

# **TOWN OF SHELDON**

## **LAND USE AND DEVELOPMENT REGULATIONS**

**Prepared by the Sheldon Planning Commission**

**Adopted by the Sheldon Selectboard  
on February 23, 2015**

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# **Article 1. Authority and Purpose**

## **SECTION 1.1 SHORT TITLE**

The following regulations shall be known and cited as the “Town of Sheldon Land Use and Development Regulations”.

## **SECTION 1.2 STATUTORY AUTHORIZATION**

The Town of Sheldon Land Development Regulations are established as authorized in Section 4401 of the Vermont Planning and Development Act (Title 24, Chapter 117 of Vermont Statutes Annotated); hereinafter referred to as “the Act”.

## **SECTION 1.3 PURPOSE**

The purpose of these regulations is to implement the Sheldon Town Plan as most recently amended; to further the purposes of the Act; to promote the public health, safety, comfort, convenience, economy, and general welfare of the community; and to achieve the following specific objectives:

- To maintain Sheldon’s rural character and scenic resources while providing sufficient space in appropriate locations for all land uses in light of their respective environmental needs and their mutual interrelationships.
- To maintain the character of existing neighborhoods and avoid potential conflicts between incompatible land uses.
- To limit development on slopes greater than 20% and maintain natural vegetation on slopes.
- To steer development away from areas where soils will not support it due to shallow depth to bedrock, instability, or high water table.
- To protect health, welfare, and safety by limiting development in the floodplain.
- To protect water quality by limiting development in Source Water Protection Areas, wetlands, and along river and stream banks.
- To conserve productive land by accommodating development in areas away from farming activity.

#### **SECTION 1.4 APPLICABILITY**

No land development or subdivision of land shall commence within the Town of Sheldon except in compliance with these regulations.

These regulations shall not repeal or impair any other land use controls, including but not limited to statutes, regulations, rules, ordinances, permits, easements, deed restrictions, and covenants. However, the provisions of these regulations shall be minimum requirements and shall therefore take precedence over any concurrent and less restrictive controls.

#### **SECTION 1.5 DEFINITIONS**

Except as defined in Article 10 of these bylaws, all words shall carry their customary meanings. Any interpretation of words or terms in these bylaws by the Zoning Administrator may be appealed to the Development Review Board for a declaratory ruling.

#### **SECTION 1.6 EFFECTIVE DATE**

These regulations and any subsequent amendments shall take effect 21 days after the date of their adoption by the Selectboard, unless, within 20 days of adoption, 5 percent of the voters petition for a meeting to consider the bylaw or amendment. In that case, a meeting shall be warned for the purpose of acting on the bylaw or amendment by Australian ballot.

#### **SECTION 1.7 SEVERABILITY**

The provisions of these regulations are severable. If any provision or application of these regulations is found to be invalid, the invalidity will not affect other provisions or applications of the regulations.

**TABLE 1.1 MUNICIPAL PERMITS AND APPROVALS: TOWN OF SHELDON**

Permit/Approval	Required for	Issued by	See
Zoning Permit	All development as defined in Article 10, including signs, accessory structures, conversions and changes of use unless specifically exempted from these regulations under section 3.1.	Zoning Administrator	Section 3.1
Access by Right-of-Way Approval	Development on or access to lots without frontage on a maintained public road or public waters.	Development Review Board	Section 4.2
Site Plan Approval	All land uses requiring site plan approval in Table 2.1.	Development Review Board	Section 3.2
Conditional Use Approval	All land uses classified as conditional uses in Table 2.1 and nonconformities under Section 4.6.	Development Review Board	Section 3.3
Variance Approval	Requests for a variance from the provisions of these regulations.	Development Review Board	Section 3.4
Flood Hazard Area Development Approval	Requests for land development in the Flood Hazard Overlay District.	Development Review Board	Section 3.5
Planned Unit Development (PUD) Approval	Subdivision and/or land development, which incorporates modifications from the provisions of these regulations to meet specific purposes as specified in Article 8 of these bylaws.	Development Review Board	Article 8
Subdivision Approval	All subdivisions of land, as defined in Article 10, including boundary line and lot line adjustments.	Development Review Board	Article 6
Sketch Plan Approval	All applications for subdivision approval.	Development Review Board	Section 6.2
Preliminary Plan Approval	All applications for major subdivisions as defined in Section 6.1.	Development Review Board	Section 6.3
Final Plan Approval	All applications for subdivision approval.	Development Review Board	Section 6.4
Plat Recording	All approved subdivisions of land, including boundary line and lot line adjustments.	Development Review Board	Section 6.5
Certificate of Compliance	All approved major subdivisions, and minor subdivisions where is it a condition of approval.	Zoning Administrator	Section 9.2

Zoning Map



## **Article 2. Zoning Districts and District Regulations**

### **SECTION 2.1 ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL MAP**

- A) The Town of Sheldon is divided into the following zoning districts:
- 1) Village District
  - 2) Industrial/Commercial District
  - 3) Rural Lands I District
  - 4) Rural Lands II District
- B) In addition, overlay districts are established to protect the town's flood hazard areas and Source Protection areas. The overlay districts impose an additional layer of regulations upon the affected lands. Where the provisions of the underlying district differ from those in the overlay districts, the more restrictive shall govern.
- C) The Official Zoning Map for the Town of Sheldon Land Use and Development Regulations shall consist of:
- 1) The Town of Sheldon Zoning Map, located in the Town Clerk's, which shall be identified by the signature of the Selectboard, attested by the Town Clerk, and
  - 2) The most current flood insurance studies and maps, published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753.

The Official Zoning Map is hereby adopted by reference and declared to be part of these regulations. No changes of any nature shall be made on the Official Zoning Map except in conformance with the formal amendment procedures and requirements set forth in the Act, Sections 4441 and 4442.

### **SECTION 2.2 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Where uncertainty exists in the boundaries of districts shown on the Official Zoning Map, the following rules shall apply:

- A) Boundaries indicated as approximately following the center lines of roads, streams,

transportation and utility rights-of-way shall be construed to follow such center lines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.

- B) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
- C) Boundaries indicated as following shorelines shall be construed to follow such shorelines at the mean (average) lake level.
- D) Boundaries indicated as parallel to, or as extensions of features in A), B), and C) above shall be so construed.
- E) When the Zoning Administrator cannot definitely determine the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map, the Development Review Board shall interpret the district boundaries (except for flood hazard boundaries). The Flood Insurance Rate Maps published by the Federal Emergency Management Agency shall be the authority for determining the boundaries of the district. Disputes over the exact location of boundaries shall be resolved by the Zoning Administrator for administrative applications, or by the Development Review Board for non-administrative application, based upon survey and/or other evidence.
- F) In the case of existing lots lying in more than one district, the provisions of any district may be applied for a distance of not over twenty-five feet into any other adjacent district.
- G) When a lot is situated partly in the Town of Sheldon and partly in a neighboring town, the standards of these regulations shall be applied to that portion of the lot that lies in the Town of Sheldon in the same manner as if the entire lot were situated therein.

### **SECTION 2.3 APPLICATION OF DISTRICT STANDARDS**

- A) **Village District.** The purpose of this district is to maintain the Villages of Sheldon Creek and Sheldon Springs as residential and commercial centers. Municipal water and sewage disposal is available, and development on small lots will be encouraged to take advantage of these services, as well as to maintain the traditional pattern of development.
- B) **Industrial/Commercial District.** The purpose of this district is to set aside land for future industrial and commercial development in an area with good highway access and potential for municipal water and sewage disposal. Development of this district should be planned to take the greatest advantage of available land while limiting conflicts with surrounding land uses. Access points to the area from Route 105 should be limited to the extent possible and shared accesses are encouraged.
- C) **Rural Lands I District.** The Rural Lands I District is comprised of all land not more than 800 feet from the center of all Class I, Class II or Class III roads in existence on the effective date

of these regulations and that is not otherwise designated as Village or Commercial/Industrial. Any new Class I, Class II, or Class III roads taken over by the town after the effective date of these regulations shall not be used in delineating the Rural Land I District.

The purpose of this district is to provide opportunities for low-density rural development. These areas, in combination with the village districts, should meet local needs for residential and commercial growth over the next five years. Included will be lands with good highway access, lands adjacent to existing villages, and lands currently committed to extensive rural residential settlement or commercial use. Some parcels or portions of parcels, which fall within the designated district, may, upon closer inspection, be limited in their suitability for development. Development within the district should be planned to minimize the number of access points onto town and state highways in order to maintain smooth traffic flow. Agriculture will still be a predominant land use in much of the district, and new development should be required to minimize potential conflicts with existing agricultural operations.

- D) **Rural Lands II District.** The Rural Lands II District contains those areas within Sheldon that are most remote and are not needed to meet housing or other intensive development needs over the planning period (5 years). These lands have especially high resource values easily jeopardized by urban or suburban development. Included in the Rural Lands II District are Sheldon's most extensive wetlands, the town's less accessible forested hills, and certain extensive managed agricultural lands furthest from the villages or from public highways. Land within the district has no access by improved public highways, and extension of utilities and emergency services to these areas would be costly. Generally, land within the district has one or more of the following characteristics: soils are either shallow to bedrock or are saturated with water for most of the year; soils which are especially well-suited for agriculture; soil conditions (high permeability or shallow depth) which suggest high potential for groundwater recharge; land within the probable zone of groundwater recharge.
- E) **Flood Hazard Area Overlay District.** The purpose of this district is to prevent development which might increase flooding and to reduce losses as a result of damage from flooding in areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753. Designation of this district is required for the town to be eligible for the National Flood Insurance Program. This district is an overlay zone and shall be superimposed on the other districts established by this bylaw. Where the provisions of the underlying district differ from those of the Flood Hazard Area Overlay District, the more restrictive shall govern.
- F) **Source Protection Overlay District.** In order to protect the town's public water supplies, this district will be superimposed over on the other districts established in this bylaw. The

overlay district will restrict land uses that might impact surface or ground water quality. The district is delineated on maps supplied by the Vermont Agency of Natural Resources, Water Quality Division. Where the provisions of the underlying district differ from those of the Source Protection Overlay District, the more restrictive shall govern.

