, an applicant must demonstrate to the DRB that the contemplated use shares the following features with a use specified in Section 1110.1-1110.8 or 1120.1-1120.12 above:

1. Inherent character of primary activity or activities,
2. Typical predominant sound levels and qualities,
3. Typical exterior activity levels,
4. Typical exterior lighting requirements,
5. Typical predominant odor, if any,
6. Typical vehicular traffic,
7. Seasonal and diurnal patterns of sound, lighting, smells, and exterior activity levels.

B. Such use will not be detrimental to adjoining land uses as

measured by compliance with the performance standards contained in Article XIX.

### **1130 Dimensional Requirements.**

1130.1 Minimum Lot size.

- A. Lot area minimum - 2 acres.
- B. Lot frontage minimum - 150 feet.

1130.2 Setback requirements.

- A. Minimum Front yard setback - 60 feet.
- B. Minimum Side and rear yard setback - 50 feet, or, when a parcel is adjacent to property or properties designated as residential under zoning bylaws in effect prior to August 12, 2008, applicable yard requirement shall be 150 feet.

1130.3 Coverage requirements.

- A. Building coverage maximum - 25 percent.
- B. Lot coverage maximum - 50 percent.

1130.4 Height restrictions.

35 feet for all structures except churches.

### **1140 Special Requirements.**

1140.1 All uses in the Commerce and Industry District must be serviced by municipal water and sewer.

**1150 Planned Unit Development - Commercial.** Planned Unit Developments—Commercial may be permitted in the Commerce and Industry District upon approval of the Development Review Board, in accordance with Section 1930.5 of these Regulations.

**1160 Site plan approval.** Site plan approval by the Development Review Board is required for all uses, including any multiple use of a property in accordance with applicable portions of Section 1900 of these Regulations.



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## ARTICLE XII: COMMERCE AND INDUSTRY SOUTH DISTRICT

**1200 Purpose.** The purpose of the Commerce and Industry South District is to implement the goals and objectives of the Economic Development section of the Town Plan, and to protect and preserve scenic views from adjacent lands, Route 7, and other public vantage points.

### 1210 Permitted Uses.

- 1210.1 Motels existing on March 17, 2009.
- 1210.2 Single family dwellings in existence prior to January 1, 1994.
- 1210.3 Accessory Apartments located within an existing or expanded owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.
- 1210.4 Business or Professional Offices.
- 1210.5 Research and Testing laboratories.
- 1210.6 Upholstery / fabric working.
- 1210.7 Public and private schools certified by the Vermont Department of Education and other educational institutions certified by the Vermont Department of Education.
- 1210.8 Licensed day care homes with 6 or fewer children.
- 1210.9 Registered family day care homes.
- 1210.10 Farming, dairying, orchards, nurseries, woodlots and forestry, truck gardening, livestock and poultry raising but specifically not including commercial slaughter of animals or poultry.
- 1210.11 Outdoor recreation with no structures.
- 1210.12 Indoor recreation facilities including but not limited to bowling alley, gymnasium, dance studio, indoor racquet sport facilities, etc.

- 1210.13 Accessory uses, including retail and other services (e.g., food services) accessory to a principal permitted use, where the service is clearly subsidiary to the principal permitted use or, in the case of PUDs, is clearly subsidiary to all other uses in the PUD.
- 1210.14 Multiple uses where all proposed uses are permitted uses.

## **1220 Conditional Uses.**

- 1220.1 Artist's studios.
- 1220.2 Wholesale Sales (enclosed within a building).
- 1220.3 Building Materials Sales with all indoor storage.
- 1220.4 Construction services facilities.
- 1220.5 Enclosed light manufacturing.
- 1220.6 Auto and machinery repair.
- 1220.7 Warehouses where all storage is enclosed within a building.
- 1220.8 Roadside stands for the seasonal sale of farm products.
- 1220.9 Churches and other places of worship.
- 1220.10 Licensed day care homes with more than 6 children.
- 1220.11 Day Care Centers with a maximum of 75 children.
- 1220.12 Outdoor recreation facilities with minor structures.
- 1220.13 Accessory uses, including retail and other services accessory to a principal on-site manufacturing operation or other conditional use, where the service is clearly subsidiary to the principal conditional use or, in the case of PUDs, is clearly subsidiary to all other uses in the PUD.
- 1220.14 Multiple uses when one or more of the uses is a conditional use.
- 1220.15 Any use substantially, materially, and outwardly similar to those set forth above in Sections 1[2]10 and 1[2]20, provided that the Development Review Board finds that, in addition to other specific and

general standards set forth in these regulations, the proposed use meets the following specific standards.

A. Such use is of the same functional and physical character as those permitted or allowed as conditional uses in the district. To establish whether such use has the “same functional and physical character” as a permitted or conditional use in the district, an applicant must demonstrate to the DRB that the contemplated use shares the following features with a use specified in Section 1210.1-1110.12 or 1220.1-1120.13 above:

1. Inherent character of primary activity or activities,
2. Typical predominant sound levels and qualities,
3. Typical exterior activity levels,
4. Typical exterior lighting requirements,
5. Typical predominant odor, if any,
6. Typical vehicular traffic,
7. Seasonal and diurnal patterns of sound, lighting, smells, and exterior activity levels.

B. Such use will not be detrimental to adjoining land uses as measured by compliance with the performance standards contained in Article XIX.

1220.16 Restaurant, in structure the entirety of which is located within 200 feet of the edge of the US Route 7 Right of Way and where food and drink are prepared to order, made available for consumption upon short waiting time, and consumed primarily within a principal building existing as of December 18, 2013, and having seating for no more than 60 patrons.

### **1230 Expansion of Structures within the setback from Route 7.**

1230.1 Any structure located within the 100 foot setback from Route 7, in existence on August 2, 1995, and thereafter, may be expanded or altered if such expansion or alteration satisfies the following additional standards:

- A. The alteration or expansion does not extend any closer to Route 7 than the existing structure ; and
- B. The Shelburne Historic Preservation and Design Review Commission shall review the proposed alteration or expansion as to visual impact and impact on the pastoral nature of the area and shall submit its comments and recommendations on the proposed alteration to the

Development Review Board prior to the Board's public hearing for Site Plan Review of the proposed alteration.

- 1230.2 Any structure located within the 100 foot setback from Route 7, in existence on August 2, 1995, and thereafter may be used for any use allowed under sections 1210 and 1220 of these Regulations, provided that any change in use from the use in existence shall obtain Conditional Use Approval from the Development Review Board in accordance with Section 1910 of these regulations. The Shelburne Historic Preservation and Design Review Commission shall consider the proposed use change and shall submit comments and recommendations to the Development Review Board prior to the Board's public hearing for Conditional Use Approval of the proposed use change.

## 1240 Dimensional Requirements.

### 1230.1 Minimum Lot size.

- |    |                                |  |
|----|--------------------------------|--|
| A. | Lot area minimum -<br>- Hotels | 3,500 square feet per room, or 2 acres, whichever is greater |
|    | - All other uses               | 2 acres  |
| B. | Lot Frontage minimum -         | 150 feet   |
| C. | Lot width minimum -            | 150 feet   |

### 1230.2 Setback Requirements.

- |    |                                      |  |
|----|--------------------------------------|--|
| A. | Minimum Front yard setback -         | 60 feet. When lot fronts on Route 7, minimum is 100 feet                                       |
| B. | Minimum side and rear yard setback - | 50 feet. When parcel backs up adjacent to residential properties, rear yard shall be 150 feet. |

### 1230.3 Coverage Requirements.

- |    |                             |            |
|----|-----------------------------|------------|
| A. | Building coverage maximum - | 25 percent |
| B. | Lot coverage maximum -      | 50 percent |

### 1230.4 Height Restrictions. 35 feet

**1250 Special requirements.** All uses must be served by municipal water and sewer.

**1260 Planned Unit Development—Commercial.** Planned Unit

Developments—Commercial may be permitted in the Commerce and Industry South District upon the approval of the Development Review Board in accordance with section 1930.5 of these Bylaws.

**1270 Site Plan Approval.** Site plan approval by the Development Review

Board is required for all uses in accordance with applicable portions of Section 1900 of these bylaws except single family dwellings, including accessory uses to such residences, and for agricultural uses.



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## ARTICLE XIII: CONSERVATION DISTRICT

**1300 Purpose.** The purpose of this district is to maintain, improve, and protect environmentally sensitive areas, and to protect irreplaceable natural resources located within these areas.

1300.1 The Conservation District shall include all lands designated as such on the Shelburne Zoning Map.

### 1310 Permitted Uses.

1310.1 Single-family dwellings existing on March 17, 2009.

1310.2 Single-family dwelling if permitted by any conservation easements on the property.

1310.3 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.

1310.4 Farming, dairy, orchards, nurseries, woodlots, forestry, and truck gardening.

1310.2 Outdoor recreation facilities with no structures.

1310.3 Outdoor recreation facilities with minor structures, but not including paved parking areas.

1310.4 Wildlife management and refuge areas.

### 1320 Conditional Uses.

1320.1 Licensed day care homes with more than 6 children. Licensed day care homes which were in operation prior to April of 1985, shall not be subject to conditional use approval unless they-propose to increase the number of children they serve to more than 6.

1320.2 Registered family day care homes.

1320.3 Accessory structures for those uses specified in Section 1310 of these regulations.

**1330 Special Provisions:** In addition to other specified and general standards set forth in these Regulations, the Development Review Board shall find that the proposed uses or structures meet the following specified standards:

- 1330.1 Structures and septic systems shall be located at least 500 feet from Shelburne Pond, its adjacent wetlands, and its drainage ways.
- 1330.2 The applicant shall elicit from and submit any recommendations regarding surface drainage from the Natural Resources Conservation Service, and shall demonstrate how the project complies with those recommendations.
- 1330.3 No structure shall be permitted that will in any way damage or alter the character of soils, vegetation or impair the quantity or quality of surface water and ground water.

**1340 Dimensional Requirements.**

- 1340.1 Lot size for single-family dwellings and day care facilities.
  - A. Lot area minimum - 10 acres.
  - B. Lot frontage minimum - 400 feet.
- 1340.2 Yard requirements for all permitted and conditional uses.
  - A. Front yard minimum - 75 feet.
  - B. Side and rear yard minimums - 50 feet.
- 1340.3 Height restrictions for all permitted and conditional uses.
  - All structures - 35 feet.

**1350 Planned Unit Development-Rural Mixed Use.** A Planned Unit Development-Rural Mixed Use may be permitted in the Conservation District in accordance with the provisions of Subsection 1930.6 of these regulations.

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## ARTICLE XIV: NEIGHBORHOOD OVERLAY DISTRICT

**1400 Purpose:** This overlay district is created to establish dimensional requirements consistent with the neighborhood at Harborwood Shores, which was established prior to current zoning regulations.

**1410 Applicability:** Except as specified below, all regulations relating to this overlay district shall be as required for the underlying Residential District.

**1420 District Boundaries:** The Neighborhood Overlay District shall consist of all lands designated as Neighborhood Overlay District on the Shelburne Zoning Map.

### 1430 Dimensional Requirements:

1430.1	Front yard minimum	30 feet for all uses
1430.2	Side and rear yard minimums	15 feet for all uses
1430.2	Building coverage maximum:	
	- Single family and two family dwellings and day care homes:	5 percent
	- Single family and two family dwellings existing on lots of 100,000 square feet or less on January 14, 1986:	20 percent or 5,000 sf, whichever is less.
	- All other uses:	10 percent



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## ARTICLE XV: VILLAGE DESIGN REVIEW OVERLAY DISTRICT

**1500 Purpose:** The purpose of this district is to preserve and enhance the historic and architectural significance of the Village and Falls Road areas and the entryways to Shelburne Village. It is also the purpose of this district to maintain the relationship of exterior architectural features of a structure and to ensure the general compatibility of scale, exterior design, arrangement, texture and materials, both on the structure and with surrounding structures. It is the intent of these regulations to encourage development that is compatible with the existing character of the area and creates a pedestrian friendly environment.

**1510 Applicability.** Except as specified below, all regulations relating to this district shall be as required in the underlying districts.

1510.1 District Boundaries. The Village Design Review District shall consist of all lands designated as Village Design Review Overlay District on the Shelburne Zoning Overlay Districts Map.

**1520 Special Review Requirements.** Except for interior modifications and except for ordinary maintenance, painting (including color), or repair which does not change the design, type of material, or appearance of a structure, review and approval by the Development Review Board, upon written recommendation of the Shelburne Historic Preservation and Design Review Commission (SHPDRC), is required within this overlay before:

- 1520.1. A Zoning Permit can be issued.
- 1520.2. A conditional use, variance, or alteration to a non-complying structure can be approved by the Development Review Board.
- 1520.3. A site plan or preliminary subdivision application can be approved by the Development Review Board.
- 1520.4. An addition or alteration can be made to the exterior of a building, whether enclosed or not.
- 1520.5. An alteration can be made to the exterior wall of a building by tearing down or removing any portion thereof, or by changing or altering any portion of an existing window, door space, porch or breezeway thereon.

- 1520.6. Materials on the exterior walls of a building may be removed, covered or replaced, where the materials so added or exposed are a kind or type different from those existing.
- 1520.7. A building may be moved within the district or out of the district.
- 1520.8. A building can be demolished.

**1530 Application and Review Procedure.** Once a completed application for Design Review approval is submitted to the Planning and Zoning Department the following procedure shall be followed:

- 1530.1. The Shelburne Historic Preservation and Design Review Commission (SHPDRC) shall conduct a review of the application; whenever possible, the SHPDRC will initiate its review within thirty (30) days of receipt of an application. Reviews may take place over multiple meetings.
- 1530.2. After completing its review, the SHPDRC shall forward a written recommendation regarding the application to the Development Review Board, or the Administrative Officer (when applicable pursuant to Section 1535). The recommendation may include conditions that would bring the application into conformance with the guidelines of these regulations, without the submittal of revised plans by the applicant.
- 1530.3. The SHPDRC's recommendation shall be provided to the Development Review Board prior to the Board's first regularly scheduled meeting following SHPDRC review, unless the project addressed in the application is also subject to Site Plan, Preliminary Plan, and/or Conditional Use review, in which case the SHPDRC's recommendation shall be presented prior to the first hearing conducted in conjunction with such review.
- 1530.4. The Development Review Board shall review the SHPDRC's recommendation and render a decision on the application by motion of the Board within thirty (30) days, whenever possible.

**1535 Allowance for Administrative Review in the case of minor projects.** Language in Section 1520 referring to DRB approval notwithstanding, certain qualifying activities may be administratively approved by the Zoning Administrator upon the issuance of a positive recommendation by the SHPDRC. (The SHPDRC shall retain authority to refer applications to the DRB when the activities do not clearly conform with sections 1535.1-1535.6). Those qualifying activities are:

- 1535.1. Alterations or additions to a single-family or two-family residential structure or residential accessory structure.
- 1535.2. Construction or installation of a single-family or two-family home residential accessory structure.
- 1535.3. Temporary signs.
- 1535.4. Fully conforming Permanent signs.
- 1535.5. Minor modifications to applications previously approved by the DRB, which in the judgment of the SHPDRC, have minimal effect on the appearance of the previously approved structure or have limited visibility from public vantage points.
- 1535.6. Minor alterations to a non-residential building or site, including changes of use, which in the judgment of the SHPDRC, have no effect on the appearance of the building or site, or have limited visibility from public vantage points.
- 1535.7. Fences

**1540 Demolition of Structures.** The Planning and Zoning Department shall receive all requests for the demolition of structures in the Village Design Review Overlay District and shall schedule a meeting of the SHPDRC for review and discussion of possible alternatives to demolition within thirty (30) days of said request. Notice of the proposed demolition shall be submitted to the State Historic Preservation Office and their comments shall be considered by the SHPDRC during their review.

1540.1 The SHPDRC shall forward a written report and recommendation to the Development Review Board within fifteen (15) days after completion of the SHPDRC review. The report shall describe whether the proposed demolition satisfies the standards below, and may include alternatives to demolition or removal of the structure.

1540.2 The Development Review Board shall review the SHPDRC's recommendation and render a decision by motion of the Board within forty five days of the conclusion of the meeting at which the proposal is considered.

1540.3 When considering a proposal to demolish a structure within the Village Design Review Overlay District, the Development Review Board shall consider the following standards:

- A. For structures identified in any of the following references: Historic Sites and Structures Survey, Shelburne, Book 1 and 2, prepared by the Vermont Division for Historic Preservation, Historic Sites and

Structures Survey Report for the Town of Shelburne prepared by Pamela Daly (2000), or the Shelburne Village National Register Historic District Nomination (1990), or which are listed on or eligible to be listed on the National Register of Historic Places, the Development Review Board may approve the proposed demolition, if:

1. The Development Review Board must find that the structure proposed for demolition has deteriorated to the degree that rehabilitation and reuse of the structure is not feasible. It is the burden of the applicant to demonstrate that no feasible alternative to demolition, including rehabilitation, preservation, or relocation, exists, or
2. The Development Review Board must find that the proposed redevelopment of the site after the demolition will provide a clear and substantial benefit to the community as a whole. It is the burden of the applicant to demonstrate that such a benefit will result;

and all of the following conditions are met:

3. The demolition and redevelopment proposal mitigates, to the greatest extent practicable, any impact on historic structures on the subject property or adjacent properties;
4. All historically and architecturally important design features, construction techniques, examples of craftsmanship, and materials, have been properly documented using applicable standards of the Historic American Building Survey and made available to historians, architectural historians, and others interested in Shelburne's architectural history, and
5. The applicant has an approved redevelopment plan which provides replacement structures that are compatible with the historic integrity and the architectural character of the surrounding area. Note: This requirement may be waived if the applicant agrees to place a deed restriction on the property limiting it to open space or recreation uses for the community at large.

B. For structures not listed in the references noted in sub-section A, above, demolition may be approved if the Development Review Board finds that:

1. The proposed demolition shall not adversely impact the character and context of other historic structures on the subject property or on adjacent properties, including those separated by roads.

2. The development proposed to replace the demolished structure shall not have an adverse impact on the architectural and historical context of the overlay district.
- C If the Development Review Board finds that the proposed demolition does not meet the standards set forth in sub-paragraphs A or B, it may deny the application or impose a delay of up to six months, during which time the applicant shall be directed to explore alternatives to demolition, including, but not limited to, renovation, preservation, or relocation of the structure. At the end of such delay, the Development Review Board shall convene a second hearing to consider the proposed demolition.
6. If the applicant demonstrates that a reasonable effort to find alternatives to demolition has been made, and all other applicable requirements have been met, the demolition may be approved.
  7. If the applicant cannot demonstrate that a reasonable effort to find alternatives to demolition has been made, the demolition shall be denied.
- D. If a structure for which demolition has been proposed has been damaged in excess of seventy (70) percent of its assessed value due to flood, fire, wind, or other act of God, permission for the demolition may be granted by the Administrative Officer, without prior review by the SHPDRC or Development Review Board. It is the burden of the applicant to demonstrate that this requirement is met before the Administrative Officer may act.

**1550 Design Review Criteria.** In making a determination on an application, the SHPDRC and Development Review Board shall give consideration to the criteria set forth in the Secretary of the Interior's Standards for Rehabilitation of Historic Structures and in the Design Review in Shelburne manual, including, but not limited to, the following:

- 1550.1 The historical, architectural or cultural value of the building(s) or structure(s) and its relationship and contribution to the setting.
- 1550.2. The compatibility of the proposed exterior design, arrangement, orientation, texture and materials in relation to the existing buildings or structures and its setting; or if new construction, compatibility with the surrounding area.
- 1550.3. The scale and general size of the proposed building or structure in relation to existing surroundings, including consideration of such factors as the building's overall height, width, street frontage, number of stories, roof type, facade opening (window, door, etc.) and architectural details.

- 1550.4. Factors including open space, yards, off-street parking, screening, fencing, entrance drives, sidewalks, signs and lights that might affect the character of any building or structure within the District, shall be considered as well as those factors which relate to the placement of a structure or group of structures which might affect the overall streetscape.
- 1550.5. The historic, cultural, scenic and ecological value of the existing natural, cultivated and constructed landscape and its relationship to proposed new construction and landscaping. Features to be considered include individual trees, patterns of trees and other vegetation, agricultural patterns, open spaces, vistas or long range view corridors, compact patterns of development, topographical and geological features, and wetlands, rivers, streams and ponds.
- 1550.6. The way in which the building or structure and its setting contribute to the historical and architectural significance of the district.

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## ARTICLE XVI: VILLAGE CORE OVERLAY DISTRICT

**1600: Purpose.** This overlay district is created to allow certain types of redevelopment of existing structures that are located within the core of Shelburne village, an area containing a distinct assemblage of uses, structures, and parcels, most of which were established prior to adoption of zoning regulations.

**1610: Applicability.** Except as specified below, all regulations relating to this overlay district shall be as required for the underlying districts and the Village Design Review Overlay District. At the election of an applicant, a request for development involving a Qualifying Structure in the Village Core Overlay District shall be reviewed under the provisions of Sections 1630-1680 which shall supersede any conflicting provisions contained in Article III (Village Center) and Article VI (Village Residential).

**1620: District Boundaries.** The Village Core Overlay District shall consist of all lands designated as Village Core Overlay District on the Shelburne Zoning Overlay Districts Map.

**1630: Definitions.** For the purposes of this Article, the following definitions shall apply:

1630.1 "Existing Lot" shall mean a lot as it existed on October 19, 2004.

1630.2 "Qualifying Structure" shall mean the principal structure on an Existing Lot which was constructed prior to October 19, 2004 with the exception that an Existing Structure located in a redevelopment PUD approved under Section 1930.9 shall not be a Qualifying Structure.

1630.3 "Allowable Use" shall mean one of the following:

- A. Churches and other places of worship
- B. Bed and breakfast with no more than four rooms to rent
- C. Town offices, police stations or fire/rescue stations.
- D. Public utility facilities.
- E. Business or professional offices.
- F. Banks or other financial institutions.
- G. Retail establishments designed to sell to the general public.
- H. Personal service shops including beauty, barber, tailor, shoe repair or similar service oriented business.
- I. Medical or dental offices.

- J. Restaurants (except fast food restaurants) provided that all services and consumption of food and beverages are indoors or in adjacent outdoor areas designed to be screened from the road and adjacent properties and which minimize noise impacts on adjacent properties.
- K. Accessory Apartments that may contain floor area up to 30 percent of the total habitable floor area of the original dwelling.
- L. Libraries.
- M. Art Galleries.

1630.4 For the purposes of this Article, "Residential Unit" shall mean a single-family dwelling intended for long-term, non-transient use

**1640: Conditional Use Review.** For purposes of applications filed pursuant to this Article XVI, all Allowable Uses shall be deemed conditional uses and shall be reviewed as such by the Development Review Board under Section 1910 of these Bylaws.

**1650: Dimensional Requirements.** The following dimensional requirements shall apply when an applicant for a zoning permit involving an Existing Lot proposes to:

- A. Convert the residential use of the Qualifying Structure to an Allowable Use in whole or in part; or
- B. Convert part of a Qualifying Structure occupied by an Allowable Use to a Residential Unit; or
- C. Modify the footprint of a Qualifying Structure; or
- D. Convert the use of a Qualifying Structure from a use other than an Allowable Use or Residential Unit to an Allowable Use and/or Residential Unit;

1650.1: Lot area minimum.

- A. If the footprint of the Qualifying Structure will not be enlarged in connection with its conversion in use to one Allowable Use and no more than one Residential Unit, the area of the Existing Lot shall be the lot area minimum.
- B. If the footprint of the Qualifying Structure will be enlarged in connection with its conversion in use to one or more Allowable Uses; or if the footprint of a Qualifying Structure with an Allowable Use in existence will be enlarged in connection with its continued use or conversion to another Allowable Use, a lot area minimum of 10,000 square feet per unit shall apply to each Allowable Use.

- C. Where an application involving one Allowable Use and more than one Residential Unit is proposed for a Qualifying Structure, a lot area minimum of 10,000 square feet plus 2,500 square feet for each Residential Unit over one shall be required.

1650.2: Minimum Frontage. When an application for a zoning permit is proposed under this Section for a conversion in use in a Qualifying Structure, whether or not the footprint of the Qualifying Structure is to be enlarged, the frontage of the Existing Lot shall be the frontage minimum.

1650.3: Yard Requirements.

- A. If the footprint of a Qualifying Structure will not be enlarged in connection with its conversion in use to one Allowable Use and no more than one Residential Unit, the yard setbacks of the Qualifying Structure on the Existing Lot shall be the required yard setbacks.
- B. If the footprint of a Qualifying Structure will be enlarged in connection with its conversion in use to an Allowable Use; or if the footprint of a Qualifying Structure with an Allowable Use will be enlarged in connection with its continued use or conversion to another Allowable Use, the following yard setback requirements shall apply to the proposed addition:

- 1. Front yard minimum - 25 feet from Rt. 7; 10 feet from any other street or private right of way;
- 2. Side and rear yard minimum -15 feet

C. Yard reductions: The Development Review Board, as a part of conditional use review and approval, may act to reduce the yard minimum by up to 50 percent if it finds one or more of the following:

- 1. Vegetation reduces the need for buffering adjoining properties, highways, or rights-of-way;
- 2. Topography or slope reduces the need for buffering adjoining properties, highways, or rights-of-way;
- 3. Other conditions deemed by the Zoning Board to mitigate the impact of the structure adjoining properties, highways, or right-of-way.

1650.4: Coverage Requirements.

- A. If the footprint of a Qualifying Structure will not be enlarged in connection with its conversion in use to one Allowable Use and no more than one Residential Unit, the building coverage of the Qualifying Structure on the Existing Lot shall be the maximum coverage.
- B. If the footprint of a Qualifying Structure will be enlarged in connection with its conversion in use to an Allowable Use; or if the footprint of the Qualifying Structure with an Allowable Use will be enlarged in connection with its continued use or conversion to another Allowable Use, the following coverage requirements shall apply:
  - Building coverage maximum - 35 percent

**1660: Parking.** When an applicant for a zoning permit proposes to convert the use or uses of a Qualifying Structure to one or more Allowable Uses or an Allowable Use and one or more Residential Units, the Development Review Board may modify the number of parking spaces required under Section 1960.1 A-M of these Bylaws by up to 50 percent as part of site plan review and approval, provided that the applicant can demonstrate to a reasonable certainty that a reduced number of spaces will be adequate or that parking is available, and can be shared, off the Existing Lot.

**1670: Effect of Approval.** On the date that any approval granted under this Article 1600 becomes final, the approved Existing Lot, Qualifying Structure and Allowable Use and/or Residential Unit shall be deemed to be in compliance with the dimensional and parking standards of these regulations and shall not be subject to any limitations imposed by Section 1920 (Nonconformities) and Section 1980.2 (Existing Small Lots). Such deemed compliance shall continue in effect so long as the Existing Lot and Qualifying Structure are used and developed in conformance with this section.

**1680 Redevelopment Planned Unit Development.** A Redevelopment Planned Unit Development may be approved in the Village Design Review Overlay District in accordance with the provisions of Section 1930.9 of these Regulations.

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## ARTICLE XVII: LAKESHORE OVERLAY DISTRICT

**1700 Purpose.** The purpose of this district is to preserve vegetation and natural cover of the shore adjacent to Lake Champlain in order to preserve views both from and of the lake, the preservation of water quality and prevention of pollution, the recognition of the extreme vulnerability of lakeshore properties to erosion and other nuisances, and the avoidance of problems resulting from over intensive exploitation of the lakeshore.

### 1710 Applicability.

1710.1 District boundaries. The Lakeshore Overlay District shall consist of all lands within five hundred (500) feet inland of the ordinary high water elevation (98.0' (NVGD 29) above sea level) of Lake Champlain (as established by the U.S. Army Corps of Engineers), as shown on the Lakeshore, Floodplain and Watercourse Overlay of the Shelburne Zoning Map, plus the area between the ordinary high water elevation (98' NVGD 29) and mean low water mark (93.0' NVGD 29).

### 1720 Permitted Uses.

- 1720.1 Those uses which are permitted in the underlying zone.
- 1720.2 Recreation uses including but not limited to picnic grounds, swimming areas (beaches), parks, natural areas, hunting and fishing areas, hiking and non-motorized riding trails.
- 1720.3 Carry-in (seasonal) docks not attached to the shore by means of permanent structure or other fixed apparatus.
- 1720.4 Carry-in (seasonal) docks attached to the shore by means of permanent structure or other fixed apparatus, when no other docks are present on the lot.
- 1720.5 Stairs (Outdoor stairs).
- 1720.6 Lakeshore decks.
- 1720.7 Lakeshore safety fence located at least ten (10) feet landward from the top of bank.

### 1730 Conditional Uses.

- 1730.1 Those uses listed as conditional uses in the underlying zone provided

that the Development Review Board finds that in addition to all other applicable standards, the proposed use meets the following specific standards.

- A. Marinas.
  - 1. Minimum lakeshore lot frontage - 300 feet.
  - 2. Minimum off-street parking spaces - one (1) per summer boat space (i.e. slips, moorings, or rack storage spaces).
  - 3. Compliance with all applicable State and Federal requirements and standards.
  - 4. The need for the proposed use to be located in the Lakeshore Overlay District.
  - 5. Will not cause unsafe or unhealthy conditions
  - 6. Will not cause undue adverse water pollution.
  - 7. Will not cause undue adverse erosion.
  
- B. Boat launching ramp as accessory uses.

1730.2 Permanent docks

1730.3 Carry-in (seasonal) docks attached to the shore by means of Permanent structure or other fixed apparatus, when other docks are present on the lot.

1730.4 Lakeshore erosion control structures

**1740 Dimensional Requirements.** In addition to the applicable dimensional requirements of the underlying zone, the following is required of all permitted and conditional uses, except as modified elsewhere in this section.

1740.1 Minimum setback for structures from the 102 foot elevation contour: 100 feet

**1750 Structures within 100 foot setback from the 102 foot elevation contour.**

1750.1 Except as provided below, no new structures shall be constructed within the 100 foot setback specified in 1740.1. See Figures A and B.

1750.2 Expansion or reconstruction of existing structures: Notwithstanding the provisions addressing nonconformities in Article XIX, nonconforming structures existing on March 6, 2013, may be expanded or reconstructed upon Conditional Use Approval of the

Development Review Board. In addition to the conditional use standards set forth in Article XIX, the following must be satisfied:

- A. Building Footprint. Except where a structure qualifies for review under 1750.1.G. below, the total area of the building footprint of that portion of an existing structure located within 100 feet of the 102 foot elevation contour does not increase as a result of the reconstruction, addition, or expansion.
- B. Distance to 102 Foot Elevation. The addition or expansion or reconstruction does not extend any closer to the 102 foot elevation contour than does the existing structure. See Figure C.
- C. Lakeside Wall. The total length of the Lakeside Wall does not increase as a result of the addition, expansion, or reconstruction. See Figures D and E.
- D. Lateral Relocation. The building footprint area of that portion of an existing structure located within 100 feet of the 102 foot elevation contour may shift laterally on the lot so long as the resulting addition or expansion or reconstruction meets applicable side yard setback requirements. See Figure F. For the purposes of this section, lateral relocation shall also include diagonal relocation, where lateral movement is combined with movement away from the 102 foot elevation contour.
- E. Height. The height of the portion of the addition, or expansion or reconstruction located within 100 feet of the 102 foot elevation contour shall comply with the following, as applicable.
  1. For additions or expansions or reconstructions where the roof pitch is less than or equal to 6 over 12: height shall not exceed 26 feet.
  2. For additions or expansions or reconstructions where the roof pitch is greater than 6 over 12: height shall not exceed 32 feet.
  3. For the purposes of this section, height shall be defined as the vertical distance of a structure as measured from the lowest finished grade elevation where it meets any Lakeside Wall to the elevation of the top of the ridge of the addition or expanded structure. See Figure G.
- F. Design. The addition or expansion meets the following design requirements:
  1. The addition or expansion shall be compatible in form, massing, roof shape, height and proportion with surrounding

architecture. See Figure H.

2. Building details and materials to be used in the addition or expansion shall be compatible with surrounding architecture. See Figure I.
3. To increase the compatibility of the addition or expansion with the architecture of the original structure, the applicant must present the Development Review Board with evidence that incorporation of compatible building forms such as cross gable wings, stepped upper story additions, dormers, and porches has been adequately explored.

G. Building Footprint Expansion in Limited Circumstances. Where a structure subject to section 1750.2 of these regulations is located entirely within the Lakeshore setback and the lot on which the structure is located also features a conforming building envelope landward of the structure, the total area of the building footprint may increase, with approval of the Development Review Board. Any such increase in building footprint area, which may be authorized only once, if authorized shall adhere to the following criteria:

1. The increase in building footprint area is incorporated in the design in such a way so as to bridge, partially or completely, the area occupied by the default building footprint and any conforming building envelope.
2. The maximum width of the area occupied by any such bridge, measured parallel to the proposed Lakeside Wall, shall not exceed the length of the Lakeside Wall.
3. The maximum size of the area occupied by any such bridge shall not exceed 400 square feet, as measured at the exterior of the structure.

1750.3 New structures within the 100 foot setback. Except as provided below, no new structures shall be constructed within the 100 foot setback specified in 1740.1.

A. Lakeshore Erosion Control Structures. Lakeshore Erosion Control Structures may be built between the 98' elevation contour and the 102' elevation contour subject to the following:

1. Lakeshore erosion control structures, including seawalls, shall not be constructed of concrete, metal or other man-made material, or wood unless faced with or composed of materials that are similar in color to naturally occurring

material in the vicinity.

2. Seawalls may be approved only upon receipt of a written statement from a licensed professional engineer stating that unique characteristics of the site make a seawall the best solution to prevent loss of a principal structure or significant erosion.
  3. The design of lakeshore erosion control structures shall be reviewed and approved by a licensed professional engineer.
  4. The appearance of any lakeshore erosion control structure shall be visually compatible with the surrounding natural shoreline and shall be maintained in that condition.
  5. Biotechnical erosion control methods incorporating a combination of inert structures or material and vegetation are preferred, where feasible.
- B. Stairs. One stairway per 400 feet of lakeshore adjoining a property, as measured based on the 102 foot elevation contour, may be permitted to provide access to the water, provided that the stairway is no more than 4 feet in width, that the stairway follows existing grade and does not generally extend more than 1 foot above existing grade, that landings are not wider than the stairway flights, except where stairway flights are offset—in which case the landing may be twice the width of the stairway flight. Lots with less than four hundred feet of lakeshore may be permitted one stairway subject to the requirements of this paragraph.
- C. Lakeside Decks. One standalone lakeside deck per property may be permitted, provided that it does not exceed 200 square feet in area, is no more than 2 feet above existing grade, and is no less than 25 feet from the 98 foot elevation contour.
- D. Marinas, with Conditional Use approval as described in 1730.1(a).
- E. Boat launching ramps as accessory uses: Boat launching ramps may be constructed to provide access to the water, provided that all State and Federal requirements are met.
- F. Docks. Unless otherwise exempt or subject to exclusive regulation by the State of Vermont under Chapter 11 of Title 29 or Chapter 49 of Title 10, VSA, permanent docks and seasonal docks attached to the shore by means of a permanent structure or other fixed apparatus may be allowed in numbers consistent with the following table:

	Lot Frontage			
	1-400'	401-800'	801-1200'	Over 1200'
Number of docks allowed, per lot, as permitted use	1	1	1	1
Number of docks allowed, per lot, as conditional use	2	3	4	5

- G. All applications for docks shall include documentation from reviewing agencies indicating compliance with Federal and State requirements, or exemptions, where applicable. Except where necessary to provide 36" of water depth at end of dock when water is at mean low water mark, docks generally should extend no more than fifty (50) feet from the shoreline unless necessary to provide reasonable access for watercraft.

**1751 Structures within the area between the ordinary high water elevation (98') and mean low water mark (93.0').**

The provisions of 1750.3.A.1-1750.3.A.5 also shall apply to that portion of the Lakeshore Overlay Zone lying between the ordinary high water elevation (98') and mean low water mark (93.0'). In addition, lakeshore erosion control structures shall not be used to create new land by effecting a deliberate lakeward relocation of the 98' elevation contour existing as of March 17, 2009. A deliberate relocation shall be determined to have occurred when the area between the original and relocated 98' contour, measured planimetrically, exceeds 10,000 square feet.

**1760 Restrictions on cutting of vegetation within setback**

1761 Cutting of vegetation within the 100 foot setback. Selective pruning of vegetation located within the 100 foot setback shall be allowed by permit when based on a Setback Cutting Plan. The Setback Cutting Plan shall be prepared by a qualified individual and include photographic representation of existing conditions and indicating what will be removed and/or replaced.

1762 A vegetation cutting permit shall be issued by the Zoning Administrative

Officer when the Setback Cutting Plan clearly indicates the proposal will comply with the following:

- A. The basal area of the trees within the 100 foot setback existing on March 17, 2009, shall not be reduced by more than 33 percent. Removal of dead, diseased, or damaged trees, or invasive trees, shall not be counted toward any reduction in basal area.
- B. Wherever trees, shrubs, and other woody vegetation is proposed to be cleared, the soil shall be planted and maintained in a suitable ground cover to prevent undue erosion and to provide filtering of runoff.
- C. Setback cutting plans shall promote the retention of healthy trees and shrubs, particularly where removal of such trees and shrubs would have an undue, adverse impact on erosion or shoreline aesthetics.