## **SECTION 2.4 ZONING DISTRICT USES AND DIMENSIONAL STANDARDS**

- A) All uses and structures must meet the district dimensional requirements and all other applicable provisions of this Regulation except as authorized by a variance or by approval of a planned unit development (PUD).
- B) Table 2.1 lists uses and structures for each district (except the Flood Hazard Overlay District, see (C) below), which may be permitted (P), permitted with site plan approval (P/S), conditionally permitted (C), conditionally permitted with site plan approval (C/S), or prohibited (R). Procedures for review include the following:
  - 1) Permitted uses and structures may be approved by the Zoning Administrator. However, permitted uses may also require site plan approval from the Development Review Board prior to issuance of a zoning permit, as provided in Section 3.2.
  - 2) Conditional uses and structures require conditional use approval by the Development Review Board, as provided under Section 3.3. Conditional uses may also require site plan approval from the Development Review Board, as provided in Section 3.2. Conditional use review and site plan review may be completed concurrently, as provided in Section 9.1 (l).
  - 3) Prohibited uses are not allowed in the zoning district.
  - 4) Uses not listed as permitted or conditional in any district may be considered by the Development Review Board as a conditional use if the proposed use is of the same general character as those permitted or conditional in the district in which the use is proposed. This section shall not be construed to allow a use to be considered in a district when it is clear that the use is permitted or conditional in a different district.
- C) **Permitted Uses in the Flood Hazard Overlay District.** In addition to meeting all other applicable standards in these regulations, Flood Hazard Area Development Review under Section 3.5 is required for:
  - 1) New construction or substantial improvement to single family dwellings, residential accessory uses and structures, structures used for outdoor recreation, and public facilities;
  - 2) Substantial improvement to any existing structure; and

- 3) Any mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials in the floodway.

All other land development is prohibited within the Flood Hazard Overlay District (Note that land development has an expanded definition in the Flood Hazard Overlay District, see Article 10). Flood Hazard Area Development Review may be conducted concurrently with any other required development approvals as provided in Section 9.1(l).

- D) **Number of Uses and Structures on a Lot.** Only a single principal use or structure shall be located on a single lot, unless otherwise approved by the Development Review Board as part of a PUD under Article 8 or as part of a mixed use under Section 5.8.
- E) **Setback requirements:** All primary and accessory structures shall conform with the minimum setback requirements of the district in which they are located as required in Table 2.1, unless expressly permitted as a variance or waiver to these bylaws. The setback is a horizontal line measured from the edge of the property line to the nearest part of a building, structure, or parking area on the premises.
  - 1) The following uses may be permitted in the setback area: Fences (see Section 4.3), signs (see Section 4.10), utilities, pedestrian walkways and paths.
  - 2) Driveways are permitted in setback areas except within 10 feet of a side or rear property line. Shared driveways are exempt from this regulation.
  - 3) Any interior (non-frontage) lot which does not have frontage on a public or private road or public waters shall meet minimum setbacks from all property lines equal to the front setback distance for the district in which it is located.

### **Measuring Front Setbacks**

Determining setback distances can be difficult, especially for front setbacks. The following are step-by-step instructions to help determine the front setback for a structures:

1. Contact the Zoning Administrator or Road Foreman for information regarding the right-of-way width for the road adjacent to your property. Most public right-of-ways in Sheldon are 49 ft. (3 rods) wide. It is assumed that most roads are located in the middle of their right-of-way.
2. Once the right-of-way width has been determined, divide the number in half (ex. 24.5 ft. for a 49 ft. wide right-of-way). This is approximately the distance from the middle of the road to your front property line.
3. Use a tape measure to measure from the middle of the road to the approximate location of your property line. Use spray paint or another type of marking to note the location. Repeat this step several times along the frontage of your lot along the right-of-way to determine the general path of your front property line.
4. Use a tape measure to measure from the front property line to any structure. The shortest distance between the front property line and a structure is the front setback.

Disclaimer: This is just a tool to help determine front setbacks. The Zoning Administrator is the authority in charge of determining whether or not a setback has been measured correctly or incorrectly.

**Table 2.1 Dimensional Standards and Uses by Zoning Districts**

<b>Dimensional Standards</b>					
	<b>Village District</b>	<b>Industrial/Commercial District</b>	<b>Rural Lands I District</b>	<b>Rural Lands II District</b>	<b>Source Protection Overlay District</b>
Min. Lot Size	1/2 acre	2 acres	1 acre	10 acres	The same as underlying District
Min. Frontage	100 feet	200 feet	150 feet	250 feet	The same as underlying District
Min Front Property Line Setback	10 feet	50 feet	40 feet	40 feet	The same as underlying District
Min. Side and Rear Property Line Setback	15 feet	30 feet	25 feet	25 feet	The same as underlying District
Min. Setback/Stream	50 feet	50 feet	50 feet	50 feet	The same as underlying District
<b>Allowed Uses</b> (See Section 2.4(C) for allowed uses in the Flood Hazard Overlay District) "P" – Permitted Use "C" – Conditional Use "S" – Site Plan Review "R" – Not Allowed					
	<b>Village District</b>	<b>Industrial/Commercial District</b>	<b>Rural Lands I District</b>	<b>Rural Lands II District</b>	<b>Source Protection Overlay District</b>
<b>Residential Uses</b>					
Accessory Structure/Use	P	P	P	R	C
Accessory Apartments to Sing-Fam Dwellings	P	P	P	P	R <sup>2</sup>
Accessory Agricultural Dwellings (Section 5.2)	R	R	C	R	R
Mobile Home Park (Section 5.9)	R	R	C/S	R	R
Multi-family dwelling	C/S	C/S	R	R	R
Seasonal Dwelling	P	R	P	P	R
Single-family dwelling <sup>1</sup>	P	C	P	C	C
Two-family dwelling	P	C	P	R	R
<b>Commercial Uses</b>					
Accessory Structure/Use	P	P	P	P	R

	Village District	Industrial/ Commercial District	Rural Lands I District	Rural Lands II District	Source Protection Overlay District
Agribusiness	C/S	C/S	C/S	R	R
Auction House	R	C/S	C/S	R	R
Bed and Breakfast	P/S	R	C/S	C/S	R
Business office (w/ 5 or less FT employees)	P/S	P/S	P/S	R	R
Business office (w/ more than 5 FT employees)	C/S	C/S	C/S	R	R
Campground (Section 5.5)	R	R	C/S	R	R
Child care facility (w/ more than 6 FT & 4 PT kids) (Section 5.3)	C/S	C/S	C/S	C/S	R
Commercial indoor recreation	C/S	R	C/S	R	R
Commercial outdoor recreation	R	R	C/S	R	R
Flea Market	C/S	R	C/S	C/S	R
Gas Stations	C/S	R	C/S	R	R
Hazardous materials	R	C/S	R	R	R
Home occupation (Section 5.6)	P	P	P	P	R <sup>2</sup>
Hotel/motel establishments	C/S	C/S	C/S	R	R
Junk Yard	R	R	R	R	R
Excavation, & earth resource extraction, processing, and/or mining (Section 5.7)	C/S	C/S	C/S	C/S	R
Light industry	C/S	C/S	C/S	R	R
Manufacturing	R	C/S	R	R	R
Medical Clinic	C/S	R	C/S	R	R
Personal service establishment (w/ 3 or less FT employees)	P/S	R	C/S	R	R



	Village District	Industrial/ Commercial District	Rural Lands I District	Rural Lands II District	Source Protection Overlay District
Personal service establishment (w/ more than 3 FT employees)	C/S	R	C/S	R	R
Retail sales (w/ 3 or less FT employees)	P/S	P/S	C/S	R	R
Room and board house (more than 5 units)	C/S	R	C/S	R	R
Room and board house (5 or less units)	P/S	R	P/S	R	R
Retail sales (w/ more than 3 FT employees)	C/S	C/S	C/S	R	R
Restaurant	C/S	R	C/S	R	R
Veterinary clinic	C/S	C/S	C/S	R	R
Warehousing	R	C/S	R	R	R
<b>Other Uses</b>					
Club	P/S	R	P/S	R	R
Outdoor recreation (non commercial)	R	R	R	C/S	R
Public facilities (Section 5.11)	P/S	P/S	P/S	P/S	P/S
Community Care Facility (Section 5.3)	C/S	R	R	R	R
Telecommunications Facilities (Section 5.12)	C	C	C	C	C
Wind Energy Conversion Systems (Section 5.13)	C	C	C	C	C

<sup>1</sup> In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article 10.

<sup>2</sup> The use shall be a permitted use of property where there is a pre-existing single family home in the district.