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## ARTICLE XVIII: FLOODPLAIN AND WATERCOURSE OVERLAY DISTRICT

### 1800 Statutory authorization and purpose.

- 1800.1 The provisions of this Article regulating areas of special flood hazard are adopted to effect the purposes of V.S.A. Chapter 32 in accordance with the provisions of 24 V.S.A., Section 4424. These regulations shall apply to development, as defined at 1870.4 below, in all areas in the Town of Shelburne identified as areas of special flood hazard on the National Flood Insurance Program (NFIP) maps.
- 1800.2 It is the goal of this Article to minimize adverse impacts of development upon the sensitive natural areas adjacent to Shelburne's various watercourses and to minimize public and private loss caused by periodic flooding conditions. More specifically, this Article seeks to preserve water quality, prevent pollution, avoid erosion, and protect the ecology of stream beds and lands adjacent to watercourses.

It is the further purpose of this Article to promote the public health, safety and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in areas of special flood hazard, and to minimize losses due to floods by:

- A. Restricting or prohibiting use and development that is dangerous to health, safety or property in times of flood or which causes excessive increase in flood heights or velocities.
- B. Requiring that structures and uses vulnerable to flood, including public facilities that serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- C. Protecting individuals from the acquisition of property that is unsuited for their intended purposes because of flood hazards.

### 1805 Permit Required.

A permit is required from the Administrative Officer (AO) for all development in all areas defined in Section 1810 below. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

## 1810 Overlay District Boundaries.

- 1810.1 The Floodplain and Watercourse Overlay District shall consist of the following areas, which are shown as the Floodplain and Watercourse Overlay District on the Shelburne Zoning Overlay District Map.
- A. All areas in Shelburne designated as Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Administrative Officer (AO). If the applicant disagrees with the determination made by the AO, a Letter of Map Amendment from FEMA shall constitute proof.
  - B. All land within thirty-seven (37) feet of the Special Flood Hazard Area.
  - C. All land within 100 feet of the centerline of the LaPlatte River, McCabe's Brook and the south branch of Munroe Brook, plus all land within 50 feet of the centerline of the north branch of Munroe Brook and other Munroe Brook tributaries.
  - D. The area comprising the channels of all watercourses described in paragraphs b and c above.
- 1810.2 Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies. Where BFE data are utilized in Zone A, the Town will receive and maintain records of the lowest floor and flood proofing elevations for new and substantially improved construction. In Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than

1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

1810.3 These regulations shall apply to the Special Flood Hazard Areas and identified buffer areas in the Town of Shelburne, Vermont as described above in sections 1810.1.a-1810.1.d. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district.

1810.4 The Zoning Administrative Officer shall determine the boundaries of this overlay district by scaling distances on the applicable Shelburne Federal Insurance Administration Flood Insurance Rate Map (FIRM) or other officially adopted Floodplain map or by using digital versions of those maps by utilizing a geographic information system (GIS). On receipt of any application for a zoning permit, the Zoning Administrative Officer shall determine whether the proposed development is located within the areas of special flood hazard or other portions of the overlay district. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Administrative Officer (AO). If the applicant disagrees with the determination made by the AO, a Letter of Map Amendment from FEMA shall constitute proof.

1810.5 The Zoning Administrative Officer shall maintain a record of the elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all substantial improvements of structures, and whether or not such structures contain a basement, as well as the elevation, in relation to mean sea level, to which such structures have been flood proofed.

### **1815 Enforcement, Precedence of Regulations, and Validity and Severability.**

1815.1 The regulation of activities within areas of Special Flood Hazard or floodways shall be enforced under the municipal zoning bylaw in accordance with 10 VSA § 1974a, § 4451, and § 4452. A copy of the notice of violation will be mailed the State NFIP Coordinator.

1815.2 If any appeals have been resolved, but the violation remains, the AO shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the

property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

- 1815.3 Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.
- 1815.4 The provisions of these flood hazard regulations shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.
- 1815.5 If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

### **1816 Supplemental Application Materials.**

All applications under this section shall contain a Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the AO and attached to the permit before work can begin.

**1820 Permitted Uses.** The following uses are permitted in the Floodplain and Watercourse Overlay District. Any use not expressly permitted is prohibited, except for qualifying nonconformities as provided in Section 1830 and Conditional Uses as provided in Section 1825.

- 1820.1 Farming, dairying, orchards, nurseries, woodlots and forestry, truck gardening, livestock and poultry raising but specifically not including commercial slaughter of animals or poultry, provided that no such use includes any new building or structure.
- 1820.2 Recreational uses such as picnic grounds, swimming areas (beaches), parks, natural areas, hunting and fishing areas, hiking trails, fish hatcheries, provided that no such use includes any new building or structure.
- 1820.3 Carry-in (Seasonal) docks not otherwise exempt from these regulations.

- 1820.4 Stairs (outdoor stairs) not otherwise exempt from these regulations.
- 1820.5 Lakeshore decks not otherwise exempt from these regulations.

**1825 Conditional Uses.** Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the Administrative Officer for the following types of development, which also must conform with the regulatory standards applicable to Non-conformities, as set forth in section 1830 below.

- 1825.1 Improvements to existing roads.
- 1825.2 Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing.
- 1825.3 Permanent docks not otherwise exempt from these regulations.
- 1825.4 Carry-in (Seasonal) docks not otherwise exempt from these regulations, when other docks are present on the lot.
- 1825.5 Lakeshore erosion control structures.

**1830 Nonconformities.**

- 1830.1 Nonconforming uses and nonconforming structures may be continued, but not expanded, provided the requirements set forth below are met.
  - A. Said uses and structures may not be expanded, with the area occupied by the uses being measured on a total volume basis considering the exterior dimensions of any structure subject to these regulations. Said uses and structures may be otherwise altered, restored, repaired, or changed only upon receipt of conditional use approval from the Development Review Board according to the criteria and procedures set forth in Section 1910 of these regulations and in compliance with the requirements set forth in Section 1920.
  - B. Nonconforming uses and nonconforming structures located within all areas designated as “Areas of Special Flood Hazard” on Shelburne’s Federal Insurance Administration Flood Insurance Rate Map (FIRM) and all lands within twenty-five (25) feet of “Areas of Special Flood Hazard” may be altered, restored, repaired, or changed, but not expanded, upon:

1. Approval under 1830.1.A, above, and
2. Development Review Board approval following consideration of the criteria enumerated in Sections 1830.2, 1830.3, 1830.4, and 1830.5 below.

1830.2 Any application filed under Section 1830.1.b of this Bylaw shall include:

- A. The elevation in relation to mean sea level, of the lowest habitable floor, including basement, of all substantial improvement of structure.
- B. Where flood proofing is used in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement has been flood proofed.
- C. Certification from a registered professional engineer or architect that the flood proofed structure meets the flood proofing criteria of Section 1830.5 of these regulations.
- D. A description of the extent to which any water course will be altered or relocated as a result of the proposed development.

If deemed necessary for determining the suitability of a particular site for the proposed development, the Development Review Board may require the following information:

1. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel and cross-sectional areas to be occupied by the proposed development.
2. A profile showing the slope of the bottom of the channel or flow line of the stream.
3. Specifications for building construction and materials in relation to proposed flood proofing.

1830.3 In reviewing any application filed pursuant to Section 1830.1.B of this Bylaw, the Development Review Board shall:

- A. In areas designated as unnumbered A zones on the FIRM, obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source as criteria for approval of all substantial improvements and other development under this Section.
- B. Notify adjacent communities and the Stream Alteration Engineer and National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources prior to approval of an alteration or

relocation of a water course and submit copies of such notifications to the Federal Insurance Administration.

- C. Transmit one copy of the information required by Section 1830.2 to the Vermont Water Quality Division in accordance with 24 V.S.A., Section 4424(D)(i).
- D. Consider the evaluation of the Vermont Agency of Natural Resources and determine that the proposed use will conform to the development standards of Section 1830.4.
- E. In accordance with 24 V.S.A., Section 4424(D)(i), not issue a permit for the development of any land in the Special Flood Hazard Area prior to the expiration of the period of thirty(30) days following the submission of a report to the Vermont Agency of Natural Resources under subparagraph c., above. The DRB will consider comments from ANR.

1830.4 In addition to the criteria and standards set forth in Section 1910, the Development Review Board, when reviewing an application pursuant to 1830.1 B shall consider:

- A. The danger to life and property due to flooding or erosion damage.
- B. The danger that materials may be swept onto other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination and unsanitary conditions under conditions of flooding.
- D. The susceptibility of the proposed development to flood damage and the effect of such damage on individual owners.
- E. The necessity to the project of a waterfront location.
- F. The availability to the applicant of alternative locations not subject to flooding.
- G. The safety of access by ordinary and emergency vehicles to the property in times of flood.
- H. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action expected at the site.
- I. The cost of providing governmental and public facilities during and after flooding.

1830.5 As a condition of approval of any application reviewed pursuant to 1830.1 B, the Development Review Board shall specifically require that:

- A. All substantial improvement of any residential structure have the first floor and basement floor elevated to at least one foot above the base flood elevation.

- B. All substantial improvement of nonresidential structures have the lowest floor, including basement, elevated to at least one foot above the base level elevation, or have the lowest floor, including basement, and attendant utility and sanitary facilities of all substantial improvement be flood proofed to at least two feet above the base flood elevation so that the structure is watertight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- C. Structures be (1) designed and anchored to resist flotation, collapse, or lateral movement of the structure during the occurrence of the base flood; (2) be constructed with materials resistant to flood damage; (3) be constructed by methods and practices that minimize flood damage, and (4) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities, that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. Any encroachment, including fill, substantial improvement, or other development, be prohibited that will result in any increase in flood levels within the regulatory floodway during the occurrence of the base flood discharge. Further, encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will: a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood; and b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding. Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
- E. The flood carrying capacity within any portion of an altered or relocated water course be maintained.
- F. All gas and electrical equipment, circuits, and appliances be located and constructed to minimize or eliminate flood damage.
- G. All new and replacement water supply systems be designed so as to minimize or prevent the infiltration of flood waters into the system.
- H. All new and replacement sanitary sewage systems be designed to minimize or prevent infiltration of flood waters into the systems and discharges from the systems into flood waters.
- I. All replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base 100 year flood elevation.

- J. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited. Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding, shall a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and, b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- K. All development in fringe areas shall be designed (1) to minimize flood damage to the proposed development and to public facilities and utilities, and (2) to provide adequate drainage to reduce exposure to flood hazards.
- L. On-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.
- M. All necessary permits be obtained from those governmental agencies from which approval is required by Federal or State law.
- N. Recreational vehicles on sites within special flood hazard areas shall be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use.
- O. Development will be reasonably safe from flooding.

## **1840 Variances.**

- 1840.1 Variances may be granted in writing by the Development Review Board only in accordance with all the criteria in 24 V.S.A., Sections 4469, 4424(E), and 44 CFR Section 60.6, after a warned public hearing. Any variance issued in the Special Flood Hazard Area will not increase flood heights.
- 1840.2 Any variance issued in the Special Flood Hazard Area will also inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood level increases risks to life and property and will result in increased premiums for flood insurance up to amounts as high as \$25.00 for \$100.00 of coverage.

1840.3 The Development Review Board shall maintain a record of all variance actions, including copies of notifications provided pursuant to Section 1840.2.

**1850 Watercourse channel alteration.** Except as allowed by and in conformance with Section 2020.1 of these bylaws, there shall be no diversion of watercourses, and no alteration of stream banks or stream beds. No land use, land development, or other activity conducted on land adjacent to areas designated in Section 1810.1 shall be conducted in such a way as to result in soil erosion, effluent discharge, artificial surface water runoff, or any other discharges into the bodies of water described in Section 1810.1 above.

**1860 Scope of regulations.** This Article does not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damage. These regulations shall not create liability on the part of the Town of Shelburne or any Town official or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

**1870 Definitions.** Definitions contained in the Vermont Planning and Development Act and the current NFIP definitions shall be applicable throughout this Article unless specifically defined below.

1870.1 Area of special flood hazard - The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year. The area includes all A zone designations on the FIRM. It does not include zone B and C.

1870.2 Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.

1870.3 Base Flood Elevation- The elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

1870.4 Development- For the purposes of this article, any human-made change to improved or unimproved real estate, including but not

limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

- 1870.5 Existing manufactured home park or subdivision: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the initial floodplain management regulations adopted by a community.
- 1870.6 Expansion to an existing manufactured home park or subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- 1870.7 FIRM - An official map of a community, on which the Federal Insurance Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- 1870.8 Floodway, Regulatory in the Town of Shelburne- The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
- 1870.9 Flood Insurance Rate Map. See FIRM
- 1870.10 Flood Insurance Study- an examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.
- 1870.11 Flood proofed or flood proofing - Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 1870.12 Historic structure: Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual

listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

- 1870.13 Lowest floor - For the purposes of this article, the lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure usable solely for building access or storage. in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.
- 1870.14 Manufactured home (or Mobile home) - For the purposes of this article, a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- 1870.15 Manufactured home park or subdivision - For the purposes of this article, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 1870.16 New construction - For the purposes of this article, means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.
- 1870.17 New manufactured home park or subdivision - For the purposes of this article, a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

- 1870.18 Recreational Vehicle – For the purposes of this article means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
- 1870.19 Special Flood Hazard Area – See “Area of special flood hazard”.
- 1870.20 Start of construction - For purposes of floodplain management, the “start of construction” (which determines the effective map or bylaw that regulated development in the Special Flood Hazard Area) includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.
- 1870.21 Structure - For the purposes of this article, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.
- 1870.22 Substantial damage - For the purposes of this article, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 1870.23 Substantial improvement - For the purposes of this article, any reconstruction, rehabilitation, addition, or other improvement of a

structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage, regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

- 1870.24 Violation - the failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

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## ARTICLE XIX: GENERAL REGULATIONS

It is the purpose of Article XIX to set forth the regulations that must be satisfied by development in the Town of Shelburne before a zoning permit may be issued for that development. Some of the regulations apply to all developments. Others apply to only those developments specified in this Article or elsewhere in these Regulations. The provisions of this article are intended to promote, among other things, multimodal connectivity within sites, between adjacent sites and neighborhoods, and to transit and public roads.

### 1900 Site Plan Review.

- A. Site Plan Approval prior to issuance of a zoning permit is authorized by 24 V.S.A., Section 4416. The purpose of site plan review is to ensure that the layout and design of development on pre-existing or approved lots conform to the Town Plan of record, these Regulations, and applicable conditions of previous subdivision and conditional use approvals. Standards specifically relate to the internal layout of a site, its physical design, and the functional integration of the site with adjoining properties, uses, and infrastructure. With regard to connectivity, the purpose of site plan review is to achieve, among other things, safe and efficient access to and circulation within and between a property for vehicular, bicycle, and pedestrian traffic.
- B. With the exception of one and two family dwellings on individual sites, the approval of site plans by the Development Review Board shall be required prior to the issuance of a zoning permit for all uses, including conditional uses in any district (except where specifically exempted by the requirements of individual districts in Articles III-XVIII of these Regulations), and any change of use that requires a change in building footprint or layout of parking or circulation, or any other change to the site layout. In reviewing site plans, the Development Review Board will require safeguards with respect to the adequacy of parking, traffic access, circulation for pedestrians and vehicles, traffic control devices, landscaping and screening, and the protection of renewable energy resource, exterior lighting, the size, location, and design of signs, and other matters specified below. The Development Review Board shall conduct a public hearing to consider any application for Site Plan Approval in accordance with the provisions of 24 V.S.A., Section 4464, and as may be described in Article XX of these Regulations. The Development Review Board shall act to approve or disapprove any such site plan within forty five (45) days of the adjournment of the public hearing, and failure to so act within such period shall be deemed approval.

1900.1 Pre-Submission Conference. Prior to formal submission, applicants are urged to meet in person with staff to discuss the proposed development and site plan. The intent of such discussion is to review the basic design concept, identify any relevant site issues, and to advise the applicant of any potential problems and concerns

1900.2 Applications. Applications for site plan approval shall be filed with eight (8) sets of full sized (at least size D or E sheets) maps, plus eight (8) sets of reduced size (11" x 17") maps and corresponding digital (PDF) files, along with accompanying written materials, which shall include at least the following items in printed and digital (PDF) format. An application will not be considered complete, and will not be scheduled before the Development Review Board, until all information listed in items A through R, below, has been submitted.

- A. Project narrative and description of the location of the proposed development. This must also include the name of the owner of record and applicant, if different, the name(s) of the design professional(s) preparing the plans; a description of any proposed energy conservation practices or use of renewable energy resources; and a statement describing how the project addresses language in the Comprehensive Plan concerning pedestrian and bicycling connectivity goals and objectives.
- B. A context map showing the applicant's entire property, adjacent properties, streets within 200 feet of the site, and approximate location and dimensions of existing structures on the site and on adjacent properties within 100 feet of the site boundary.
- C. The names and addresses of owners of record of all abutting or facing properties, as listed in the Town's tax records.
- D. Site plan or plans, drawn to scale, showing existing and proposed contours, features, water courses, the location of all non-developable lands as defined in Article XXI of these Regulations, any zoning district boundaries that abut or cross the site, property lines as delineated on a survey prepared by a surveyor licensed in the State of Vermont, all structures, easements, and other proposed development or improvements and land use areas, existing and proposed utility and dumpster locations, proposed traffic access, circulation, parking, loading areas, pedestrian walks, landscaping, site grading, erosion prevention and sediment control plans and storm water management systems, screening, north arrow, scale and date. Proposed circulation shall include circulation by pedestrians and bicyclists.
- E. Building plans showing floor plan or plans, architectural elevations, and building cross sections if the structure showing existing and proposed ground lines.
- F. Identification of any dwellings classified as affordable housing per definition in Article XXI of these Regulations.

- G. Outdoor lighting plans showing fixture locations and fixture types, mounting heights, and all lighting information required by Subsection 1975 of these Regulations.
- H. If applicable, plans for changes to public streets, including traffic control devices, lane and pavement changes, striping changes, curbs and/or curb cuts, speed traffic calming devices, and all improvements required by any traffic impact analysis.
- I. Estimated daily and peak hour traffic generation by the proposed development. A detailed traffic impact analysis is required for any application that is expected to add 75 or more peak hour (AM or PM) vehicle trip ends to the transportation system. The requirement for a traffic impact study may be waived by the DRB upon a finding that an application would have a de minimis impact on traffic congestion and safety.
- J. Walking and bicycling plan in map form and narrative demonstrating how facilities on the site would contribute to the multi-modal transportation system identified as a goal in the Shelburne Comprehensive Plan. The walking and bicycling plan should emphasize walking and bicycling as efficient alternatives to the use of automobiles on short local trips, a means to reduce traffic congestion and need for parking, and enabling greater use of transit. Existing walking and bicycling infrastructure shall be shown on the plan along with any proposed infrastructure connections to future development. In rural areas, such proposed connections may include easements alone in lieu of infrastructure.
- K. Total site area, building coverage, and total lot coverage.
- L. A delineation of all parcels or areas to be dedicated as open space, along with a statement of the open space purpose (recreation, aesthetics, natural resource, connectivity, or civic use) of or within each parcel or area and a discussion of how each parcel is suitable for its proposed use. In rural areas easements for walking and bicycling are encouraged, especially in open space located along or connecting public highways or with the potential to connect other easements.
- M. Detailed specifications of the planting and landscaping materials proposed.
- N. The period of time in which all site improvements will be completed.
- O. Estimated total cost of site improvements.
- P. If the proposed development is to be phased, provide a description of the planned phasing, including the portions to be constructed in each phase and the phasing of any road, sidewalk, and path construction.
- Q. Other information specified in the Site Plan Review Procedure and Checklist endorsed by the Development Review Board.
- R. Any other data or information that the Development Review Board shall reasonably view as necessary in applying the site plan review standards.

1900.3 Review Standards. The Development Review Board shall consider the following in its review of a site plan application:

- A. Maximum safety of vehicular and pedestrian circulation on site, between the site and adjacent roads, and between the site and adjacent developments.
- B. Adequacy of circulation of traffic, parking, walking, bicycling, and loading facilities on the site. All roads, regardless of whether they are to be private or taken over by the Town, shall be constructed to meet the structural specifications of Section 3 of the Shelburne Public Works Specifications. Roads shall be paved unless this requirement is specifically waived by the Development Review Board upon determination that the standards are not applicable.
- C. Adequacy of adjacent and surrounding roads, sidewalks, and paths to accommodate traffic generated by the proposed development.
- D. The quality and intensity of outdoor lighting.
- E. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility with adjacent properties.
- F. The adequacy of proposed construction erosion and sediment control, and post construction stormwater management facilities.
- G. Site designs encourage the use of public transit and other alternatives to single-occupant automobile travel.

1900.4 Construction and Post-Construction Stormwater Management Requirements.

- A. When a project proposes to disturb an area more than one acre in size while creating less than one acre of impervious surface and thus would not trigger the requirement for a state stormwater discharge permit, the project must comply with the Vermont Stormwater Management Manual to the maximum extent practicable. For the purposes of this subsection, the determination of compliance shall be assigned to the Shelburne Director of Public Works.
- B. Irrespective of the size of the area of disturbance, the amount of stormwater and other surface waters leaving the project site shall be minimized by the site design. Any stormwater management measures, treatment practices, and/or infrastructure shall be designed in accordance with Article IV of the Town's Public Works Specifications and shall meet the regulations and standards of the Vermont Department of Environmental Conservation, and any other applicable Town regulations and standards.
- C. During construction of any development exceeding 1,000 square feet of disturbed area, erosion prevention and sediment control measures shall meet the technical specifications of current rules and regulations put forth by the Vermont Department of Environmental Conservation.

1900.5 Landscaping and Screening Requirements - General.

- A. The Development Review Board may require landscaping not to exceed in cost three percent (3%) of the first \$250,000 in development costs, plus two percent (2%) of development costs from \$250,000 to \$500,000, plus one percent (1%) of any development costs greater than \$500,000.
1. The applicant shall provide a suitable performance bond or other form of security to guarantee the performance and completion of all landscaping required pursuant to this Section, which bond or security shall also guarantee all plantings for a period of two (2) years.
  2. Landscaping plans shall be prepared by a landscape architect, master gardener, nursery professional, arborist, professional landscape designer, or other qualified landscape professional.
  3. For the purposes of this section, landscaping shall include the cost of installation of trees, bushes, shrubs, and other plants except seeding, grass or sod. Landscaping cost may also include certain hardscape features, provided that they are integral to the overall landscape plan for the site, and fences used solely for visual screening.
  4. In determining the amount of landscaping to be required, the Development Review Board shall take into account:
    - a. Existing trees, shrubs, evergreens and other vegetation to be preserved on the site.
    - b. Visibility of incompatible or unsightly areas from roads and/or adjoining properties.
    - c. The need to effectively screen all parking areas from roads and adjacent properties and to provide sufficient landscaping within parking areas.
    - d. The need to effectively screen trash/garbage areas and dumpsters or other ground mounted equipment from view of adjoining properties and roads.
    - e. The need to preserve important site features and significant views.
    - f. The adequacy of landscaping materials to meet seasonal conditions, soil conditions, erosion prevention, sediment control, and storm water management on the site.
- B. Landscaping Requirements in the Mixed Use District:  
In addition to the general requirements, the following shall apply in the Mixed Use District.

1. Parking shall be encouraged to be located behind or beside buildings, but not in front of buildings. Parking in front of buildings shall not be in any required periphery buffer. Parking areas in Planned Unit Developments shall be designed in accordance with the provisions of paragraph 1930.7-C-4 of these Regulations. The front yard shall be landscaped and maintained in good appearance. No portion of the required front yard shall be used for storage or display of merchandise, except as provided under Section 1980.7 of these regulations. In addition, a continuous strip traversed only by driveways and/or service roads not to exceed 30 feet in width shall be maintained between the right-of-way of U.S. Route 7 and the balance of the lot, which strip shall be suitably landscaped with mixed hardwood and softwood trees and maintained in good appearance. On lots of 1.5 acres or less, this continuous strip shall be 30 feet in width. On lots of more than 1.5 acres, this continuous strip shall be 50 feet in width.
2. Where new commercial uses are adjacent to a lot or lots used for residential purposes, the proposed development must be adequately screened from all residential lots. Landscaping materials must, regardless of season, obscure the views to the extent that no more than one fourth of the proposed building, parking and loading areas, dumpsters or utility boxes are visible from viewpoints on the residential properties, including first floor window, doors, and porches and associated decks or patios. The applicant must demonstrate how the landscape plan uses any combination of coniferous and deciduous trees, shrubs, bushes, flowering plants, land forms, attractive retaining walls, or other landscape media, to achieve this goal. If the Development Review Board determines that plantings are not appropriate in a particular situation, it may approve a suitable fence. The plantings, when initially installed, are to be of a variety, size, and shape approved by the Development Review Board. If the Development Review Board determines that the landscaping plan is appropriate in size, scope, etc., but that it will take several years for the plantings to accomplish the screening goal, then the Development Review Board may require fencing to also be installed during the interim and removed when the landscaping matures. The remainder of the required yard space shall be planted with grass, landscaped and maintained in good appearance.
3. Where a new commercial use will be adjacent to a lot zoned for residential, educational or religious use, the proposed development must be adequately screened from the adjacent lots

and meet the following screening requirements:

- a. **Commercial use in a new building with a footprint of 1000 or more square feet.** Landscaping materials must, regardless of season, obscure the views to the extent that no more than one-fourth of the proposed building, as well as parking and loading areas, dumpsters or utility boxes are visible from first floor level primary viewpoints on the adjacent lots, including first floor window, doors, and porches and associated decks or patios.
- b. **Commercial use in a building expanded by 25 percent or more of gross floor area of structure prior to expansion.** Landscaping materials must, regardless of season, obscure the views of the expanded portion of the building to the extent that no more than one-fourth of the proposed building expansion, as well as parking and loading areas, dumpsters or utility boxes are visible from first floor level primary viewpoints on the adjacent lots, including first floor window, doors, and porches and associated decks or patios.
- c. **Commercial use in a building undergoing reconstruction of 50 percent or more of gross floor area of structure prior to reconstruction.** Landscaping materials must, regardless of season, obscure the views of the reconstructed portion of the building to the extent that no more than one-fourth of the proposed reconstructed building, as well as parking and loading areas, dumpsters or utility boxes are visible from first floor level primary viewpoints on the adjacent lots, including first floor window, doors, and porches and associated decks or patios.
- d. **Loading docks and refuse containers.** Any new loading dock or refuse container proposed to be established in connection with a commercial use shall be screened in the manner paragraph 3.a. above, regardless of size.
- e. **Compliance with Requirements.** In complying with the requirements of paragraphs a, b, and/or c above, the applicant must demonstrate how the landscape plan uses any combination of coniferous and deciduous trees, shrubs, bushes, flowering plants, land forms, attractive retaining walls, or other landscape media, to achieve this goal. If the Development Review Board determines that plantings are not appropriate, it may approve a suitable fence. The plantings, when initially installed, are to be of a variety, size, and shape approved by the Development Review Board. If the Development Review Board

determines that the landscaping plan is appropriate in size, scope, etc., but that it will take several years for the plantings to accomplish that, temporary fencing shall be installed during the interim and removed when the plantings mature. The remainder of the required yard shall be planted with grass and maintained in good appearance.

- f. **Primary Viewpoints.** For the purposes of paragraphs 3i-3iii above, the owner of each lot adjacent to the property undergoing review shall be entitled to identify one first floor level viewpoint for each 100 linear feet of property boundary shared with the property undergoing review. These viewpoints shall represent significant locations from which the property undergoing review may be observed occupants of the adjacent property. However, regardless of the length of shared boundary, each adjacent property shall be entitled to identify at least one primary viewpoint. In the event the owner of an adjacent property does not identify or express a preference for the location of a primary viewpoint or viewpoints, the DRB may identify the viewpoint(s).
  - g. **Waivers for exceptional design.** In instances where a new or expanded manufacturing use or structure is found by the DRB to exhibit exceptional design, the DRB may waive or reduce the landscaping requirements established in paragraphs 3i-3iii above. For the purposes of this paragraph, exceptional design shall be demonstrated when new construction is energy certification eligible and, further, when such construction is determined to be compatible with the surrounding area. In evaluating the compatibility of the development with the surrounding area the DRB, upon written recommendation of the HP&DRC, shall consider the scale and general size of the proposed development or structure in relation to existing surroundings, including consideration of such factors as the height of buildings, building width, number of stories, roof type, facade opening (window, door, etc.), and architectural details.
4. Where new commercial uses with outdoor lighting are located adjacent to a residential building(s) the lighting shall be designed (per Sub-section 1975 of these Regulations) in combination with plantings or attractive solid fencing so that all outdoor lighting is screened from the view of the ground floors of the adjacent residential buildings.

5. No portion of the lot may be used for outside storage or display of merchandise unless the storage or display area is effectively screened from view from public roadways or adjacent properties by fencing or screen like evergreens or other suitable landscaping.

C. Landscaping Requirements in the Commerce and Industry and Commerce and Industry South District

1. Not more than 50% of the area of the required front yard shall be used for driveway and parking. The balance of the front yard shall be landscaped and maintained in good appearance. No portion of the required front yard shall be used for storage or display of merchandise except as provided under Section 1980.7 of these regulations.
2. Where a new manufacturing use will be adjacent to a lot used for residential, educational or religious use, the proposed development must be adequately screened from the adjacent lots. Landscaping materials must, regardless of season, obscure the views to the extent that no more than one-fourth of the proposed building, parking and loading areas, dumpsters or utility boxes are visible from primary viewpoints on the adjacent lots, including first floor window, doors, and porches and associated decks or patios. The applicant must demonstrate how the landscape plan uses any combination of coniferous and deciduous trees, shrubs, bushes, flowering plants, land forms, attractive retaining walls, or other landscape media, to achieve this goal. If the Development Review Board determines that plantings are not appropriate, it may approve a suitable fence. The plantings, when initially installed, are to be of a variety, size, and shape approved by the Development Review Board. If the Development Review Board determines that the landscaping plan is appropriate in size, scope, etc., but that it will take several years for the plantings to accomplish that, temporary fencing shall be installed during the interim and removed when the plantings mature. The remainder of the required yard shall be planted with grass and maintained in good appearance.
3. Where a new manufacturing use will be adjacent to a lot zoned for residential, educational or religious use, the proposed development must be adequately screened from the adjacent lots and meet the following screening requirements:
  - a. **Manufacturing use in a new building with a footprint of 1000 or more square feet.** Landscaping materials must, regardless of season, obscure the views to the extent that no more than one-fourth of the proposed building, as

well as parking and loading areas, dumpsters or utility boxes are visible from first floor level primary viewpoints on the adjacent lots, including first floor window, doors, and porches and associated decks or patios.

- b. **Manufacturing use in a building expanded by 25 percent or more of gross floor area of structure prior to expansion.** Landscaping materials must, regardless of season, obscure the views of the expanded portion of the building to the extent that no more than one-fourth of the proposed building expansion, as well as parking and loading areas, dumpsters or utility boxes are visible from first floor level primary viewpoints on the adjacent lots, including first floor window, doors, and porches and associated decks or patios.
- c. **Manufacturing use in a building undergoing reconstruction of 50 percent or more of gross floor area of structure prior to reconstruction.** Landscaping materials must, regardless of season, obscure the views of the reconstructed portion of the building to the extent that no more than one-fourth of the proposed reconstructed building, as well as parking and loading areas, dumpsters or utility boxes are visible from first floor level primary viewpoints on the adjacent lots, including first floor window, doors, and porches and associated decks or patios.
- d. **Loading docks and refuse containers.** Any new loading dock or refuse container proposed to be established in connection with a manufacturing [or commercial] use shall be screened in the manner paragraph 3.a. above, regardless of size.
- e. **Compliance with Requirements.** In complying with the requirements of paragraphs a, b, and/or c above, the applicant must demonstrate how the landscape plan uses any combination of coniferous and deciduous trees, shrubs, bushes, flowering plants, land forms, attractive retaining walls, or other landscape media, to achieve this goal. If the Development Review Board determines that plantings are not appropriate, it may approve a suitable fence. The plantings, when initially installed, are to be of a variety, size, and shape approved by the Development Review Board. If the Development Review Board determines that the landscaping plan is appropriate in size, scope, etc., but that it will take several years for the plantings to accomplish that, temporary fencing shall be installed during the interim and removed when the plantings mature. The remainder of the required yard

shall be planted with grass and maintained in good appearance.

- f. **Primary Viewpoints.** For the purposes of paragraphs 3a-3c above, the owner of each lot adjacent to the property undergoing review shall be entitled to identify one first floor level viewpoint for each 100 linear feet of property boundary shared with the property undergoing review. These viewpoints shall represent significant locations from which the property undergoing review may be observed occupants of the adjacent property. However, regardless of the length of shared boundary, each adjacent property shall be entitled to identify at least one primary viewpoint. In the event the owner of an adjacent property does not identify or express a preference for the location of a primary viewpoint or viewpoints, the DRB may identify the viewpoint(s).
  - g. **Waivers for exceptional design.** In instances where a new or expanded manufacturing use or structure is found by the DRB to exhibit exceptional design, the DRB may waive or reduce the landscaping requirements established in paragraphs 3ai-3c above. For the purposes of this paragraph, exceptional design shall be demonstrated when new construction is energy certification eligible and, further, when such construction is determined to be compatible with the surrounding area. In evaluating the compatibility of the development with the surrounding area the DRB, upon written recommendation of the HP&DRC, shall consider the scale and general size of the proposed development or structure in relation to existing surroundings, including consideration of such factors as the height of buildings, building width, number of stories, roof type, facade opening (window, door, etc.), and architectural details.
- 4. Where new manufacturing uses having outdoor lighting are located adjacent to residential, educational or religious structures, the lighting shall be designed (per Section 1975 of these Regulations) in combination with plantings or attractive solid fencing so that all outdoor lighting is screened from the view of the ground floor of said structures.
  - 5. No portion of the lot may be used for the outside storage or display of materials unless the storage or display area is effectively screened from public view by fencing or screen-like evergreens or other suitable plantings.

- D. Landscaping Requirements in the Village Center, Village Residential, Shelburne Falls Mixed Use, and Village Institutional-Museum Districts. The Village Center, Village Residential, Shelburne Falls Mixed Use, and Village Institutional-Museum Districts, by definition, contains a mixture of residential and commercial uses. The landscaping requirements are designed to maintain an attractive appearance and to provide a visual separation between differing uses.
1. Parking areas shall be screened from adjacent properties by solid fencing or screen-like evergreen plantings.
  2. If outdoor lighting is to be used, it shall be in conformance with Subsection 1975 of these bylaws. In addition, plantings sufficient to screen such lights from view of the ground floor of structures on adjacent lots shall be provided.
  3. Required front yards may include plantings of shrubs, trees, or bushes. Portions of the yard which are not so planted and are not used for driveways shall be planted in grass and maintained in good appearance.
  4. No portion of the front yard shall be used for the storage or display of merchandise except as provided in Section 1990.7 of these regulations.

1900.6 Site Layout and Building Design in the Mixed Use District.

- A. Site Layout: The use of multiple buildings is encouraged, and no single building may have a footprint that exceeds 30,000 square feet. Buildings shall be located in clusters and shall be used in conjunction with landscaping and land form to create attractive and functional spaces within the site and a pedestrian scaled streetscape facing Shelburne Road.
- B. Building Design: Buildings shall be designed to generate a sense of human scale. Fenestration, varied roof lines, and other architectural elements shall be used to break up blank facades. Facades facing Shelburne Road or other public streets shall be designed so that at least 30 percent of their facade area is glass (including entries).
- C. Roof mounted equipment: Roof mounted equipment shall be screened from view from public roads and sidewalks and from first floor windows of adjacent buildings. Screening shall be treated as an integral part of the architectural design of the building.

1900.7 Pedestrian Circulation and Bicycle Accommodation Requirements.

- A. In the Village Center, Village Residential, Shelburne Falls Mixed Use, Museum, Mixed Use, and Commerce and Industry [north]

Zoning Districts paved sidewalks shall be required along public and private streets and roads. The sidewalks shall be constructed to standards set forth in the Town's Public Works Specifications.

- B. In the Residential and Commerce and Industry South Zoning Districts paved sidewalks shall be required along public and private streets and roads. The sidewalks shall be constructed to standards set forth in the Town's Public Works Specifications. The DRB may in its sole discretion allow an alternative facility such as a path in lieu of paved sidewalk segments to achieve the purposes of this section.
- C. In other [Rural and Conservation] districts, the Development Review Board, upon finding there will exist site-generated demand, shall require deeded easements parallel with town roads to enable pedestrian and bicycle access to shopping, schools, and recreation areas.
- D. In all districts, the Development Review Board, upon finding there will exist site-generated demand, shall require provisions for future pedestrian trails and walkways and/or bicycle facilities, including deeded easements parallel with town roads. In such scenarios the DRB also may require future connections to adjacent properties in conformance with the Walking and Bicycling Facilities Implementation Table.
- E. The proposed site plan shall show how pedestrian walkways and bicycle paths will connect to similar facilities, existing or planned, on adjacent properties.
- F. Site plans shall clearly demonstrate accommodation of alternative transportation modes. Examples of such accommodation include providing adequate site access for alternative transportation modes providing connections between transportation modes, ensuring safety of users of alternative transportation modes, and providing for amenities such as bicycle racks, shelters, park and ride lots, and similar features.
- G. Pedestrian walkways and bicycle paths shall connect to transit stops and shelters, park and ride lots, and other alternative transportation facilities located on the same lot. Upon finding there will exist site-generated demand, and connections are feasible, the DRB may require pedestrian walkways and/or bicycle paths to connect to transit stops and shelters, park and ride lots, and other alternative transportation facilities located on adjoining properties and/or the public right of way.