## Article 3. Development Review

### SECTION 3.1 ZONING PERMITS

- A) **Applicability.** No land development may commence in the Town of Sheldon without a zoning permit. Land development is defined as the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, including signs, 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. Development in the Flood Hazard Area Overlay District is defined as any man-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. Zoning permits shall run with the land.
- B) **Local Exemptions.** The following uses and structures, if located outside the Flood Hazard Area Overlay District, have been determined by the town to have little or no potential impact on the surrounding area or overall pattern of land development in Sheldon and are exempted from these regulations; no zoning permit or approval shall be required. These exemptions do not apply to development located in the Flood Hazard Area Overlay District.
- 1) Normal maintenance, repair, or replacement of an existing conforming structure that does not result in any change to the footprint or height dimensions of the structure.
  - 2) Residential entry stairs and handicap ramps (excluding if proposed as part of a new structure, deck, or porch area) provided they meet applicable setback requirements, and walkways, which may be located in the front setback area, but not the yard setback areas.
  - 3) Accessory structures which do not exceed 50 square feet in floor area or 10 feet in height, providing such structures meet all setback requirements and are located to the side or rear of the primary structure.
  - 4) Fences whose primary purpose is agricultural in nature, stonewalls, and earthen berms, hedgerows, and other vegetation.
  - 5) Signs erected by the Town or State on public roads; non-advertising signs placed for directional or safety purposes; temporary auction, lawn, or garage sale signs that do not to exceed 2 in number and that do not to exceed 15 square feet in total area (all such temporary signs shall be promptly removed when they have fulfilled their function); one temporary real estate or construction sign not to exceed 24 square feet in area and 10 feet in height, providing such sign is promptly removed when it has fulfilled its function; and farm signs.

6) Any other use or structure otherwise exempted from these regulations.

C) **State Exemptions.** The following uses and structures are specifically exempted from municipal land use and development regulations by state law. Therefore, no municipal zoning permit or approval under these regulations shall be required for:

1) Accepted agricultural practices (AAPs) as adopted in rules by the Agency of Agriculture (see [www.vermontagriculture.com/ARMES/awq/AAPs.htm](http://www.vermontagriculture.com/ARMES/awq/AAPs.htm)), including farm structures, as defined by the Act (Title 6 §4810). However, written notification, including a sketch plan of the farm structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Zoning Administrator prior to any construction as required under the AAPs.

2) Accepted management practices (AMPs) for silviculture (forestry) as defined by the Act.

3) Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Service Board [under 30 V.S.A. §248], including net-metered wind generation facilities and solar panels.

4) Hunting, fishing or trapping on public or private land as specified by the state [under 24 V.S.A. §2295]. This excludes facilities that may support such activities, such as firing ranges, rod and gun clubs, and fish and game clubs, which are subject to these regulations.

5) In accordance with the Act [Section 4412(5)], a state registered or licensed child care home serving 6 or fewer children on a full time basis and up to 4 additional children on a part time basis, conducted within a single family dwelling by a resident of that dwelling, shall be considered by right to constitute a permitted single family residential use of the property.

6) In accordance with the Act [Section 4412(G)], a state registered or licensed residential care home or group home serving 8 or fewer persons who have a handicap or disability as defined by 9 V.S.A. Section 4501, shall be considered by right to constitute a permitted single family residential use of the property, except that no such home shall be located within 1,000 feet of another such home.

D) **Application Requirements.** An application for a zoning permit shall be complete and be submitted to the Zoning Administrator along with the permit fee, a written request for any waiver of required application materials, and all other approvals required by these regulations. A complete application for a zoning permit must contain all applicable application requirements listed in Table 3.1. Note that there are additional application requirements for land development requiring one or more board reviews, including conditional use, site plan, appeals of a decision of the Zoning Administrator, or a request for

a variance. Listed below, are additional application requirements for site plan applications and for land development in the Flood Hazard Overlay District.

- 1) **Flood Hazard Area Overlay District.** In addition to the application requirements in Table 3.1, applications for development within the Flood Hazard Area Overlay District shall also include the following information:
  - a) the location on the site development plan and associated elevations of all structures, roads, and water supply and wastewater facilities in relation to the channel, floodway, and base flood elevations;
  - b) a hydraulic and hydro-geologic analysis for any development located within the floodway; and
  - c) a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
  
- E) **Notification and Review Procedure.** Zoning permit applications are subject to notification and review procedures set forth in Article 9.1 (C) and (D).
  
- F) **Bonding.** The appropriate Board may require a performance bond or other form of security of up to the value of the cost of the improvement to ensure that the project is constructed and maintained in compliance with the permit and these regulations. The amount and form of such surety shall be subject to the approval of the Sheldon Selectboard prior to final approval from the appropriate Board.

**TABLE 3.1 ZONING PERMIT & BOARD APPROVAL APPLICATION REQUIREMENTS:**

**Application Requirements:**

All applicants seeking site plan approval and/or a zoning permit for a permitted use, conditional use or a variance shall submit a zoning application provided by the Town of Sheldon and all required application fees. Each zoning permit shall consist of the information in this table, as applicable.

***[Applications for land development in the Source Protection District shall also comply with Section 3.3(C)(5) and applications for land development in the Flood Hazard Area shall also comply with Section 3.1(D)(1)]***

**Requirements for all land development applications:**

- \* A statement of the existing and intended use of land and structures
- \* A list of names of most recent mailing addresses of all abutting property owners.
- \* The signature of the property owner.
- \* Information regarding any potential for odor, noise, smoke, dust, dirt, noxious gas, glare, fire, or explosion during the construction of the development or the proposed use of the land.
- \* One (1) original and one (1) copy of a complete site plan, drawn to scale, with north arrow and date of preparation. *(If requested by the Development Review Board, site plans shall be prepared by a licensed engineer, surveyor, or architect, the name of which shall be noted on the map along with map scale, north arrow, and date of preparation)*

**Each site plan shall show the following information in sufficient detail to determine whether the proposal is in conformance with these Regulations:**

- Dimensions of the lot and lot acreage, including legal property boundaries.
- Zoning district boundaries.
- Location, footprint, and height of existing and proposed structures additions, and land use areas.
- Location of existing and proposed easements, rights-of-way, sidewalks, and utilities.
- Location of major site features, including surface waters, wetlands, and floodplains, rock outcroppings, and stands of trees.
- Setbacks from property boundaries, rights-of-way, surface waters, and wetlands.
- Where locations of, and relationship between property lines, roads, buildings, and other required information is in doubt, a land survey may be required.

**TABLE 3.1 ZONING PERMIT & BOARD APPROVAL APPLICATION REQUIREMENTS:**

- Any other information that may be needed to determine compliance with these regulations.

**Additional site plan requirements for land development requiring conditional use and/or site plan review:**

- The lot, block, and section number of the property from the most recent municipal tax record.
- The location and type of all vegetation and natural features on the site.
- Location and dimension of parking areas, loading and unloading facilities, points of ingress and egress of vehicles to and from the site to public streets, and pedestrian rights of way.
- Location, height, and lumens of outdoor lighting.
- Topography indicating contours at intervals of not more than 50 feet.
- Soil types.
- Existing and proposed landscaping and screening.
- The location of all proposed site grading and excavation.

**In addition, each zoning application shall include the following, as applicable:**

	Site Plan Review	Conditional Use Review	Variance Requests
Construction sequence and time schedule for completion of each phase of development.	✓	✓	
Plans for onsite erosion control during construction.	✓		
Detailed specifications of planting and landscaping materials to be used, and a plan for long term maintenance and replacement of plantings.	✓		
Cost estimates of all site improvements.	✓		
Statement of how the proposed development fits the purposes of the land use district in which it is located.		✓	
Expected impact on existing and planned community facilities.		✓	
Estimated daily and peak traffic generation.		✓	
For nonconforming uses or structures statement of how the proposal meets standards in Section 4.6.		✓	

**TABLE 3.1 ZONING PERMIT & BOARD APPROVAL APPLICATION REQUIREMENTS:**

A statement describing the variance requested from one or more provisions of these Regulations and the alleged grounds why such relief is believed proper under the circumstances based on the five (5) statutory criteria listed in Section 3.4 and Section 4449 of the Act.			✓
Any other information which the Development Review Board requires to ensure that the provisions of these regulations are met.	✓	✓	✓

## SECTION 3.2 SITE PLAN REVIEW.

- A) **Applicability.** Land development may require site plan approval from the Development Review Board before a Zoning Permit can be issued by the Zoning Administrator. Uses other than home occupation, accessory uses, and single and two family dwellings on single lots, as listed in Table 2.4, shall require site plan approval. In addition, access by right of way to lots without frontage on a public road in accordance with Section 4.2 requires site plan approval.
- B) **General Standards.** Site Plan review typically requires that a project be of high quality, attractive and functional site design, and that overall building and site design be consistent with the purpose and character of the district within which it is located. Standards and conditions emphasize those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.

When reviewing and deciding on a site plan, the Development Review Board may consider and impose appropriate safeguards, modifications, and conditions relative to Article 4, General Regulations and Article 7, Planning and Design Standards, specifically including:

- 1) Safe and Efficient Traffic Access requirements, Section 4.2 and Section 7.3 (G).
  - 2) Adequacy of Parking, and Loading Facilities, Section 4.8.
  - 3) Adequacy of Landscaping and Site Preservation, Section 7.11.
  - 4) Curbs, Sidewalks, and Pedestrian Access, Section 7.4.
  - 5) Outdoor Lighting, Section 4.9 and 7.5.
  - 6) Size, Location and Design of Signs, Section 4.10.
  - 7) Adequate Stormwater Management and Erosion Control Measures, Section 7.10.
- C) **District and Specific Use Standards:** A proposal must meet the district standards identified in Article 2 and Table 2.1 and, as applicable, the specific use standards under Article 5 of these bylaws.
- D) **State Highway Access Permit.** Whenever a proposed site plan involves access to a State highway, the application for site plan approval shall include a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 V.S.A. § 1111, and setting out any conditions that the Agency proposes to attach to the section 1111 permit.