#### 1900.8 Access Requirements.

- A. Private roads in residential developments shall be constructed to meet the technical requirements of Section 3 of the Town's Public Works Specifications. A property owners association or other suitable legal entity must be established with full responsibility for all maintenance

- of private roads, and such mechanism must be included in the deeds of the affected properties.
- B. Roads shall be paved unless the Development Review Board determines that paving is not justified and explicitly waives this requirement.
  - C. Residential developments of thirty (30) or more dwellings shall be provided with two means of entry and egress from a public road unless the Development Review Board determines this is impracticable. Such means of entry and egress from a public road shall include facilities for pedestrians and bicyclists.
  - D. Private roads in non-residential developments shall be designed to specifications for Type I roads as set forth in Section 3 of the Town's Public Works Specifications. A property owners association or other suitable legal entity must be established with full responsibility for all maintenance of private roads. If deemed necessary to the protection of the health and safety of the community, the Development Review Board may require two means of entry and egress between a private road system in a non-residential development and the public road system.
  - E. The Development Review Board may require service roads connecting to public roads, with provision for connection to similar service roads on adjacent property where it feels that limiting the number of intersections to the public road is in the interest of the health and safety of the community.
  - F. Except for lots having more than 300 linear feet of frontage, lots fronting on Route 7 shall be allowed only one curb cut onto Route 7. Lots having more than 300 linear feet of frontage shall be allowed not more than two curb cuts onto Route 7. Lots fronting Route 7 that also have frontage on a crossroad connecting to Route 7 shall have their access only on the crossroad.
  - G. Parking shall be sited so that it can serve development on adjacent lots, and walkways facilitating such sharing shall be provided.
  - H. Parking areas and driveways shall connect to similar facilities, where present, on adjacent lots in the following zoning districts: Mixed Use; Village Center; Commerce and Industry South. When a parking area for a new development is to be connected to an existing development, any new paved driveway required in the existing development to make the connection shall not be counted towards overall lot coverage.
  - I. Where stormwater from the development is to be discharged into the municipal stormwater system (public ditches, swales, storm drains, etc.) the proposed stormwater management facilities shall be located on easements to be granted to the Town of Shelburne. Said easements shall provide for access to and maintenance of the stormwater facilities to be used in the event that it opts to perform the required maintenance because the applicant has failed to do so.

- J. If roadway or intersection improvements are required to maintain the desired level of service on public roads, the applicant must demonstrate when and where these improvements will be constructed. The applicant shall also indicate who is expected to finance and construct the required improvements.
- K. Sidewalks, walkways, paths, and other facilities shall be designed in conformance with the Facility Implementation Table below.

1900.9 Traffic Impact Study.

- A. A detailed traffic impact analysis prepared by a qualified person or firm is required for any application that is expected to add 75 or more peak hour (AM or PM) vehicle trip ends to the transportation system. The requirement for a traffic impact study may be waived by the DRB upon a finding that an application would have a de minimis impact on traffic congestion and safety. Any traffic analysis prepared under this section will meet the following criteria:
  - 1. The analysis will examine the existing traffic and the traffic added by the proposed development to public roads serving the development and any major intersections within one half mile of the development.
  - 2. The analysis will examine the impact of proposed traffic generation on current traffic levels on the existing roads and on traffic levels anticipated on the public roads five years after the proposed development opens.
  - 3. The analysis will include the cumulative contribution and impact of any currently permitted but not constructed or not fully constructed developments, including the impacts of any phases not yet built.
  - 4. The analysis shall be based on analytic techniques set forth in the current edition of the Highway Capacity Manual (Manual) published by the Institute of Transportation Engineers.
  - 5. Local traffic counts forming the basis of the analysis shall be conducted at times of the year and at times of the day deemed appropriate by the DRB, as determined by factors such as seasonal variations in traffic and school operating schedules.
- B. The traffic analysis must demonstrate that the level of service (LOS), as defined in the Manual, on all roads and intersections within the analysis area will not be less than "C" at any time during the future five year period, provided that an LOS of "D" may be acceptable in the Village Center District.
- C. If the minimum LOS required under 1900.9B cannot be demonstrated, the applicant must present roadway or intersection improvements that must be installed in order to maintain the required LOS.

<b>Table 3. Walking and Bicycling Facility Implementation</b>				
<b>Setting/ Zoning District</b>	<b>Facility Type</b>	<b>Placement on street</b>	<b>Connectivity Requirement</b>	<b>Design Standard</b>
Development along roads in Village Center, Village Residential, Shelburne Falls, Museum, Mixed Use, and Commerce and Industry (north) Zoning Districts (see zoning map )	Sidewalks	Both sides	Connect to Town or State Road. If site abuts Town or State road segment, sidewalk must continue along Town or State Road, if absent.	Town of Shelburne Public Works Specifications
	Shared Use Path Easement	If required	Connect to Town or State Road and if site abuts Town or State road segment, extend along Town or State Road.	15' Minimum width and must avoid mapped wetlands and flood hazard areas.
	Future Trail/Walk way	NA	Connection to adjacent neighborhoods	Accessible Trail per Vermont Trails and Greenways Manual (Chapter 5)
Development along roads in Residential and Commerce and Industry South Districts (see zoning map)	Sidewalks	One side		Town of Shelburne Public Works Specifications
	Shared Use Path	At DRB discretion		Vermont Pedestrian and Bicycle Facility Planning and Design Manual
	Shared Use Path Easement	If required	Connect to Town or State Road and if site abuts Town or State road segment, extend along Town or State Road.	15' Minimum width and must avoid mapped wetlands and flood hazard areas.
	Future Trail/Walk way	NA	Connection to adjacent neighborhoods	Accessible Trail per Vermont Trails and Greenways Manual (Chapter 5)
Development along roads in Rural and Conservation Districts (see zoning map)	Shared Use Path Easement	One side	Connect to Town or State Road and if site abuts Town or State road segment, extend along Town or State Road.	15' Minimum width and must avoid mapped wetlands and flood hazard areas.
	Future Trail/Walk way	NA	Connection to adjacent neighborhoods	Accessible Trail per Vermont Trails and Greenways Manual (Chapter 5)

1900.10 Parking and Loading Requirements. In all Districts, the Development Review Board shall require the provision of parking and loading facilities in accordance with Section 1960 of these regulations.

1900.11 Minor, non-material amendments to previously approved land development may be reviewed and approved administratively. “Non-material” means project elements proposed to be modified that do not undermine nor negate conditions deemed necessary in prior approvals to satisfy bylaw requirements. These may include, but are not limited to:

Relocation of site improvements or accessory structures, as long as all other relevant requirements (setbacks, site coverage limitations, etc) remain satisfied;

Reapproval of plans previously approved by the DRB that may have expired, where no material changes from those previously approved plans are proposed, and where no relevant zoning bylaws have changed would otherwise alter the approvability of those plans;

Approval of plans showing minor adjustments based on “as built” field measurements after construction that do not create material changes to underlying requirements or conditions of approval;

Minor changes to approved landscaping plans, such as substitution of species or materials that will still satisfy the qualitative and functional purposes intended.

Increases in building size and/or site coverage totaling less than 5000 sq ft or 3%, whichever is smaller.

Changes in use of buildings or sites, where all other site or permitting requirements remain satisfied.

The Administrative Officer retains the authority to refer any such application to the Development Review Board at the Officer’s sole discretion, or if questions or concerns arise that are not resolvable at the administrative level.

1900.12 As-Built Drawings. In accordance with Section 2030.4 of these Regulations, an application for a Certificate of Occupancy for the approved development shall include three sets of as-built plans certified by a licensed professional engineer showing the development as actually constructed. The as-built plans shall include all revisions, adjustments, modifications and amendments to the originally approved site plan. As-built drawings shall be drawn to the same scale and with the same accuracy as the original Site Plan drawings. Where the Site Plan specifies quantities or dimensions, the as-built drawings shall verify those specifications.

1900.13 Conditions. The Development Review Board may impose appropriate conditions to site plan approval, including, but not limited to, conditions relating to the following:

- A. Installation of service roads.
- B. Installation of speed change lanes.
- C. Consolidation or limitation of number and width of access drives.
- D. Pedestrian or vehicle signs.
- E. Sight distance improvements.
- F. Aisle widths for maneuvering.
- G. Sidewalks, walkways and pedestrian or bicycle paths.
- H. Reservation of rights of way for planned roads, access points, storm water management facilities, or shared parking.
- I. Traffic control signage and signalization.
- J. Traffic calming devices and improvements such as bump-outs and speed tables.
- K. The installation of approved landscaping and the bond or security to ensure its installation and survival.
- L. The requirement that any temporary fences be removed after a specified time for the plantings to mature.
- M. Other items that the Development Review Board deems as important to the full implementation of the site plan as approved.

1900.14 Denial. If the Development Review Board determines that all of the standards and criteria set forth in these bylaws have not been met, and that there no reasonable conditions that would result in compliance, the board shall deny the application.

1900.15 Continuation of Hearings. A public hearing for a site plan review may be continued (recessed to a specified date and place) in order to provide time for a site visit or to obtain additional information needed to render a decision.

1900.16 Decisions. The Board may decide to approve, approve with conditions, or deny the application. The Board shall render its decision within forty five days of the close of the public hearing, and failure to act within such time shall constitute approval.

1900.17 Conditional Use Review as element of Site Plan Review. Land development subject to Sections 1900 and 1910 as of May 2, 2018, shall be subject to the requirements of Section 1910 by virtue of the authority found in § 4414 (3) as well as by virtue of the authority § 4416 (a), and Conditional Use requirements shall apply unless specifically exempted by this bylaw.

**1910 Conditional Uses.** The purpose of conditional use review is to allow certain specified uses to occur in the various zoning districts, provided that specified criteria are met and certain conditions satisfied. Such uses are called conditional uses, and may only occur after being approved in accordance with the procedures described in this section

1910.1 Jurisdiction. A use designated as a conditional use in any district shall only be established, enlarged, or intensified upon Conditional Use approval by the Development Review Board after public notice and a public hearing in accordance with the provisions of 24 V.S.A., Section 4464, and as may be described in Article XX of these Regulations.

1910.2 Applications. Applications for Conditional Use approval shall be filed in the same manner as applications for Site Plan approval, as specified in Section 1900.1, except that such applications shall also address the following:

- A. Other information specified in the Conditional Use Review Procedure and Checklist endorsed by the Development Review Board.
- B. An application will not be considered complete, and will not be scheduled before the Development Review Board, until all information listed in Conditional Use Review Procedure and Checklist has been submitted.
- C. Any other data or information that the Development Review Board shall reasonably view as necessary in applying the Conditional Use review standards.

1910.3 Exemption: Within a given zoning district, a change from one conditional use to another conditional use may be approved administratively, if found by the Administrative Officer to be a minor, non-material change in size or the nature of conditional use related impacts that can reasonably be anticipated as compared with the previously approved conditional use and as authorized as described in Section 1900.11.

The Administrative Officer retains the authority to refer any such

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application to the Development Review Board at the Officer's sole discretion, or if questions or concerns arise that are not resolvable at the administrative level.

1910.4 Review. Before granting Conditional Use approval, the Development Review Board must determine that the proposed conditional use complies with the specific dimensional, and other standards applicable to it as set forth in these regulations, and that the proposed conditional use will not result in an undue adverse effect on:

- A. The capacity of existing or planned public community facilities.
- B. The character of the area affected, as defined by the purpose or purposes of the zoning district in which the project is located, and specifically stated policies and standards of the municipal plan or open space plan.
- C. Traffic on roads and highways in the vicinity. The creation of high traffic entry and exiting due solely to a single establishment along Route 7 should be discouraged.
- D. The Town Comprehensive Plan and all bylaws and ordinances then in effect.
- E. The utilization of renewable energy resources.
- F. Historic buildings and sites.
  - 1. Historic buildings and sites include those identified in any of the following references: Historic Sites and Structures Survey, Shelburne, Book 1 and 2, prepared by the Vermont Division for Historic Preservation, Historic Sites and Structures Survey Report for the Town of Shelburne prepared by Pamela Daly (2000), or the Shelburne Village National Register Historic District nomination (1990), or which are listed on or eligible to be listed on the National Register of Historic Places.
  - 2. The proposed conditional use shall not in anyway endanger the structural integrity of any historic building (for instance by increased vibration, surface water or ground water).
  - 3. The proposed conditional use shall not adversely impact the setting of any historic building or site (for instance by obstructing traditional views of such buildings or sites).
  - 4. The proposed conditional use shall not involve the exterior modification of any historic building that does not reflect and reinforce the historic design of the structure.

1910.4B. Other specific review criteria. Before an applicant can receive Conditional Use Approval, the applicant must demonstrate to the Development Review Board that the proposed conditional use will:

- A. Have sufficient water and waste water treatment for its needs, and will not result in an unreasonable burden on the Town's present or planned water or waste water treatment systems.

- B. Have adequate traffic access, circulation, and parking, and will not cause unreasonable traffic congestion or unsafe conditions with respect to pedestrian or vehicular travel.
- C. Not cause an unreasonable burden on the Town or School Districts' ability to provide educational services,
- D. Not place an unreasonable burden on the Town's ability to provide services, including but not limited to fire protection, police protection, ambulance service, public works, and recreation services.
- E. Not have an adverse impact on the present and projected housing needs of the Town in terms of the number, type, and location of units.
- F. Not have an undue adverse impact on the economic vitality of Shelburne Village.
- G. Be in conformance with the Town's Comprehensive Plan.

1910.5 Conditional Uses In The Village Residential District and The Shelburne Falls Mixed use District. In these districts, certain non-residential uses (as listed in Sections 820 and 920 of these Regulations) may be allowed with conditional use approval from the Development Review Board, as described below

- A. In addition to those criteria set forth elsewhere in this section, conditional uses in the Village Residential District and the Shelburne Falls Mixed Use District must satisfy the following:
  - 1. The proposed use must not detract from the predominant residential character of the area.
  - 2. If the proposed use is to be located in an existing residential structure, the exterior of that structure may not be modified in a way that significantly changes its residential appearance from the street.
  - 3. If all or part of the proposed use is to be located in an addition to an existing residential structure, the addition shall be designed to present to the street a continuation of the residential character of the original building.
  - 4. If the proposed use is to be located in a new structure, the design of that structure shall reflect the scale and residential character of the neighborhood.
    - a. The footprint shall not be more than 125% of the footprints of buildings on adjacent parcels.
    - b. Facades visible from the street shall convey a residential character (such as siding, types and sizes of windows, doors, and other architectural features) similar to that of surrounding buildings.
    - c. The roof shape shall be similar to those of residential structures in the area (primarily gable or hip roof).

- d. The spacing between buildings, when viewed from the street, shall be similar to the spacing between buildings on the three lots to either side of the proposed site, but shall not be less than the required side yard setback.
  - e. The design shall include front porches sheltering building entries facing the street.
5. The traffic generated by the proposed conditional use shall be similar to that generated by other uses in the immediate area.

1910.6 Integrated Agriculture as a Conditional Use.

- A. Purpose. The purpose of this section is to specify provisions for the accommodation of agriculture-related activities that are not exempt from zoning regulation because they are not recognized as exempt according to 24 VSA § 4413 (d).
- B. Review of Integrated Agriculture. In the Rural district, any proposal to conduct Integrated Agriculture shall be reviewed as a conditional use. Integrated Agriculture is not a conditional or permitted use in any other zoning district within the Town of Shelburne.
- C. Secondary Integrated Agricultural Activities. Provided that the Development Review Board finds that the proposed Primary Integrated Agricultural Activities, as defined in Article XXI of these Regulations, meet the applicable general and specific conditional use standards set forth in the Zoning Bylaws, and, subject to conditions deemed necessary by the Development Review Board in order to assure that the proposed activities will not be detrimental to the other uses within the district or to adjoining uses, Integrated Agriculture may include the following (“Secondary Integrated Agricultural Activities”):
  1. sales of non-farm products related to those grown on the farm; and/or
  2. hosting of educational and cultural events incidental to farming or the farm’s activities.
- D. Revenue Criteria. At least two-thirds of the gross revenue attributable to Integrated Agricultural activities shall be derived from Primary Integrated Agricultural Activities; and no more than one-third of such gross revenue may be derived from Secondary Integrated Agricultural Activities. Any conditional use approval of a Secondary Integrated Agricultural Activity shall be conditioned upon the permittee’s continuing obligation to provide the Town’s Zoning Administrator, upon request, with a certification of the relative percentages of such gross revenues over the prior fiscal year, and such other information as may be reasonably requested by the Zoning Administrator in order to

determine revenue percentages and compliance with the conditions imposed by the Development Review Board in its conditional use approval.

1910.7 Kennels and Pet Car Facilities as a Conditional Use.

- A. Purpose. The purpose of this section is to specify standards applicable to Kennels and Pet Care Facilities where such uses are authorized as Conditional Uses.
- B. Review of Kennels and Pet Care Facilities. In districts where Kennels and Pet Care Facilities are authorized as Conditional Uses, any proposal for such use or uses must demonstrate the use or uses will satisfy the following standards and requirements, unless waived by the Development Review Board per paragraph 1910.7.C. below, in addition to all other applicable standards and requirements:
1. All Outdoor Pet Exercise Areas shall be either enclosed or fenced and screened on all sides.
  2. Animals shall not be permitted in Outdoor Pet Exercise Areas between 9:00 pm and 7:00 am.
  3. Where a parcel on which a Kennel or Pet Car Facility is proposed is adjacent to or within fifty (50) feet of the boundary of a residential district or existing residential use, the required side or rear setback for the Outdoor Pet Exercise Area shall be sixty-five (65) feet from the residential or residentially-zoned property. A strip not less than fifteen (15) feet wide within the sixty-five (65) foot setback shall be landscaped with dense evergreens, fencing, and/or other plantings as a screen. New external light fixtures shall not be permitted within the fifteen (15) foot wide buffer area.
  4. Where a parcel on which a Kennel or Pet Care Facility use is proposed is adjacent to or within one hundred (100) feet of the boundary of a residential district or existing residential use, the application seeking approval of such use shall, prior to the close of the public hearing, be supported by a certification by an acoustical engineer that the construction practices and/or materials of the structure used as a Kennel or Pet Care Facility will comply with the noise standards contained in section 1950.2.C. The acoustical professional shall submit relevant information to permit the Development Review Board to verify that any measures proposed to attenuate noise will comply with the noise standards contained in section 1950.2.C.
- C. Waiver of Standards and Requirements in 1910.7.B.1-1910.7.B.4. The Development Review Board may, at its sole discretion, waive any of the Standards and Requirements contained in 1910.7.B.1-

1910.7.B.4, if it determines that the proposal, in light of its location, parcel size, existing vegetation or topography, or surrounding uses, is unlikely to have negative impacts greater than any comparable conditional use.

1910.8 Adult Entertainment as a Conditional Use.

- A. Purpose. The purpose of this subsection is to mitigate the adverse secondary impacts associated with adult entertainment facilities while not unduly limiting freedom of speech and expression. Restrictions on the location and operation of such facilities are necessary to protect residential neighborhoods, sensitive and vulnerable populations, civic institutions and public gathering places from the adverse secondary impacts associated with adult entertainment facilities including, but not limited to, crime, nuisance, disturbance of public order and indecency, and to protect public health, safety and welfare.
- B. Review of Adult Entertainment Facilities. In districts where Adult Entertainment Facilities are authorized as Conditional Uses, any proposal for such use must demonstrate the use will satisfy the following standards and requirements, in addition to all other applicable standards and requirements:
1. The impact of the adult entertainment use must be comparable to a non-adult entertainment use allowed (permitted or conditional) in the applicable zoning district.
  2. Adult entertainment uses must not be located within 600 feet of an existing grade school, library, daycare facility, religious facility, public park, or residential zoning district or within 150 feet of a public right-of-way. This distance will be measured from the property line of the subject lot to the nearest property line of the lot housing one of the listed uses. If a grade school, library, daycare facility, religious facility or public park subsequently locates within 600 feet of a lawfully existing adult entertainment use, this provision will not be used to eliminate or restrict that adult entertainment use.
  3. Adult entertainment uses must be separated from one another by at least 1,000 feet. This distance will be measured from the property line of the subject lot to the nearest property line of another lot housing an adult entertainment use.
  4. An adult entertainment use must not have any storefront window, marquee, sign or other display visible from a public vantage point depicting or portraying specified anatomical areas or specified sexual activities.
  5. Adult oriented merchandise must not be displayed in a location that would be visible from a public vantage point.
  6. Adult entertainment uses may be identified with signage in accordance with Section 1970. All text, symbols, logos or other

graphics advertising an adult entertainment use must use only terms and imagery that would be typical and expected for a comparable non-adult entertainment use and appropriate for a general audience.

7. A person under the age of 18 must not be permitted to enter or remain on the premises of an adult entertainment use. All public entrances must have prominent warning sign indicating that only those age 18 or older may enter. To be prominent a sign must occupy an area of at least 4 square feet and use letters at least four inches in height.
8. All building openings, entries and windows of Adult Oriented Business Establishments shall be located, covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area, including public sidewalks, streets, arcades, hallways, or passageways of any material which has as its primary theme matter depicting, illustrating, or describing, Specified Anatomical Areas or Specified Sexual Activities.

C. Definitions. As used in this subsection,

1. Adult entertainment use means a store, theater, club, restaurant or other establishment that as a substantial component of the use offers: (i) adult oriented merchandise for sale, rental, exchange, loan or trade; (ii) live or recorded performances by entertainers who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities; and/or (iii) services by attendants who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities .
2. Adult media means any magazines, books, movies, photographs, recordings or other forms of communication that are distinguished or characterized by an emphasis on matter depicting, describing or related to specified anatomical areas or specified sexual activities.
3. Adult oriented merchandise means any goods, products, commodities or other wares that depict, describe or simulate specified anatomical areas or specified sexual activities including but not limited to sexually oriented toys or novelties and adult media.
4. Sexually oriented toys or novelties means any instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.
5. Specified anatomical areas means: (i) less than completely and opaquely covered human genitals, anus, pubic region, buttock, or female breast below a point immediately above the top of

- the areola; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
6. Specified sexual activities means: (i) human genitals in a state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse, sodomy, oral copulation, or bestiality; (iii) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts, whether clothed, of oneself, or of one person by another; or (iv) excretory functions as part of or in connection with any of the activities set forth in this subsection.
  7. Residential zoning district means Residential Zoning District, Village Residential Zoning District, or Agricultural Zoning District.

1910.9 Conditions. The Development Review Board may attach appropriate conditions to any approval, including but not limited to stipulations implementing standards or criteria contained in 24 V.S.A. 4414(3) and Section 1910.4, as well as all specific dimensional and other standards applicable to it as set forth in these regulations. The application for Conditional Use, including any site plans, shall be deemed incorporated as conditions into the final Conditional Use Permit, except to the extent that the conditions in the Conditional Use permit shall prevail in case of a conflict.

1910.10 Denial. If the Development Review Board determines that any of the standards and criteria set forth above have not been met, and that there are no reasonable conditions that would result in compliance, the board shall deny the application.

1910.11 Continuation of Hearings. A public hearing for a conditional use may be continued (recessed to a specified date and place) in order to provide time for a site visit or to obtain additional information needed to render a decision.

1910.11 Decisions. The Board may decide to approve, approve with conditions, or deny the application. The Board shall render its decision within forty five days of the close of the public hearing, and failure to act within such time shall constitute approval.

**1920 Nonconformities**. In accordance with 24 V.S.A., Section 4412(7), nonconformities include nonconforming uses, nonconforming structures, and nonconforming lots.

1920.1 Nonconforming Uses. A nonconforming use may be continued, provided that the following conditions are met:

- A. No nonconforming use may be changed to another nonconforming use without conditional use approval by the Development Review Board, provided that the Development Review Board finds that the total floor area occupied by the proposed use is no greater than the floor area occupied by the existing non-conforming use.
- B. A nonconforming use which has been discontinued for a continuous period of twelve (12) months, or has been changed to or replaced by a conforming use, may not be reestablished regardless of the intent to resume the nonconforming use. A nonconforming use shall be deemed to be discontinued if the use is not actively pursued on the premises, or if equipment, furniture, or other appurtenances associated with the use have been removed from the premises.
- C. A nonconforming use shall not be extended to displace a conforming use.
- D. Except as specified in this paragraph, no building or structure used for a nonconforming use shall be increased by an addition or separate structure unless the added space is entirely occupied by a conforming use.
- E. A structure housing a nonconforming use, if destroyed or damaged by fire, collapse, explosion or similar cause may be re-built or repaired for the nonconforming use, provided that the nonconforming use is not extended, expanded or enlarged in any way, and provided that such re-build or repair is completed within two years of the damage or destruction.
- F. Nothing in this Section shall be construed to prevent normal maintenance and repair of a structure housing a nonconforming use, provided that such action does not increase the degree of or create any new nonconformance.

1920.2 Nonconforming Structures. A nonconforming structure may continue to be occupied, and may be modified, subject to the following:

- A. Nothing in these regulations shall be construed as permitting the use of a structure declared unsafe by an appropriate governmental authority nor the continuation of a condition declared to be a health hazard by an appropriate governmental authority.
- B. Except as noted below, a nonconforming structure may be extended or expanded provided that the entire expansion or extension meets all applicable setback requirements for the district in which it is located.
  - 1. In the Mixed Use District, the Commerce and Industry District, and the Commerce and Industry South District, a structure that is nonconforming by virtue of extending into the required front setback from Shelburne road may be expanded or extended if such expansion or extension does not extend any closer to Shelburne road than the existing structure.
  - 2. In the Rural District, a structure that is nonconforming by virtue

of the structure extending into the required front setback, may be expanded or extended if such expansion or extension does not extend any closer to the lot frontage than the existing structure, except as limited below:

- a. One and Two family Dwellings, Licensed Day Care, Registered Family Day Care and related accessory structures. In no case shall the building footprint of the expansion exceed one hundred (100) percent of the existing building footprint, or 1,500 square feet, whichever is greater.
  - b. Other allowed uses and related accessory structures not included in sub paragraph a above. In no case shall the building footprint of the expansion exceed twenty-five (25) percent of the existing building footprint or 750 square feet, whichever is greater.
  - c. All allowed uses and related accessory structures. Such expansion or extension may occur within a required side yard setback so long as the expansion or extension does not extend any closer to the side boundaries than the existing structure.
- C. Structures that are nonconforming by virtue of encroachment in any required yard setback may be modified subject to the requirements above, pursuant to the following procedure:
1. One or two family residential structure or structure containing a licensed day care or registered family day care, or related accessory structure. Such requests may be approved upon review by the Administrative Officer. To approve any such proposal, the Administrative Officer must first determine that the proposal will not result in any of the following:
    - a. encroachment on any public highway right of way or municipal easement;
    - b. modification of established drainage pattern, such that it will adversely affect adjacent property; or
    - c. undue, adverse impact on the character of the neighborhood.
  2. Structure containing other uses, or accessory structure related thereto. Such structure may not undergo modification without prior conditional use approval of the Development Review Board under Section 1910 of these Regulations. In evaluating any such proposal, the DRB must determine before any approval is granted that the proposal will not result in any of the following:
    - a. encroachment on any public highway right of way or municipal easement;
    - b. modification of established drainage pattern, such that it will adversely affect adjacent property; or

- c. undue, adverse impact on the character of the neighborhood.
- D. A non-conforming structure may be modified, but not expanded or extended, by minor changes to doors or windows, upon approval by the Administrative Officer.
- E. A nonconforming structure, the use of which has been discontinued for a continuous period of two (2) years shall not be re-occupied. The use of a structure shall be considered discontinued if all of the following conditions exist:
  - 1. The structure is unoccupied and not actively offered for sale.
  - 2. Regular maintenance of the structure is not performed.
  - 3. The structure is not served by activated utilities.
- F. A nonconforming structure which is damaged or destroyed by fire, collapse, explosion or other similar unintended cause may be re-built, repaired or restored, provided that the Zoning Administrator determines that the re-build or repair results in a structure that is no more nonconforming than the original structure, and that the work is completed within two years of the damage or destruction. The Zoning Administrator may grant one year extensions to this deadline if it is demonstrated that the delays were unavoidable and that the work is progressing.
- G. A nonconforming structure may be demolished and re-built, provided that the new structure is no more nonconforming than the original structure.
- H. A nonconforming structure may be moved on the site, provided that the new location results in the structure being as the least nonconforming solution feasible on the site, and that it is no more nonconforming than in the original location. For the purpose of this paragraph, the phrase “least nonconforming solution feasible” shall mean the following:
  - 1. The amount of the building’s footprint that extends into the required setback is as small as possible.
  - 2. The maximum distance that any portion of the building extends into the required setback is as small as possible.
  - 3. The total floor area built within the required setback is as small as possible, and
  - 4. The total volume of enclosed structure located above the maximum building height is as small as possible.
- I. For the purposes of paragraphs ‘F’ G, and ‘H’ of this sub-section, the phrase “no more nonconforming” shall mean the following:
  - 1. The total area of building footprint of the new or re-built building

that extends into the required setback is no more than the total area of building footprint of the original building that extended into the required setback.

2. The total floor area in the portion of the new or re-built building that extends into the required setback is no more than the total floor area of the portion of the original building that extended into the required setback, and
3. The volume of the new or re-built building located above the maximum height limit is no more than the volume of the original building that was located above the maximum height limit.

1920.3 Nonconforming Lots. A nonconforming lot may be used or developed in accordance with the following:

- A. A lot that is nonconforming because it is smaller than the minimum lot required in the district in which it is located shall be treated as an existing small lot in accordance with Section 1980.2 of these Regulations.
- B. A lot that is nonconforming because it is smaller than the minimum lot required in the district in which it is located may be enlarged, even if not to the extent that it becomes fully conforming, provided that no other lot is made nonconforming or more nonconforming by the enlargement, and no existing structure is made nonconforming.
- C. A lot made nonconforming by requirements other than size may be used or developed for an allowable use if all applicable yard and setback requirements are met.

1920.4 Non-Conforming Mobile Home Parks. Sections 1920.1-1920.3 above notwithstanding, if a mobile home park is a nonconformity pursuant to these bylaws, the entire mobile home park shall be treated as a nonconformity, and the individual lots shall not be considered to be a nonconformity, except as provided below.

- A. No pre-existing nonconforming mobile home park may be resumed if such use has been discontinued for a period of twelve (12) months or more. Mobile home parks shall be considered discontinued when the whole park is vacant and 1) it is not actively offered for sale, and 2) regular maintenance of the park is not performed. An individual mobile home lot that is vacated shall not be considered discontinued.
- B. Any mobile home within the nonconforming mobile home park may be altered, expanded, or replaced, providing:
  1. the applicant provides proof of adequate wastewater capacity; and
  2. the expansion or replacement will not:
    - a. be located less than ten (10) feet from any other primary

- structure(s);
- b. obstruct or prohibit ingress or egress for any primary structure;
- c. obstruct or prohibit mobility or replacement of any primary structure;
- d. obstruct or prohibit the provision of emergency services;
- e. obstruct existing utilities or rights of way; nor
- f. threaten or unduly degrade public health, safety, or welfare.

**1925 Existing Mobile Home Parks.** Expansion or modification of Existing Mobile home parks is allowed subject to the requirements of this section and state law.

1925.1 Development Review. Proposals to expand or modify existing mobile home parks shall require Conditional Use and Site Plan Review approval.

1925.2 General standards for Expanded or Modified Mobile Home Parks. The following general standards shall apply to mobile home parks modified or expanded in the Town of Shelburne.

- A. The area between new and relocated mobile homes and any boundary of the mobile home park, including adjacent public highways, shall be landscaped with trees or other plant materials.
- B. The access to an expanded mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets; the Development Review may require redesign or relocation of access to an existing mobile home park if required to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets.
- C. Any expanded mobile home park of 30 or more units of shall be provided with at least two points of entrance and/or exit.
- D. All expanded mobile home parks shall be provided with safe and convenient access streets to and from each and every mobile home lot. Alignment and gradient shall be adapted to topography.
- E. Off-street parking for new and relocated units in an expanded or modified mobile home park shall be provided consistent with requirements for other residential development. Parking spaces shall not be located more than 300 feet from the mobile home lot it is intended to serve.

1925.3 Specific standards for units in Expanded or Modified Mobile Home Parks. The following standards shall apply to new and relocated

mobile homes in parks modified or expanded in the Town of Shelburne.

- A. The minimum size of each new or relocated mobile home site shall be 5,000 square feet.
- B. Building placement on each new mobile home site shall reflect the following minimum setback requirements:
  - 1. Front yard setback: 20 feet.
  - 2. Side yard setback: 10 feet.
  - 3. Rear yard setback: 10 feet.
  - 4. Setback from stream, pond or lake bank: 100 feet.
  - 5. Individual tenants of the mobile home park may construct attached enclosures to individual mobile homes, with setbacks as noted above, provided that such enclosures do not exceed one hundred (100) percent of the floor area of the mobile home. Individual building permits shall be required for each such enclosure in each case.
- C. Existing mobile homes or those proposed to be relocated within a mobile home park shall maintain the overall density existing as of the date of application or, alternatively, the requirements of (d) below, whichever is less.
- D. The mobile homes proposed to be added or relocated in an expanded or modified mobile home park shall meet the following gross density requirements:
  - 1. if served by municipal water supply and wastewater: 1 unit per 8000 sf.
  - 2. if not served by municipal water supply and wastewater: 0.5 multiplied by single family lot size (minimum) specified in underlying zoning district.

**1926 New Mobile Home Parks.** A Mobile Home Park may be allowed in designated zoning districts subject to the requirements of this section and state law. All standards applicable to dwellings in the District within which the Mobile Home park is located shall apply equally to dwellings located within the park, unless otherwise specified below.

1926.1 Development Review. Proposals to establish mobile home parks shall require Conditional Use and Site Plan Review approval.

1926.2 Application Requirements. In addition to the application information required elsewhere in this bylaw, the applicant for a mobile home park shall also submit a site development plan that shows the following:

- A. lot boundaries, required setbacks and buffers, and distances to the nearest intersecting streets;

- B. designated mobile home sites;
- C. existing and proposed building foot prints and elevations, including existing buildings on adjoining lots which are within 100 feet of the boundaries of the mobile home park;
- D. existing and proposed vehicle and pedestrian circulation, including accesses, park roads, pedestrian paths, and parking areas;
- E. existing and proposed open spaces and other common areas;
- F. existing and proposed park infrastructure, including water and wastewater systems, utilities, drainage and stormwater management systems, and associated easements or rights-of-way; and
- G. a detailed landscaping plan.

1926.3 Siting Requirements. Mobile home parks shall be sited on lots that are:

- A. a minimum of 10 acres in area;
- B. served by a public or community water supply and wastewater system, and
- C. well-drained, with land and soil conditions that are suitable for park development.

1926.4 Design Standards.

- A. The mobile homes in a mobile home park shall not exceed the following densities:
  - 1. Areas served by municipal water supply and municipal wastewater: 1 unit per 8000 sf.
  - 2. Areas served by non-municipal water supply or non-municipal wastewater or on-site services:
    - a. Where underlying zoning district requires 20,000 square feet or less per single family residence:

10,000 square feet
    - b. Where underlying zoning district requires more than 20,000 square feet per single family residence:

an area equal to one half of the minimum single family lot size of underlying zoning district.
- B. The mobile home park shall meet all set back requirements for the district in which it is located. A landscaped buffer strip, not less than 20 feet in width, shall be provided along all property

and street lines. The Development Review Board may require increased set back distances and/or buffering and screening to minimize or avoid adverse impacts to adjoining properties and public rights-of-way.

- C. Open space for recreation and playground purposes, occupying not less than 10 percent of the gross mobile home park area, shall be provided in a convenient location(s) for use by park residents. Such open space shall be suitably landscaped, equipped and furnished, and screened or protected from parking and service areas.
- D. Designated rights-of-way for mobile home park roads shall be at least 50 feet wide; park roads shall have a maintained gravel or paved surface at least 20 feet wide and be adequately lighted.
- E. Each individual mobile home shall be located on a site having a minimum width of 50 feet and a minimum area of 5,000 square feet, which is defined by 4"x4"x3' reinforced concrete markers at each corner.
- F. Each mobile home shall be setback a minimum of 15 feet from adjoining sites and roadways; associated accessory structures shall be setback a minimum of 7.5 feet from adjoining sites and 10 feet from roadways.
- G. Each site shall contain permanent, immovable service connections.
- H. There shall be two parking spaces per mobile home, at least one of which is on the mobile home site. Common parking areas, and bicycle racks or storage areas, for the use of residents and visitors may also be provided.

1926.5 Operation & Maintenance. The mobile home park owner or designated operator shall, as a condition of Board approval:

- A. maintain all park buildings, roads, parking areas, paths, utilities, infrastructure, landscaping, open space and common areas in good condition, and shall provide for the regular collection and removal of recyclables, waste and garbage;
- B. remove snow from all park roads, parking and service areas;
- C. plant and maintain a minimum of two trees (minimum 2.0" diameter at breast height or greater) on each mobile home site; and
- D. not engage in vehicle sales in connection with the operation of the park.

1926.6 Review of Mobile Home Accessory Structures. The owner of a mobile home within an approved mobile home park may apply for a zoning permit for a deck or accessory structure which meets site setback

requirements under Subsection 1926.4 (f) without additional approval by the Development Review Board.

**1930 Planned Unit Developments.** In accordance with 24 V.S.A., Section 4417, Planned Unit Developments (PUDs) are permitted in various zoning districts, as authorized by Articles III through XVIII describing the individual zoning districts. In addition to any specific purposes specified below, it is the intent of this section to implement the goals and objectives of the Town Plan, to encourage the orderly development of the land, to protect important scenic and natural features of the landscape, to encourage effective neighborhood design, and ensure the unified and integrated design of development projects.

1930.1 Review Process.

- A. In accordance with the provisions of 24 V.S.A., Section 4417, and as may be specified in Article XX of these Regulations, the Development Review Board shall conduct public hearings to consider applications for Planned Unit Development approval. All PUDs shall be considered to be major subdivisions under the Subdivision Regulations.
- B. The Development Review Board may conduct all development reviews associated with the development (e.g. site plan approval, planned unit development approval, subdivision approval) simultaneously.
- C. Except as may be limited in Articles III through XVIII describing individual zoning districts, the Development Review Board may modify applicable area and dimensional requirements, excluding the periphery buffer, simultaneously with the approval of the subdivision plat. As part of this authority, the DRB shall be authorized to allow fences within proposed or previously approved periphery buffers, so long as such fence does not impede the movement of wildlife within mapped or ground verified wildlife corridors.

1930.2 General Standards.

- A. A site plan shall be submitted to the Development Review Board with a preliminary subdivision plat application showing the location, height and space of buildings, building envelopes, open spaces, parking spaces, streets, driveways, landscaping, and all other significant or unique physical features (including but not limited to waterways, wetlands, flood plains, fields, forested areas and tree-lines, and topography), accompanied by a statement setting forth the nature of all proposed modifications, changes, or supplementations of area and dimensional requirements of the applicable zoning regulations. The site plan must contain sufficient detail to allow the Development Review Board to assess the relationship of the proposed development to the site's natural features, and compatibility with surrounding lands.
- B. All Planned Unit Developments shall be subject to Site Plan

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Review in accordance with applicable portions of Section 1900 of these Regulations.

- C. In determining the number of units which may be developed within the residential portion of a PUD, the Development Review Board shall consider, as an upper limit, the number which could be developed in conformance with the zoning and subdivision regulations for the district in which the project is located. In making this determination the Development Review Board shall consider only developable land as defined in Article XXI of these Regulations. When determining the size of any area occupied by a slope of 15 percent or more, the Development Review Board shall use the “bare earth” Lidar data compiled by Earthdata International for the Chittenden County Metropolitan Planning Organization in 2004, and apply the lidar data at its original grid cell resolution using a methodology calculating the maximum amount of elevation change between each cell and its neighbors. (The Shelburne Zoning office shall provide applicants with Lidar data and/or slope area calculations based on this approach upon request.) Residential density in PUDs shall be calculated on a gross density basis.
- D. Where a district boundary line divides a lot being developed as a PUD, the Development Review Board may allow the development of a single PUD with a total density based on the allowable density of each district.
- E. The proposal shall be an effective and unified treatment of the development possibilities on the project site, and the proposed development plan shall make appropriate provision for the preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, agricultural land, significant views, and unique, natural and man-made features.
- F. The proposal shall be consistent with the Town Comprehensive Plan and all applicable bylaws.
- G. The proposal shall be consistent with all evaluation standards set forth in the Shelburne Subdivision Regulations.
- H. The proposal shall provide for the appropriate allocation, distribution, preservation and maintenance of open space and/or agricultural and forestry lands. Design that allows for contiguous open space areas is encouraged.
- I. The proposed design shall provide for the economy and efficiency of street, utility, and public facility installation, construction and maintenance.
- J. Except in the Rural District, proposed PUDs shall be connected to municipal water and sewer service systems, and such systems must be capable of accommodating increased flows due to the proposed development.
- K. The development shall be compatible with neighboring properties.
- L. The Development Review Board may require phased construction of the development in order to stay consistent with the Town’s

desired rate of growth, and in accordance with the Town Plan and any duly adopted Capital Budget and Program.

- M. The development may be subject to requirements regarding traffic.
- N. In a PUD containing residential development, the dwelling units permitted may, at the discretion of the Development Review Board, be of varied types as allowed in the district in which the PUD is located, and may be located in buildings connected by ground level or elevated covered walkways, or underground tunnels.

1930.3 Planned Unit Development-Residential. Planned Unit Developments-Residential (PUD-R) shall contain only residential uses as allowed in the individual districts, and shall be allowed in the Rural District, the Residential District, the Village Center District, the Village Residential District, the Shelburne Falls Mixed Use District, and the Mixed Use District, as specified in Articles III through XVIII.

A. Specific standards for all PUD-Rs,

- 1. Maximum building height – 35 feet.
- 2. Minimum front yard setbacks along the periphery of the PUD – as specified for the district in which the PUD-R is located.
- 3. Minimum side and rear yard setbacks pertaining to the periphery of the PUD-R:
  - a. Standards:

Village Center District:	30'
Mixed Use District:	Distance equal to applicable setback requirements for the district.
All other Districts wherein PUD-Rs are permitted:	50'
  - b. Features and Exceptions:

With the exception of structures existing on March 17, 2009, this perimeter buffer zone must be kept free of buildings, structures, parking areas and roadways, except as needed for access to the parcel, and must be landscaped, screened or protected by natural features so that adverse effects on surrounding areas are minimized.

- 4. Yard requirements for lots within the PUD-R in areas not encompassed by the periphery buffer.

- a. Front yard minimum - 30'
- b. Side and rear yard minimum - 15'
- c. Coverage limits – As established in the zoning district in which the PUD-R is located.

However, the Development Review Board may establish alternative setback standards, such as zero lot lines, as part of the PUD-R/Subdivision approval, if justified by the overall design of the development and if consistent with development objectives set forth in the Town Plan.

5. Except for PUD-Rs in the Rural District, all PUD-Rs shall be connected to the municipal sanitary sewer and the municipal water supply systems.
  6. All PUD-Rs in the Rural District shall comply with the following Open Space requirement: Designated open space within the PUD shall occupy at least 60 percent of the total area of the PUD.
- B. Design Process for PUD-Rs in the Rural District. In the Rural District, the objective of the PUD-R is to identify and preserve significant visual and natural features found in the area, and which give much of Shelburne its unique character. To achieve this, a pre-application conference with the Development Review Board is required. At the pre-application conference the applicant must demonstrate the following:
1. That they began the design process by creating a map of the site that shows all such features, as well as land not considered developable per the definition in Article XXI.
  2. That starting from this base, potential house sites were then identified that minimize infringement on the identified resources. The number of house sites will evolve from this analysis, but may not exceed the maximum density set forth in Article III.
  3. That after identifying potential house sites, a potential development plan was created showing lot lines, access, and retained open spaces, consistent with the applicable dimensional requirements. In order to retain a rural character, it is strongly recommended that individual building lots be of varying sizes and shapes.

The result of the pre-application conference will be the sharing of expectations regarding how the site can be developed in a manner that achieves the objectives of the Rural District.

- C. Design Standards for PUD-Rs, including those in the Rural District.
1. Where residential lots will abut agricultural lands or lands used for agricultural purposes within the preceding ten years, lot layouts shall be designed to minimize potential conflicts with agricultural operations. Whenever possible, property lines should follow existing manmade or natural features.
  2. Building envelopes and no-cut zones shall be required by the Development Review Board to ensure the preservation of site features. Building envelopes should avoid open fields and core forests and shall not include sensitive areas such as wetlands, floodplains or steep slopes.
  3. Roadways shall be designed to minimize site disturbance by following existing contours and site features.
  4. Open space within PUD-Rs should preserve agricultural, recreational or natural resources, or serve as buffers to adjoining areas. Land set aside as open space should be of a size, type and location to meet its intended use.
    - a. Open space should be set aside as common land or as separate undevelopable lots. The size and ownership of the open space should be consistent with the best means of maintaining the resources on the site.
    - b. Open space should be contiguous to other existing or potential open space areas.
    - c. The following standards shall be used in determining the appropriate percentage of open space land within PUD's:

Rural District:	60% of total acreage
Other Districts:	33% of total acreage
    - d. Open space land should be protected through appropriate legal mechanisms such as dedication to the Town, dedication of development rights, conservation easements or similar mechanisms reviewed by the Town Attorney and approved by the Development Review Board.

1930.4 Planned Unit Development-Mixed Use. Planned Unit Developments-Mixed Use (PUD-MU) shall contain both residential and non-residential uses as allowed in the individual districts, and shall be allowed in the Residential District, the Village Residential District, the Village Center District, the Shelburne Falls Mixed Use

District, and the Mixed Use District, as specified in Articles III through XVIII.

- A. Specific standards for PUD-MUs in all but the Mixed Use District,
1. Minimum total area of development – two times the area specified as the requirement for non-residential uses in the district in which the PUD-MU is located.
  2. Minimum frontage – as specified as the requirement for non-residential uses in the district in which the PUD-MU is located.
  3. Maximum building height – as specified in applicable zoning district.
  4. Minimum front yard setbacks along the periphery of the PUD – as specified for the district in which the PUD-MU is located.
  5. Minimum side and rear yard setbacks pertaining to the periphery of the PUD-MU - 30' in the Village Center District and 50 feet in all other Districts wherein PUD-MUs are permitted. This buffer zone must be kept free of buildings, structures, parking areas and roadways, except as needed for access to the parcel or interior parcels or lots, and must be landscaped, screened or protected by natural features so that adverse effects on surrounding areas are minimized. The previous statement notwithstanding, the minimum periphery buffer for buildings existing on March 17, 2009, shall be the distance from the existing building to the property line.
  6. Yard requirements for lots within the PUD-MU in areas not encompassed by the periphery buffer.
    - a. Front yard minimum - 30'
    - b. Side and rear yard minimum - 15'
    - c. Coverage limits – As established in the zoning district in which the PUD-MU is located.

However, the Development Review Board may establish alternative other setback standards, such as zero lot lines, as part of the PUD-MU/Subdivision approval, if justified by the overall design of the development and if consistent with development objectives set forth in the Town Plan.

- B. Specific standards for PUD-MUs in the Mixed Use District are set forth in Section 1930.7.

1930.5 Planned Unit Development-Commercial. Planned Unit Developments-Commercial (PUD-C) shall contain only commercial and industrial uses as allowed in the individual districts. PUD-Cs

shall be allowed in the Commerce and Industry District, the Commerce and Industry-South District, and the Mixed Use District.

- A. Specific standards for PUD-Cs in all but the Mixed Use District:
1. Minimum total area of development – 6 acres.
  2. Minimum frontage – 150 feet.
  3. Maximum building height – 35 feet
  4. Minimum front yard setbacks along the periphery of the PUD – 100 feet.
  5. Minimum side and rear yard setbacks pertaining to the periphery of the PUD-C - 100' – With the exception of structures existing on March 5, 2014, this buffer zone must be kept free of buildings, structures, parking areas and roadways, except as needed for access to the parcel or interior parcels or lots, and must be landscaped, screened or protected by natural features so that adverse effects on surrounding areas are minimized. In addition, for PUD-Cs in the Commerce and Industry-South district, parking areas shall have rows of trees on a minimum four foot wide grassed strip every four rows of cars. Trees shall be of a variety to withstand snow removal chemicals.
  6. Yard requirements for lots within the PUD-C in areas not encompassed by the periphery buffer.
    - a. Front yard minimum - 30'
    - b. Side and rear yard minimum -15'
    - c. Coverage limits – As established in the zoning district in which the PUD-C is located.

However, the Development Review Board may establish alternative other setback standards, as part of the PUD-C/Subdivision approval, if justified by the overall design of the development and if consistent with development objectives set forth in the Town Plan.

- B. Specific standards for PUD-Cs in the Mixed Use District are set forth in Section 1930.7.

1930.6 Planned Unit Development-Rural Mixed Use. A Planned Unit Development-Rural Mixed Use (PUD-RMU) may be approved in the Rural and Conservation Districts in accordance with this section.

- A. Purpose. The purpose of the Planned Unit Development-Rural Mixed Use (PUD-RMU) is to:

1. Protect and preserve for future use those important educational, agricultural, natural, cultural and aesthetic resource values evident in large historic places or complexes of buildings which are listed on the National Register of Historic Places (“historic places”) and/or large landscapes possessing significant agricultural, natural, visual or aesthetic resource values (“significant landscapes”).
  2. Encourage the adaptive reuse of structures located in or on such historic places or significant landscapes.
  3. Ensure that any new development occurring in or on an historic place or significant landscape is both aesthetically and functionally compatible with the goals of protecting and preserving the resource values identified herein.
- B. Qualifiers: For purposes of Section 1930.6, words such as “protect and preserve”, “visually, aesthetically and functionally compatible with” and avoiding “undue adverse impact, aesthetically or otherwise on the significant visual character and resources of the area” shall not be construed to prevent alterations necessary for the adaptive reuse and/or repair of the functional obsolescence of an historic place, the construction of new structures, or to prevent re-grading, replanting or other reconfiguration of significant landscapes; provided, however, that any alteration or addition to an historic place or significant landscape shall be the least such alteration or addition reasonably necessary to permit such historic place or significant landscape to effectively function consistent with an approved master plan. The master plan for the PUD-RMU required under subsection 1930.6(d) below will serve to define the agreed upon interpretation of broad terms such as those above and will provide the general planning framework and overall criteria for reviewing future proposed new uses.
- C. General Requirements. In addition to standards contained in the Shelburne Zoning Bylaws and Subdivision Regulations, the Development Review Board may approve an application for a PUD-RMU only if it finds that each of the following criteria (and the criteria contained in Subsections 5 and 6 hereof, relating to new uses and new or adapted structures) have been met to the Development Review Board’s reasonable satisfaction:
1. Aesthetics: The PUD-RMU has been designed to be aesthetically compatible with the historic site structures, significant landscape and surrounding lands.
  2. Agricultural, Cultural and Natural Resource Protection: The PUD-RMU has been designed to protect and preserve

- agricultural, cultural and natural resources.
3. Public Benefit: The PUD-RMU provides a significant public benefit. A significant public benefit may include protection and enhancement of significant rural landscapes, historic structures and complexes, provision of access to recreational, cultural or educational opportunities, housing, or other economic benefit to the Town without undue adverse impact on infrastructure and services.
  4. Compatibility: The PUD-RMU is compatible with the historic, educational, agricultural, natural, cultural, and aesthetic resource values of the historic place or significant landscape.
  5. New Uses: Any proposed new uses in the PUD-RMU are consistent with the preservation and protection of the historic place or the significant landscape.
  6. New or Adapted Structures: Any new or adapted structures in the PUD-RMU will be visually and functionally compatible with existing historic places or significant landscapes.

D. Comprehensive PUD - RMU Long-Term Master Land Use Plan.

1. Requirement for Plan and Plan Contents  
Prior to approval of any new or modified uses or structures under section 1930.6, a long-term master land use plan (the master plan) shall be approved by the Development Review Board. The master plan may propose other uses in addition to those uses listed as permitted or conditional uses for the district in which the PUD-RMU is located. The master plan will establish a general planning framework that integrates the educational, sustainability, historic, agricultural, natural, wildlife, cultural, aesthetic, economic and social values and operational needs of the historic place or significant landscape in support of its overall mission and goals. Approval of the master plan or of any subsequent amendments shall be based on the Development Review Board finding to its reasonable satisfaction, following a public hearing warned pursuant to 24 VSA ss.4464(a). that the master plan is consistent with the purpose of the PUD – RMU as stated in sections 1930.6(A) and (B). The master plan will include at a minimum, the following:
  - a. a mission statement and goals for the property's use
  - b. a description of existing improvements, landscape elements and current property uses

- c. a description of planning guiding principles and considerations
  - d. a statement of land conservation, historic preservation, and design philosophy
  - e. a description of current and proposed land use activity areas and how they support the mission and goals for the property
  - f. a description of proposed energy and transportation systems
  - g. a set of plans for the overall property showing: existing site improvements; natural, agricultural and cultural resources; proposed land use activity areas and circulation systems
2. Plan Review and Approval  
Any PUD-RMU proposed master plan shall be approved by the Development Review Board. Prior to DRB master plan approval, any proposed master plan or amendment to the plan shall be reviewed by the Shelburne Historic Preservation and Review Commission and Shelburne Natural Resources and Conservation Committee, which shall make any recommendations to the Development Review Board for final action.
  3. Plan Amendments  
Requests to amend the master plan may be considered by the Development Review Board upon the filing of an application with the Zoning Administrator, who shall warn a public hearing in accord with 24 VSA ss.4464(a).
- E. PUD-RMU Application Requirements for New Use or Change in Use. In addition to the general requirements for a subdivision and PUD-RMU application, an application for a PUD-RMU new or altered use or structure shall include a copy of the master plan for the property and, at a minimum, the following:
1. A presentation of all proposed site improvements with elevation plans for any new or altered structures, description of building materials, a landscaping plan and other information needed to assess the aesthetic impact of new or altered structures, site infrastructure, and resource management.
  2. Such other information as the Development Review Board shall reasonably request in order to allow the

Development Review Board to evaluate the PUD-RMU application for its compliance with the requirements of the Zoning By-Laws, including this Section, and the Subdivision Regulations.

F. Setbacks and Dimensional Requirements

1. Minimum total area of development – 400 contiguous acres
2. Minimum frontage – 2000 feet
3. Minimum front yard setback pertaining to the periphery of the PUD-RMU – as specified for the District in which the PUD-RMU is located.
4. Minimum side and rear yards pertaining to the periphery of the PUD-RMU – 150 feet
5. Maximum building height – 35 feet. Structures may exceed this limit only with approval of the Development Review Board as part of an original approval or as a revision to a PUD-RMU. Approval to exceed the 35' maximum will only be granted if it is demonstrated that the structure is a specifically identified element in the long-term master land use plan for the property and will not have an undue adverse impact, aesthetically or otherwise, on the site, adjacent properties, or public roads or the provision of emergency services. Farm silos shall be exempt from this provision.

G. Uses. In addition to those uses listed as permitted or conditional uses for the district in which the PUD-RMU is located, the Development Review Board may approve other uses if it determines that the identified uses are consistent with the master plan and the standards of this Section . Subsequent to the PUD-RMU approval, any additional uses or changes in use must be approved by the Development Review Board as a revision to the approved PUD-RMU. In making such approval or in approving subsequent uses or changes in use, the Development Review Board shall find that the following conditions are satisfied.

1. The uses shall be integrated into the overall use and concept for the historic place or significant landscape.
2. The uses shall be compatible with other uses in the historic place or significant landscape, and shall not have an undue adverse impact on the visual character of the area comprising the PUD-RMU.
3. The intensity of use shall not have an undue adverse impact on the agricultural, natural and visual resources of

the PUD-RMU.

4. The uses shall not have an undue adverse impact on lands adjacent to the PUD-RMU.
5. Traffic generated by the uses on a regular or sustained basis shall not create an undue adverse impact on roads either internal to or serving the PUD-RMU.

H. New Structures.

1. Justification. Since one of the stated purposes of this Section is to preserve and protect historic places and/or significant landscapes, new structures may be approved by the Development Review Board only if the following conditions are satisfied:
  - i. The new structure is necessary to support the planned uses of the PUD-RMU and is aesthetically compatible with the historic place or significant landscape.
  - ii. The new structure is clearly identified in the Plan.
  - iii. The new structure will house uses approved for the PUD-RMU under Subsection f above.
  - iv. The new structure constitutes an integrated element of the Plan.
  - v. New structures in the PUD-RMU have been sited and designed in such a way that there is no undue adverse impact on the landscape and its significant visual, agricultural, cultural and natural resources.
2. HP&DRC Participation in Review. The HP&DRC shall provide assistance to the DRB, upon request from the DRB, in the review of specific development applications.
3. SNRCC Participation in Review. The SNRCC may provide assistance to the DRB, at the initiation of the SNRCC, in the review of specific development applications, provided that the SNRCC notifies the DRB of its interest in the review of a specific development application at the first meeting of the DRB to consider such application. Notice shall be provided to the Chair of the SNRCC by Town Planning and Zoning department staff within 24 hours of the scheduling of the application review meeting conducted with the applicant and Planning and Zoning staff.

- 1930.7 Planned Unit Developments-Commercial and Planned Unit Developments—Mixed Use in the Mixed Use District. Planned Unit Developments-Commercial (PUD-C) and Planned Unit Developments—Mixed use (PUD-MU) may be allowed in the Mixed Use District in accordance with the following:
- A. Purpose: The PUDs in the Mixed Use District are intended to encourage high quality design of commercial development that achieves the purposes set forth for this district, and to provide a pleasant entry to the Town of Shelburne.
- B. Design Standards:
1. Buildings and Building location: The use of multiple buildings is encouraged, and no single building may have a footprint that exceeds the limits established for the district in which the PUD is located. Buildings shall be located in clusters which, in conjunction with landscaping and land form, create pleasant and functional spaces within the site. Buildings connected by a walkway shall be considered separate buildings.
  2. Road Access: Direct access from Shelburne road shall be minimized. A PUD-C or PUD-MU which has frontage on a cross road shall be required to use the cross road for access and no curb cut on Shelburne Road shall be allowed. A PUD-C or PUD-MU which does not have frontage on a cross road, and which has no more than 300 feet of frontage on Shelburne Road, may have one curb cut (no more than three lanes) on Shelburne Road. A PUD-C or PUD-MU which does not have frontage on a cross road, and which has between 300 and 1,000 feet of frontage on Shelburne Road, may have no more than two curb cuts (each no more than three lanes) on Shelburne Road. A PUD-C or PUD-MU which does not have frontage on a cross road, and which has more than 1,000 feet of frontage on Shelburne Road, may have no more than three curb cuts (each no more than three lanes) on Shelburne Road. For the purpose of this section, a cross road is any preexisting public road, private road, or right-of-way intersecting with Shelburne Road and having a right-of-way width of at least 40 feet.
  3. Access to adjacent lots: Access between lots in a PUD-C shall be encouraged, thus allowing shared use of parking as well as travel between lots without the need to re-enter Shelburne Road. Connections between lots in the PUD-C shall be located to readily serve parking areas. Connections

to adjacent residential areas shall be designed to discourage through traffic.

4. Parking: Parking shall be encouraged to be located behind or beside buildings, but not in front of buildings. Parking in front of buildings shall not be in the periphery buffer. Parking shall be designed to serve the entire development and not be assigned to specific buildings. The Development Review Board may reduce the number of spaces required if a careful analysis of shared parking justifies such reduction. Parking areas shall be divided by appropriate islands and/or landscaping so that no double or single banked bay of parking contains more than 20 spaces.
5. Landscaping: The PUD application shall contain a written statement of the goals and objectives of the landscaping and a discussion of how the landscape plan addresses those goals and objectives. At a minimum, landscaping shall be used to create attractive front yards, augment the visual appearance of buildings, create and reinforce views, define spaces internal to the site, and separate pedestrian from vehicular areas. At least one curbed, landscaped island shall be provided for every twenty parking spaces, and may be located at the end of a parking aisle or internal to the parking area.
6. Pedestrian access: Convenient and pleasant pedestrian access shall be provided from the sidewalks along Shelburne Road to building entries, from parking areas to building entries, and between buildings. In addition, connections between the proposed development site and adjacent commercial and residential areas shall be designed to encourage, and provide a pleasant environment for, pedestrian and bicycle travelers.
7. Building design: Buildings shall be designed to be consistent with the purpose of the Mixed Use District, to create visual interest, and to generate a sense of human scale. Fenestration, varied roof lines, and other architectural treatments shall be used to break up blank facades. Facades facing streets or parking areas shall be designed to incorporate glass in the form of windows or window-like features in a significant portion of their façade area (including entries). A significant portion of the buildings' total foundation perimeter shall be treated with plants and shrubs.

C. Setbacks and Dimensional Requirements:

1. Minimum total area of development - 2 acres.

2. Minimum frontage - 150 feet.
3. Minimum front yard PUD buffer width – As specified for front yard setbacks in the district in which the PUD is located.
4. Minimum side and rear yard PUD buffer width - 50 feet.
5. Minimum side and rear yard PUD buffer width where the PUD abuts non-residential properties - 20 feet
6. Side and rear yard PUD buffers must be kept free of buildings, structures, parking and roadways other than driveways and must be landscaped, screened or protected by natural features so that adverse effects on surrounding areas are minimized. Paths, sidewalks, fences, and retaining walls with an average height less than 4 feet shall be allowed in the periphery buffer with the approval of the DRB as part of PUD approval or amendment. Retaining walls allowed in the buffer shall also comply with the requirements of Section 1980.10.
7. Maximum total building coverage - 30 percent.
8. Maximum total lot coverage - 50 percent. If a PUD extends beyond the boundary of the Mixed Use District, the total lot coverage on the land within the Mixed Use District shall not exceed 50 percent, and the total lot coverage on the land outside of the Mixed Use District shall not exceed the maximum allowed in that zoning district.

D. Uses.

1. Permitted uses as set forth in Section 1010 of these regulations.
2. Conditional uses as set forth in Section 1020 of these regulations.

1930.8 Planned Unit Development-Museum. A Planned Unit Development-Museum (PUD-M) may be allowed in the Museum District and the Village Center District in accordance with this section.

- A. Purpose: The purpose of the PUD-M is to facilitate the orderly and planned development of present and future museum facilities in the designated districts and to ensure that museum facilities are integrated into the fabric of the village to the extent practicable.
- B. Comprehensive Plan: An application for a PUD-M shall include a comprehensive plan for the development and use of the entire museum parcel showing existing and planned buildings, facilities, open spaces, circulation, landscaping, and other site improvements.
- C. Design guidelines:

1. Building design: Elevations shall be provided for facades

- of new or altered buildings that front on Shelburne Road and are setback less than 200 feet from Shelburne Road.
2. Where necessary, traffic studies shall assess traffic impacts of vehicular access points on traffic patterns on Shelburne Road and nearby signalized intersections.
  3. Setbacks and Dimensional Requirements:
    - a. Front yard and frontage: As specified in the district in which the PUD-M is located.
    - b. Minimum side and rear yards pertaining to the periphery of the PUD-M – 50 feet unless adjacent to residential development, in which case it shall be 100 feet. The previous statement notwithstanding, the minimum periphery buffer for buildings existing on March 17, 2009, shall be the distance from the existing building to the property line.
    - c. Maximum building height: 35 feet. The Development Review Board may extend this limit to 50 feet for structures that are clearly part of the Museum’s primary function, that are shown in the PUD-M comprehensive plan, and that are in keeping with the overall visual character of the museum.
      - a. Parking areas: Parking areas shall be surrounded by trees and other appropriate landscaping.
      - b. Loading and work spaces shall be screened from view from any public road.

1930.9 Redevelopment Planned Unit Development in the Village Core Overlay District. A Redevelopment Planned Unit Development (PUD-RDV) may be approved in the Village Core Overlay District in accordance with this section.

- A. Purpose: The purpose of the PUD-RDV in the Village Core Overlay District is to encourage the rehabilitation and renovation leading to the redevelopment of Existing Structures, and with the approval of the Development Review Board , the reconstruction or replacement of a “Non-significant Existing Structure”, to accommodate compact, pedestrian-oriented redevelopment, to promote a mix of residential uses and nonresidential uses, to provide flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, and provision of circulation facilities including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the Town Comprehensive Plan

and bylaws within the particular character of the site and its surroundings.

B. Structures.

1. Except as noted below, Existing Structures shall be those in existence on August 29, 2006. "Existing Structures" shall include the reconstruction or replacement of a "Non-significant Existing Structure" within the same footprint as approved by the Development Review Board. The Development Review Board may determine that a structure is a "Non-significant Existing Structure" and may permit reconstruction or replacement unless such structure is
  - a. listed on the National Register of Historic Places or listed on the State Register of Historic Places; or
  - b. determined by the Historic Preservation and Design Review Commission to be a historically significant building after a finding that it is:
    - (i) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town of Shelburne, State of Vermont or the United States of America; or
    - (ii) historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures; or
    - (iii) is eligible for listing on the National Register of Historic Places or the State Register of Historic Places and is determined important to be preserved; and
    - (iv) is architecturally compatible with the existing neighborhood.
2. The building area outside of the existing footprint of any Existing Structure and the construction of new structures shall constitute "New Construction", except the reconstruction or replacement of a Non-significant Existing Structure within the same footprint with the approval of the Development Review Board shall not constitute "New Construction". New Construction shall be limited as follows:

- a. In PUD-RDVs with a total area of development of less than 120,000 square feet, New Construction shall be limited to no more than 25% of the building footprint area of all Existing Structures in the Redevelopment PUD.
  - b. In PUD-RDVs with a total area of development of 120,000 square feet or greater, New Construction shall be limited to to no more than 50% of the building footprint area of all Existing Structures in the Redevelopment PUD.
  - c. Development proposals that include New Construction exceeding the allowances contained in paragraphs a. and b. immediately above shall be subject to the provisions of Section 1930.4 (Mixed Use PUDs) of these Bylaws.
- C. Applicability. This Section shall apply only to lands designated as the Village Core Overlay District on the Shelburne Zoning Map.
- D. Setbacks and Dimensional Requirements
1. Minimum total area of development: 40,000 square feet in the PUD-RDV, whether in a single lot or a combination of contiguous lots held in common ownership on August 29, 2006, and remaining so on the date of application for approval. However, the owner as of date of application need not be the same as the owner as of August 29, 2006. Land located within private utility or access easements may be included in the minimum total area.
  2. Minimum lot frontage:
    - a. PUD-RDV less than 120,000 square feet: 100'. This lot frontage requirement may be met by totaling the frontage of all lots within the PUD-RDV that are contiguous to public roads or highways.
    - b. PUD-RDV of 120,000 square feet or more: Such PUD-RDVs shall be exempt from lot frontage requirements.
  3. Minimum front setbacks of the development: The lesser of 10' or the existing setback of any Existing Structure that is not an Accessory Structure as defined in Section 2110.2 of these Bylaws.
  4. Minimum side and rear yards of the development: The lesser of 7.5' or the existing setback of any Existing Structure that is not an Accessory Structure as defined in Section 2110.2 of these Bylaws.
  5. Treatment of Accessory Structures: Existing Accessory

Structures within the setback required under subsections (3) and (4) above, may be retained as a part of the PUD-RDV; however, said structures shall not be used for a use other than accessory use or altered in any manner that increases any exterior dimension of the structure.

6. Maximum total building coverage: The greater of 35% or the percentage of building coverage of Existing Structures. The Development Review Board may allow a maximum building coverage of up to 40% to achieve the purposes of the PUD-RDV, especially those that pertain to building design and placement. The denominator in this calculation shall include land located within private utility and access easements.
7. Maximum lot coverage: 80 percent.
8. Maximum building and eave height of the building being replaced within 15 feet of any property boundary shall be 30 feet, with no more than 20 feet to eave height or, except as to Existing Structures, the maximum building and eave height may extend to the existing building height and eave height of the building being replaced. Maximum building height on portions of a lot more than 15 feet from any property boundary shall be 35 feet or, except as to Existing Structures, the maximum building height may extend to the height of the existing building being replaced.

E. Uses:

1. Permitted uses as set forth in Section 810 of these regulations.
2. Conditional uses as set forth in Section 820 of these regulations.
3. Any combination of such Permitted or Conditional uses.
4. All uses within the PUD-RDV shall be deemed conditional uses and shall be initially reviewed and approved as such by the Development Review Board under Section 1910 of these Bylaws.

F. Development Density

- 1 Allowable nonresidential density: 1,000 square feet of lot area shall be allocated for each 1,000 square feet of floor area for nonresidential use.
- 2 Allowable residential density: 5,000 square feet of lot area shall be allocated for each dwelling unit.
- 3 The maximum residential development density in a PUD-RDV proposing both nonresidential and residential use will be calculated by subtracting the total square footage of floor area allocated for nonresidential purposes from the

total square footage of lot area. The remaining lot area will then be divided by 5,000 square feet to determine the maximum number of dwelling units (rounded down).

For example, if a lot contains 50,000 square feet of area, and 8,000 square feet is allocated for nonresidential uses, the lot area available for calculating the maximum residential density is 42,000 square feet (50,000 minus 8,000). Then, 42,000 divided by 5,000 produces 8.4. The maximum residential development density is thus 8 dwelling units.

- G. Parking. The Development Review Board may decrease the number of parking spaces required under Section 1960 of these Bylaws by up to 50% as part of site plan review and approval, provided that the applicant can demonstrate to a reasonable certainty that a reduced number of spaces will be adequate or that parking is available, and can be shared outside the PUD-RDV but within 500 feet of the boundary of the PUD-RDV.

1930.10 Redevelopment Planned Unit Development in the Mixed Use District. A Redevelopment Planned Unit Development (PUD-RDV-MU) may be approved in the Mixed Use District in accordance with this section.

- A. Purpose: The purpose of the PUD-RDV-MU in the Mixed Use District is to encourage the rehabilitation and renovation leading to the redevelopment of Existing Structures, and with the approval of the Development Review Board, the reconstruction or replacement of a “Non-significant Existing Structure”, to accommodate compact, pedestrian-oriented redevelopment, to promote a mix of residential uses and nonresidential uses, to provide flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, and provision of circulation facilities including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the Town Comprehensive Plan and bylaws within the particular character of the site and its surroundings.
- B. Structures.
1. Except as noted below, Existing Structures shall be those in existence on March 17, 2009. “Existing Structures” shall include the reconstruction or replacement of a “Non-significant Existing Structure” within the same footprint, as

approved by the Development Review Board . The Development Review Board may determine that a structure is a “Non-significant Existing Structure” and may permit reconstruction or replacement unless such structure is:

- a. listed on the National Register of Historic Places or listed on the State Register of Historic Places; or
- b. determined by the Historic Preservation and Design Review Commission to be a historically significant building after a finding that it is:
  - i. importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town of Shelburne, State of Vermont or the United States of America; or
  - ii. historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures; or
  - iii. is eligible for listing on the National Register of Historic Places or the State Register of Historic Places and is determined important to be preserved; and
  - iv. is architecturally compatible with the existing neighborhood.

2. The building area outside of the existing footprint of any Existing Structure and the construction of new structures shall constitute “New Construction”, except the reconstruction or replacement of a Non-significant Existing Structure within the same footprint with the approval of the Development Review Board shall not constitute “New Construction”. New Construction shall be limited to no more than 25% of the building footprint area of all Existing Structures in the PUD-RDV-MU. Development proposals that include New Construction exceeding said 25% shall be subject to the provisions of Section 1930.7 of these Bylaws.

C. Applicability. This Section shall apply only to lands designated as the Mixed Use District on the Shelburne Zoning Map.

D. Setbacks and Dimensional Requirements

1. Minimum total area of parcels involved in development: 40,000 square feet in the PUD-RDV-MU, whether in a single lot or a combination of contiguous lots under the control of an individual or corporation. Land located

within private utility or access easements may be included in the minimum total area.

2. Minimum lot frontage: 200'. This lot frontage requirement may be met by totaling the frontage of all lots within the PUD-RDV-MU that are contiguous to public roads or highways.
3. Minimum front setbacks of the development: The lesser of the existing setback of any Existing Structure that is not an Accessory Structure as defined in Section 2110.2 of these Bylaws or the setback allowed by the provisions of Section 1030 of these Regulations. However, where an application for PUD-RDV-MU approval involves a lot or lots with multiple existing primary (non-accessory) structures, the existing structure setback shall be determined by averaging the setback of each existing primary structure.
4. Minimum side and rear yards of the development: The lesser of the existing setback of any Existing Structure that is not an Accessory Structure as defined in Section 2110.2 of these Bylaws or the minimum side/rear yard setback allowed in Section 1030 of these Regulations.
5. Maximum total building coverage: The greater of 30% or the percentage of building coverage of Existing Structures. The Development Review Board may allow a maximum building coverage of up to 35% to achieve the purposes of the PUD-RDV-MU, especially those that pertain to building design and placement. The denominator in this calculation shall include land located within private utility and access easements.
6. Maximum lot coverage: 50 percent.

E. Uses:

1. Permitted uses as set forth in Section 1010 of these regulations.
2. Conditional uses as set forth in Section 1020 of these regulations.
3. Any combination of such Permitted or Conditional uses.
4. All uses within the PUD-RDV-MU shall be deemed conditional uses and shall be initially reviewed and approved as such by the Development Review Board under Section 1010 of these Bylaws.

F. Development Density:

- 1 Allowable nonresidential density: As set forth in Section 1030.1 of these regulations.
- 2 Allowable residential density: As set forth in Section

1030.1 of these regulations.

- G. Parking. The Development Review Board may decrease the number of parking spaces required under Section 1960 of these Bylaws by up to 50% as part of site plan review and approval, provided that the applicant demonstrates to a reasonable certainty that, owing to the reduced parking demands associated with the use and/or owing to the availability of public transit services, a reduced number of spaces will be adequate.
- H. Maximum Individual Building Footprint. As specified in 1030.5, no single building may have a footprint that exceeds 30,000 square feet.

1930.11 Planned Unit Developments- Public and General Aviation Use Airport (PUD-AIR). Public and General Aviation Airport PUDs (PUD-AIR) may be allowed in the Rural district in accordance with the general PUD standards found in subsection 1930.2 and the specific requirements presented below:

- A. Purpose: The purpose of the PUD-AIR is to facilitate the development and operation of present and future Public and General Aviation Use Airports and associated facilities, while providing standards for review and development which will maintain compatibility of the airport use with the surrounding residential and commercial land uses.
- B. Allowed Uses and activities: The PUD-AIR is intended to accommodate Public and General Aviation Use Airports and Public and General Aviation Airport uses as defined in these bylaws. A PUD-AIR may also provide for the subdivision of single-family residences within the PUD-AIR on lots smaller than the minimum lot size for single family residential uses the district, so long as the overall density of primary uses within the PUD-AIR complies with requirements of the Rural District.
- C. Comprehensive Plan: Any development application submitted as a PUD-AIR shall include a comprehensive plan for the development and use of the airport facilities showing existing buildings planned buildings, runway, open space, circulation, landscaping, and parking.
- D. Design:
  - 1. Building Design: Elevation drawings shall be provided for facades of new or altered buildings if they will be visible from public highways. The visual impact of new or altered

buildings shall be reduced through the installation of landscaping and careful selection of colors and exterior materials.