### SECTION 3.3 CONDITIONAL USE REVIEW.

- A) **Applicability.** A Zoning Permit for any use, expansion of use, structure, or expansion of structure that requires conditional use approval according to Table 2.4 shall not be issued by the Zoning Administrator until the Development Review Board grants such approval.
- B) **General Standards.** Conditional use review typically requires compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large. Standards and conditions emphasize these considerations in which off-site impacts of a proposed project can be identified, avoided and/or mitigated. When determining the appropriateness of a proposed conditional use, the Development Review Board shall determine that the development or use will not have an undue adverse impact on any of the following general conditional use standards:
- 1) ***The capacity of existing or planned community facilities.*** The demand for community services and facilities resulting from the proposed land development shall not exceed the existing or planned capacity of existing facilities or services;
  - 2) ***The character of the area affected.*** A conditional use may not, by its nature, scale, or conduct, adversely change the character of the area as it exists or would exist if fully developed in accordance with the Sheldon Town Plan, and as defined by the purposes of the zoning district in which the project is located;
  - 3) ***Traffic on roads and highways in the vicinity.*** The estimated traffic generated by the conditional use shall not exceed the estimated volume of traffic that would be generated by any use which is permitted by right in the district. When the capacity of a road to accept increased traffic is limited, the conditional use shall not exhaust or exceed the remaining capacity of the road;
  - 4) ***Bylaws now in effect.*** A conditional use must comply with bylaws and regulations in effect at the time of submission of the application, including applicable standards in these Regulations, the Town Plan and any other Town Ordinances; and
  - 5) ***Utilization of renewable energy resources.*** The Board will consider whether the proposed land development will interfere with the sustainable use of renewable energy resources by diminishing the future availability of such resources or by eliminating nearby property owners' access to such resources.
- C) **Conditions of Approval.** In permitting a conditional use, the Development Review Board may impose conditions deemed necessary to meet the five conditional use criteria outlined above, the district standards outlined in Section 3.3 (C) below, or any other provision of this regulation. These conditions may include, but are not limited to, the following:

- 1) Increased or decreased lot size or yard dimensions;
  - 2) Limitations on the coverage or height of buildings because of obstructions to view, the reduction of light and air to adjacent property, or to prevent adverse impacts to water quality or other identified natural features;
  - 3) Limitations on the location and number of vehicular access points to the property, in accordance with Section 4.2 and 7.3(G).
  - 4) Increased or decreased street width requirements or other modifications to street design to ensure vehicular and pedestrian safety.
  - 5) Limitations on the hours of operation or levels of daily truck traffic permissible.
  - 6) Requiring measures to minimize the adverse effects of land alterations on soil erosion, water quality, and scenic beauty as may be recommended by the county forester, Natural Resource Conservation Service, district highway engineer, and other experts.
  - 7) Requirements for suitable landscaping where necessary to reduce noise and glare and to maintain the property in keeping with the surrounding area.
  - 8) Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services.
  - 9) Requiring a performance bond from the applicant to ensure that the project is constructed and maintained in compliance with the permit and these regulations.
- D) **Additional District Standards.** In permitting a conditional use, the Development Review Board shall require compliance with additional district standards for the zoning district in which the proposal is located, as outlined below.
- 1) **Village District.** In determining the appropriateness of the use or structure, the Development Review Board shall consider the scale and design of the proposal in relation to the scale and design of existing uses and structures and the effect of the proposal on the continued enjoyment of and access to existing and approved uses in the district.
  - 2) **Commercial/Industrial District.** Development in this district shall be planned in order to limit the number of access points to RTE 105. Greater setbacks or landscaping may be required around the perimeter of the district in order to protect adjacent properties from incompatible land uses.
  - 3) **Rural Lands I District.** Where different types of land uses adjoin one another, larger lot

sizes, increased setbacks, or landscaping may be required in order to buffer adverse impacts. Development shall be planned to minimize the number of access points onto town and state highways in order to maintain smooth traffic flow. Applicants for major subdivisions (more than 3 lots) may be required to submit a plan for planned unit development according to Article 8 of this bylaw.

- 4) **Rural Lands II District.** Applicants shall provide written documentation showing how their proposal avoids or mitigates impacts upon wetlands, wildlife habitat, or natural heritage sites as identified by the Vermont Agency of Natural Resources. Applicants shall demonstrate that they have designed and sited their project to minimize impacts upon existing agricultural or forestry operations in the area. Proposals which involve areas with prime agricultural soils, as defined by the U.S. Department of Agriculture, shall demonstrate that the proposed development is designed to minimize interference with the future agricultural use of those soils. Applicants for major subdivisions (more than 3 lots) may be required to submit a plan for planned unit development according to Article 8 of this bylaw. Applicants shall demonstrate that their proposal limits impacts caused by the presence of steep slopes and shallow or poorly drained soils.
- 5) **Source Protection District.** Applicants shall provide written documentation showing how their proposal avoids or mitigates any potential risks to surface or ground water. Applicants shall demonstrate that they have designed and sited their project to minimize impacts upon wetlands, riparian habitats, aquifer recharge areas, permeable soils, steep slopes, and other important features known to impact water quality.

### **SECTION 3.4 VARIANCE REVIEW.**

- A) An applicant may apply for a variance from the provisions of these regulations from the Development Review Board for any structure. Renewable energy structures are reviewed under separate criteria than general structures.
  - 1) **Standards.** The Board may grant a variance, and render a decision in favor of the appellant, only if **all** the five (5) facts listed below are found, and the findings are specified in its written decision. In addition to the five (5) facts listed below, variances for structures in the Flood Hazard Area Overlay District shall conform to Section 3.5(E).
    - a) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.
    - b) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformance with the provisions of the

bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

- c) Unnecessary hardship has not been created by the appellant.
  - d) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
  - e) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.
- 2) Variances for structures located in the Flood Hazard Overlay District shall only be granted in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.
  - 3) In making a decision in favor of the applicant for a variance, the Development Review Board may attach conditions which are necessary to implement the Act and/or the town plan. In no case shall the Board grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density.
  - 4) On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that the relief requested meets all requirements listed in the Act [ §4469(b)] and are specified in its decision.

### **SECTION 3.5 FLOOD HAZARD AREA DEVELOPMENT REVIEW**

- A) **Applicability.** These standards shall apply to all land development in all areas in the Town of Sheldon located in the Flood Hazard Area Overlay District, which includes areas of special flood hazard on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. § 753. The Flood Hazard Overlay District standards in this section do not imply that land outside of the areas of special flood hazard or land use permitted within Flood Hazard Overlay District will be free from flooding or flood damages. These standards shall not create liability on the part of the Town of Sheldon or any town official or employee thereof for any flood damages that result from reliance on the standards of this section or any administrative decision lawfully made thereunder. Any zoning permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

- 1) **New Construction and Substantial Improvement.** Applications for new construction or substantial improvement shall require Flood Hazard Area Development Review and Development Review Board to ensure compliance with Section 3.5(C) and a zoning permit issued by the Zoning Administrator in compliance with Section 3.5(F).
  - 2) **Non-substantial Improvement.** The Zoning Administrator shall administratively perform Flood Hazard Area Development Review for all non-substantial improvements to ensure compliance with Section 3.5(C) and shall issue zoning permits for land development that meets such standards
- B) **Base Flood Elevations & Floodway Limits.** Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and used to administer and enforce the provisions of these regulations. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted in Zones A1-30, AE, and AH unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- C) **Development Standards.** The Development Review Board may impose specific conditions or require project modifications for development within the Flood Hazard Overlay (FHO) District in accordance with the standards listed below:
- 1) **Floodway Area.** The Floodway area within the Flood Hazard Area Overlay District (and the Special Flood Hazard Area) is defined as 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.
    - a) Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood and all standards in Special Flood Hazard Area section below are met.
    - b) Junkyards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials are prohibited within the floodway.

2) **Special Flood Hazard Areas.** Special Flood Hazard Areas are defined as the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”. Special Flood Hazard Areas within mapped floodway areas are subject to the following standards in addition to the Floodway Standards in Subsection (1) above.

a) All Development - All development shall be:

- i. Reasonably safe from flooding;
- ii. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
- iii. Constructed with materials resistant to flood damage;
- iv. Constructed by methods and practices that minimize flood damage;
- v. 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;
- vi. Adequately drained to reduce exposure to flood hazards;
- vii. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
- viii. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

b) Residential Development:

- i. New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including

basement, elevated to or above the base flood elevation. This shall be documented, in as-built condition, with a FEMA Elevation Certificate.

- ii. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
  - located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no less than one foot above the base flood elevation<sup>3</sup> and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
  - located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

c) Non-residential Development:

- i. New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation. This shall be documented, in as-built condition, with a FEMA Elevation Certificate.
- ii. Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (Note: while buildings need only be floodproofed to the base flood elevation for floodplain management purposes, the building must be floodproofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes.
- iii. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural

design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection. Upon completion of the project, a completed FEMA "Flood-proofing Certificate" prepared by a registered professional engineer or architect who is authorized by the state to certify flood-proofing design and construction shall be required.

d) Subdivisions:

- i) Subdivisions (including manufactured home parks) shall be designed to assure:
  - such proposals minimize flood damage within the flood-prone area,
  - public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - adequate drainage is provided to reduce exposure to flood hazards.

e) Enclosed Areas Below the Lowest Floor:

- i) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
  - ii) New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
  - iii) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings 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.
- f) Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall either:
- i) be on the site for fewer than 180 consecutive days,



- ii) be fully licensed and ready for highway use, or
  - iii) be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2.(b).
- g) Accessory Structures: A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:
- i) The structure must only be used for parking or storage of non-hazardous materials,
  - ii) The structure must have the required openings to allow floodwaters in and out,
  - iii) The structure must be constructed using flood resistant materials below the Base Flood Elevation,
  - iv) The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
  - v) All building utility equipment including electrical and heating must be elevated or floodproofed.
- h) Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- i) Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- j) On-Site Waste Disposal Systems: On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- k) Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- D) **Standards for Review of Nonconforming Structures.** The Development Review Board, may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area, subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:
- 1) The appropriate municipal panel finds that the repair, relocation, or enlargement of the

nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.

- 2) The appropriate municipal panel finds that the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners.
- 3) The permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood or other hazard area, does not conform to the bylaws pertaining to that area, and will be maintained at the risk of the owner.

E) **Variances to the Development Standards.** Variances may be granted in writing by the Development Review Board only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6 of the National Flood Insurance Program regulations. Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will 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 elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

F) **Referrals.**

- 1) **Zoning permit.** No zoning permit for new construction or substantial improvement shall be granted until a copy of the application is mailed or delivered by the Zoning Administrator or by the appropriate Board, to the State National Flood Plain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section and either thirty (30) days have elapsed following the mailing or the agency delivers comments on the application, which ever comes first.
- 2) **Stream Alteration.** Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program.

G) **Elevation Certificates.**

- 1) a completed FEMA "Elevation Certificate" prepared by a registered surveyor, engineer, architect or other official authorized by the state to certify building elevations, for any building constructed after the publication of the town's Flood Insurance Rate Maps;

## Article 4. General Regulations

### SECTION 4.1 ABANDONMENT OF STRUCTURES, DEMOLITION, AND DESTROYED STRUCTURES

- A) **Abandonment of Structures.** Any structure shall be deemed abandoned when it has not been used for at least one year. Abandoned structures must be either maintained or demolished. There is no time limit on how long a structure may remain abandoned provided it is maintained in the judgment of the Zoning Administrator. A maintained dwelling unit is habitable with intact exterior walls, intact windows, and an intact roof.
- B) **Demolition** of structures is the intentional removal or dismantling of a structure either for the purpose of replacement or returning to grade. Prior to any demolition, a zoning permit must be obtained from the Zoning Administrator.
- 1) Within one year after any structure has been demolished, all structural materials and debris shall be removed from the site, and any remaining excavation shall be covered over or filled to the natural grade and seeded by the owner to prevent erosion.
  - 2) A zoning permit must be obtained before any reconstruction following demolition, unless exempted from these regulations in Section 3.1. Any reconstruction of a non-conforming structure is reviewed under Section 4.6 of these bylaws.
- C) **Destroyed Structures.** Destroyed structures are those that have been lost through accident or act of nature (fires, floods, etc) and are treated differently than structures which have been demolished (intentional losses of structures).
- 1) If reconstruction of a destroyed structure has not commenced after one year, all structural materials and debris shall be removed from the site and any remaining excavation shall be covered over or filled to the natural grade and seeded by the owner to prevent erosion.
  - 2) Reconstruction of destroyed structures requires a zoning permit. Provided the reconstruction is completed within a year from the date of loss and is substantially similar to the original, the zoning administrator shall approve the application. If the reconstruction of the structure is not substantially similar to the original, a full application and all applicable approvals will be required.

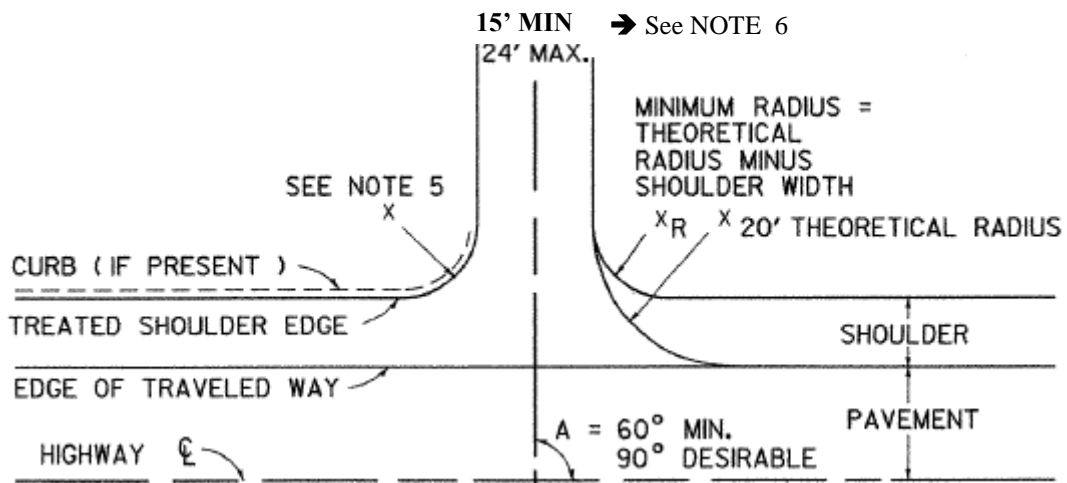
### SECTION 4.2 ACCESS REQUIREMENTS (INCLUDING DRIVEWAYS).

- A) **Access to Lots without Required Frontage.** In accordance with the Act [ §4412(3)], land development may be permitted on lots which do not have frontage on either a maintained State, Class I, II, III, Class IV town highway or public waters, only with the approval of the

Development Review Board. Access to a pre-existing lot that lacks necessary frontage shall be approved by the Commission subject to site plan approval under Section 3.2, or subdivision review under Article 6 where the subdivision of land is proposed. Access to such a lot shall be provided by a permanent easement or right-of-way at least 20 feet wide.. In addition to other review criteria, the Board may consider the intended use of the property, safety, traffic, and road and site conditions in granting, conditioning or denying approval.

- B) **Curb Cuts.** Access onto public highways is subject to the approval of the Sheldon Selectboard, and for state highways, the approval of the Vermont Agency of Transportation. Access permits must be obtained prior to the issuance of a zoning permit. For access onto public highways, an application form provided by the Town shall be submitted to the Zoning Administrator. The Zoning Administrator shall refer the application to the Road Foreman for review. The Zoning Administrator shall then submit the application, with any comments or recommendations from the Road Foreman, to the Selectboard for approval or disapproval.
- C) **Driveways.** For the purposes of these regulations, driveways shall be defined as access drives or easements serving one lot and shall meet the following standards:

**Figure 4.1 B-71 Standards for Residential Drives (VTRANS)**



Note 5. If Curb is present, see appropriate curb detail standard or match town/city standard curb treatment.

Note 6. The actual VTRANS B-71 minimum standard width for residential drives is 12 feet. The Town of Sheldon requires an additional 3 feet.

- 1) Driveways shall have a minimum traveled way of 15 feet and beyond this requirement, be constructed according to the Vermont Agency of Transportation's B-71 Standards for Commercial and Residential Driveways (See Figure 4.1 above) unless otherwise required under subdivision or site plan review;

- 2) Driveways exceeding 400 feet in length must include, at minimum, one 12 foot x 50 foot pull-off area;
- 3) Maximum driveway grade shall not, in any 50-foot section, exceed an average of ten (10) percent. Proposed driveways with grades between ten (10) percent and fifteen (15) percent may be approved by the Development Review Board subject to Conditional Use approval and submittal of a letter from the Town's Fire Chief with the Conditional Use application indicating that the proposed driveway can accommodate fire and rescue access.
- 4) All driveways entering onto public roads must meet the Selectboard's specifications for grade, culverts and ditching;
- 5) No driveway or exit shall be within fifty (50) feet of a road intersection;
- 6) Where a site occupies a corner of two (2) intersecting roads and the roadway access will be located on the less traveled road;
- 7) In reviewing for compliance with access requirements, particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency;
- 8) In appropriate instances, including the presence of compatible adjacent uses, areas characterized by congestion and frequent and/or unsafe turning movements, the Development Review Board can require shared access between adjoining properties.
- 9) Driveways are permitted in setback areas except within 10 feet of a side or rear property line. Shared driveways are exempt from this regulation.

### **SECTION 4.3 FENCE REGULATIONS**

- A) **Applicability.** A zoning permit is required for all fences, except those exempted in Section 3.1(B). Fences are exempt from setback requirements.
- B) **Supplemental Application Materials:** The applicant shall provide the following information with a building permit application provided by the town:
  - 1) The location of any proposed and/or existing fence must be shown on any site or sketch plan presented.
  - 2) The type of fence, height, and manner of construction must be included in the application.

- 3) For any fence proposed to be built on a property line (on-line), a letter signed by the abutting owner granting permission for on-line construction and access to perform routine maintenance.

**C) Review Procedures and Standards.**

- 1) Fences 6 feet or less in height are a permitted use in all zoning districts and may be approved by the Zoning Administrator provided:
  - a) The fence is not in any road or highway right-of-way or present a hazard to vehicles (including interference with sight distances at intersections).
  - b) Does not create a hazard including such items as barbed, electric, razor wire or other similar material (see (2) below).
  - c) Must not impair the use of any renewable energy structure.
  - d) If on-line construction is not requested or not granted by neighbor, the fence and all footings, etc., must remain on the property of the applicant.
- 2) Conditional use approval is required for:
  - a) Any fence that contains a hazard, including barbed, electric, razor wire or other similar material. Fences shall not be topped with barbed, electric, razor wire or similar material unless required for public safety (e.g. prisons, electrical substations, airports).
  - b) Fences in floodplains and floodways. Fences in floodplains and floodways must not impede the flow of water during such an event. It will be the responsibility of the applicant to provide sufficient proof to the Development Review Board that this requirement will be met.
- 3) Site plan approval is required for fences more than 6 feet in height. In addition:
  - a) Appropriate vegetation must be planted and maintained to screen the fence from neighboring properties unless this requirement is waived by the abutting landowner.
  - b) All fences more than 6 feet in height which face a public road or highway must be appropriately screened with vegetation. The screening must not be planted in the right-of-way and cannot create a hazard for drivers.
- 4) The following conditions of approval may be required for any fence:
  - a) Where applicable, the more visually appealing side is required to face neighboring properties.

- b) All fences shall be of durable materials and shall be maintained in good condition.
- c) No fence shall be painted with an insignia or message or otherwise act as a sign.