2. Maximum Building Coverage: Maximum building coverage shall be the greater of 10 percent of lot coverage or the overall building coverage of existing structures on the parcels making up the PUD-AIR.
3. Minimum side and rear yard pertaining to the periphery of the PUD-AIR -- 50 feet. The foregoing standard notwithstanding, the minimum periphery buffer for buildings existing on October 5, 2010, shall be the distance from the existing building to the property line.
4. Maximum Building Height: The maximum building height shall be 35 feet.
5. Parking Areas: parking areas for passenger vehicles shall be screened by trees and other appropriate screening or landscaping.
6. Loading and Workspaces: Loading and workspaces shall be screened from view from any public road.
7. Landscaping: The PUD application shall contain a written statement of the goals and objectives of the landscaping and a discussion of how the landscape plan addresses those goals and objectives. At a minimum, landscaping shall be used to buffer the impacts of ground activities within the PUD-AIR from any surrounding residential uses.
8. Road Access: Access via public roads meeting Town Public Works standards for commercial uses shall be encouraged.

E. Setbacks and Dimensional Requirements:

1. Minimum area of PUD-AIR – 10 acres
2. Minimum frontage – 150 feet; as an alternative to demonstrating compliance with the minimum frontage standard, applicants for a PUD-AIR may instead propose that the PUD-AIR gain access to a public highway via a right-of-way at least 60 feet in width, within which is located an access drive meeting the standards for a Type 1 Road as defined in the Shelburne Public Works Specifications. However, a Public and General Aviation Use Airport existing as of October 5, 2010 may be permitted to gain access via a drive located within a right-of-way 50 feet in width. In the event of the expansion or intensification of us at the airport then the DRB may require upgrades to the access road.

3. Minimum front setback – the lesser of 50 feet of the setback of existing structures.
4. Minimum side and rear yard setback – the lesser of 50 feet or the setback of existing structures.

## 1940 HOME OCCUPATIONS AND GARAGE SALES

1940.1 Home Occupations. Nothing in these regulations shall infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse impact upon the character of the residential area in which the dwelling is located. In evaluating whether the occupation is customary in residential areas, the Zoning Administrator shall approve those meeting the following standards.

- A. The home occupation shall be carried on wholly within the principal dwelling structure or accessory structure.
- B. The home occupation shall be carried on by members of the family and no more than one non-family employee is permitted.
- C. No exterior displays or signs or other advertising materials shall be permitted, except as allowed under Section 1970 of these regulations.
- D. No exterior storage of materials shall be permitted.
- E. No traffic shall be generated in greater volumes than would normally be expected in the neighborhood.
- F. No objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall be produced by the home occupation.
- G. Parking shall be provided off-street and shall not be located in front yards.
- H. The home occupation activity shall not utilize more than twenty-five (25) percent of the total area of the dwelling including attached garages and other attached structures.
- I. The home occupation is a use regularly conducted in residential areas elsewhere in the Town of Shelburne; alternatively, the home occupation is a use regularly conducted in other locales having similar housing types, densities, and features.

1940.2 Garage Sales. In any calendar year, no more than one garage sale, not to exceed 72-hours in duration, shall be permitted to occur on any residential property. Any sale exceeding that period of time shall be prohibited unless complying with the above home occupation provisions. Garage sales are defined to include similar terms such as yard, moving, rummage, porch, barn or cellar sales. Garage sale signs shall conform to the provisions of Section

1970.3.H of these regulations. Garage sales conducted hereunder shall not require temporary display permits as required under Section 1980.7.

## 1950 PERFORMANCE STANDARDS.

- 1950.1 No land or building in any zoning district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable use, or fire, explosive, or other hazard, noise or vibration, smoke, dust, odor, or other form of air pollution, heat, cold, dampness, electromagnetic disturbance, or other substance, condition, or element in such manner or in such amount as to adversely affect the reasonable use of the surrounding area or adjoining premises.
- 1950.2 All new development and all existing land uses, whether permitted by these regulations or otherwise, including non-conforming uses and uses approved by the Development Review Board as conditional uses, must at all times comply with the standards and requirements set forth below:
- A. Fire and Explosion Hazards. All activities involving use, handling or storage of hazardous material shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate fire fighting and fire suppression equipment and devices standard in the industry, as determined by the Shelburne Fire Chief. Burning of waste materials in open fires is prohibited at any point. The relevant provisions of all State and local laws and regulations shall also apply. Storage of flammable liquids, with the exception of propane gas and gasoline/diesel fuel in containers of six gallons or less, in residential areas is prohibited.
  - B. Vibration. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot lines.
  - C. Noise. The sustained (for a period of one hour) sound pressure level shall not exceed the 70 dbA decibel level at the property line between the hours of 7:00 a.m. and 7:00 p.m., and shall not exceed the 60 dbA decibel level at the property line between the hours of 7:00 p.m. and 7:00 a.m. If the noise is impulsive (i.e., hammering), intermittent (i.e., music or machine sounds) or periodic (i.e., hums or screeches), the maximum sound pressure levels described above shall be reduced by five (5) dbA.
  - D. Smoke. Except for wood or coal burning for residential use, except as allowed by item "L" of this section, no emission shall be permitted of any air contaminant for more than a period or periods aggregating six (6) minutes in any hour which has:

1. A shade or density greater than No. 2 of the Ringelmann Chart;
  2. A shade or density of such capacity as to obscure an observer's view to a degree greater than does smoke described in Subsection 1 above.
- E. Odors. No ongoing emission of objectionable odor beyond the property line of a premise shall be discharged, caused, allowed or permitted. In addition, the temporary emission of objectionable odors (e.g., exhaust from idling vehicles) for a duration of more than 30 minutes in any two hour period is prohibited.
- F. Fly Ash, Dust, Fumes, Vapors, Gases, Other Forms of Air Pollution. No emission shall be permitted which can cause any damage to health of animals, vegetation or other forms of property and which can cause any excessive soiling at any point on the property of others.
- G. Radioactivity. No activities shall be permitted which emit dangerous radioactivity at any point beyond the property line. The handling of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive materials shall be in conformance with all State and Federal regulations governing such activities.
- H. Heat. For the purpose of these regulations, heat is defined as thermal energy of a radioactive, conductive, or convective nature. Heat emitted at any or all points shall not at any time cause a measurable temperature increase on any adjacent property, whether such change be in the air or the ground, in a natural stream or lake, or in any structure on such adjacent property. For the purpose of this paragraph, a "measurable temperature increase" shall mean an increase in the temperature of the relevant medium (structure, air, ground or water) of five or more degrees Fahrenheit, being in evidence for at least sixty minutes in any twenty four hour period.
- I. Waste Water Treatment and Disposal Waste water disposal shall be in conformance with all applicable State rules and regulations. Current state rules require that a state permit be obtained for all on-site waste water systems. No discharge shall be permitted at any point into any sewage disposal system or water course or lake or into the ground, except in accord with standards approved by the State Department of Health, Department of Environmental Conservation or other regulatory department or agency, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements.
- J. Solid Waste. There shall be no accumulation of solid wastes

conducive to the breeding of rodents or insects. With the exception of regularly tended compost facilities, all solid waste, garbage, trash, litter and other debris shall be placed in closed containers specifically designated for that purpose.

1. Abandoned, inoperable, or unused appliances, furniture, equipment, and motor vehicles (buses, cars, and trucks), if kept on site, shall be located and completely screened or enclosed so as to not be visible from adjacent roads or properties, and shall not be located within the Floodplain and Watercourse Buffer Overlay District.
  2. Outdoor storage of four or more unregistered and uninspected motor vehicles constitutes a junkyard or salvage yard, and is not permitted except in connection with an approved vehicle salvage operation.
  3. Additional regulations relating to motor vehicle trailers as structures and Portable Storage Containers as structures are found in Section 1980.9
- K. Outdoor Lighting. For all uses, outdoor lighting shall conform to the standards set forth in Section 1975 of these Regulations.
- L. Outdoor Furnaces. Notwithstanding the exemption of residential heating in paragraph 4, above, the use of outdoor furnaces shall meet the following standards:
1. The furnace shall meet all standards for Outdoor wood-fired Hydronic Heater (WFHH), Phase 1, put forth by the United States Environment Protection Agency.
  2. Only fuels recommended by the furnace manufacturer may be used, and the following may not be used: gasoline, rubber, naphtha, household garbage, material treated with petroleum products (particle board, pressure treated wood), leaves, paper products, or cardboard.
  3. The furnace shall not be located within any side or rear yard setback, and may not be located between the street and the front of the principal structure on the property.
  4. The furnace may not be located closer to a residence not served by the furnace than to a residence that is served, and shall not be located less than 100 feet from any residence not served by the furnace. If the furnace is located between 100 feet and 300 feet from a house not served by the furnace, the furnace stack must extend to height at least 2 feet higher than the highest roofline of that residence.
  - . The furnace shall be operated in accordance with best burn practices as promulgated by the Outdoor Furnaces Manufacturers Caucus.

1950.3 Other Requirements. Other requirements found elsewhere in these

regulations shall also apply, as well as other local or State ordinances, statutes or regulations, and federal law, statutes and regulations.

1950.4 Administration:

- A. Prior to the issuance of a zoning permit or a certificate of occupancy, the Zoning Administrative Officer may require a plan of the proposed construction and use, and a description of the proposed machinery, operations and projects and specifications for the mechanisms and techniques to be used in restricting the emission of any dangerous and/or objectionable elements. No zoning permit or certificate of occupancy shall be issued by the Zoning Administrative Officer until he is satisfied that the proposed structure and/or use shall comply with the following standards and requirements.
- B. Upon receipt of a complaint of violation of the standards in this section, accompanied by reasonable proof of non-compliance, or upon personal observation of an apparent violation, the Zoning Administrative Officer shall investigate. If a violation is found, the Zoning Administrative Officer shall pursue compliance and, if necessary, enforcement as described in Article XX of these Regulations and in 24 V.S.A., Chapter 117

## **1960 PARKING REQUIREMENTS.**

1960.1 Off-street Parking.

- A. In all zoning districts any structure erected or enlarged, and any lot used or occupied for any of the following purposes shall be provided with at least the minimum number of year round off-street parking spaces as set forth below, together with adequate passageway, driveways or other means of circulation, and access to and from a street or way.
- B. For all uses the required parking spaces shall be located on the same lot therewith or on land adjacent thereto provided that long term (at least 5 years) or permanent leasing arrangements are possible. When parking is leased on an adjacent parcel, the land dedicated to the leased parking may not be used to meet parking on the parcel on which the lease is located, unless subject to a shared parking agreement approved by, and subject to conditions established by, the Development Review Board.
- C. Each parking space shall be at least 9 feet by 18 feet in area.

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	Rooming house, boarding houses, tourist homes	1 space for each bedroom
	Residential dwellings	2 spaces per dwelling unit
	Elderly housing	1 space per dwelling
	Hotels/motels	1 space for each guest unit plus additional spaces required for additional contained uses, plus 1 space for each 2 employees
	Community care homes and nursing homes	1 space for every 4 beds, plus 1 space for each staff or visiting doctor or nurse, plus 1 space for every 2 employees
	Food stores, supermarkets, department/variety stores	1 space for every 200 square feet of floor sales area
	Office buildings, including business, commercial, government, and service establishments	1 space for every 300 square feet of total area
	Places of assembly and/or Auditoriums with fixed seats	1 space for every 4 fixed seat and/or 1 space for every 100 square feet used for public assembly but not containing fixed seats
	Conference/meeting rooms	1 space for every 100 square feet of conference or meeting space, excluding storage areas
	Restaurants including bars and lounges,	1 space for every 2 seats provided

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grills and all similar dining and/or drinking establishments	for patron use, plus 1 space for each 200 square feet of floor area provided for patron use but not containing seats. Areas to be occupied by seating, and their number, will be documented as part of conditional use and/or site plan review.
Banks and other financial Institutions, retail establishments (excluding supermarkets and department/variety stores)	1 space for every 250 square feet of floor area excluding storage areas
Wholesaling, manufacturing, warehousing and laboratories	1 space for every 1 employee on the largest shift, plus 1 space for each company vehicle operating from the premises
Furniture Stores	1 space for every 1,000 square feet of floor area
For uses not specifically listed above, the Development Review Board shall determine reasonable parking requirements.	
The Development Review Board may reduce the required number of spaces by up to thirty (30)percent, as part of site plan review and approval, provided that the applicant can demonstrate that a reduced number of spaces will be adequate.	

1960.2 Loading Areas.

- A. In addition to the required off-street parking spaces, off-street loading spaces which shall meet the following minimum standards shall be provided, along with adequate access.

1. Retail businesses and services 1 space of at least 250 square feet for each 3,000 square feet of floor area or part thereof
2. Wholesale and industrial 1 space of at least 800 square feet for each 10,000 square feet
3. The Development Review Board can require or allow additional spaces or fewer spaces as per the site plan review procedure.

1960.3 Handicapped Parking.

- A. For other than single family residential dwellings, if parking spaces are provided for self parking by employees or visitors, or both, the number of accessible spaces provided shall be determined by the following table.

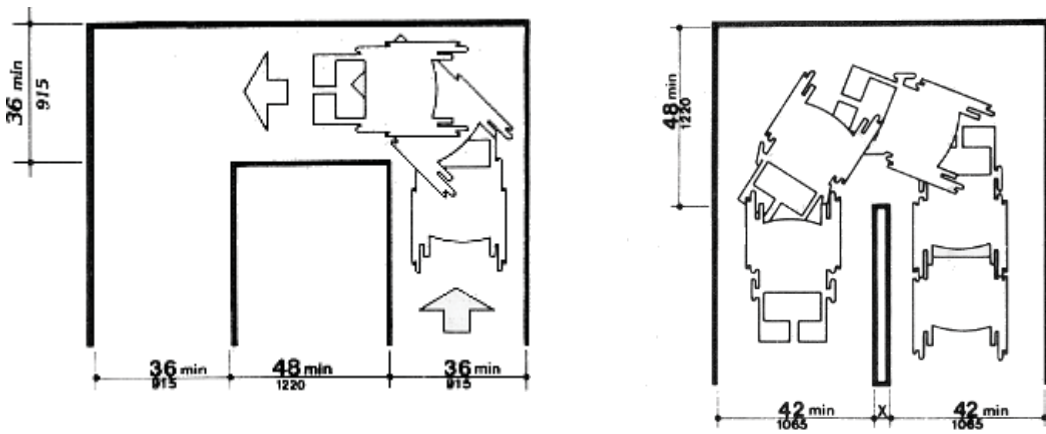
Lots containing 1 to 25 spaces:	1 accessible space
Lots containing 26 to 50 spaces:	2 accessible spaces
Lots containing 51 to 75 spaces:	3 accessible spaces
Lots containing 76 to 100 spaces:	4 accessible spaces
Lots containing 101 to 150 spaces:	5 accessible spaces
Lots containing 151 to 200 spaces:	6 accessible spaces
Lots containing 201 to 300 spaces:	7 accessible spaces
Lots containing 301 to 400 spaces:	8 accessible spaces
Lots containing 401 to 500 spaces:	9 accessible spaces
Lots containing 501 to 1,000 spaces:	2% of total number of spaces
Lots containing 1,001 or more spaces:	20 accessible spaces plus 1 space for each 100 spaces over 1,000.

- B. Accessible spaces shall be 8 feet wide with an adjacent access aisle of a minimum width of 60 inches, and the access aisles shall extend for the full length of the space. Accessible spaces shall be identified by an appropriate handicapped only sign.
- C. One in every eight accessible spaces, but at least one space, shall be served by an access aisle of no less than 96 inches in width, and shall be designated as “van accessible”.
- D. Accessible spaces shall be located as near as possible to the main public entrance of a single building and centrally located where practical in parking lots that serve more than one building.

E. Accessible Routes: Routes accessible to wheelchair bound and other handicapped individuals shall be shown on site plans, and shall conform to the following:

1. At least one accessible route shall be provided from transit stops, accessible parking spaces, accessible passenger loading areas, and public sidewalks to the accessible building entrance. The accessible route shall, to the extent practicable, coincide with the route for the general public.
2. The minimum clear width of an accessible route shall be 36 inches (915 mm), except at doors. If a person in a wheelchair must make a

turn around an obstruction, the minimum clear width of the accessible route shall be as shown in the figures below:



NOTE: Dimensions shown apply when  $x < 48$  in (1220 mm).

1960.4 Bicycle Parking: Bicycle parking facilities shall be shown on the site plans, and shall meet the following requirements:

- A. The number of bicycle parking spaces provided shall be no fewer than 10 % of the number of required vehicle spaces.
- B. Bicycle parking shall be signed, visible, well lit, and as convenient to cyclists as auto parking.
- C. Bicycle parking facilities shall consist of an 'inverted U' design securely anchored to the ground and shall be sufficiently separated from motor vehicle areas to protect parked bicycles from damage.
- D. Bicycle racks may be located on the public right of way with written approval from the public works department.

**1970 SIGN REGULATIONS.** It is the purpose of this section to establish sign regulations which minimize distractions and obstructions which may contribute to traffic accidents, to protect property values, to create an attractive business climate and to enhance and protect the amenities and

visual quality of the town.

1970.1 General Provisions.

A. Facade Signs

1. The boundary of a facade sign shall be considered as the outer perimeter of the smallest combination of rectangles which encloses all letters, symbols and wall treatments (color, materials, etc.) associated with the sign.
2. The area of a facade sign shall be the area enclosed by the boundary of the sign as defined above.
3. The gross facade area of the facade to which a facade sign is mounted shall be the overall length of the facade multiplied by the height of the vertical portion of the facade from finished grade, or eight feet (8'), whichever is greater.
4. A facade sign shall not project more than nine inches (9") from the facade to which it is mounted.
5. Letters on facade signs shall not exceed twenty four inches (24") in height.
6. Corner lots with frontage on two (2) streets may have two (2) facade signs, when such lots are the location of a single free standing commercial structure not sharing entry and parking facilities with other commercial structures, and the structure is occupied by a single use.

B. Free-standing Signs.

1. The area of a free-standing sign shall be the total area within the perimeter of the sign, excluding the supporting structure.
2. Free-standing signs having two (2) parallel and attached faces shall be considered as one sign, and the area shall be computed for one side only.
3. For free-standing signs having more than two (2) sides, the relevant sign area shall be the sum of all areas on which advertising information is displayed.
4. A free-standing sign shall not exceed ten feet (10') in height as measured from finished grade.
5. Free-standing signs shall be located not less than ten feet (10') from any property line, including a right-of-way line, except in the Village Center, Shelburne Falls, and Village Institutional/Museum districts, and in that portion of the Residential District south of Bostwick Road, where signs may be located at the edge of a right of way.
6. Each free-standing sign shall be allowed one (1) "add-on" sign, not to exceed six (6) square feet in size or 25% of the principal sign area size, whichever is less, whose area shall be allowed in addition to the total allowable sign area. An

add-on sign authorized and permitted under this subsection may consist of up to four distinct designs, which may be displayed on a rotating or alternating basis.

- C. Projecting or Overhanging Signs. With the following exceptions, projecting or overhanging signs shall not be allowed:
1. If a structure is so located as to have no front yard in which to locate a free-standing sign, an overhanging or projecting sign may be allowed, provided that:
    - a. The sign clears the walkway by at least eight feet (8');
    - b. The sign does not exceed twelve feet (12') in height, as measured from finished grade;
    - c. The sign does not exceed in area one-half ( $\frac{1}{2}$ ) of the area allowed in a free-standing sign.
  2. In enclosed shopping centers or shopping plazas where several establishments are served by a common covered or enclosed walkway, each such establishment may have a single overhanging or projecting sign, provided:
    - a. The signs clear the walkway by at least eight feet (8');
    - b. Each sign is no greater than four (4) square feet in size.
- D. Sign Lighting. The applicant shall provide sufficient technical and design information to demonstrate that the following provisions are met.
1. Externally Illuminated Signs:
    - a. The average level of illumination on the vertical surface of the sign shall not exceed 3.0 foot-candles, and the uniformity ratio (the ratio of average to minimum illumination) shall not exceed 2:1. Levels of illumination shall be based on photometric modeling or in the field using a hand held lux meter. Averages based on field measurements shall be based on at least three readings deemed representative by the Administrative Officer or by his or her designee.
    - b. Lighting fixtures used to illuminate signs shall be mounted above the illuminated sign and located, aimed, and shielded so that light is directed only onto the sign facade. Lighting fixtures shall not be aimed towards adjacent streets or roads or properties.
    - c. Light fixtures used to illuminate signs shall not cause glare. Further, the light source or reflective surfaces of the fixture shall not be visible from adjacent streets, roads, or surrounding properties.

2. Internally Illuminated Signs:

- a. Internally Illuminated Signs are prohibited with the following exceptions:
  - Backlit, reverse mounted, individually illuminated channel letters, known as ‘halo lit’ signs are allowed in the Mixed Use zoning district.
  - Window signs that read ‘OPEN’ no greater than 2.5 square feet.
- b. Approved backlit, reverse mounted, individually illuminated channel letters signs shall adhere to the following standards:
  - Signs shall light lettering and logo and other related sign elements only, and lighting design shall be such that no excess light spill or glare results from the back lighting fixtures and/or source. The back lit sign shall not increase the measurable vertical light level at a point 20 feet distant from the sign in any direction.
  - In addition to other permitted lamp types, neon or similar lighting may be used to illuminate backlit signs.

3. Sign Lighting Hours:

- a. Unless approved pursuant to paragraph b below, sign lighting hours of operation shall comply with the requirements specified in the following table.

Zoning District In Which Sign is Located	Hours during which sign may be illuminated at maximum level allowed by bylaw	Hours during which sign illumination must be turned off
Rural District (except for signs located in Rural Mixed Use PUDs, which adhere to standards specified for Museum District)	8 AM- 9 PM	9 PM-8 AM
Residential District	8 AM- 9 PM	9 PM-8 AM
Village Residential District	8 AM- 9 PM	9 PM-8 AM
Museum District and Rural Mixed Use PUDs	6 AM-11 PM	11 PM- 6 AM
Village Center District	6 AM-11 PM	11 PM- 6 AM
Shelburne Falls District	6 AM-9 PM	9 PM- 6 AM
Mixed Use District	6 AM-11 PM	11 PM- 6 AM
Commerce & Industry District	6 AM-11 PM	11 PM- 6 AM
Commerce & Industry South District	6 AM-11 PM	11 PM- 6 AM
Conservation District	NA	All hours

- b. The hours during which a sign may be illuminated may be extended beyond those specified in the table above by action of the Development Review Board as part of

a review conducted under Section 1900.3 of these Bylaws. Any such extension shall require the Development Review Board to find that the bona fide hours of operation of the establishment that is the subject of the sign extend beyond those specified in the table.

- E. No sign, or its illuminator, shall, by reason of its location, shape, color or size, interfere with vehicular or pedestrian traffic or be confused with or obstruct the view of any official traffic sign, signal or marking. No sign shall be so located as to obstruct the clear line of sight for traffic entering or exiting a property or subdivision.

1970.2 Special Provisions.

- A. One neighborhood identification sign (meaning a graphic to identify the entrance to a particular subdivision recognized by a given name) is permitted at its entrance, may be double faced, not to exceed sixteen (16) square feet in area, ten feet (10') in height and four feet (4') in width, including structural support. If the subdivision has access from more than one service road, neighborhood identification signs will be permitted at each entrance unless both entrances are within vision.
- B. Signs incidental to Community Farmers Markets occurring seasonally on Town property shall be allowed in the VillageCenter District. Up to two (2) such signs shall be allowed by annual permit. Such signs shall not exceed sixteen (16) square feet in area. Signs approved pursuant to this subsection may be displayed for no more than two days per week between June 1 and October 31 and shall not have fixed or permanent supports.
- C. Signs or bulletin boards incidental to places of worship, schools, libraries, or public buildings shall be allowed in all districts. One such sign shall be allowed per establishment and shall not exceed sixteen (16) square feet in area.
- D. Farm Operations and Establishments Engaged in Integrated Agriculture.
  - 1. Farm Operations and Establishments Engaged in Integrated Agriculture shall be allowed one (1) free-standing sign. Such sign shall not exceed sixteen (16) square feet in area and shall have no more than two (2) faces per sign.
  - 2. Farm Operations and Establishments Engaged in Integrated Agriculture shall also be allowed a facade sign on a principal Farm Operation or Integrated Agriculture

building. Such sign shall not exceed five percent (5%) of the gross facade area of the facade to which it is attached, or fifty (50) square feet, whichever is less.

3. Signs on farm equipment and signs incidental to the farm operation shall be excluded from these regulations.
- E. Home Occupation Signs. If an occupant of a residence conducts an approved home occupation in the residence, a sign announcing the home occupation may be allowed in lieu of the sign indicating the name of the occupants. The home occupation sign may be free-standing or facade mounted, and shall not exceed four (4) square feet in area.
- F. Signs in municipal baseball complexes. Signs are permitted as accessory uses in the Shelburne Municipal Complex baseball fields site and Turtle Lane Baseball fields site provided they comply with the following requirements:
1. Signs are allowed on the outfield fence subject to the following standards:
    - a. Signs must be mounted an equal distance apart along the interior side of the outfield fence; the total number of signs on display on any such individual outfield fence shall not exceed 14;
    - b. Individual signs shall not exceed 4' x 8' in size;
    - c. Individual signs shall be constructed using exterior grade plywood;
    - d. Signs may display images, colors, and messages on up to 75 percent of the total area of each sign; the background areas of all signs on a given field must be white, while the back or reverse side of each sign must be dark green of a consistent shade and hue;
    - e. Signs shall be displayed no more than 6 months each year, with annual period of display falling between April 15 and October 15;
    - f. Damaged signs shall be removed and repaired immediately;
    - g. Signs erected pursuant to this section shall require a sign permit from the Town; a single permit may apply to multiple signs of the same specific sign category.
  2. Signs mounted on structures approved by the Town for use by a seasonal League-selected food vendor are allowed subject to the following standards:

- a. Such signs must be single purpose in nature and may not be combined with any other signage or signage allowance;
  - b. Such signs must be affixed to an accessory structure approved for use as a food vending location within a recognized recreation complex and existing as of August 18, 2015;
  - c. The total number of such signs on display and mounted to such structure shall not exceed 7;
  - d. Signs mounted above the lower roof shall not exceed 8 square feet in size, and no portion of any such sign may be mounted more than two (2) feet above the point where the lower roof meets the outer building wall;
  - e. Any sign approved under this section and located below the lower roof and shall not exceed 6 square feet in size;
  - f. Signs erected pursuant to this section may be displayed on a year round basis;
  - g. Signs erected pursuant to this section shall require a sign permit from the Town; a single permit may apply to multiple signs of the same specific sign category.
3. Signs are allowed on dugouts subject to the following standards:
- a. Such signs must be single purpose in nature and may not be combined with any other signage or signage allowance;
  - b. Such signs shall not exceed 2 square feet in size and must be affixed to a dugout or comparable structure located within a recognized recreation complex;
  - c. The design of such signs shall be restricted and limited to the following: black lettering on a white background;
  - d. Only one such sign shall be allowed per dugout or comparable structure;
  - e. Signs erected pursuant to this section may be displayed on a year round basis;
  - f. Signs erected pursuant to this section shall require a sign permit from the Town.
4. Scoreboards with signage are allowed subject to the following standards:

- a. Such scoreboards with signage must be single purpose in nature and may not be combined with any other signage or signage allowance;
  - b. Such scoreboards with signage shall not exceed 36 square feet in size and must be located within a recognized recreation complex;
  - c. The design of such scoreboards with signage shall be restricted and limited to the following:
    - Scoreboard portion of structure shall be limited to white letters on black or blue background;
    - Signage portion of structure shall be limited to a size less than or equal to 20 percent of the area of the scoreboard portion of structure;
  - d. Only one such scoreboard with signage shall be allowed per athletic field;
  - e. Scoreboards with signage erected pursuant to this section may be displayed on a year round basis;
  - f. Signs erected pursuant to this section shall require a sign permit from the Town.
5. A changeable letter sign is allowed subject to the following standards:
- a. Such sign must be single purpose in nature and may not be combined with any other signage or signage allowance;
  - b. Such sign shall not exceed 12 square feet in size and must be affixed to a permitted structure located within a recognized recreation complex;
  - c. The design of such signs shall be restricted and limited to the following: black or blue lettering on a white background with or without a colored border;
  - d. Only one such sign shall be allowed per recognized recreation complex;
  - e. Signs erected pursuant to this section may be displayed no more than 6 months each year, with annual period of display falling between April 15 and October 15;
  - f. Signs erected pursuant to this section shall require a sign permit from the Town.

1970.3 Temporary Signs.

- A. One non-illuminated construction sign showing the project title, contractor, architect, engineer, etc. shall be allowed on a construction site. Such sign shall not exceed thirty-two (32) square feet in area per face and shall have not more than two (2) faces, and must be removed at the time the structure is occupied or when final grading is complete, whichever comes first.
- B. Non-illuminated signs advertising a subdivision or development approved by the Town shall be allowed. Such signs shall not exceed thirty-two (32) square feet in area per face and shall have no more than two (2) faces. No more than two (2) such signs shall be permitted for any subdivision, and no more than one (1) shall be located near each entrance to the subdivision. Such signs shall be so located as to not obstruct clear line of sight for traffic entering or leaving the subdivision. Temporary subdivision signs shall be removed when 75% of the lots or units in the subdivision are sold or built upon, or when 75% of the units are rented.
- C. Retail and other businesses shall be allowed one (1) on-premise exterior temporary sign, not to exceed twelve (12) square feet in area per face and having no more than two (2) faces. The display of such sign shall be permitted in accordance with the following conditions:
  1. No "Reader Boards" or similar such changeable wheeled signs are allowed.
  2. Temporary signs shall be maintained for a maximum of fourteen (14) consecutive days once in every two (2) calendar month period, or seven (7) days once each calendar month.
  3. Temporary signs shall be maintained for a maximum of five (5) days in a calendar month provided the signs are displayed on the same day of the week for the entire month.
  4. Applicants for a temporary sign may choose either (2.) or (3.) above, but shall not change their permit within the duration of the permit.
- D. New businesses for which a certificate of occupancy has been issued shall be allowed a single temporary sign, not to exceed twelve (12) square feet in area, which may be displayed within thirty (30) days of the issuance of the certificate of occupancy for a period not to exceed fourteen (14) days.
- E. Civic, philanthropic, religious or other non-profit organizations shall be allowed one (1) on-premise portable sign, not to exceed twelve (12) square feet in area, to be used to advertise special events. Such signs shall be removed promptly upon termination of

- the event being advertised and shall be displayed for a period not to exceed thirty (30) days within any calendar year.
- F. Signs displayed on Town property, exclusive of highway rights-of-way, may be allowed with prior permission from the Town but shall not exceed twelve (12) square feet in area nor be more than three (3) feet wide and shall be displayed for not more than four (4) days per week and not more than ten (10) weeks within any calendar year for any one not-for-profit organization.
  - G. Political signs. Signs twelve (12) square feet and larger which advertise political parties and/or candidates shall be permitted on private property with the permission of the owner when: such signs are erected no more than forty five (45) days prior to the election to which they pertain; and all such signs are removed within three (3) days after the date of the election. Political signs smaller than twelve (12) square feet may be exempt from permitting requirements per section 1970.12p.
  - H. Application for temporary sign permits shall be made to the Planning and Zoning Office accompanied by the required permit fee as set from time to time by resolution of the Selectboard. Temporary signs shall be removed promptly at the end of the authorized period. If such sign is not removed promptly, the Town may have it removed. No permit is required for temporary real estate signs.

1970.4 Prohibited Signs. The following signs are prohibited in all zoning districts:

- A. Signs which identify businesses or uses which are no longer in existence;
- B. Animated or actions signs, including, but not limited to, flashing and revolving signs, or banners, unless granted a permit as a temporary sign;
- C. Illuminated signs outlining a building or building features such as a gable, roof or corner;
- D. Signs located on motor vehicles or rolling stock which are used primarily as support or foundation, including vehicles parked in such a way as to display any logo or sign painted on it as a sign;
- E. Signs announcing garage or yard sales when such signs are not located on the site where the sales are taking place;
- F. Signs utilizing reflective material;
- G. Temporary signs not permitted under Section 1970.3 of these regulations;
- H. Signs promoting any business or activity not primarily related to the main activity of the facility on the premises, except official business directional signs and sign plazas as defined in and erected pursuant to Chapter 21 of Title 10, Vermont Statutes Annotated;
- I. Roof mounted signs which project above the roof ridge line.

- J. Political signs that are placed on Town property or in the Town right of way.
- K. Signs advertising real estate for sale on Town property or in the Town right of way.

1970.5 Nonconforming Signs. Nonconforming signs may be maintained, repaired, and modified. For the purposes of this paragraph, modification may include replacement. However, the following modifications are prohibited: (a) those resulting in increased sign area or height; and (b) those resulting in reduced setbacks (relocation closer to a property line or right-of-way), unless such nonconforming signs are located on land which is acquired for governmental purposes by governmental action. Modifications to nonconforming signs consistent with this paragraph may be approved administratively. Modifications not consistent with the above may be modified when authorized by the Development Review Board as a Conditional Use under Section 1910.3.

1970.6 Signs in the Rural District. Except as described in part a. of this sub-section, each non-residential and non-agricultural use shall be allowed one free-standing sign. Such sign shall not exceed sixteen (16) square feet in area.

- A. Signs in Commercial Uses and Continuing Care Retirement Communities in Planned Unit Developments. Each Planned Unit Development in the Rural District will be allowed one (1) free-standing sign, not to exceed thirty-two (32) square feet in area, announcing the total development and located near the principal entrance to the development. In addition, each structure in the development will be allowed one (1) free-standing sign and each business within the structure one (1) facade sign announcing the establishments located in the structure. These signs shall be sized as follows:
  - 1. The free-standing sign shall not exceed sixteen (16) square feet in area and shall be located on the lot of the relevant structure.
  - 2. The facade sign shall not exceed in area ten percent (10%) of the gross facade area of the facade to which it is mounted, or 100 square feet, whichever is less.

1970.7 Signs in the Village Center District.

- A. The following standards shall apply to free-standing commercial structures not sharing entry and parking facilities with other commercial structures:
1. Each primary structure used for commercial uses shall be allowed one (1) free-standing sign not to exceed sixteen (16) square feet in area.
  2. Each commercial unit in a structure may have one (1) facade sign, not to exceed ten percent (10%) of the facade area of the facade to which it is mounted or sixteen (16) square feet, whichever is less.

B. The following standards shall apply to Commercial and Mixed Use Planned Unit Developments and Shopping Plazas and Commercial Structures Sharing Entry and Parking Facilities:

2. Each Commercial Planned Unit Development, Mixed Use Planned Unit Development, governmental complex, and Shopping Plaza Sharing Entry and Parking Facilities in the Village Center District shall be allowed a single free-standing sign located near the principal entrance. In addition, each primary structure or self contained unit not directly accessible from another unit in the Planned Unit Development, governmental complex, or shopping plaza may have one (1) facade sign. The maximum allowable area for these signs shall be as follows:
  - a. Free-standing signs: A Commercial Planned Unit Development/ Shopping Plaza/ Commercial Structure/governmental complex Sharing Entry and Parking Facilities shall be allowed a sixteen (16) square foot sign regardless of the number of units in the development. The maximum allowable area for a free-standing sign in a development with more than six (6) units shall be four (4) square feet in area for each unit, providing that the maximum allowable area shall not exceed thirty-two (32) square feet. The provisions of section 1970.1B.6. notwithstanding, any such free standing sign shall be allowed any add on signs.
  - b. Facade signs: The maximum allowable area for the facade sign shall be ten percent (10%) of the gross facade area of the facade to which the sign is mounted, or 600 square feet, whichever is less
  
2. When all stores in a commercial Planned Unit Development or shopping plaza or units in a governmental complex do not face a common parking lot, a commercial PUD, governmental complex, or commercial plaza may erect a store/unit directory sign, or series of small signs not to exceed two (2) square feet in area each, in a suitable location to be read by pedestrians within the PUD, governmental complex, or plaza. In the case of a large center with more than one entrance, additional directories may be allowed at the discretion of the Development Review Board upon proper application.

1970.8 Signs in Residential Districts (RES, VRES).

- A. Business establishments other than home occupations in the Residential and Village Residential Districts shall be allowed one (1) free-standing sign or one (1) facade mounted sign announcing the business. Such sign shall not exceed ten (10) square feet in area. Any sign larger than four (4) square feet shall require conditional use approval by the Development Review Board.
- B. Signs in Continuing Care Retirement Communities. Each Continuing Care Retirement Community in the Residential District will be allowed one (1) freestanding sign, not to exceed thirty-two (32) square feet in area, announcing the total development and located near the principal entrance to the development. In addition, each structure in the development will be allowed one (1) free-standing sign and each business within the structure one (1) facade sign announcing the establishments located in the structure. These signs shall be sized as follows:
  - 1. The free-standing sign shall not exceed sixteen (16) square feet in area and shall be located on the lot of the relevant structure.
  - 2. The facade sign shall not exceed in area ten percent (10%) of the gross facade area of the facade to which it is mounted, or 100 square feet, whichever is less.