#### **SECTION 4.4 HAZARDOUS MATERIAL**

- A) **Applicability.** Any proposed construction, use, or change in use that involves the manufacture, processing, reprocessing, packaging, or storage of hazardous materials as defined in Article 10 shall be reviewed as a conditional use by the Development Review Board. The following provisions shall also apply:
  - B) **Supplemental Application Materials.** The applicant shall provide the following information with all conditional use application materials as required in Table 3.1, unless a waiver is granted through written request to the Development Review Board:
    - 1) Identification of all hazardous materials to be generated or accepted by the facility;
    - 2) Complete description of plant operations, including all treatment processes and technologies to be applied;
    - 3) Description of procedures to be used in case of a spill or emergency at the facility; and
    - 4) Any other information deemed necessary by the Development Review Board including expert testimony and documentation by independent sources at the applicants' expense.
  - C) **Decisions.** Upon hearing the application, the Development Review Board may:
    - 1) Determine an excessive hazard potential to exist and deny the application;
    - 2) Limit the scope of activity with regard to the size of structures, quantities and types of materials, place of storage of materials, handling of materials, routes of travel, hours of operation; and/or
    - 3) Require special safeguards, warning systems, fire control systems, and other safety regulations be implemented; and/or
    - 4) Provide for continuous monitoring, reporting, and regulation by the Plant Manager to the Zoning Administrator.

#### **SECTION 4.5 HEIGHT LIMITS**

- A) No structure shall exceed 35 feet in height above the average ground level.

- B) Under conditional use review, the Development Review Board may permit a structure that exceeds 35 feet provided the structure meets all other applicable standards required by these regulations, that the structure does not constitute a hazard, and that the portion above 35 feet shall remain unoccupied except for normal maintenance.

#### **SECTION 4.6 NONCONFORMITIES**

- A) **Applicability.** The following provisions shall apply to all structures, uses, and lots in lawful existence prior to the effective date of these regulations or subsequent amendments, which do not conform to the requirements of these regulations, including the dimension and use requirements in Table 2.1.

- B) **Nonconforming Structures.** Any pre-existing structure or part thereof, which is not in compliance with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as signs, parking, and lighting), shall be deemed a nonconforming structure. Any non-conforming structure may be allowed to exist indefinitely. Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure; however, all such structures shall be subject to the provisions listed below. Nonconforming structures located in the Flood Hazard Area Overlay District are subject to the requirements of Section 3.5 in addition to the provisions listed below.

- 1) **Alteration, Enlargement, Replacement, and Reconstruction of Nonconforming Structures.** The Zoning Administrator may permit the following only in full conformance with these regulations (i.e. the nonconforming structure is made conforming):

- a) the alteration or enlargement of nonconforming structures, and
- b) the replacement or reconstruction of non-conforming structures after intentional removal, demolition, or after they have been deemed 'abandoned and not maintained' (as defined in Section 4.1(A)).

Under Conditional Use Review, the Development Review Board may permit the alteration, enlargement, replacement, or reconstruction of a non-conforming structure in a manner that **DOES NOT INCREASE** the existing degree of non-conformance (see Figure 4.2) if the structure:

- c) will not result in an undue adverse effect on the character of the area affected, nor
- d) substantially impair the appropriate use or development of adjacent property, nor;

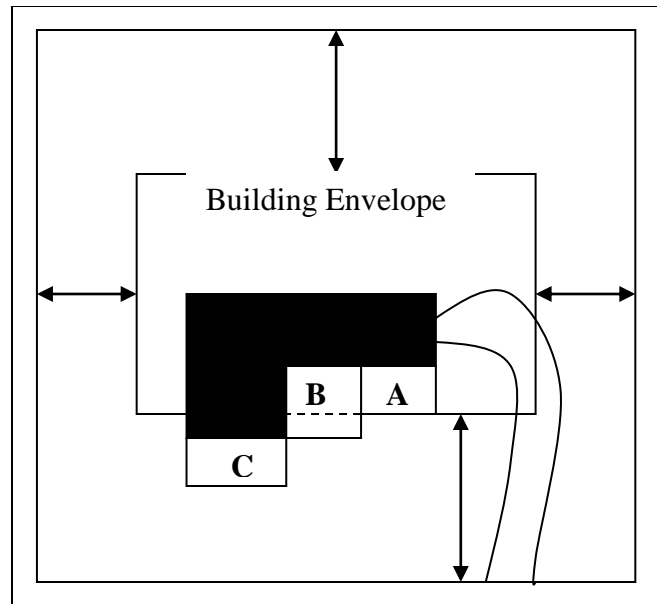


- e) be detrimental to public welfare.

The Development Review Board may permit an **INCREASE** in the degree of nonconformance only for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

- 2) **Replacement of Nonconforming Mobile Homes.** Replacement of a nonconforming mobile home that is not located in a mobile home park and that **INCREASES** the existing degree of nonconformance may be approved under Conditional Use Review if the Development Review Board finds that replacement with an average sized mobile home fabricated and purchased today (+/- 1,000 square feet) is not possible in full conformance with these regulations or in a manner that would maintain the existing degree of nonconformance. Replacement of nonconforming mobile homes in mobile home parks are reviewed under Section 5.9.

**Figure 4.2 Increasing the Degree of Nonconformance**



*In this example of a nonconforming structure, a portion of the building exceeds the Required Setback distance in which it is located. Extending the building in a manner that encroaches further into the setback area as depicted in the addition labeled “C”, would increase the degree of nonconformance. In addition, extending the building into the setback area, but not further than already exists, as depicted in the addition labeled “B”, would also increase the degree of nonconformance. The extension labeled “A”, however, represents an addition that does not increase the area of the building within the setback and therefore does not increase the degree of nonconformance.*

- 3) **Restoration, Reconstruction, or Replacement after Unintentional Loss.** The Zoning Administrator may permit the restoration, reconstruction, or replacement of a nonconforming structure after unintentional loss (as defined in Section 4.1(C)), provided the reconstruction is completed within one year and **DOES NOT INCREASE** the degree of nonconformance that existed prior to the damage. Subject to conditional use review under Section 3.3, the Development Review Board may approve an **INCREASE** in the degree of nonconformance if a hardship would be created by rebuilding to the same degree of nonconformance. In making a conditional use determination on this matter, the Development Review Board shall take into consideration the ability of the applicant to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.

C) **Nonconforming Uses.** A pre-existing use that does not conform with the uses allowed in the district in which it is located shall be deemed a nonconforming use. Any non-conforming use of a structure or land may be continued indefinitely, but shall be subject to the following provisions:

- 1) A non-conforming use shall not be changed to another non-conforming use, expanded, extended, moved or enlarged unless, under conditional use review, the Development Review Board finds that such change, expansion, extension, movement, or enlargement does not increase the degree of non-conformance. Examples of enlarged or expanded uses may include, but are not limited to, increased hours of operation, increased numbers of tables, or an increase in the size of the operation through the expansion of a conforming structure.
- 2) Subject to conditional use review under Section 3.3, the Development Review Board may permit the alteration or expansion of a non-conforming use if it will not result in an undue adverse effect on the character of the area affected, nor substantially impair the appropriate use or development of adjacent property, nor be detrimental to public welfare.
- 3) The Board may permit the alteration or expansion of a non-conforming use for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.
- 4) In no case shall a nonconforming use be re-established if the use has been discontinued for a period of at least one-year or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not give the right to do so.

D) **Pre Existing Non-Conforming Lots.** In accordance with the Act [Section 4412(2)], any lot in individual, separate, and non-affiliated ownership from surrounding properties in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located (following the receipt of a zoning permit from the Zoning Administrator), even though not conforming to minimum lot size requirements, provided such lot:

- Is not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet;
- Has adequate access (see Section 4.2); and
- Complies with all wastewater disposal and other health and safety provisions.

- 1) This Section does not negate the need for obtaining any other required permits or approvals as would normally be required under these bylaws, including setback requirements and the Flood Hazard Area Overlay District requirements in Section 3.5.

- 2) If any nonconforming lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for purposes of the bylaw. However, such lots shall not be deemed merged and may be separately conveyed if:
- a) The lots are conveyed in their preexisting, nonconforming configuration; **and**
  - b) On the effective date of any zoning regulations, each lot had been developed with a water supply and wastewater disposal system; **and**
  - c) At the time of transfer, each water supply and wastewater system has a wastewater and potable water supply permit from the Department of Environmental Conservation in accordance with Section 4.12.

**SECTION 4.7 OPEN STORAGE OF VEHICLES AND JUNK**

- A) Junkyards are prohibited in all districts.
- B) Vehicles that are BOTH non-operative and non-inspected, and junk (as defined in Article 10) taking up less than 200 square feet of area, shall not be allowed in any setbacks, and shall be effectively screened from view of a public highway and adjacent properties during all seasons of the year. Farm vehicles are exempt from this provision.

**SECTION 4.8 PARKING AND LOADING REQUIREMENTS**

- A) Off-street parking spaces shall be provided in accordance with this Section in any district whenever any new use is established, or when the present use is enlarged or changed.

<b>USE</b>	<b>REQUIRED OFF STREET PARKING SPACES</b>
Residential – including PUDs	2 per dwelling unit
Hotel/Motel	1 per lodging unit
Medical clinics and group homes	1 per 3 beds plus 1 per employee
Clubs	1 per 4 members
Churches, schools, public assembly	1 per 3 seats in the principal assembly room
Professional & business services	1 per 250 sq. ft. floor space
Retail establishments	1 per 300 sq. ft. floor space
Restaurants	1 per 4 seats plus 1 per employee
Industry	1 per 1.5 employees
Unspecified uses	As requested by the Development Review Board

- B) The Development Review Board may require additional off-street parking and loading spaces if they determine that the minimum required spaces are insufficient.

- C) Off-street parking spaces shall be 9 feet by 18 feet in dimension.
- D) Parking areas with two-way traffic shall have an aisle width of at least 24 feet. Parking areas with one-way traffic shall have an aisle width of at least 15 feet.
- E) Parking areas shall be landscaped or screened from adjacent uses and from the roadways in the vicinity.
- F) Parking is prohibited within the front setback area where alternate space for parking is available elsewhere on the lot.
- G) All open parking areas shall be properly drained in accordance with accepted best management practices for stormwater drainage, and all such areas shall be provided with a dustless surface. The use of pervious materials to reduce stormwater runoff is encouraged, and may be required. Relocation or redesign of parking areas may be required to limit runoff and control erosion.
- H) Shared parking is encouraged and may be required. Required parking spaces may be provided in parking areas designed to jointly serve two or more establishments, whether or not they are located on the same lot, provided the number of required spaces in such joint facilities shall not be less than the total required for all such establishments. However, where it can be conclusively demonstrated that one or more uses will be generating a demand for parking spaces primarily during periods when other uses are not in operation, the appropriate municipal panel may reduce the total number of parking spaces required.
- I) Adequate parking facilities for people with disabilities is required for all uses except single family dwellings and two-family dwellings.
- J) Provision shall be made for efficient snow and refuse removal.

#### **SECTION 4.9 PERFORMANCE STANDARDS**

- A) No land or building in any zoning district shall be used or occupied in any manner that creates dangerous, injurious, noxious or otherwise objectionable conditions, which adversely affect the reasonable use of adjoining properties. All uses and structures in all districts must meet the following standards. The burden of proof in meeting the standards shall fall upon the applicant. The use and structure shall not:
  - 1) Emit any intensity of odor that is considered both offensive and uncharacteristic of the area;
  - 2) Emit any level of noise that is a significant increase in noise levels in the vicinity of the development and incompatible with the surrounding area;

- 3) Emit any smoke, dust, dirt, or noxious gases that endanger the health, comfort, safety, or welfare of the public or adjoining property owners, or that causes damage to property, business, or vegetation;
- 4) Emit glare or reflection that impairs the vision of motor vehicle operators, constitutes a nuisance to other property owners, or that is detrimental to public health, safety, and welfare;
- 5) Present a risk of fire, explosion, or safety that endangers the public or results in an increased burden upon municipal facilities;
- 6) Discharge sewage, septage, or other harmful wastes into any water course or into any sewage disposal system beyond its proper capacity.

#### **SECTION 4.10 SIGN REGULATIONS**

- A) **Applicability.** A zoning permit shall be required prior to the erection, construction, or replacement of any outdoor sign, except as exemption in Section 3.1(B).
- B) **Prohibited Signs.** The following shall be prohibited in all districts:
  - 1) Signs that impair highway safety.
  - 2) Signs that are animated, flashing, or intermittently illuminated, and signs painted or placed on rock outcrops or similar natural features.
  - 3) Roof signs, and wall signs that extend above the roof line.
  - 4) Signs that project over public rights-of-way or property lines.
- C) **Sign Maintenance.** All signs shall be of durable materials and shall be maintained in good condition.
- D) **Signs in Residential Areas.** In any residential area, a sign no larger than 4 square feet, which announces the name, address, or professional or home occupation of the occupant of the premises may be permitted.
- E) **Signs on Public Structures.** A bulletin board or kiosk no larger than 24 square feet may be permitted on the premises of any church, school, or similar public facility.
- F) **Business Signs.** No more than 2 business signs may be permitted on any business or industry premises. Signs shall meet the following standards:
  - 1) Two signs are permitted for each business premises - 1 free-standing, and the other attached to the building.

- 2) Maximum size of any sign shall be 100 square feet, or a total of 150 square feet for 2 signs.
  - 3) The primary purpose of all business signs shall be for identification of the business (name), products sold, and the business or activity conducted on the premises; not for the purpose of making advertising claims.
  - 4) Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion, or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.
  - 5) No strings or pennants or similar attention-gathering media are permitted.
- G) **Off-Premise Signs.** Any sign located elsewhere than upon the lot containing the subject of the sign shall conform to state statute and regulation.
- H) **Signs at Edge of Highway.** In any zoning district, free-standing signs of 8 feet in height or less may be placed on private property within setback area that is mandated for all other structures. However, such signs shall not be located within 25 feet of adjacent private property or an intersection. Such signs shall not be placed within any public or private right-of-way.
- I) **Computation of Sign Area.** When computing the total permissible sign area for any use:
- 1) Existing signs shall be included in the calculation of total sign area.
  - 2) The total area of all signs shall not exceed the requirements as set forth in these regulations.
  - 3) Sign measurement shall be the entire surface area of the sign.
  - 4) Signs consisting of free-standing letters, numerals, or other devices shall include any intervening space between them.
  - 5) Only the larger face area of a double-faced sign shall be counted.
  - 6) Back-to-back signs may be counted as one sign.

#### **SECTION 4.11 TEMPORARY USES AND STRUCTURES**

- A) Temporary permits may be issued by the Zoning Administrator for uses and structures incidental to construction projects (including non-conforming uses and non-conforming

structures), provided that the property owner removes the temporary structure or use upon the expiration of the zoning permit for the aforementioned construction.

#### **SECTION 4.12 WASTEWATER AND POTABLE WATER SUPPLY SYSTEMS**

- A) **Purpose.** The purpose of this section is to protect human health and the environment, including potable water supplies, surface water, and groundwater.
- B) **Wastewater and Potable Water Supply Permit.** All structures and uses that generate wastewater (including those that connect to the Village Sewer and/or Water Supply System) may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as revised from time to time by the DEC). Applicants should contact the Agency of Natural Resources District Permit Specialist to determine if such a permit is required. If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Zoning Administrator. Where a Wastewater and Potable Water Supply Permit is required, initiation of construction under a zoning permit issued in accordance with the Sheldon Land Use and Development Regulations shall be prohibited unless and until a Wastewater and Potable Water Supply Permit is issued.

# Article 5. Specific Use Standards

## SECTION 5.1 APPLICABILITY

- A) The following standards shall apply to the specified uses in all zoning districts in where such uses are allowed. Specified uses may be subject to site plan review or conditional use review. If there is conflict between a standard in this section and a standard in another part of these regulations, the more restrictive shall apply.

## SECTION 5.2 ACCESSORY DWELLINGS

- A) **Accessory to single family residences.** One accessory dwelling to a single family dwelling may be allowed as a permitted use of property. The accessory dwelling unit shall satisfy the following requirements:

- 1) Floor space of the habitable living area shall not to exceed forty-five (45) percent of the floor space of the habitable living area of the single family residence; and
- 2) The accessory dwelling shall have only one bedroom and shall have provisions for independent living including areas for sleeping, food preparation, and sanitation; and
- 3) The property shall have sufficient wastewater capacity; and
- 4) All applicable setbacks, coverage and parking requirements for the district in which the residence is located shall be met; and
- 5) The accessory dwelling shall be located within or appurtenant to a single-family dwelling. Either the primary or the accessory dwelling shall be occupied by the owner of the property.

- B) **Accessory agricultural dwellings.** Up to two (2) additional single-family dwellings, one (1) duplex dwelling, or one (1) multifamily dwelling, not including the primary farm residence, may be approved subject to conditional use approval in the Rural Land I Zoning District to house farm workers and their families, subject to the following requirements:

- 1) Occupancy is restricted to farm workers and their families;
- 2) Each dwelling unit shall meet all district requirements pertaining to single-family dwellings, duplex dwellings, and multi-family dwellings, including maximum density;
- 3) Adequate water and wastewater systems (in accordance with Section 4.12) and off-street parking capacity (in accordance with Section 4.8) exist to accommodate residents;



4) If approved, the conditional use decision shall clearly state as a condition of approval that such housing is accessory to the principal agricultural use of the property and shall be retained in common ownership for this purpose. Such housing may only be subdivided and/or converted for sale or use as dwelling units separate from the agricultural use if it meets all current local regulations applying to single-family or multi-family dwellings, as applicable, including all density, dimensional and other requirements for the district in which it is located. Separate permits shall be required prior to sale and/or conversion.

C) **Permit Requirement.** A zoning permit issued for an accessory dwelling shall clearly state that the dwelling(s) is permitted only as an accessory to the principal residential or agricultural use of the property and as such shall be retained in common ownership. Such a dwelling unit may be subdivided and/or converted for conveyance or use as a principal dwelling only if it is found to meet all current municipal regulations applying to a single (or two) family dwelling, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to the subdivision, conversion, or conveyance as a principal dwelling.

### **SECTION 5.3 COMMUNITY CARE FACILITIES AND DAY CARE FACILITIES**

A) Licensed community care facilities and day care facilities may only be approved in a district where permitted or conditionally permitted (Article 2) and are subject to site plan review.

### **SECTION 5.4 CAMPERS AND RECREATIONAL VEHICLES**

A) Any camping vehicle used for living quarters and sited so it is not readily movable shall be deemed a dwelling and shall be subject to all zoning and health regulations applicable to dwellings.

B) Property owners may park their own camping vehicles, or those of a guest, on their property providing that when parked the camping vehicle is in compliance with all setback requirements for the district in which it is located. Such parked camping vehicles shall not be connected to utilities or used as living quarters for more than 30 days in a calendar year.

### **SECTION 5.5 CAMPGROUNDS**

A) **Applicability.** A new or expanded travel trailer, recreational vehicle, or primitive campground may be permitted in designated zoning districts. No permit shall be issued for a campground until a site plan and conditional use applications have been approved by the Development Review Board..

B) **Purpose.** Specific use standards have been established for campgrounds in order to ensure

a healthy, safe, and attractive environment for the guests.

C) **Application Procedure.** In addition to material presented for a zoning permit in Table 3.1, the applicant shall submit 2 copies of the following information to each board:

- 1) A site plan showing the locations of lavatories, showers and toilet facilities, individual camping vehicle or tent spaces.
- 2) Location of, and provisions for, the safe and sanitary removal of trash from the site.