1970.9 Signs in the Mixed Use District.

- A. Commercial Planned Unit Developments and Shopping Plazas and Commercial Structures Sharing Entry and Parking Facilities. Each commercial Planned Unit Development in the Mixed Use District shall be allowed a single free-standing sign located near the principal entrance. In addition, each primary structure or self contained unit not directly accessible from another unit in the Planned Unit Development or shopping plaza may have one (1) facade sign. The maximum allowable area for these signs shall be as follows.
  - 1. Free-standing signs: A Commercial Planned Unit Development/ Shopping Plaza/ Commercial Structure Sharing Entry and Parking Facilities shall be allowed a twenty-five (25) square foot sign regardless of the number of units in the development. The maximum allowable area for a free-standing sign in a development with more than six (6) units shall be four (4) square feet in area for each unit, providing that the maximum allowable area shall not exceed fifty (50) square feet.  
Facade signs: The maximum allowable area for the facade sign shall be ten percent (10%) of the gross facade area of the facade to which the sign is mounted, or 100 square feet, whichever is less.

- B. When all stores in a commercial Planned Unit Development or shopping plaza do not face a common parking lot, a commercial PUD or plaza may erect a store directory sign, or series of small signs not to exceed two (2) square feet in area each, in a suitable location to be read by pedestrians within the PUD or plaza. In the case of a large center with more than one entrance, additional directories may be allowed at the discretion of the Development Review Board upon proper application.
- C. Free-standing commercial structures, motels, restaurants, etc. not sharing entry and parking facilities with other commercial structures shall be allowed one (1) free-standing sign, not to exceed twenty-five (25) square feet in area, and one (1) facade sign, not to exceed ten percent (10%) of the gross facade area to which it is mounted, or 100 square feet, whichever is less.

1970.10 Signs in the Commerce and Industry and Commerce and Industry South Districts.

- A. Manufacturing Planned Unit Developments and Other Manufacturing Structures Sharing Entry and Parking Facilities, or Commercial/Industrial Parks Sharing a Single Access Road to the Park. Each Planned Unit Development, manufacturing complex or commercial/industrial park in the Commerce and Industry and Commerce and Industry South Districts shall be allowed a single free-standing sign, not to exceed thirty-two (32) square feet in area, located near the principal entrance. In addition, each structure in the development or complex shall be allowed one (1) free-standing sign and each unit one (1) facade sign announcing the establishment(s) located in that structure or unit. These signs shall be oriented toward the development's access road, and not toward Route 7, and shall be sized as follows:
  - 1. The free-standing sign shall not exceed sixteen (16) square feet in area and shall be located on the lot of the relevant structure.
  - 2. The facade sign shall not exceed in area ten percent (10%) of the gross facade area of the facade to which it is mounted, or 100 square feet, whichever is less.
- B. Free-standing Commercial and Industrial Structures. Free-standing commercial and industrial structures not sharing entry and parking facilities with other commercial or industrial structures shall be allowed one (1) free-standing sign, not to exceed twenty-five (25) square feet in area, and one (1) facade sign, not to exceed in area ten percent (10%) of the gross facade area of the facade to which it is mounted, or 100 square feet, whichever is less.

1970.11 Signs in the Village Institutional/Museum and Shelburne Falls Districts.

- A. Free-standing signs: Parcels in separate and non-affiliated ownership used for commercial, business, nonprofit, institutional, or other non-residential uses shall be allowed one (1) free-standing sign not to exceed sixteen (16) square feet in area, except that properties with more than one thousand (1,000) feet of frontage on Route 7 existing as of January 31, 2007 shall be allowed an additional square foot area for each one hundred (100) feet of frontage over one thousand (1,000) feet, up to a maximum of 40 square feet.
- B. Facade signs: Each primary structure on a lot, up to a maximum of three such structures, may have one (1) facade sign, not to exceed ten percent (10%) of the facade area of the facade to which it is mounted or sixteen (16) square feet, whichever is less.

1970.12 No Permit required.

The following signs may be displayed without a permit so long as they are not internally illuminated. The area of such signs shall not be counted when determining the area requirements of other signs permitted under this bylaw.

- A. Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- B. Flags of any government;
- C. Legal notices, identification, informational, warning or directional signs displayed in accordance with governmental regulations or requirements;
- D. Historic markers authorized by the Shelburne Historic Preservation and Design Review Commission;
- E. Integral decorative or architectural features of buildings; memorial signs or tablets denoting the names of buildings and dates of erection when cut into the masonry or constructed of bronze or other nonflammable material and attached to the wall;
- F. Signs for the direction, instruction or convenience of the public including signs which identify rest rooms, public telephones, automated teller machines, and signs directing and guiding traffic and parking on private property providing they do not exceed two (2) square feet, are not located within the right-of-way, and bear no appendages. (Exceptions may be allowed by the Vermont Agency of Transportation for State right-of-way or by the Shelburne Department of Public Works for Town right-of-way providing that the sign does not obstruct, obscure or interfere with other traffic

- control devises);
- G. Barber poles with a maximum dimension of less than thirty (30) inches.
  - H. "For sale" or "for rent" signs and signs of a similar nature not exceeding six (6) square feet located on lots that are for sale or on lots where there are premises being offered for sale or lease. Such signs shall not exceed one per structure or per street lot frontage and shall be removed immediately upon sale or lease of the lot or premises;
  - I. In the Residential, Village Residential, and Rural Districts, one decorative, "Open" or "Welcome" flag per lot on which there is no other wording, not to exceed fifteen (15) square feet in area;
  - J. In the Mixed Use, Commerce and Industry, Commerce and Industry South, Village Center, Shelburne Falls, and Institutional /Museum, one "Open" or "Welcome" flag on which there is no other wording. Such signs shall not exceed fifteen (15) square feet in area;
  - K. In the Mixed Use, Commerce and Industry, Commerce and Industry South, Village Center, Shelburne Falls, and Institutional /Museum Districts, a maximum of one decorative flag per twenty-five (25) linear feet of building façade. Such flags shall bear no commercial symbol or message and shall not exceed fifteen (15) square feet in area each. If a business has a façade less than twenty-five (25) feet, one decorative flag is allowed;
  - L. Signs announcing garage, yard, porch, etc. sales as defined in Section 1940.2 above, shall be allowed. Such signs shall be located on the property where the sale is being held, and no more than two (2) such signs shall be displayed on any single property. Such signs shall not exceed six (6) square feet in area, shall not be displayed more than forty-eight (48) hours prior to the time of the sale, and shall be removed by the operator of the sale within twenty-four (24) hours of the termination of the sale;
  - M. Bulletin boards for public use located on the property of schools, churches, community centers, or neighborhood commercial facilities and not exceeding thirty-two (32) square feet;
  - N. One identifying sign attached to each bin or dispenser containing items for sale (ice, newspapers, etc.);
  - O. Interior window signs which do not exceed the following percentages of the total window area on the façade and story where they are displayed (or, if the business occupies only a portion of the building, of the window area for the space occupied by the business):
    - 1. Permanent window signs: 20% ;
    - 2. All window signs (permanent plus temporary): 50%;
  - P. In the Village Center and Mixed Use zoning districts, awning lettering not to exceed six (6) inches per letter and located on the

lower edge or fringe of an awning, displaying one time the name of the business. In addition, any street number may be expressed twice in numeral form. Any other lettering or graphics of any size will constitute a sign and requires a permit;

- Q. Signs less than twelve (12) square feet in area advertising political parties and/or candidates shall be permitted on private property without permit;
- R. In the Village Center, Shelburne Falls, Institutional/Museum, Commerce and Industry South zoning districts, and in that portion of the Residential Zoning district south of the intersection of Marssett Road, Bostwick Road, and US 7 small portable signs, including sidewalk or “sandwich board” signs. To be exempt from permitting requirements, such signs must meet the following standards:
  - 1. not to exceed one sign per business, except in the Commerce and Industry South and in that portion of the Residential Zoning district south of the intersection of Marssett Road, Bostwick Road and US 7 where the standard shall be not to exceed one sign per parcel;
  - 2. no wider than twenty-six (26) inches;
  - 3. no taller than forty-eight (48) inches;
  - 4. not located within a public right-of-way, except in the area between the outside edge of the right-of-way and any sidewalk; and where there is no sidewalk, such sign may be located at the outside edge of the right-of-way.
  - 5. placed so that they do not block pedestrian and vehicular traffic or create a public hazard; and
  - 6. to be maintained in good repair and taken in at night.
- S. Menu signs for restaurants (attached) provided they do not exceed six (6) square feet;
- T. Street banners for a community-wide campaign, drive or event of a non-profit, civic, philanthropic, religious or arts organization may be displayed within the public right-of-way, not to exceed one-hundred twenty-eight (128) square feet and may be displayed for up to two weeks. Street banners require sign off from the Department of Public Works prior to the being displayed;
- U. Directional signs, subject to regulations adopted by the Federal Highway Administration, with a total surface area not to exceed four square feet providing directions to places of business offering for sale agricultural products harvested on the premises where the sale is taking place.

1970.13 Sign Permits and Administration.

- A. Any person desiring to erect, install, replace, construct, alter, or move a sign subject to these bylaws shall, prior to doing so, obtain a sign permit from the Zoning Administrator or his/her designated

alternate.

- B. Enforcement of Section 1970.3 may occur pursuant to this bylaw and/or the Shelburne Temporary Sign Ordinance.

## 1975 Outdoor Lighting.

1975.1 Purpose. The residents of Shelburne value the Town's rural qualities, including the relative absence of artificial lighting in much of the Town's area. They also recognize that inappropriate and poorly designed or installed exterior lighting, particularly in commercial areas, causes unsafe and unpleasant conditions. To ensure appropriate lighting in those portions of the Town where lighting is necessary, while minimizing the undesirable side effects, the following regulations are established.

1975.2 General Requirements. The installation of outdoor lighting fixtures shall constitute land development and be governed as follows:

- A. Fixture Design - Except where alternatives are specifically allowed below, any lighting fixture generating more than 1750 initial lumens (equivalent to a 100 watt incandescent bulb) shall be fully shielded or full cutoff fixtures. Full cutoff and fully shielded fixtures must be mounted and maintained so that they are level horizontally.
- B. Fixture Placement – All building mounted luminaires must be located below the roof line.
- C. Permitting - Town approval shall be required prior to the installation of outdoor lighting on residential and non-residential properties, subject to the following.
  - 1. Residential outdoor lighting permit. On properties in Single-Family or Two-Family residential use, an outdoor lighting permit shall be required prior to installation of either of the following:
    - a. four or more outdoor lighting fixtures, any of which generate 1750 or more initial lumens;
    - b. overhead lighting of private tennis courts, pools, or other outdoor areas.
  - 2. Non- Residential outdoor lighting permit. On properties in Multi-Family residential or Non- residential use, an outdoor lighting permit shall be required prior to installation of either of the following:

- a. two or more outdoor lighting fixtures, either of which generates 1750 or more initial lumens;
  - b. overhead lighting of shared tennis courts, pools, or other outdoor areas occupying less than 10,000 square feet.
3. High impact lighting review. Site Plan review under Section 1900 and evaluation of a lighting Plan approved pursuant to Section 1975.19 shall be required prior to the issuance of an outdoor lighting permit for the following:
- a. New multi-family residential or non-residential development incorporating four or more outdoor lighting fixtures, any of which generate 1750 or more initial lumens, or involving overhead lighting of shared tennis courts, pools, or other outdoor areas occupying more than 10,000 square feet;
  - b. Modification of existing multi-family residential or non-residential development involving either: replacement of 25 percent or more of the total lumens of the existing outdoor lighting fixtures; or installation of new lighting fixtures equal to 25 percent or more of existing outdoor lighting fixtures.
- D. Period style fixtures. The lighting design for an area may suggest the use of fixtures of a particular “period” design or architectural style.
1. If such fixtures are not fully shielded or do not meet full cut-off light distribution standards the maximum initial lumens generated by each fixture shall not exceed 1,750 (equivalent to a 100 watt incandescent bulb).
  2. Such fixtures may require partial shielding to reduce glare.
  3. Mounting heights of such fixtures shall not exceed fifteen (15) feet.
  4. Illumination levels must meet the requirements set forth in the Table 1 below; illumination levels must also meet light trespass levels shown in Section 1975.4 (D).
- E. Lamp type. Lighting fixtures other than street lights located within rights-of-way subject to the Town’s Public Works Specifications shall not be fitted with mercury vapor or low pressure sodium lamps. All lamps shall have a Color Rendering Index (CRI) of 60 or higher, except in Lighting District 4, where lamps shall have a (CRI) of 25 or higher.
- F. Illumination measurement. Actual or estimated illumination levels shall be measured horizontally at ground level unless otherwise specified in these regulations.

- G. Applicable standards. Lighting fixtures installed before March 17, 2009 remain subject to the zoning bylaw requirements at the time of installation, however when modified or replaced, they must meet the zoning bylaw requirements applicable at that time.

1975.3 Lighting Districts. For the purpose of this Section, the Zoning Districts established in this Bylaw shall be grouped into lighting districts as follows:

- A. Lighting District 1 consists of the Commerce and Industry, Commerce and Industry South, and Mixed Use Districts.
- B. Lighting District 2 consists of the Residential and Village Residential Districts.
- C. Lighting District 3 consists of the Village Center, Shelburne Falls Mixed Use, and Institutional/Museum Districts.
- D. Lighting District 4 consists of the Rural, Lakeshore Overlay and Conservation Districts.

1975.4 Control of Light Trespass and Glare. Light trespass and glare shall be regulated as follows:

- A. Any outdoor lighting fixture generating more than 1750 lumens that is required to be fully shielded or full cutoff and, due to topography or mounting elevation, has its' direct light source visible at a distance outside the lot line or over Lake Champlain greater than 6 times its height ( $6xH$ ) shall be fitted with appropriate shields to eliminate view of the direct light source. It shall also meet all applicable requirements stated below.
- B. Any light fixture generating more than 1750 initial lumens whose distance from a lot line or Lake Champlain is less than three times its mounted height ( $3xH$ ) shall be shielded so that all direct light cast in the direction of streets, abutting lots that are in Residential or Conservation use, or Lake Champlain, is cut off at an angle no more than 70 degrees measured from a vertical line drawn from the luminaire to a point directly below the lighting fixture. This requirement shall apply to all sides of the lighting fixture that emit light toward a lot line or Lake Champlain that is less than  $3xH$  away from the lighting fixture. The cut-off may be accomplished either by lighting fixture photometric properties, or by a supplementary external shield.
- C. Additional shields that are installed to control light trespass and glare as required herein shall be designed so that the parts of the shields that are exposed to the direct light of the lighting fixture and visible from streets, Lake Champlain, or abutting lots that are in Residential or Conservation use, shall have a flat-black, low- reflectivity finish.
- D. Lighting fixtures shall be shielded so that light trespass onto streets is

less than 0.8 fc, and light trespass onto abutting lots that are in Residential or Conservation use (including such lots abutting on the opposite side of a street) is less than 0.02 fc. Measurement shall be made with a photometer placed horizontally on the ground at points at the lot lines. A Lighting Plan prepared pursuant to Section 1975.19 shall include calculations demonstrating that this light trespass criterion will be met.

- E. Lighting fixtures installed on one lot and that illuminate another lot, or installed in a street, railroad, utility, or other right-of-way to illuminate an adjacent lot are subject to the requirements stated above. In addition to the above, lighting fixtures installed on utility poles within a street or roadway right-of-way are limited to 28,200 initial lumens.
- F. No single lighting fixture shall employ a lamp or lamps exceeding a total of 50,000 initial lumens.
- G. Strobe and flashing lights, and laser illumination, are prohibited except as allowed under Section 1975.21 (Exemptions).

1975.5 Hours of Operation. Hours of Operation shall be regulated as follows:

- A. All non-residential outdoor lighting , with the exception of streetlights and safety or security lighting as defined herein, may be turned on no earlier than one hour before business hours and shall be turned off no later than 11 PM or one half an hour after close of business, whichever is later.
  - 1. Business hours, as used here, is defined as the period of time during which at least one person is present for the purpose of conducting or concluding business on the lot or in a structure on the lot.
  - 2. Safety lighting, as used here, is defined as lighting to safeguard the movement of persons by foot or by non-motorized vehicles or by vehicles for disabled persons over hazardous footing or in areas that conflict with vehicle traffic, or lighting for the purpose of aiding the visible detection and recognition of other persons. Safety lighting includes lighting for stairs, pedestrian ramps and tunnels, and pedestrian routes that are reasonably expected to be used after business hours
  - 3. Security lighting, as used here, is defined as lighting to protect buildings and property stored outdoors.
- B. Lighting controlled by motion detectors or infrared sensors with an on-time of no more than 10 minutes per activation is exempt from the hours-of-operation restriction. The motion detector shall be adjusted so that normal movement of vehicles and traffic along a street or public right-of-way or small animals shall not cause its activation.
- C. Lighting of recreational facilities must be turned off no later than one half-hour after the end of use.
- D. Lighting of the United States Flag and public monuments is exempt from

these hours of operation provisions.

1975.6 Parking Lot Lighting. Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets in excess of the requirements in 1975.4 (d) above.

- A. In Lighting District 4, parking areas shall not be illuminated unless there is clear hazard to be illuminated.
- B. Parking lot lighting fixtures not specifically designated as safety or security lighting under Section 1975.5 A-2 or 1975.5 A-3 shall be turned off no more than one hour after the close of business.
- C. Parking area illumination standards for the various districts are as shown in the Table 1. Illumination levels are to be measured in footcandles at grade level. The average illumination level is to be computed for the area of the parking lot only.

Table 1. Parking Area Lighting Standards

	Lighting District			
	1 Commerce and Industry, Commerce and Industry South, and Mixed Use Districts	2 Residential and Village Residential Districts	3 Village Center, Shelburne Falls Mixed Use, and Institutional/Museum Districts	4 Rural, Lakeshore Overlay and Conservation Districts
Max. Mounting Height (feet)	25	20	20	20
Maximum Average Illumination Level (foot candles)*	1.0	0.8	0.8	0.5
Minimum illumination level (foot candles)	0.25	0.2	0.2	0.13
Maximum Uniformity ratio (maximum to minimum)	20:1	20:1	20:1	20:1
Minimum Color Rendering Index	60	60	60	25

\*The average shall be measured horizontally at grade level, computed over the area of the parking lot.

1975.7 Lighting of Convenience Store Aprons and Canopies. Lighting of convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in such locations.

- A. Areas on the apron shall be considered to be parking areas, and illumination shall meet the standards set forth in Section 1975.6.
- B. Lighting of areas under canopies shall meet the following standards
  - 1. The minimum illumination level shall be not less than 2.0 footcandles and the maximum illumination level shall be not more than 10.0 footcandles.
  - 2. Light fixtures mounted under a canopy shall be recessed so that the lens cover is recessed into or flush with the underside (ceiling) of the canopy, must be shielded by the fascia of the canopy so that light cannot be directed above an angle of 85 degrees from vertical.
  - 3. No light fixtures may be mounted on the top of the canopy, and the sides of the canopy (fascia) shall be opaque and shall not be illuminated.

1975.8 Lighting of Exterior Sales/Display Areas. Illuminating levels on exterior sales/display areas shall be adequate for the activities taking place in such locations, and shall not be used to attract attention to the activity. Areas to be used as exterior sales/display as opposed to passive storage or parking shall be identified on the site plan for the property.

- A. Areas used for passive storage or parking shall be illuminated in accordance with sections 1975.5 and 1975.6 of these Regulations.
- B. Areas designated for exterior display or sales shall have an average horizontal illumination level at grade level of no more than 5.0 footcandles and a maximum horizontal illumination at grade level of no more than 20 footcandles.
- C. The average illumination level shall be computed only for the area used for vehicle display or customer sales.
- D. Exterior sales/display areas may be illuminated only when the establishment is open for business, except for lighting approved as security lighting in accordance with section 1975.9 of these regulations.

1975.9 Security Lighting. Any proposed security lighting must be a part of a security lighting plan for a property. The security lighting plan must address illumination needs as well as surveillance and security response, and must clearly delineate areas to be illuminated for security purposes. To the extent that the designated area is illuminated for other purposes, independent security lighting is discouraged.

- A. All applications for approval of security lighting shall include a written security plan demonstrating the need for and purposes of security lighting, and a site plan showing the area to be illuminated for security purposes and the location of all security lighting fixtures.
- B. All security lighting fixtures shall be shielded and aimed so that illumination is directed only toward the designated area to be illuminated. In no case shall illumination be directed above a horizontal plane. All fixtures shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general purpose floodlighting fixtures is prohibited.
- C. Security lighting may illuminate vertical surfaces up to a level eight (8) feet above grade or eight (8) feet above the bottoms of doorways or entries, whichever is greater.
- D. Security lighting fixtures may be mounted on poles located no more than ten (10) feet from the perimeter of the designated area being illuminated.
- E. Security lighting designed to illuminate a perimeter (such as a fence) shall include motion sensors and be designed to be off unless triggered by an activity located within five (5) feet of the perimeter.
- F. Security lighting in Lighting Districts 2 & 4 shall be allowed only if unusual hazardous conditions make it necessary. In such cases, indirect and reflected lighting techniques shall be used and all fixtures shall be shielded so that the light source or lens is not visible from adjacent properties or streets.
- G. Security lighting shall meet the standards specified below and in Table 2 following:
  - 1. The average illumination level of ground level areas shall be measured horizontally at grade level, and computed over the area designated as being illuminated in the security plan.
  - 2. The average illumination level of vertical surfaces shall be measured at a height of 5 feet above grade, and computed over the area of the surface designated to be illuminated in the security plan.

Table 2. Security Lighting Standards

	Lighting District			
	1	2	3	4
	Commerce and Industry, Commerce and Industry South, and Mixed Use Districts	Residential and Village Residential Districts  Discouraged +	Village Center, Shelburne Falls Mixed Use, and Institutional/Museum Districts	Rural, Lakeshore Overlay and Conservation Districts  Discouraged +
Max. Mounting Height (feet)	25	20	15	20
Maximum Average Horizontal Illumination Level at ground level (foot candles)*	1.5	0.5	1.0	0.5
Maximum Average Vertical Illumination Level at 5' above grade (foot candles)**	1.5	0.5	1.0	0.5

\*The average shall be measured horizontally at grade level, computed over the area designated in the security plan as needing illumination.

\*\*The average shall be measured vertically at the designated height, and, computed over the area designated in the security plan as needing illumination.

+ Dusk to dawn security lighting is discouraged in these districts unless specifically permitted as part of permit approval.

1975.10 Illuminated Signs. Illuminated signs shall meet the requirements set forth in the Signs section 1970.1 D of these Regulations.

1975.11 Street Lighting. Lighting proposed for rights of way and other areas subject to the Town's Public Works Specifications shall meet the standards set forth in the Town's Public Works Specifications.

1975.12 Walkway Lighting. In some cases walkways not illuminated by nearby street lighting may be illuminated. In such cases, the lighting shall meet the following standards.

- A. The average illumination level on a walkway or pathway surface not to exceed 0.5 footcandles, measured horizontally at grade level and an average to minimum uniformity ratio of 4:1.
- B. The area over which the average illumination level is computed shall include the walkway surface plus an area on each side not more than three (3) feet in width.
- C. Lighting fixtures other than fully shielded or full cut-off fixtures may be used but shall be designed to meet cutoff light distribution requirements to direct illumination downward, and light fixtures shall have an initial output of no more than 1,750 lumens (100 Watts Incandescent). Partial shielding may be required to reduce glare.

1975.13 Lighting of Building Facades. Low level illumination of building facades behind and beneath covered walkways may be allowed in all districts. In all districts, parts of buildings may be illuminated only if they have historic, cultural or aesthetic significance (e.g. steeples, bell towers, and clock towers). Facade lighting shall meet the following requirements:

- A. The maximum illumination level on any vertical surface or angular roof surface shall not exceed 2.5 footcandles.
- B. If a first floor walkway is illuminated by lights mounted under a canopy sheltering a walkway, the average horizontal illumination of the walkways shall not exceed 0.5 footcandles at grade level. External building entries and associated stairways may be illuminated in excess of the walkway limit, but not greater than the minimums recommended by the IESNA.
- C. Light fixtures under transparent or translucent (i.e. fabric, plastic or glass) canopies shall be shielded so that illumination is not directed to the underside of the canopy.
- D. Downward directed lighting is preferred. Ground mounted fixtures or fixtures pointing upward must be positioned and shielded so that direct light is confined to the feature that is intended to be lighted.
- E. Lighting fixtures shall be shielded so that the light source and/or lens is not visible from adjacent properties or streets.
- F. All façade lighting shall be subject to Section 1975.5, Hours of Operation.

1975.14 Outdoor Work Site Lighting. In some cases it may be appropriate to illuminate outdoor work sites to enable night time work. Requirements of Section 1975.2 above notwithstanding, illumination of outdoor work sites may be approved by the Zoning Administrator as a part of issuance of a Zoning Permit. With the exception of temporary lighting for emergency repairs (which shall not require prior approval), illumination of work sites shall meet the following requirements:

- A. The lighting shall be installed to illuminate the actual work site and as little of the surrounding area as possible.
- B. Lighting fixtures shall not be aimed towards adjacent or nearby streets.
- C. Lighting fixtures shall be aimed and/or shielded so that light is not directed above a horizontal plane.
- D. The lighting shall be turned on not more than thirty (30) minutes before work is to start, and turned off no more than thirty (30) minutes after work is completed.

1975.15 Flag Illumination. It is encouraged that flags be taken down at sunset to avoid the need for lighting. Upward lighting is permitted only for governmental flags. Lighting is restricted to a single spotlight of 1300 lumens maximum, shielded so that the light source is not visible from abutting properties or roadways.

1975.16 Tower Illumination. Required night lighting of cell phone or other towers shall be by red lights unless specific Federal Aviation Agency requirements dictate alternative lighting.

1975.17 Lakeshore Lighting Standards. Lakeshore lighting standards shall apply in all areas falling within the Lakeshore Overlay District and are designed to allow modest illumination of lakeshore areas and facilities while preserving night-time views from the lake and minimizing the disruptive effect of glare on boat navigation. In addition to lighting standards applicable to the underlying districts, the following shall apply to non-commercial facilities.

- A. Flashing lights, flood lights and lights colored red or green are prohibited.
- B. Paragraph a) notwithstanding, incandescent flood or spot lamps of up to 100 watts (1750 lumens) may be installed, provided that they shall be shielded so that there is no direct view of the light source from the lake and do not cast direct illumination on adjacent properties or roads.
- C. Lights on docks or piers shall be no more than three (3) feet above the dock or pier, shall be downward directed, and shall be no more than 40 watts incandescent, or equivalent.
- D. Lights illuminating paths, stairs, decks, etc., shall be shielded so that there is no direct view of the light source from the lake, and shall be no more than 100 watts incandescent, or equivalent.

1975.18 Lighting Plan. A Lighting Plan shall be included in all applications for an outdoor lighting permit subject to 1975.2.C-3 (High impact lighting review).

- A. The lighting plan shall be prepared by a qualified professional and certified to be valid and correct by its designer.

- B. The Lighting Plan shall contain the following components:
1. A site plan showing the area to be illuminated and the location of all lighting fixtures which will be used (new and old) and their mounting heights.
  2. A point by point analysis of anticipated illumination levels (on a grid of no more than 10' by 10') in the area to be illuminated based on use of the proposed fixtures, lamps, and mounting heights.
  3. Specifications of the fixtures to be used, including documentation of cut-off classification, horizontal and vertical light distribution patterns, and the lamp to be used in each.
  4. The maximum, minimum and average illumination levels shall be shown for each area illuminated.
  5. If vertical surfaces are to be illuminated, a point by point distribution of vertical illumination levels shall be provided, along with an indication of the maximum illumination level to be generated.
  6. The lighting plan shall incorporate any required power limits contained in the Vermont Guidelines for Energy Efficient Commercial Construction.

1975.19 Lighting Plan Conformity. Submission and subsequent approval of a lighting plan does not relieve the applicant of responsibility to demonstrate conformity to the lighting requirements of this bylaw. The designer shall submit an as-built plan that accurately reflects the installation, and shall certify that the installation conforms to the requirements of this Bylaw.

1975.20 Exemptions. The following lighting shall be exempt from the standards of this Bylaw:

- A. Seasonal Holiday Lighting: Temporary seasonal holiday lighting may be displayed at residential and commercial properties, provided that the following conditions are met:
1. Seasonal holiday lighting may not be moving or otherwise animated to the point of being distracting to motorists.
  2. Seasonal holiday lighting may be displayed only for a reasonable period (30 days) before and after the holiday with which the lighting is associated.
- B. Emergency lighting such as used by the Police, Fire Department, or other official or utility emergency personnel. Placement of longer-term emergency lighting shall, to the largest extent possible, take into consideration the detrimental effects of glare on passing motorists and pedestrians, and on residential lots.
- C. Lighting during special events such as fairs, celebrations, or concerts sponsored by the Town of Shelburne or authorized by the Shelburne

Selectboard. Lighting for short term festivals and carnivals is exempt but should be in keeping with the intent of this Bylaw.

- D. Warning and alarm lights that alert to a malfunction or emergency situation.

## 1980                    **Miscellaneous Provisions.**

- 1980.1    Required Frontage and Approved Access. No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the Development Review Board under the provisions of the Shelburne Subdivision bylaw, access to such a road or waters by permanent easement or right-of-way at least twenty (20) feet in width.
  
- 1980.2    Existing Small Lots. Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on March 17, 20009, and thereafter, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than 1/8th acre in area with a minimum width or depth dimension of forty (40) feet.
  - A. Contiguous lots which do not conform to dimensional requirements at the time that they come into common ownership shall merge.
  - B. Contiguous lots which conform to dimensional requirements at the time they come into common ownership shall not merge, unless such merger is approved by the Development Review Board per the Shelburne Subdivision bylaw.
  - C. Notwithstanding subsection a above, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:
    - 1. The lots are conveyed in their preexisting, nonconforming configuration, or in a configuration authorized as a result of error by the administrative officer.
    - 2. On the effective date of any bylaw rendering a lot non-conforming, each lot was developed with a water supply and wastewater disposal system.
    - 3. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
    - iv. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.
  
- 1980.3    Principal Structure. There shall be only one principal building or

structure on a lot except in PUD projects where the Development Review Board may approve multiple structures on commonly owned land.

- 1980.4 Reduction of Lot Size. No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage, or other requirements of these regulations shall be smaller than herein proscribed for each district.
- 1980.5 Underground Utilities.
- A. All utilities must be placed underground within planned transportation corridors or other locations approved by the Development Review Board, subject to approval by the Selectboard or the Vermont Agency of Transportation.
  - B. All structures or dwellings in a development must be serviced by underground facilities for all utilities.
- 1980.6 Exceptions to Setbacks.
- A. A structure providing conveyance and/or containing equipment constructed solely to provide access for the disabled to a residence or other building existing as of July 21, 2005 shall be exempt from setback provisions provided that:
    - 1. A licensed design professional certifies that no reasonable alternative is available and the encroachment is the minimum necessary to provide such access;
    - 2. The structure is not less than five feet from side/rear property lines; and
    - 3. The structure is not less than 15 feet from the front property line or, where a lot is crossed by an access easement or right of way, from the closest edge such easement or right of way.
  - B. A structure providing conveyance and/or containing equipment constructed solely to provide access for the disabled to a residence or other building existing as of July 21, 2005 may observe setbacks less than those specified in 1980.6 A. 2 and 1980.6 A. 3<sup>1</sup> above provided:
    - 1. A licensed design professional certifies that no reasonable alternative is available and the encroachment is the minimum necessary to provide such access, and
    - 2. The applicant receives conditional use approval of the Development Review Board under Section 1910.

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<sup>1</sup> [NB: Previous references to b) and c) corrected following reformatting of document]

- C. Fences may be placed within yard setbacks provided that sight lines onto roads and drives remain unobstructed.
- D. Bus shelters may be placed within the required yard setbacks. Bus shelters shall be reviewed by the Development Review Board under the site plan standards of Section 1900.
- E. Docks and lakeshore stairs may be placed within side yard setbacks provided:
  - 1. A licensed design professional certifies that no reasonable alternative is available and the encroachment is the minimum necessary to serve the intended function, and
  - 2. The applicant receives conditional use approval of the Development Review Board under Section 1910.
- F. Landscaping may be placed within yard setbacks provided that sight lines onto roads and drives remain unobstructed.
- G. Shared driveways provided that sight lines onto roads and drives remain unobstructed. For the purpose of this paragraph, a shared driveway is defined as a driveway located along and/or on the boundary between two adjoining properties, from the public way to which it is attached to the point at which it serves only one property, and providing vehicular access to those properties.
- H. Individual (non-shared) driveways provided that sight lines onto roads and drives remain unobstructed and, further, provided that such driveways are located no less than 5 feet from the nearest side or rear property line.

1980.7 Temporary Outdoor Display of Merchandise.

- A. No display of merchandise, including temporary sales events, shall be allowed in any front yard within the Mixed Use, Village Center, Shelburne Falls Mixed Use, or Institutional Museum Districts without first obtaining a temporary display permit from the Administrative Officer.
- B. No temporary display shall be placed in such a way that impedes traffic or circulation, or which reduces sight lines onto roads or drives.
- C. Businesses in the above listed districts shall be allowed temporary display permits in lieu of temporary sign permits, under the same requirements and limitations on total number of days, as specified under Section 1970.3 of this bylaw.
- D. The following merchandise which is traditionally displayed outdoors is permitted without a temporary display permit,

providing that the display is accessory to an existing business and the merchandise is displayed in a neat fashion which does not obstruct parking areas, pedestrian or vehicular access, or sight lines:

1. Lawn and garden equipment and supplies.
2. Large recreational equipment for sale or rent, including water craft, bicycles, etc.
3. Motor vehicles.
4. Outdoor furniture.

1980.8 Accessory Vehicle Sales. Residential lots and nonresidential lots without conditional use approval for vehicle sales may display a motor vehicle, recreational vehicle or trailered boat for sale subject to the following conditions:

- A. The vehicle shall be owned by the occupant of the property on which it is displayed;
- B. No more than one (1) vehicle shall be displayed per nonresidential or residential lot, and
- C. The vehicle shall be displayed in an area designated for vehicle use. A nonresidential lot is limited to display in a parking space and a residential lot is limited to display in the driveway.

1980.9 Motor vehicle trailers as structures; and Portable Storage Containers as structures.

- A. Motor vehicle trailers, including tractor trailers that are not hitched to a currently registered truck and which are not registered in Vermont or another state, shall be considered a structure and require a permit unless:
  1. Explicitly authorized as part of an approval granted pursuant to sections 1900 (Site Plan Review) or 1910 (Conditional Uses) of these Zoning Bylaws;
  2. Used in conjunction with construction activities authorized by a Town of Shelburne Zoning permit, so long as such use occurs only during the period during which such Zoning permit remains in effect; or
  3. Otherwise exempt.
- B. Portable Storage Containers shall be considered a structure under these bylaws and shall require a permit unless:
  1. Explicitly authorized as part of an approval granted pursuant to sections 1900 or 1910 of these zoning bylaws; or
  2. Used in conjunction with construction activities authorized by a Town of Shelburne zoning permit, so long as such use occurs only during the period during which such zoning permit remains in effect; or

3. Located on a single family residential property for fewer than six months, and have a cumulative area of less than 160 square feet. Such containers located on a single family residential property for more than six months shall require a permit.
4. Otherwise exempt.

1980.10 Retaining Walls.

- A. Except where further restricted elsewhere in this bylaw, no retaining wall shall exceed twelve (12) feet in height at any point.
- B. Terracing of retaining walls is allowed. In a terraced retaining wall system, if two (2) retaining walls are separated by a distance at least one times (1x) the height of the higher of the two (2) walls, the walls shall be considered as separate walls; if two (2) retaining walls are separated by a distance less than one times (1x) the height of the higher of the two (2) walls, the walls shall be considered as a single wall.
- C. Retaining walls greater than four (4) feet in height shall not be located within ten feet of a property line, with the exception that portions of such walls which measure four (4) feet in height or less than four (4) feet shall not be subject to this requirement.
- D. In areas zero to two (2) feet from a property line, retaining walls two (2) feet high are allowed, with a maximum height at any point of two (2) feet. Retaining walls more than two (2) feet from a property line may be three (3) feet high, with a maximum average height at any point of three (3) feet. Multiple walls not meeting the requirements of 1980.10.B, shall be measured in height as a single wall.
- E. Conditional Use approval shall be required for any retaining wall 8 feet in height or more to be located within any required yard setback.
- F. Retaining walls constructed and/or permitted prior to the adoption of these regulations shall be allowed to remain in their existing state; however, significant changes or alterations to such walls shall be made in conformity with these regulations. The repair and routine maintenance, as determined by the Administrative Officer, of nonconforming retaining walls shall be allowed without requiring conformity with this section.

1980.11 Fences

Fences may be installed up to and upon a property boundary. While it may be advisable to install a fence slightly within one's property to allow for maintenance on both sides, no other setback requirement applies, unless:

Otherwise prescribed in an underlying subdivision or PUD permit.

Note that fences must be placed at least three feet back from a public sidewalk.

Fences shall be installed so that the smooth or finished side faces out toward adjoining properties.

Fences shall not:

Interfere with sight distances at intersections with streets, driveways, or other passageways;

Interfere with nor block natural drainage flows or surface water;

Interfere with wildlife connectivity as found on the Vermont Agency of Natural Resources map or other verified source;

Be constructed of corrugated materials, barbed/razor/ribbon wire (although barbed wire is permitted for agricultural purposes), broken glass, or other similar materials. Chain link fences shall have closed loops or other protective material at the top.

Fences located within the Village Design Review Overlay District (or other design review overlay district as may exist in the future) require review and approval of the Historic Preservation and Design Review Commission. Otherwise, fences up to four feet tall that meet the above criteria are exempt from permitting, unless 800 feet in length or longer, in which case an administrative zoning permit is required. Fences between four and eight feet tall of any length require an administrative zoning permit; fences more than eight feet tall and of any length require DRB review and approval (although fences up to ten feet tall and up to 800 feet in length to enclose tennis, basketball, or other similar facilities may be approved administratively; otherwise, DRB review and approval is required).

#### 1980.12 Conduct of Outdoor Business Activity

##### 1. Purpose

The purpose of this bylaw is to protect the general public health and welfare, enhance community vitality, and provide for orderly physical and economic growth of the Town of Shelburne, by allowing commercial establishments to conduct business outdoors, and in more flexible manner.

##### 2. Applicability

Subject to zoning permit, this bylaw applies to all restaurants, retail, and service establishments throughout the Town of Shelburne.

##### 3. Specific Provisions

A. Restaurants may create areas for outdoor dining in front, side, or rear yard areas that do not conflict with adjoining land uses, public sidewalks, or other required parking spaces or traveled ways. Reasonable provision shall be made for separation between dining areas and areas reserved for motor vehicle travel. Dining areas shall not interfere with pedestrian travel or emergency vehicle access. No additional parking shall be required for outdoor seating beyond what is or has been required for regular, year-round indoor dining.

B. Outdoor seating is exempt from the setback requirements of the underlying zoning districts and may use the public sidewalks, but shall not interfere with pedestrian travel by maintaining a 5-foot wide continuous pathway; and shall not reduce the number of on-site required parking spaces for the restaurant by more than 50%. No additional parking spaces are required for outdoor seating. At no time shall outdoor seating or food trucks interfere with pedestrian or emergency access.

C. Outdoor Provision of Services:

Any service establishment may provide their service outdoors. Outdoor provision of services shall be permitted to use the public sidewalks but shall not interfere with pedestrian travel by maintaining a 5-foot wide continuous pathway and shall adhere to the setback requirements of the underlying zoning district; and shall not reduce the number of on-site parking spaces for the specific business by more than 50%. No additional parking spaces are required for outdoor provision of services. At no time shall the provision of services interfere with emergency access.

D. Outdoor Displays of Merchandise:

Any business holding a valid permit to operate a retail store or restaurant may erect a display of goods offered for sale, or a display which is designed to promote the sale of goods, including produce, products, goods, equipment, prepared food or commodities, outside a building without meeting the area restrictions provided in the Shelburne Zoning Regulations. Outdoor displays of merchandise shall not interfere with pedestrian travel by maintaining a 5-foot wide

continuous pathway and shall not reduce the number of on-site parking spaces by more than 50%. At no time shall outdoor displays interfere with emergency access.

- E. Temporary Tents for Outdoor Seating, Displays of Merchandise or Provision of Services: Temporary tents may be erected on site, as long as they do not interfere with required parking or pedestrian or emergency access. Tents shall not be located closer than five feet to the side and/or rear property lines.

In no case shall any combination of these provisions interfere with emergency services or reduce the number of parking spaces currently in existence by more than 50%.

All other provisions of the Shelburne Zoning Regulations shall remain in effect.

- 4. Enforcement of these Bylaws shall be as provided for in Title 24 of State Statute and the Shelburne Zoning Regulations.
- 5. In accordance with 24 V.S.A., Section 4464(c), administrative review of applications is hereby required Department of Planning and Zoning staff may review and approve such permit applications.



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## ARTICLE XX: ADMINISTRATION AND ENFORCEMENT

### **2000 Applicability of Vermont Planning and Development Act:**

Administration and enforcement of these regulations, the effect of the adoption of these regulations, the appointment and powers of the administrative officer, the appointment and powers of the Development Review Board , the requirement for zoning permits, penalties and remedies, administration and finance, public notice, appeals and the granting of variances and other related provisions of the Vermont Planning and Development Act shall be applicable to these regulations, as such provisions now provide or may hereinafter be amended.

### **2010 Zoning Permits:**

- 2010.1 No land development may be commenced within the area affected by these regulations without a zoning permit being issued by the administrative officer. No zoning permit may be issued by the administrative officer except in conformance with these regulations, the provisions of the Vermont Planning and Development Act, and any conditions of approval applicable to the property subject to the application. The construction of any building requiring the installation of on-site potable water supply and/or sewage wastewater disposal systems shall not commence until such time that a State potable water supply and/or sewage disposal wastewater system permit has been issued by the State of Vermont under 10 V.S.A. chapter 64.
- 2010.2 Within three days following the issuance of a zoning permit, the administrator officer shall post a copy of the permit in the Town Clerk's office until the expiration of the appeal period. The applicant must also post a permit notice, in a form prescribed by the Town of Shelburne, within view of the public right-of-way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found.
- 2010.3 Except as provided below, any structure or use which requires approval under the Shelburne Telecommunications Ordinance shall be exempt from compliance with the Town of Shelburne Zoning Bylaws. Any structure, intended for or used as a regular place of employment by people involved in the broadcasting of radio communications, as defined in the Telecommunications Ordinance, shall obtain all necessary approvals and permits under the Town of Shelburne Zoning Bylaws.

- 2010.4 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 state department 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.
- 2010.5 Pursuant to 24 V.S.A. § 4413(d) farm structures, excluding dwellings, and uses constituting accepted agricultural practices are exempt from local permitting requirements. However, farmers intending to erect a farm structure must notify the municipality of the intent to build a farm structure, and abide by setbacks contained within the zoning ordinance, unless they provide an approval of lesser setbacks by the Secretary of Agriculture, Food and Markets. The notification must contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way. Additionally, all farm structures within the Flood Hazard Overlay District must comply with the National Flood Insurance Program..
- 2010.6 This bylaw shall not regulate accepted silvicultural practices, as those practices are defined by the commissioner of forests, parks and recreation under subsection 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.
- 2010.7 All uses not specifically authorized by this bylaw are prohibited.
- 2010.8 Except when located within a recognized Special Flood Hazard Area, within an area subject to open space agreement, or outside a PUD building envelope, no zoning permit is required for the following:
- A. A single carry-in dock on a lot, excluding those attached to the shore by means of permanent structure.
  - B. Replacement of existing conforming structures with a building footprint of 400 square feet or less, so long as:
    - 1. The building height does not increase; and

- 
2. The building footprint of the replacement structure is located entirely within the footprint of the original structure.
- C. Roof mounted residential solar panels.
  - D. Residential HVAC systems, provided they comply with applicable setback requirements.
  - E. A dog house, child's play house, tree house, residential firewood shed, garden shed, or similar structure with a floor area of not more than 120 square feet and a height of not more than 13 feet may be located within any required yard, except the front yard, but not closer than 5 feet from any property line. Only one such structure per property shall be deemed exempt.
  - F. Mini libraries or mini pantries with a footprint of not more than 9 square feet may be located within any required yard.
  - G. Accepted agricultural and silvicultural practices are not subject to these regulations, pursuant to 24 VSA § 4413(d). Barns silos and certain other farm structures may be exempt from permit requirements, but notification to the Zoning Office is required pursuant to 24 VSA § 4413(d).
  - H. Any sign erected by the State of Vermont or the Town of Shelburne for directional, information or traffic control purposes.
  - I. Internal renovations, including internal structural alterations, that do not increase the total usable, temperature controlled (heated and/or cooled) space within the structure; or, in the case of commercial, industrial, or institutional uses, that do not require amendment of any approved plan or standing condition of approval, so long as the property on which the renovations take place maintains compliance with applicable wastewater disposal permits.
  - J. A garage sale or yard sale, or a similar type of sale from a retail stand or vehicle, or an auction, in no case for a period exceeding three (3) consecutive days, nor more than six days per calendar year (a sale of longer duration or sales of greater frequency, shall be deemed a commercial retail use). The event shall be managed so as not to cause unsafe traffic conditions or parking problems or other nuisance to neighbors.

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## 2015 Staged Review

- 2015.1 Staged review of a development proposal may be requested in writing by an applicant prior to or during the first public hearing on an application for Site Plan, Conditional Use, and/or PUD review. Any request for staged review shall specify the nature of the staged review requested and the basis therefor. In the exercise of its discretion, the Development Review Board (DRB) may allow staged review to occur if it first finds any of the following: (1) that the preparation of a complete application will impose unreasonable cost on an applicant that may be avoided through a staged review; (2) that the preparation of a complete application will present a substantial, non-fiscal hardship on the applicant that may be avoided through a staged review; (3) that, due to the complexity of the application, the presentation of necessary information to the Board will be substantially advanced by presenting information in a staged manner.
- 2015.2 If authorized by the DRB, the staged review shall be conducted as part of or integral to the larger review process of which that staged review is part. No final decision will be issued regarding any part of the staged review until that larger process is complete and no appeal of a decision to grant or deny staged review may be taken until that time.

## 2020 Special Zoning Permits:

- 2020.1 Modification of Water Courses - There shall be no diversion, redirection or relocation of any natural water course, drainage or water runoff pattern with a watershed greater than 10 acres upstream of the point of alteration unless a special zoning permit for that purpose is obtained from the administrative officer.
- A. Any application for a special zoning permit for this purpose shall be accompanied by the following information:
1. Existing water course location and proposed diversion/relocation.
  2. Amount of and location of excavation and fill needed for the project.

3. Watershed analysis based on hydrological modeling or similar techniques indicating size of drainage facility needed to carry water, as well as the increases, if any, in rate of runoff and quantity of runoff. This analysis shall include the rainfall intensity and duration contained in C.4. of this section.
  4. Downstream drainage facilities affected if storage and/or increased runoff is to occur.
  5. Material which proposed diversion will pass over and through.
  6. Erosion and Sediment Control plan containing elements specified in sections 2020.2.B.1-2020.2.B.6 of these bylaws.
  7. Statement describing how alternatives to modifying the watercourse were considered and rejected in favor of watercourse modification.
- B. Copies of the application shall also be submitted to the adjacent downstream communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Notice of the application shall be provided by the applicant to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation.
- C. Any application for a special zoning permit for diversion, redirection or relocation of any natural water course, drainage or water runoff pattern shall be reviewed by the Shelburne Zoning Administrative officer, who may consult with staff of the Vermont Agency of Natural Resources regarding the project's conformance with the following criteria. The permit shall be granted, subject to such conditions determined to be warranted, if it appears that the change:

1. Will not adversely affect public safety by increasing flood frequency or severity and/or fluvial erosion hazards;
2. Will not significantly damage fish or wildlife by causing direct harm to threatened or endangered fish or wildlife populations and/or permanent loss of necessary fish or wildlife habitat;
3. Will not significantly damage the rights of riparian owners through erosion, accretion, flow, or similar changes;
4. Will not decrease the watercourse's water carrying capacity or increase the rate of flow downstream of the modified watercourse, such that the peak flow rate after alteration shall not exceed the pre-alteration rate for the two year and twenty five year, 24-hour storm events; and
5. Will not allow for the establishment of invasive non-native plant species by proposing that bare soils will be seeded and mulched after disturbance and native woody plants are added in quantities that compete against non-native plants.

2020.2 Extraction, Filling or Removal of Natural Resource. In any district, extraction or removal for use off of the site, or filling with loam, gravel, stone, fill, topsoil, sod or other similar materials, except when done in connection to the construction of a building on the same lot, occupying a contiguous area of more than 1,000 square feet, measured planimetrically, or, if within 100 feet of the 102 foot elevation contour adjoining Lake Champlain, occupying a contiguous area of more than 500 square feet, measured planimetrically, shall be allowed only upon issuance of a special zoning permit by the administrative officer following acceptance of an Erosion Control Plan. The administrative officer shall send copies of the permit approval to the applicant and all adjoining landowners, and shall advise each of the right to appeal the decision to the Development Review Board under the Vermont Planning and Development Act. Application for such a special

zoning permit shall include such special information as the administrative officer may deem reasonably necessary for evaluating the application.

- A. Any application for an Extraction, Filling, or Removal of Natural Resource special zoning permit shall:
  - 1. bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm;
  - 2. include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that a Certified Erosion Control Professional shall be on site on all days when construction or grading activity takes place.
  
- B. Any application for an Extraction, Filling, or Removal of Natural Resource special zoning permit shall include an Erosion and Sediment Control Plan. The Erosion and Sediment Control Plan shall provide the items specified in sections 2020.2.B.1-2020.2.B.6 below. However, at the sole discretion of the administrative officer, the administrative officer may determine that, owing to the minor scale of a particular proposal and the limited potential for offsite impacts, provision of one or more of the following items is not necessary.
  - 1. A natural resources map identifying soils, forest cover, class two wetlands and related buffers, vernal pools over 1,000 square feet in area, natural heritage sites on record with the Vermont Natural Heritage program, and any previously mapped significant habitats such as deer wintering areas. This map should be at a scale no smaller than 1"=100'
  - 2. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and

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- final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
3. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
  4. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
  5. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
  6. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of (erosion and sediment control manual), and shall be adequate to prevent transportation of sediment from the site to the satisfaction of (erosion and sediment control agency). Cut and fill slopes shall be no greater than 2:1, except as approved by (erosion and sediment control agency) to meet other community or environmental objectives.
- C. For an application to be consistent with this bylaw, the administrative officer must find that there is sufficient evidence that said application meets the following standards: .
1. The application is substantially responsive to comments by the U.S.D.A. Natural Resource Conservation Service (NRCS) and the U.S. Army Corps of Engineers (COE), if

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- any. It shall be the obligation of the applicant to demonstrate that input from NRCS and COE staff has been solicited.
2. Any excavation or filling proposed in the application will not undermine or threaten the stability of public or private roads or adjacent properties.
  3. The application does not propose final grades in excess of 20 percent over runs exceeding 10 meters.
  4. Excavation and/or filling is not proposed to occur at times of year, such as spring thaw, when work on the project site would pose increased risk of erosion, slumping, or other potentially adverse effects upon public health and safety and welfare.
  5. The application, as evidenced by the Erosion and Sediment Control Plan, minimizes erosion potential caused by the removal of vegetative cover.
  6. The application meets noise, dust or vibration performance standards contained in Article IX, Section 1950 of this bylaw.
  7. The application will not have an undue adverse impact on traffic safety or congestion on public rights of way.
- D. In issuing a special zoning permit for this purpose, the administrative officer may:
1. Limit the duration of the work performed under a special zoning permit.. Unless modified by the Administrative officer, duration of work performed shall be constrained by the standards established under 2020.2 C. At a minimum, work shall not take place during sustained precipitation events or when exposed surfaces are saturated.

2. Limit the hours of operation, routes of transportation or type or quantity of materials removed. Unless modified by the Administrative officer, hours of operation shall be limited to between 7 AM and 6 PM on weekdays (excluding holidays) and to between 9 AM and 4 PM on weekends. Routes of transportation used shall be as established in consultation with the Director of Highways. Quantities and types of materials removed shall be constrained by the standards established under 2020.2 C.
  3. Require suitable bond or other security to assure compliance with the provisions of this Section, for the proper rehabilitation of the site. This bond or other security shall provide for, and secure to the public, the completion of any improvements for the maintenance of those improvements for a period of two years after completion.
- E. This section (2020.2) shall not authorize the establishment of commercial gravel pits or quarries. Furthermore, within the 100 year flood plains of the LaPlatte River, McCabe's Brook and Monroe Brook, excavations of earth materials shall be prohibited where the activity proposed will lower the level of the water table, interfere with the natural flow patterns or reduce the flood stage capacity.
- F. Sections 2020.2 A- 2020.2E notwithstanding, the provisions of this Section shall not apply to the removal of natural resources from a farm operation, nursery, or cemetery to the extent that such removal is necessary to the operation of the same.

### **2030 Certificates of Occupancy:**

- 2030.1 New Buildings - No building hereafter erected shall be occupied or used, in whole or in part, for any purpose whatever, until a certificate of occupancy shall have been issued by the administrative officer, certifying that such building conforms to

any approved permits, plans, and specifications and the requirements of these regulations.

2030.2 Alterations of Buildings - No building hereafter altered, which was vacant during the progress of the work of alteration, shall be occupied or used, in whole or in part, for any purpose whatever, until a certificate of occupancy shall have been issued by the administrative officer certifying that the work for which the permit was issued was completed in accordance with the approved plans and specifications and the requirements of these regulations.

2030.3 Residential Accessory Structures. Certificates of Occupancy shall not be required for residential accessory structures.

2030.4 As-Built Drawings. "As- built" drawings or plans shall be provided as part of all applications seeking Certificates of Occupancy for commercial or industrial structures having gross building footprints of 5,000 or more square feet .

#### **2040 Expiration of Permits and Approvals:**

2040.1 Zoning Permits - The following provisions shall apply to zoning permits:

A. A zoning permit shall expire two years from its date of issuance unless there is a reasonable amount of objective evidence of intent to complete the project for which the permit was issued. It shall be deemed presumptive evidence of an intent to complete the project if at least fifty (50) percent of the total estimated project costs have been expended in construction and site improvements.

B. A zoning permit may be extended by the administrative officer for a period of one year, upon a finding of an intent to complete. A zoning permit may not be extended more than one year beyond the two years specified in paragraph 2040.1.A above.

2040.2 Variances, Conditional Use and Site Plan Approvals - Variances, Conditional Use and Site Plan Approvals will expire two years from their date of issuance. The actions authorized by the Variance or Site plan may be extended for one year only by the administrative officer if it is demonstrated that the delays were beyond the control of the applicant, and that conditions affecting and addressed by the approvals have not changed.

- 2040.3 Planned Unit Developments - The following provisions shall apply to Planned Unit Developments:
- A. Approvals for Planned Unit Developments shall normally expire two years from their date of approval. However, the Development Review Board may extend the life of such approvals when it is clear at the outset that the project will be phased or will require a construction period greater than two years. The term of the approval shall not be set longer than the proposed phasing plan or estimated construction period.
  - B. Approvals for Planned Unit Developments may be extended for up to two years beyond the original date of expiration set pursuant to 2040.3 A if the Development Review Board determines that substantial progress (fifty percent) has been made in completing the development, that the applicant intends to complete the development, and that the delays were beyond the control of the applicant.

### **2060 Appeals.**

- 2060.1 As per Section 4465 of the Vermont Planning and Development Act, an interested person may appeal a decision of the administrative officer to the Development Review Board. Such appeal shall be filed, processed and heard in conformance with the provisions of the Vermont Planning and Development Act.
- 2060.2 As per Sections 4471 of the Vermont Planning and Development Act, decisions made by the Development Review Board may be appealed to the Vermont Environmental Court.

### **2070 Application and Fees.**

- 2070.1 All applications under these regulations shall be made on forms prescribed by the administrative officer, and shall be accompanied by the fees prescribed by resolution of the Town Board of Selectmen.
- 2070.2 Pursuant to 24 VSA §4440 (d), an applicant may be required to pay the reasonable costs and fees incident to an independent technical review of the application. These costs and fees shall be paid by the applicant in a timely manner, upon presentation of a bill for services by the Town. Upon failure of an applicant to pay a

bill for technical review services in a timely manner, the Town shall record a copy of the same in the land records and said bill shall constitute a lien on the applicant's property that may be enforced in the same manner as a tax lien under 32 VSA subsection 5061.

- 2070.3 Before the Town engages the services of a person or firm to conduct a specific independent technical review, it shall provide an applicant with notice of the same and an opportunity to be heard on any proposed review.

### **2080 Notice of Public Hearings.**

- 2080.1 Public notice for conditional use review, variances, administrative officer appeals, site plan reviews, and Planned Unit Development reviews shall be given not less than fifteen (15) days prior to the date of the public hearing by:
- A. Publication, by the municipality, of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected.
  - B. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting, by the applicant, within view from the public right-of-way most nearly adjacent to the property for which an application is made.
  - C. The mailing of the same information by first class mail to the applicant, any appellant, and owners of record of property contiguous to, or directly across any public right of way from, property that is the subject of the hearing. Stamped and addressed envelopes for each owner of record shall be provided to the Town by the applicant, which shall mail notices using the envelopes provided. Notices shall be accompanied by information that clearly informs the recipient where additional information may be obtained and indicating that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. Failure of a party to receive notice under this subsection shall not invalidate any action taken as a result of the public

hearing unless such notice is materially misleading or the failure/defect was the result of a deliberate or intentional act.

2080.2 Public notice for hearings on all other types of development review shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum all the following:

- A. Posting of the date, place, and purpose of the hearing in three or more public places within the municipality in conformance with the time and location requirements of 1 V.S.A. § 312(c)(2).
- B. Written notification to the applicant and to the owners of all properties adjoining the property subject to development, without regard to right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

2080.3 The applicant shall bear the cost of the public warning and the cost and responsibility of notification of adjoining landowners. The applicant shall demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

2080.4 No defect in the form or substance of any requirements in subdivision (1) or (2) of this subsection shall invalidate the action of the appropriate municipal panel where reasonable efforts are made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the environmental court or by the applicable municipal panel itself, the action shall be remanded to the applicable municipal panel to provide new posting and notice, hold a new hearing, and take a new action.

**2090**     **Implementation.** These regulations shall become effective twenty one (21) days after the date of adoption by the Selectboard. On the date these regulations become effective, they will amend in its entirety the comprehensive revision of the Town of Shelburne Zoning Regulations adopted December 23, 1985 and last amended June 14, 2022.

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## ARTICLE XXI: DEFINITIONS

**2100 General.** Definitions contained in the Vermont Planning and Development Act shall be applicable throughout these regulations unless otherwise specifically defined in this Section.

### **2110 Specific Definitions.**

- 2110.1 Accessory Apartment - A dwelling unit, with a total floor area of 1,500 square feet or smaller, located within or appurtenant to and clearly subordinate to a principal single-family dwelling. The property owner of record shall occupy either the accessory apartment or the principal single-family dwelling. For the purpose of establishing the floor area of an Accessory Apartment, the total shall consist of the aggregate area of all floors within the apartment, plus any other affiliated areas intended primarily for the use of the apartment occupant(s). Such areas may include personal storage areas, porches and decks, and garages (or parts thereof).
- 2110.2 Accessory Structure – A structure on the same lot with and of a nature which is incidental and subordinate to the principal structure on the lot and which is typically associated with that principal structure. Accessory structures shall meet the same dimensional and yard requirements as the principal structure.
- 2110.3 Accessory Use – A use of land or of a building or portion thereof incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.
- 2110.4 Adjacent -- Contiguous parcels and parcels separated only by a public road, private road or right-of-way, railroad right-of-way, or riparian feature (river, stream, or brook).
- 2110.5 Adult entertainment use means a store, theater, club, restaurant or other establishment that as a substantial component of the use offers: (i) adult oriented merchandise for sale, rental, exchange, loan or trade; (ii) live or recorded performances by entertainers who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities; and/or (iii) services by attendants who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities.
- 2110.6 Adult media means any magazines, books, movies, photographs, recordings or other forms of communication that are distinguished or characterized by an emphasis on matter depicting, describing or related to specified anatomical areas or specified sexual activities.
- 2110.7 Adult oriented merchandise means any goods, products, commodities or other wares that depict, describe or simulate specified anatomical areas or specified sexual activities including but not limited to sexually oriented toys or novelties and adult media.

- 2110.8 Agriculture or Farming – Commercial production of crops (including, but not limited to horticultural, viticultural, floricultural, vegetable, berries, grain, hay and straw), dairy, maple, apiary, animal products, seed, Christmas trees and livestock, or any combination thereof, when not exempt from zoning review by 24 VSA 4413(d) or 10 VSA 6001 (22).
- 2110.9 Affordable Housing -- Housing that is occupied by inhabitants whose gross annual household income does not exceed 80 percent of the county median income (or income of the standard metropolitan statistical area), and for which the total cost of the housing (as defined below) does not exceed 30 percent of the household’s gross annual income. The long-term affordability of such units must be preserved through appropriate legal mechanisms.
- a. For owner occupied housing, total housing costs include mortgage principal, interest, taxes, insurance, and association fees.
  - b. For renter occupied housing, total housing costs include rent, utilities, and association fees.
- 2110.10 Alteration - As applied to a building or structure, any change to the exterior or structural elements of a building or structure. For the purposes of this definition, minor changes to elements such as painting, minor repairs, awnings, shutters or similar components shall not be considered an alteration. In the Village Design Review Overlay District, definitions set forth in Article XV shall apply.
- 2110.11 Art Gallery – A structure or portion thereof used for the display and/or sale of works of art such as photographs, paintings, sculptures, woodworking, pottery, weavings, or jewelry.
- 2110.12 Artists’ Studios – Spaces used by artists such as photographers, painters, sculptors, woodworkers, potters, weavers, or jewelers, for the creation of their products or the teaching of their skills. Artists’ studios may also contain a small area devoted to the display and sale of the products produced.
- 2110.13 Assisted Living Facility – An Elder Care Facility or facility providing Elderly Supportive Service Housing.
- 2110.14 Automobile/Machinery Repair – The servicing, maintenance, or repair of automobiles or small machinery, not including automobile body repair and painting.
- 2110.15 Banks or Other Financial Institutions – A business performing such services as maintaining checking and savings accounts, making and administering loans, renting safe deposit boxes, cashing checks, and other similar services. Banks may include both drive-through and walk-in services, as well as automatic teller machines (ATMs).
- 2110.16 Bed and Breakfast - An owner occupied residential structure which contains sleeping rooms for rent for transient occupancy. (See Articles describing individual zoning districts for specific regulations.)

- 2110.17 Buffer – An area of land generally kept in a natural state, used to visually separate one use from another, to shield or block noise, lights, or other nuisances, or to protect a natural resource.
- 2110.18 Building or Structure - These terms are used interchangeably and mean any construction, erection, assemblage or other combination of materials upon the land for occupancy or use, including without limitation, buildings, mobile homes, walls, signs, antennas, swimming pools, tennis courts, driveways and utility sheds.
- 2110.19 Building Envelope - A defined three-dimensional (length, width, and height) space, precisely located on a parcel of land and depicted on a relevant plan or plans, within which all structures on that parcel must be located.
- 2110.20 Building Material Sales – An establishment where one or more of a wide range of building materials is provided and displayed for sale to both builders and the general public. Building materials may include such goods as lumber, nails and fasteners, tools, plumbing supplies, electrical supplies, doors, windows, floor coverings, paints, concrete block, stone, and the like.
- 2110.21 Business or Professional Office – A room or suite of rooms used for the conduct of business, including administrative, executive, and support personnel, and/or space for working and meetings of professional people, their support staff, and their clients. Such office uses have limited contact with the general public and involve only limited on-site sales of goods directly to consumers.
- 2110.22 Campground - Land on which are located designated sites for recreational vehicles, tents or other movable accommodations suitable for seasonal or temporary living purposes.
- 2110.23 Cutoff - A lighting fixture light distribution, specified by the IESNA, where the intensity in candela per 1000 LAMP lumens does not numerically exceed 25 (2.5%) at a vertical angle of 90 degrees above nadir, and 100 (10 %) at a vertical angle of 80 degrees above nadir. Nadir is the point vertically below the lighting fixture.
- 2110.24 Cemeteries – A property used for the interment of the dead.
- 2110.25 Certificate of Occupancy - A document issued by the Zoning Administrative Officer in accordance with 24 V.S.A., Section 4449 and the provisions of Article XX of these regulations, certifying that a structure or portion thereof has been developed in accord with all applicable local regulations, approvals, and permits, and authorizing the same to be used.
- 2110.26 Churches and Other Places of Worship – One or more structures or a portion of a structure, used for the conduct of organized religious services, and associated accessory uses.

- 2110.27 Commercial Riding Stable - A stable for the for-profit boarding of equines and/or associated accessory uses, including riding lessons, trail rides, or horse training.
- 2110.28 Community Farmers Market. - An occasional or periodic market, with goods offered for sale to the general public by individual sellers from open-air or semi-enclosed facilities or temporary structures. The market is composed of five or more vendors with outside stalls, stands or spaces used for the purpose of display and sale, exchange, or barter of merchandise, which is limited to home produced or locally grown farm produce, and the incidental sale of artisan produced handiwork, artwork and food. Second-hand goods are not offered for sale.
- 2110.29 Construction Services Facilities - A facility serving as the headquarters or central facility for a construction firm, which may include the parking of vehicles and/or the storage of equipment or materials.
- 2110.30 Continuing Care Retirement Community (CCRC) - A residential community providing housing for the elderly (one resident in each unit being 60 or older) consisting of not more than 250 independent living units (in the form of either multi-family or single-family dwellings), associated common facilities primarily for the use of the CCRC residents, and a health center which may include facilities of the type offered in a community care home or nursing home for a maximum of 120 residents.
- 2110.31 Coverage, Building - The percentage of a lot's area which is occupied or covered by buildings and other structures extending more than 12 inches above the existing grade at any point.
- 2110.32 Coverage, Lot - The percentage of a lot's area which is covered by buildings, structures, parking areas, loading areas, paved or graveled driveways or other impervious surfaces.
- 2110.33 Day Care Center - A day care facility which provides care and protection to more than 12 children
- 2110.34 Day Care Home (Licensed) - A day care facility that complies with licensing standards. It may utilize two or more staff members and provide care and protection for not more than 12 children.
- 2110.35 Day Care Home (Registered Family) - A home which is described on the Family Day Care Home Registration. The person issued the Family Day Care Home Registration is the primary provider of child care services. The Home allows for up to 6 pre-school children to attend for the day and up to 4 school age children to attend for 4 hours or less a day.
- 2110.36 Developable Land – Land that is suitable for development and which is not characterized by any of the following:

- a. Slopes of 15 percent or more.
- b. Wetlands classified as class 2 or higher in the Vermont Significant Wetlands Inventory.
- c. Flood Plain identified in the most recent National Flood Insurance Program Maps.

Undevelopable land shall not be considered when computing the maximum allowable dwelling units for any development.

2110.37 Development – See Land Development.

2110.38 Direct Light — Light emitted directly from the lamp, from the reflector or reflector diffuser, or through the refractor or diffuser lens of a lighting fixture.

2110.39 Dock — A structure over or on water that may be used for the moorage of watercraft. Wood or metal structures mounted on piles or floats, piers, overhanging boat-house decks whose upper surfaces are within three feet of the water's surface and are accessible from the lake, and similar structures shall be considered docks for the purposes of these regulations.

2110.40 Drive-Through Pharmacy – A retail sales establishment which provides medicine and other items, such as toiletries, various sundries and packaged foods for sale, and offers drop-off and pick-up service exclusively for prescriptions and associated medical items to persons within a motor vehicle.

2110.41 Dwelling Unit – A structure or self contained portion thereof, containing complete housekeeping facilities for one family or household, and having no enclosed space in common with any other dwelling unit.

2110.42 Dwelling, Single-Family - A detached structure that contains a single dwelling unit.

2110.43 Dwelling, Two-Family - A structure containing two dwelling units, designed for occupancy by not more than two families.

2110.44 Dwelling, Multi-Family - A residential building designed for and occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

2110.45 Dwelling, Seasonal – A dwelling unit that is used or approved for use for no more than six months of any twelve month period.

2110.46 Dwelling, Year Round – A dwelling unit that is used or approved for use on a year round basis.

2110.47 Elder Care Facility – An establishment that provides housing and care for persons of 55 years of age or older who cannot or choose to not live independently. Housing units,

which must be less than 800 square feet in size, are not complete dwelling units in that they lack facilities adequate to prepare meals on a regular basis, and communal dining and living spaces are provided. Care can range from periodic assistance with medication to skilled nursing care.

2110.48 Elder Housing - Housing that is:

- (1) intended for, and solely occupied by, persons 62 years of age or older; or
- (2) intended and operated for occupancy by at least one person 55 years of age or older per unit, provided all of the following conditions are met:

- (A) The housing complex has significant facilities and services specifically designed to meet the physical or social needs of older persons, or if it is not practicable to provide those facilities and services, that the housing complex is necessary to provide important housing opportunities for older persons;
- (B) By no later than the date on which the occupancy level first reaches 25 percent of units, at least 80 percent of occupied units must be occupied by at least one person 55 years of age or older per unit; and
- (C) There are written and enforced policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

2110.49 Elderly Supportive Service Housing - Housing that is occupied by inhabitants over the age of 55 in individual housing units containing less than 1,000 square feet within one structure which also includes common areas for living, dining and activities. The individual housing units may contain kitchen, bathroom, living area and bedroom(s). Optional independent living services such as meals, social activities and health and wellness services may be offered on-site.

2110.50 Erosion - Erosion means when land is diminished or worn due to wind or water. Often the eroded debris (silt or sediment) becomes a pollutant via stormwater runoff. Erosion occurs naturally but can be intensified by land clearing activities such as farming, development, road building, and timber harvesting.

2110.51 Erosion and sediment control plan - A plan that indicates the specific measures and their sequencing for use to control sediment and erosion on a development site during and after construction. and approved by an authorized enforcement agency

2110.52 Family - An individual, or two or more persons related by blood, marriage, civil union, legal adoption, or those placed in a home for adoption, and foster children, or a group of not more than five persons who need not be related by civil union, blood, or marriage, living together as a single housekeeping unit.

2110.53 Farm Labor Dwelling – A dwelling unit, located on an active farm operation, used as housing for a farm employee working on the farm, and members of the employee’s immediate family.

- 2110.54 Fire/Rescue Station – A building housing municipally operated or supported fire protection or rescue operations, including but not limited to storage of vehicles and equipment, training space and facilities, eating and sitting areas, locker rooms, sleeping rooms, radio/communications systems, and the like.
- 2110.55 Fire Protected Structure - A building that incorporates the following features: Compliant with the requirements of NFPA 13 including an attic sprinkler system, a Stand Pipe system, a Stortz connection and a fully enunciated fire alarm system with dial-out capabilities. The building construction shall be designed such that: 1-hr rated envelopes are created around each residential unit; no roof top mechanicals are located above 35'; no fireplaces shall be installed in residential units (gas fireplaces shall be allowed in common areas); electric ranges shall be used in residential units; and an elevator of such size suitable for handling a patient on a stretcher in the supine (flat) position shall be installed. Outside the building, 20' wide stabilized surfaces shall be provided for fire truck access to locations as approved by the Fire Chief.
- 2110.56 Foot Candle — Unit of illuminance; One lumen per square foot.
- 2110.57 Full Cutoff — A lighting fixture light distribution, specified by the Illuminating Engineering Society of North America, where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10 percent) at a vertical angle of 80 degrees above nadir. Nadir is the point vertically below the light fixture. A full cutoff lighting fixture is fully shielded.
- 2110.58 Fully Shielded — Constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the lighting fixture, is projected above a horizontal plane passing through the lowest direct-light-emitting part of the fixture.
- 2110.59 Gasoline Station – A building or land containing at least one fuel pump, used for the commercial sale of vehicular fuel (gasoline, diesel, etc.) to private vehicle owners, and which may include facilities for installation of lubricants, tires, batteries, etc., and routine maintenance of vehicles.
- 2110.60 Gasoline Station Canopy – An attached or detached structure providing cover and under which vehicles park while fueling.
- 2110.61 Garden Center/Nursery – A building and lands used for the storage, display and sales of garden supplies such as soils, fertilizers, garden tools, landscaping materials, etc., and/or the growing and sale of plant materials.
- 2110.62 Glare —Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

- 2110.63 Grain – A term describing a visual quality of development, referring to the size and frequency of building masses and open areas, and to the degree of detail in the architectural treatment of the facades. A fine grain is typical of more urban settings and reflects smaller visual building units, small spaces between them, and a high degree of detail in the façade treatment. A large grain is typical of exurban and suburban settings with large buildings, large spaces between buildings, and relatively little architectural detail on the facades. A fine grained setting exhibits more human or pedestrian scale.
- 2110.64 Group/Residential Care Home - A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to not more than 8 residents.
- 2110.65 Height – The vertical distance of a structure as measured from the average (of the lowest and highest elevation points) of the finished grade where it meets any wall of the proposed building, to the midpoint of the eave and ridge of the structure. Chimneys (except chimneys on residential structures) and similar structures shall be subject to the height limitations contained in these regulations.
- 2110.66 Home Occupation – An occupation, carried on within a minor portion of a dwelling by a resident of the dwelling unit, that is customary in residential areas and that does not have an undue adverse effect on the character of the residential area in which the dwelling is located.
- 2110.67 Hotel or Motel – A facility, other than a bed and breakfast or inn or campground or rooming house, that offers transient lodging accommodations on a daily or weekly rate, to the general public, and which may also provide additional services such as restaurants, meeting rooms, or recreation facilities. As motel, at least half of all lodging rooms shall have direct access to the outside without passing through a lobby or common corridor. A Hotel/Motel may include a single accessory residential unit for use by a facility manager.
- 2110.68 Household – See family.
- 2110.69 Housing for the Elderly – See Elder Housing.
- 2110.70 Human Scale – A building and its details, as they relate to human scale proportions; also, a building’s mass and bulk and the building’s details proportionately compared with other buildings in the surrounding area or neighborhood.
- 2110.71 Illuminance — The luminous flux incident per unit area, expressed in foot candles. Horizontal or vertical illuminance is that measured with a photometer cell mounted horizontally or vertically.
- 2110.72 Impervious Surface – Any surface through which water does not readily pass. Impervious surfaces shall include (but are not limited to) concrete or asphalt paving,

compressed gravel, brick or stone pavers, cobble stones, or other hard surfaces.

2110.73 Incidental – Being of nature that is both minor in relationship to and in consequence of some other object, action, or state; and where, in the absence of the other object, action, or state, that thing which is incidental would not occur independently.

2110.74 Indirect Light — Direct light that has been reflected off the surface of any permanently constructed object other than the source lighting fixture.

2110.75 Indoor Movie Theater – A building or portion thereof used for showing motion pictures to the general public.

2110.76 Indoor Storage in Agricultural Structures – The use of an agricultural structure existing on March 17, 2009, for leased storage of property, vehicles, equipment, and similar items.

2110.77 Inn – A facility other than a Bed and Breakfast, hotel, or motel, or rooming house and having no more than 8 guest rooms, that provides rental lodging accommodations to the general public on a daily or weekly basis, and which may provide meals to lodging guests.

2110.78 Integrated Agriculture – Hybrid land use and development incidental and directly related to the principal farming activity being conducted on-site excluding the slaughter of livestock or poultry and consisting of the following “Primary Integrated Agricultural Activities”:

- The on-site preparation and processing of crops or produce not principally produced on the farm;
- The storage and sale of crops or produce not principally produced on the farm or the resulting products from such crops or produce;
- The sampling and tasting of crops and produce not principally produced on the farm or the resulting products from such crops or produce; and/or
- Tours of growing areas and storage and processing facilities.

2110.79 Kennels – A building, or portion thereof, and grounds used for the commercial boarding of dogs, cats, or other small domestic animals. Kennels board such animals over night. The use may include accessory activities such as grooming and training.

2110.80 Lakeshore Erosion Control Structure- Structure, device, or material assembled or installed to prevent or limit erosion along Lake Champlain shoreline.

2110.81 Lakeshore safety fence – An artificially constructed, open barrier not more than four (4) feet in height erected within the Lakeshore Overlay District to separate people and animals from significant topographic hazards such as steep embankments and rock faces. A fence shall be considered “open” if every segment of the fence (e.g., a section between posts) is composed of at least seventy-five percent (75%) open spaces and no more than twenty-five percent (25%) solid materials. The height of a fence shall be measured

perpendicularly from finished grade at the base of the fence to the top of the highest horizontal or nearly horizontal element of the fence in each eight (8) foot section.

- 2110.82 Lakeside Deck- A roofless outdoor space built as an above-ground platform, used for sitting or passive recreational purposes associated with proximity to a lake or pond, and which is separated from any residential primary structure by a distance of at least ten feet.
- 2110.83 Lakeside Wall- Any wall of a primary structure located within 100 feet of the 102 foot elevation contour along Lake Champlain, where said wall is parallel with or generally parallel with the Lake and reflects the overall orientation of the structure to the Lake. See Figures D and E.
- 2110.84 Lamp - The light source component of a lighting fixture that produces the actual light.
- 2110.85 Land Development - Consistent with 24 V.S.A., 4303(10), land development shall mean 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. Land development shall include the construction or establishment of any exterior lighting installation subject to permitting requirements specified in 1975.2.C.1 through 1975.2.C.3.
- 2110.86 Landscaping – The improvement of a lot, parcel or tract of land with grass and shrubs and/or trees. Landscaping may include flower beds, pedestrian walks, retaining walls under 24 inches in height, statues and other similar ornamental objects.
- 2110.87 Libraries – A building, or portion thereof, used for the storage, display, and lending of books and other audio/visual media. A library may include, among other spaces, reading space, meeting space, study rooms, shelving areas, work areas, and administrative areas.
- 2110.88 Light Manufacturing – A building, or portion thereof, used for the fabrication and assembly of products, either for direct consumption or for use in other assembly processes. Light manufacturing uses may include metal fabrication, welding, dry cleaning and other processes, precision machine fabrication, and similar fabrication activities, and manufacturing of food products, excluding slaughterhouses.
- 2110.89 Lighting Fixture – A complete outdoor lighting unit including a lamp or lamps, together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply, but not including a pole on which the lighting fixture may be mounted.
- 2110.90 Light Trespass — Direct or indirect light produced by an artificial light source and which shines outside the boundaries of the lot containing the lighting fixture.

- 2110.91 Local Market with Delicatessen - Retail use containing less than two thousand (2,000) square feet in floor area where a variety of produce, canned and packaged food items, small household goods, and similar items are sold for use and consumption off premises and containing a delicatessen section occupying less than one half of the total area in which prepared foods such as cooked meats, salads, relishes, preserves, beverages, etc., are sold in a ready-to consume state to customers for consumption outside the building.
- 2110.92 Lot - A parcel of land (other than a pre-existing small lot) of at least sufficient size to meet the minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as required by these regulations.
- 2110.93 Lot, Corner – A lot located at the intersection of two streets or roads. A corner lot shall be deemed to have front yards facing both streets or roads.
- 2110.94 Lot, Through – A lot that extends the full distance between two parallel or roughly parallel streets or roads and has frontage on both. The developer/owner of a through lot may choose which frontage will be treated as the front yard.
- 2110.95 Lot Frontage – The length of the boundary of a lot which fronts a public street, waterway, or (when approved by the Development Review Board) a private road or right-of-way, from which primary access to the principal structure on the lot is obtained. When access to a lot is provided by a road or right of way oriented perpendicular to rather than parallel with the lot boundary, the lot shall be considered to have no frontage and thus the lot shall be exempt from lot frontage dimensional requirements.
- 2110.96 Lot Width - The minimum distance between any points on the side boundaries of a lot as measured parallel to the lot frontage line. For irregularly shaped lots in the Rural District, lot width shall be as defined in Article III.
- 2110.97 Lumber Yard – A type of building material sales establishments specializing in dimensional lumber and other construction lumber, but may include a limited number of associated items such as wood fasteners, ladders, and light hardware.
- 2110.98 Marinas – The use of land and/or buildings for the manufacture or construction, sale, or repair of boats, along with associated derricks, docks, wharfs, marine railways, boat storage areas and marina facilities for the commercial servicing, maintenance, storage, docking of vessels or the furnishing of general marine services. A marina may include sales of food or other items to marina patrons, provided that such sales activities are clearly incidental to the operation of the other marine base activities.
- 2110.99 Medical or dental offices - A room or suite of rooms used for the provision of medical, dental or other health care services, including waiting rooms, records rooms, reception areas, examination rooms, laboratories, and equipment customarily associated

with the provision of health care.

- 2110.100 Mobile Home – A single story structure that is transportable in one or more sections and designed for single family residential use with or without a permanent foundation when attached to the required utilities. A mobile home may be built on a permanent chassis. A mobile home does not include a “recreational vehicle.”
- 2110.101 Mobile Home Park - Any parcel of land under a single or common ownership or control, which contains, or is designed, laid out or adapted to accommodate, two or more mobile homes, but not including premises for the display or storage of mobile homes.
- 2110.102 Multiple-Family Dwelling- See Dwelling, Multi-Family.
- 2110.103 Multiple Uses - Any combination of permitted or conditional uses allowed under the designated zoning district.
- 2110.104 Municipal Offices – A building, or portion thereof, used for administrative functions of the Town government or School District.
- 2110.105 Museums – One or more buildings and associated grounds used for the display, exhibition, storage, interpretation, and preservation of objects illustrating human endeavor and/or natural history, and associated activities such as administration, education, and visitor amenities (including gift and food sales to visitors).
- 2110.106 National Geodetic Vertical Datum (NGVD) – The vertical control datum established for vertical control surveying in the United States of America.
- 2110.107 No-Cut Zone - A delineated portion of a lot or parcel of land, designated in an approved permit, subdivision or site plan, within which no living vegetation may be cut, pruned, removed or destroyed.
- 2110.108 Nonconformities – In accordance with 24 V.S.A., Section 4303, Nonconformities shall mean nonconforming lots, structures, or uses.
- 2110.109 Nonconforming Lot – A lot that does not conform to the present bylaws covering dimensional requirements but which was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot improperly authorized as a result of error by the administrative officer.
- 2110.110 Nonconforming Structure – A structure or part of a structure that does not conform to the present bylaws but which was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer.
- 2110.111 Nonconforming Use – A use of land that does not conform to the present bylaws but

did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer

- 2110.112 Nursing Home - A place, other than a hospital, which maintains and operates facilities and provides skilled nursing care, for profit or otherwise, and is licensed to provide such care by the State of Vermont. The forgoing shall not be construed to prevent the care of a person(s) related to the occupant of a dwelling.
- 2110.113 Open space - Land which, in connection with a development proposal, is set aside from development by conveyance to the Town or some qualified holder, or by some legal mechanism such as covenants or easements, and designated to remain in its natural state (woodland, meadow land, wetland, etc.), agricultural use, or for active or passive outdoor recreation uses.
- 2110.114 Outdoor Pet Exercise Area – A portion of a parcel approved for use as a Pet Care Facility or Kennel, and which is used on a daily or weekly basis by dogs, cats, or other small domestic animals for recreation, socialization, evacuation, or excretion.
- 2110.115 Parcel – An area of land in one ownership, completely surrounded by boundary lines. An area of land in one ownership that is traversed by a public road shall be considered as two parcels.
- 2110.116 Parking Space – An area of land , not less than 9 feet wide and 18 feet in length, suitable and available for the temporary parking of one motor vehicle.
- 2110.117 Personal Service Shop – A building, or portion thereof, used for the provision of services of a personal nature to individuals, including but not limited to barber shops, beauty shops, clothing repair shops, shoe repair shops, dry cleaning drop-offs (where actual cleaning is done elsewhere), and the like.
- 2110.118 Pet Care Facilities – A building, or portion thereof, used for the commercial boarding, recreation, and socialization of dogs, cats, or other small domestic animals. Pet Care Facilities may board such animals overnight but must do so indoors. Animals may be walked out of doors when under the direct supervision of a staff member or the animal’s owner.
- 2110.119 Planned Unit Development – One or more lots to be developed as a single entity according to a plan approved in accordance with Article XIX of these Regulations. If authorized in Article XIX, a Planned Unit Development Plan may contain a mix of uses, and may deviate from bylaw requirements otherwise applicable regarding lot size, bulk, type of dwelling or building, use density, intensity, lot coverage, parking, required open space, or other standards.
- 2110.120 Portable Storage Container – A transportable, fully-enclosed, box-like container that

is (i) designed for temporary storage of personal property household items, wares, and building materials or merchandise, (ii) typically rented to owners or occupants of property for their temporary use, and (iii) typically delivered and removed by truck. Such containers are designed for their ease of loading to and from a transport vehicle.

- 2110.121 Post Office Sorting Facility, U.S. – A building or portion thereof used primarily for the sorting of large volumes of mail by the U. S. Postal Service, but which may include associated space for direct service of customers such as sales of stamps and/or receipt of objects for mailing.
- 2110.122 Post Office Store – A building or portion thereof used primarily for the direct sale of postal services to customers, including receipt of objects to be mailed, sale of stamps, sale of packaging, provision of rental post office boxes. The facility may include some space devoted to sorting mail dropped off at the store or to be delivered to post office boxes at the store, or to be delivered to nearby neighborhoods.
- 2110.123 Police Station - A building or portion thereof housing municipally operated police operations, including but not limited to storage of vehicles and equipment, training space and facilities, eating and sitting areas, locker/shower rooms, interrogation rooms, detention facilities, associated work spaces, radio/communications systems, and other activities associated with police services.
- 2110.124 Private Guest House - A detached structure located on the same lot as a single family dwelling, used intermittently to provide temporary lodging, on a not-for-hire basis, to invitees of the residents or owners of the single family dwelling.
- 2110.125 Public and General Aviation Use Airport – A facility intended and used as a place where one or more fixed wing or rotary wing aircraft are regularly stored, maintained or repaired while not in flight, including the areas that the aircraft may use to take off and land. Subject to availability, airport uses may be available to the public.
- 2110.126 Public and General Aviation Airport Uses – A use or uses customarily conducted at Public and General Aviation Use Airports, including operations related to public, private and general aviation, including aircraft sales, fueling, repair, storage, shipping, rental, flight instruction, and other uses designed to serve aviation passengers and pilots.
- 2110.127 Public Utility Facilities – A building or portion thereof housing administrative offices or equipment associated with the provision of utilities such as energy or communications.
- 2110.128 Re-build – The re-establishment of a structure following whole or partial demolition by fire or other natural disaster. Except as may be authorized under “non-conformities” (Section 1920 of these Regulations), a re-build will be subject to all applicable dimensional requirements set forth in these Regulations.

2110.129 Reconstruction -- The planned demolition of an existing structure or part thereof and construction of one or more new structures on the site. Unless expressly authorized elsewhere, reconstruction shall be subject to all requirements of these regulations.

2110.130 Recreation, Indoor – A building or portion thereof containing recreation facilities including but not limited to swimming pools, skating rinks, gymnasias, bowling alleys, fitness centers, training rooms, playing fields, tennis courts, handball/racquet ball/squash courts, volley ball courts, and associated locker rooms, dressing areas, shower/steam bath/sauna spaces and administrative spaces.

2110.131 Recreation, Outdoor – One or more parcels used for outdoor recreation activities. Outdoor recreation activities may range from passive (Those requiring no substantial alteration or maintenance of the land such as primitive hiking trails) to active (those requiring substantial alteration or maintenance of the land such as developed parks, organized athletic facilities, VAST trails, ski runs, etc.).

- Outdoor recreation facilities with no structures may include minimal structures such as occasional benches and bridges taking trails over streams.
- Outdoor recreation facilities with minor structures may include such associated structures as backstops, dugouts, fences, storage buildings, portable ice rinks, warming huts and the like.
- Outdoor recreation facilities with major structures may include such structures as clubhouses/lodges, or locker/dressing rooms.

See Articles describing individual zoning districts for detailed restrictions.

2110.132 Recreational Vehicle – A vehicle without permanent foundation, which can be towed, hauled or driven, which is designed to be used as temporary living accommodations for camping and travel, including but not limited to travel trailers, truck campers, camping trailers and self propelled motor homes.

2110.133 Redevelopment -- The adaptation of an existing structure for contemporary uses, including the gutting and reorganization of internal spaces and the replacement of exterior elements.

2110.134 Research and Testing laboratories – A building or portion thereof used for conducting and reporting scientific tests, including offices, laboratories, storage, computer facilities, libraries, and associated activities.

2110.135 Restaurant - An establishment where food and drink are prepared to order, served and consumed primarily within the principal building or in designated outdoor eating areas, and excluding fast food restaurants. A restaurant may also serve customers on a “phone in/pick up” basis.

2110.136 Restaurant, fast food - An establishment whose principal business is the sale of food or beverages, for consumption either on or off the premises, and whose operation demonstrates at least three of the following four characteristics: (1) service of food or

beverage predominantly in paper, plastic or other disposable containers, (2) availability of food or beverages for immediate consumption upon short waiting time, (3) insufficient seating facilities within the building for the volume of food sold, or (4) a drive through service window.

2110.137 Retail Sales – The sale of goods or merchandise to the general public for personal or household consumption (including services incidental to such sales).

2110.138 Retaining Wall – A wall or terraced combination of walls used at a grade change to hold soil and other earth material at a higher position. Retaining walls may be attached to or independent from other structures. The exposed side of a retaining wall shall be known as a "face". The area between a lower wall and a successive higher wall shall be known as a "terrace." Does not include Lakeshore Erosion Control Structure.

2110.139 Roadside Farm Stand - A small building or open air stand used for the seasonal sale of locally grown farm produce.

2110.140 Rooming House – An owner occupied structure containing rooms for lease to short or long term guests, and in which meals may be provided to the guests.

2110.141 School - An establishment or facility which provides education or training to students in an organized way. A school may be public or private. A school may include support facilities such as gymnasias, play fields, laboratories, kitchens, cafeteria, libraries, auditoria, offices, etc.

2110.142 Screening – A method of visually shielding or obscuring one abutting or nearby structure or parcel from another. Screening may be achieved by the use of one or a combination of fencing, walls, berms/mounds, or densely planted vegetation.

2110.143 Seasonal Dwelling – See Dwelling, Seasonal.

2110.144 Seawall - A type of lakeshore erosion control structure located at waters edge built to protect the shoreline from erosion due to wave action or prevent flooding.

2110.145 Sediment - Soil, sand, and minerals washed from land into water, usually after rain. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud water so that sunlight does not reach aquatic plants.

2110.146 Sediment control - Measures that prevent eroded sediment from leaving a site.

2110.147 Setback – The distance from any property line or street right-of-way line to the nearest point of a building on the lot bounded by that property line or street line, but excluding: (A) eaves, sills, pilasters, gutters, leaders, cornices, bay windows, chimneys, and roof overhangs provided such features do not extend more than four (4) feet from the remainder of the structure; (B) steps to first floor entries and

awnings provided such features do not extend more than six (6) feet from the remainder of the structure; (C) porches and decks provided such features do not extend more than eight (8) feet from the remainder of the structure and are at least 5 feet from the vertical plane of any lot line or Right of Way line; (D) retrofit modifications to a structure made for energy efficiency purposes, provided that such features do not extend more than one (1) foot from the remainder of the structure; (E) handicapped access ramps to the extent necessary to perform their property function; and (F) Unenclosed patios or terraces, provided that such extension is at least 5 feet from the vertical plane of any lot line or Right of Way line.

- 2110.148 Sexually oriented toys or novelties means any instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.
- 2110.149 Signs - Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured, or colored material on any building, structure or surface, or produced by projecting an image upon the exterior of any building or structure.
- 2110.150 Sign, Facade - A sign attached to, painted on, or erected against the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of said wall, which is placed in view of the general public from outside the building or structure.
- 2110.151 Sign, Projection - A sign attached to a building or other structure and extending in whole or in part more than 9 inches beyond the building wall.
- 2110.152 Specified anatomical areas means: (i) less than completely and opaquely covered human genitals, anus, pubic region, buttock, or female breast below a point immediately above the top of the areola; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- 2110.153 Specified sexual activities means: (i) human genitals in a state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse, sodomy, oral copulation, or bestiality; (iii) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts, whether clothed, of oneself, or of one person by another; or (iv) excretory functions as part of or in connection with any of the activities set forth in this subsection.
- 2110.154 Staff Quarters – An accessory single family dwelling, located on the same parcel as a primary single family dwelling, used to provide permanent housing for full time staff employed on the premises and their families.
- 2110.155 Stormwater- Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

- 2110.156 Stormwater Management - The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
- 2110.157 Stormwater Treatment Practices - Measures, either structural or non-structural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.
- 2110.158 Stormwater Impaired Waters- A water body currently identified by the Vermont Department of Environmental Conservation following the requirements of the Clean Water Act Section 303(d)
- 2110.159 Street – Any public or private road, highway, avenue, street, land or other way between right-of- way or property lines, commonly used by the public for vehicular traffic.
- 2110.160 Structure – See Building.
- 2110.161 Subordinate – Being of markedly less or of secondary importance relative to another object, action, or state.
- 2110.162 Town Garage – Land and/or buildings used by a municipality for the storage, care, and maintenance of equipment, vehicles, and supplies associated with the use and maintenance of public buildings, roadways, or facilities.
- 2110.163 Transit Passenger Station – A facility designed to accommodate people boarding and de-boarding public transit vehicles, including an enclosed waiting space, facilities for the sale of tickets or tokens, and parking. A street-side bus stop with a shelter shall not be construed as a transit passenger station.
- 2110.164 Truck Gardening – Small scale form of farming in which fruits and /or vegetables are grown for market, distinguishable from other types of farming by the diversity of crops grown on a small area of land.
- 2110.165 Upholstery/Fabric Working – The use of a building or portion thereof for the creation of such fabric based products as upholstery, awnings, tents, canopies, vehicle covers, and the like.
- 2110.166 Use - The specific purpose for which land or a building or a portion thereof is designated, arranged, or intended, or for which it is or may be occupied or maintained.
- 2110.167 Vehicle sales and repair - A facility for the sale and repair of motorized vehicles or equipment or mobile homes. Typical uses include new and used automobile and recreational vehicle sales and repair, and trailered boat sales and repair. Small engine

vehicles and machinery which are typically displayed in enclosed structures and boat sales which are accessory to a marina are not included in this definition.

2110.168 Veterinary Clinic – A building or portion thereof used for the provision of veterinary care to domestic animals. A veterinary clinic may include waiting areas, record storage areas, examination rooms, surgeries, spaces for animals in cages, and associated uses.

2110.169 Warehouse – A building or portion thereof used on a commercial basis for the short or long term storage of goods.

2110.170 Waste Water Treatment Plant – One or more structures, operating under a state permit or license, used to treat wastewater prior to discharging it into receiving waters.

2110.171 Watershed - That geographical area that drains to a specified point on a watercourse, usually a confluence of streams or rivers

2110.172 Wholesale Sales – The use of a building or portion thereof for the sale of goods to other entities that then use them as part of a fabrication process or resell them to the direct consumers.

2110.173 Wildlife Management/Refuge Areas – Areas which have been protected against future development and which are being managed and used for wildlife habitat and/or as refuge areas for wildlife.

2110.174 Windmills - Devices, including their towers, which convert wind energy to electrical or mechanical energy.

2110.175 Yacht Club – Land and buildings used to provide boating related services to club members. A yacht club may include docks, mooring areas, launch services, seasonal small boat storage, parking areas, clubhouses, small play fields, etc., but may not include winter storage of boats or commercial repair activities.

2110.176 Yard - An open space on a lot, unoccupied and unobstructed from the ground upward by any building or structure, except as otherwise provided in these regulations.

2110.177 Yard, front - a yard on the same lot with a principal building, extending the full width of the lot and situated between the right-of-way line of the public road, private road, or Right-of-way, from which primary access to the principal structure on the lot is obtained and the front line of the building extended to the sidelines of the lot.

2110.178 Yard, rear - A yard on the same lot with a principal building between the rear line of the building and the rear line of the lot extending the full length of the lot.

2110.179 Yard, side - A yard situated between the principal building and a sideline and extending from the front yard to the rear yard. The distance between the principal building

and the sideline shall be measured from the building to the nearest point on the sideline along a line parallel to the front lot line.

2110.180 Zoning/Building Permit – In accordance with 24 V.S.A., Section 4449, a permit issued by the Zoning Administrative Officer in accordance with the provisions of Article XX of these regulations, which authorizes specified land development and which may contain conditions which must be met in order for the land development to comply with the provisions of these regulations and any applicable approvals.



**ARTICLE XXII: SHELBURNE ROAD FORM-BASED  
OVERLAY DISTRICT (SR-FBOD)**

**[Bound separately in document displaying date 9-2-2020]**

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Figure A. Measurement of Lakeshore setback

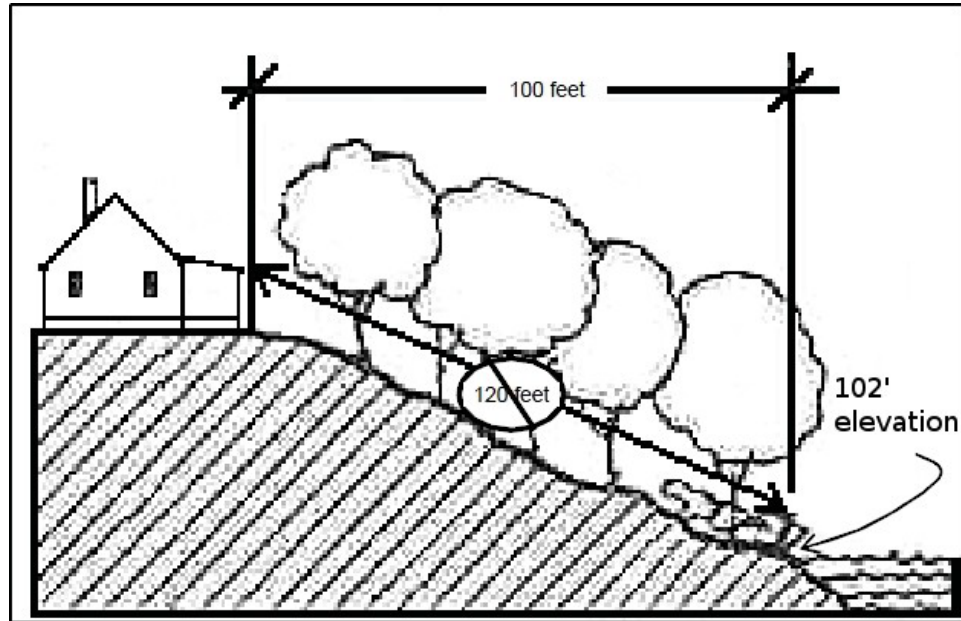


Figure B. Measurement of Lakeshore setback

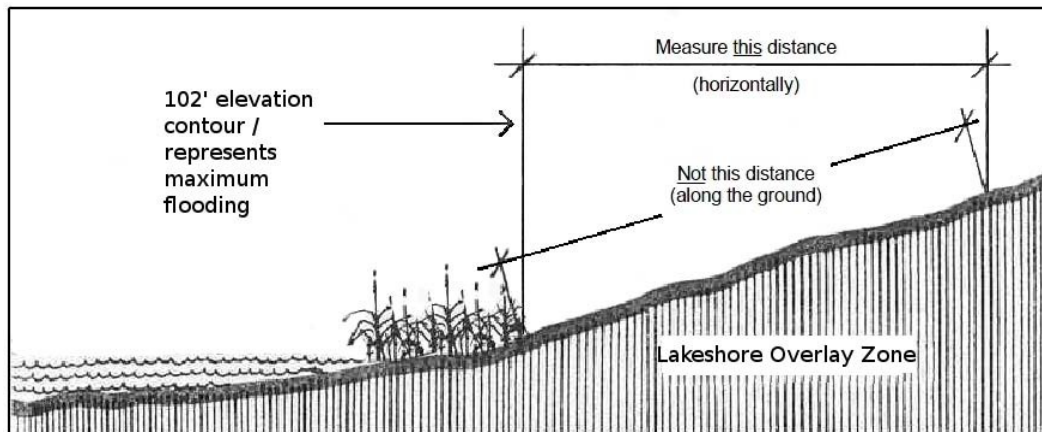


Figure C. Prohibition against extending closer to the 102 foot elevation contour

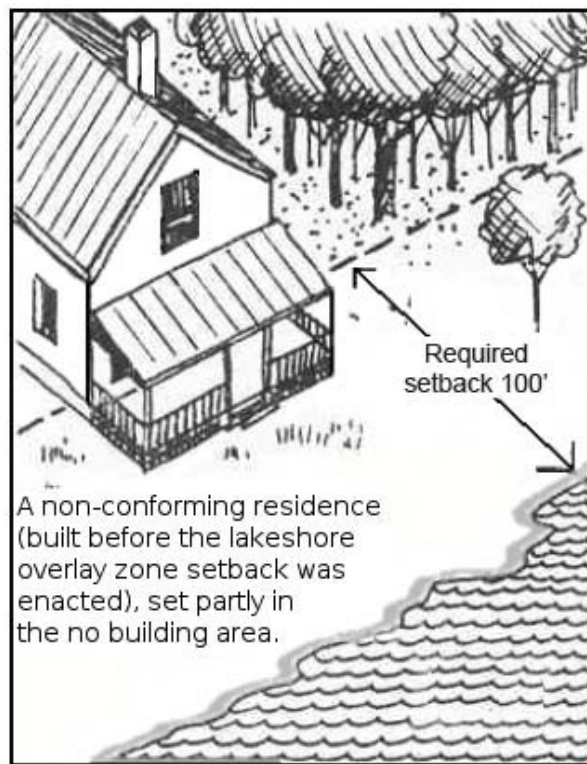


Figure D. Lakeside wall

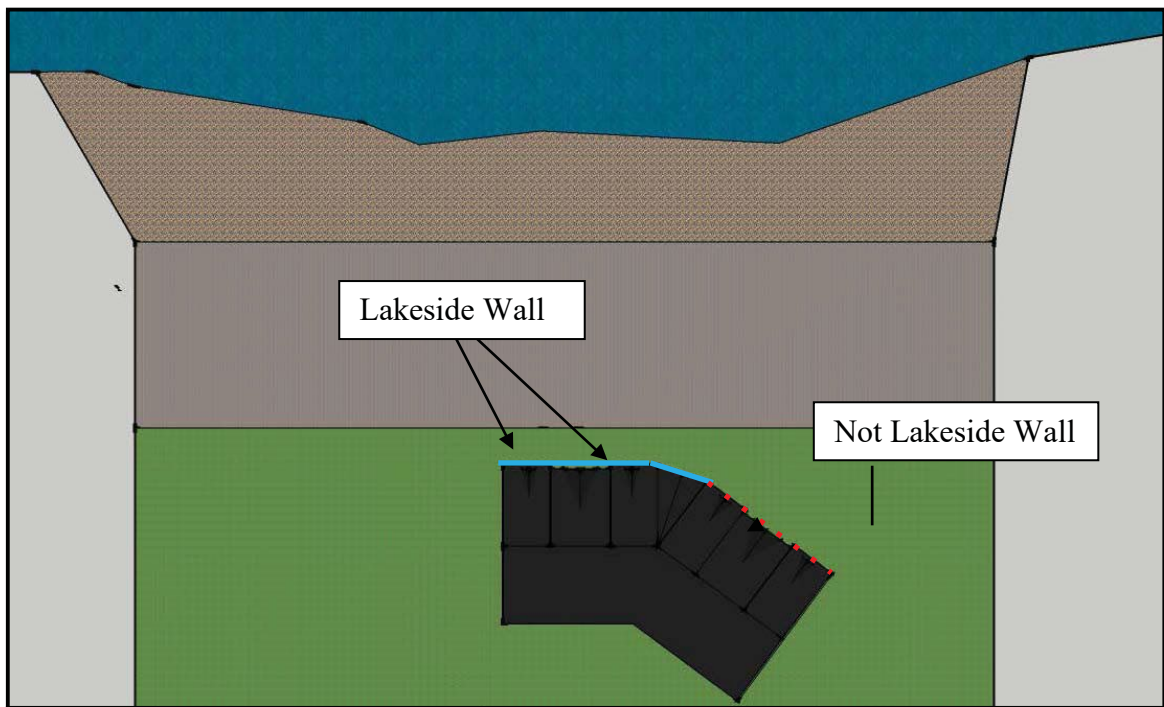


Figure E. Lakeside wall (in perspective)

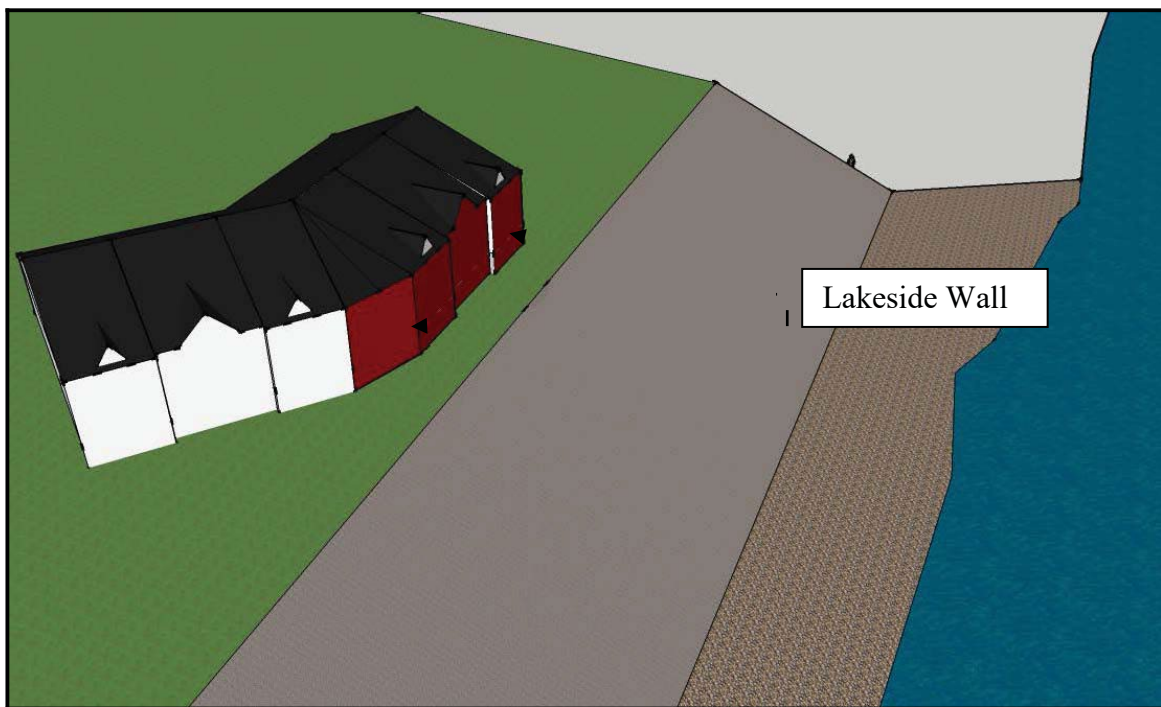


Figure F. Lateral Relocation

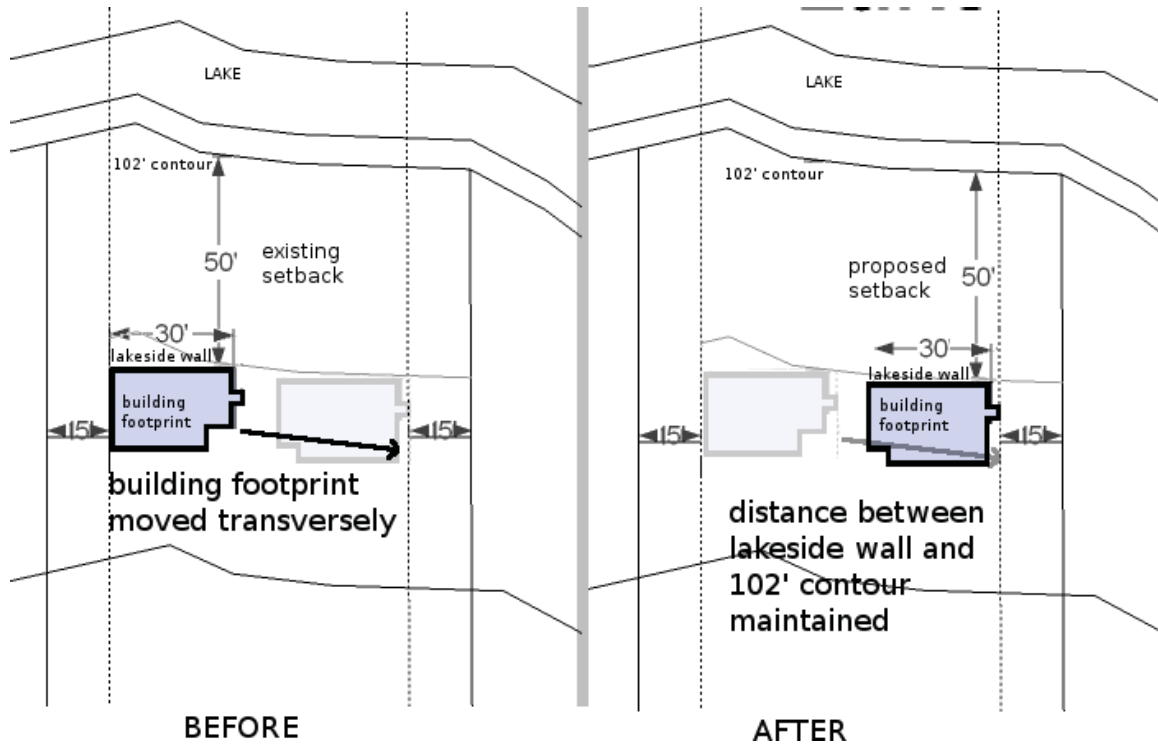


Figure G. Height

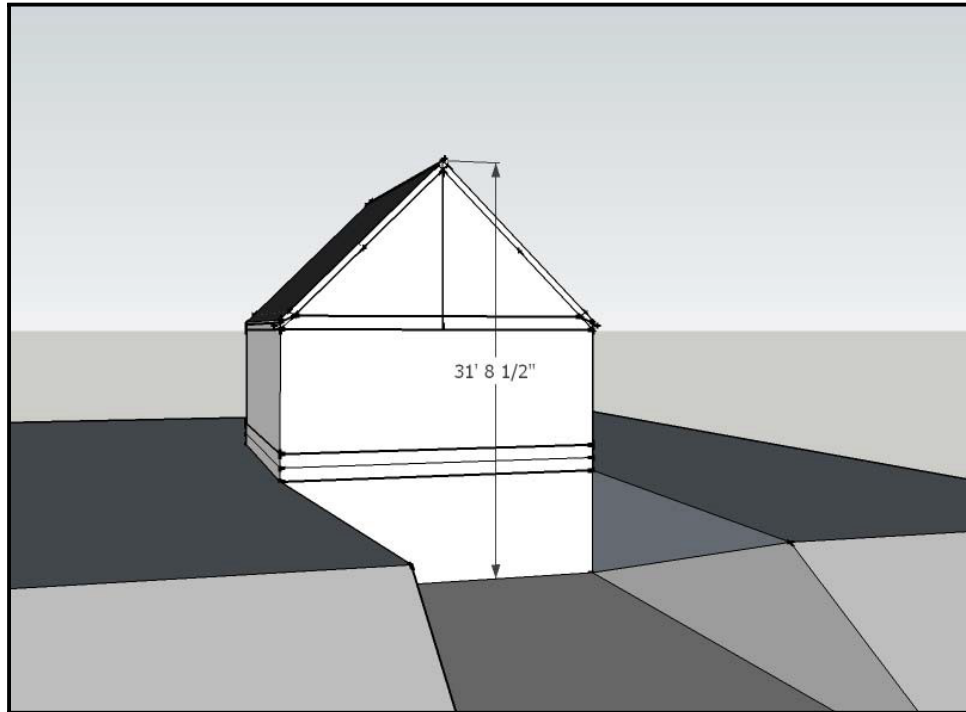


Figure H. Compatible in form, massing, roof shape, height, and proportion with surrounding architecture



Figure I. Building details and materials compatible with surrounding architecture