D) **Review Standards – Site Plan Review.** In addition to site plan review standards (Section 3.2), the following shall be met in order for the Development Review Board to approve the application:

- 1) Access: Separate entrance and exit driveways shall be provided.
- 2) Circulation: Collector roads within the campground shall meet the following minimum standards:

**Table 5.1**

	<b>One-Way Roads</b>	<b>Two-Way Roads</b>
Right-of-Way Width	18 feet	33 feet
Gravel Depth	12 inches	12 inches
Gravel Width	10 feet	20 feet

- 3) Parking: A campground shall provide sufficient access and parking for each camp site. All camp sites must be accessed by collector roads within the campground.
- 4) Screening: Landscaping and/or fencing along property boundaries shall be required as appropriate for screening, security, and privacy.

E) **Review Standards - Conditional Use Approval.** In addition to the general standards for conditional use review (Section 3.3), the following shall be met in order for the Development Review Board to approve the application:

- 1) The parcel of land for a campground shall be no less than five acres in area, with at least 20% of the total campground set aside for conservation, recreation, and open space. The buffer area required below cannot be counted towards meeting this requirement.
- 2) The total number of camp sites in any campground shall not exceed 10 sites per acre and each camp site shall be at least 2,800 square feet in area.
- 3) Campgrounds shall provide sufficient lavatory, shower and toilet facilities.

- 4) A strip of land at least 25 feet wide shall be maintained as a landscaped area abutting all campground property lines. No camping vehicle, tent, or service building shall be located in this buffer area. The Development Review Board may reduce or eliminate this landscaped area provision if such a modification or waiver will make it possible to preserve a scenic view from the campground, providing that privacy for adjacent property owners can be maintained.
  - 5) Owners of campgrounds are responsible for the sanitary disposal of wastewater.
- F) **Conditions of Approval:** The Development Review Board shall have the power to impose reasonable conditions and safeguards to ensure the safety and general welfare of surrounding properties when approving conditional use applications including, but not limited to:
- 1) Every campground operator shall maintain a register, available to any authorized person inspecting the facility or emergency officials. Said register, which shall contain the names and addresses of all campground occupants, shall be preserved for a period of at least 1-year.
  - 2) The Board may limit the months of operation during any calendar year.

## **SECTION 5.6 HOME BASED BUSINESSES**

- A) **Home Occupations.** No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not have an undue adverse effect upon the character of the area.
- 1) A home occupation may be permitted as an accessory use in all districts where residential uses are permitted. A zoning permit application shall be submitted to the Zoning Administrator so that a determination can be made as to whether the proposed use is, in fact, a home occupation as defined by these regulations.
  - 2) In order to ensure that a home occupation will not change the character of the residential area, the owner must demonstrate that it will comply with all of the following standards:
    - a) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal and accessory structures, and shall occupy less than 25% of the combined area of such structures.
    - b) The home occupation shall be carried on by residents of the dwelling unit. One additional employee who is not a resident of the dwelling unit is permitted.
    - c) The business shall not necessitate any change in the outside appearance of the

dwelling unit other than the addition of one sign as permitted by Article 4 of these bylaws.

- d) Exterior storage of materials is prohibited.
- e) No traffic shall be generated which would be uncharacteristic of the neighborhood.
- f) New parking required for the home occupation shall be provided off-street and shall not be located in front yards.
- g) The home occupation shall meet all performance standards as provided in Section 4.9.

### **SECTION 5.7 LAND FILLING, EXCAVATION, EARTH RESOURCES EXTRACTION/ PROCESSING/ MINING**

- A) **Applicability.** No new earth resource extraction or processing operation, land alteration, excavation, or fill operation shall be permitted without conditional use approval (Section 3.3) and site plan review (Section 3.2).
- B) **Application Procedure.** In addition to material presented for zoning permit in Table 3.1, the applicant shall submit 2 copies of the following information to each board:
  - 1) A landscaping plan to screen noise, dust, and visual effects of the operation from adjoining properties;
  - 2) An erosion and sediment control plan;
  - 3) A site rehabilitation plan for the entire property, which shall include a schedule of implementation and the following:
    - a) A plan for final grading and topography, including drainage patterns;
    - b) Location and depth of relocated topsoil;
    - c) Location, type, size, and quantity of restoration plant materials;
    - d) Sequence and timing of rehabilitation activities; and
    - e) Provision for adequate bonding or surety to cover rehabilitation.
  - 4) A description of the proposed methods of operation including operating hours and the duration of operation, types and quantity of equipment and trucks to be used, location and method of spoil disposal, and a transportation plan addressing both on- and off-site

trucking activities;

- 5) Any other information the Board requires to determine whether the proposed operation conforms to the standards of these regulations.
- C) The burden of proof shall be on the applicant to show that the proposed operations may be feasibly undertaken without violating the standards contained within this section and without substantial damage or hazard to the public or adjoining properties.
- D) **Specific Use Standards – Conditional Use Review.** In considering an application under this section, the Development Review Board shall consider the following specific standards in addition to those contained in Section 3.3:
- 1) Adjoining land areas should be protected from undue adverse impacts resulting from dust, noise, or air pollution. A minimum setback of 200 feet from adjoining properties for all extraction or processing activities, except for offices and accessory uses may be required.
  - 2) Within the required setback areas, the natural vegetation shall be retained, and supplementary planting may be required in order to buffer impacts from the operation.
  - 3) An erosion and sedimentation control plan shall be submitted and shall provide that increased run-off shall not be permitted beyond the property boundaries of the proposed project area.
  - 4) No operation shall be permitted which may result in the pollution of surface or ground water through by-products of the proposed operation.
  - 5) Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.
  - 6) Proposed operations shall not create unusual or unreasonable traffic hazards or the need for special public improvements or maintenance of public streets or bridges that would place an unreasonable additional financial burden on the Town.
  - 7) Explosives may be used only per a plan approved under this section and only after it has been demonstrated by the applicant that the use of such materials will not have an adverse impact on adjoining properties.
- E) **Specific Use Standards – Site Plan Review.** Beyond the standards set forth under site plan review (Section 3.2) the Development Review Board is authorized to review the proposed site rehabilitation plan.
- 1) Activities involving the extraction, exploration, or processing of earth resources disturb

the natural landscape and utility of the site. The rehabilitation plan is intended to ensure that the entire site, at the conclusion of such activities, is restored to a condition that is free of hazards to the public and is conducive to subsequent use for other activities.

- 2) In considering a site rehabilitation plan, the Development Review Board shall consider the following specific standards:
  - a) Suitability of the site following rehabilitation for uses that are permissible under the applicable zoning district;
  - b) Compatibility of the rehabilitated site with the character of the natural landscape in the vicinity of the site;
  - c) The top 12 inches of topsoil on all disturbed areas shall be stockpiled for use in rehabilitating the site;
  - d) Implementation of rehabilitation activities shall be on a continuing basis, commencing as soon as practical where extraction activities have been completed; and
  - e) Storm water runoff and erosion/sedimentation following rehabilitation shall not exceed that which existed prior to development.

F) **Conditions of Approval.** Bonding or surety shall be at a level to cover the costs of rehabilitating all disturbed areas and be of an amount approved by the Selectboard.

## **SECTION 5.8 MIXED USES**

- A) In the Village Districts, more than one use may be permitted within a single building or in multiple buildings on a single lot subject to conditional use review in accordance with Section 3.3 and the following provisions:
  - 1) Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.
  - 2) The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, and minimum lot size (unless such standards are modified as part of a planned unit development).
  - 3) The mixed use meets all applicable general regulations and use provisions contained in Articles 4 and 5.

## SECTION 5.9 MOBILE HOME PARKS

- A) **Applicability.** Mobile home parks shall be permitted subject to the requirements of this section and State Law. The State definition of a Mobile Home Park shall be applicable for this section; see Article 10.
- B) **Permits and Approvals.**
- 1) Replacement of an existing mobile home in an existing mobile home park, where the existing mobile home meets the standards in (C) below, with the same or smaller size mobile home shall require a building permit from the Zoning Administrator.
  - 3) Replacement of an existing mobile home in an existing mobile home park, where the existing mobile home meets the standards in (C) below, with a larger mobile home that meets the standards in (C) below shall require a zoning permit from the Zoning Administrator.
  - 4) Replacement of an existing mobile home in an existing mobile home park that meets the standards in (C) below, with a larger mobile home that would not meet the standards in (C) below, or replacement of an existing mobile home that does not meet the standards in (C) below with a new mobile home (whether it be smaller, the same size, or larger), shall require site plan approval by the Development Review Board. In granting such approval the Board shall not modify the mobile home lot line setback standards by more than 50% and shall ensure that the expansion does not encroach upon any public or private right-of-way. The requirements of Section 3.3(C)(6) shall in no case be modified if such replacement is located in the Flood Hazard Area Overlay District.
  - 4) New mobile home parks, and any addition or alteration to an existing mobile home park, shall be reviewed as a Planning Unit Development by the Development Review Board and shall be subject to the standards in this section in addition to the Planned Unit Development standards in Article 8 and all other applicable provisions of this regulation. "Addition" shall mean modifying an existing mobile home park by increasing the number of sites or mobile homes in the park. Alterations involving the erection, construction, or placement of accessory structures shall not be required to obtain conditional use approval by the Development Review Board; however, a building permit will be required for all accessory structures.
- C) **Mobile Home Lot Dimensional Standards.** The following standards shall ensure public health, safety, and welfare in mobile home parks in the Town of Sheldon.
- 1) The minimum mobile home lot size shall be 1 acre unless all lots are provided with off-site sewage disposal, in which case the minimum shall be 15,000 square feet. If both water supply and sewage disposal are off-site, the minimum mobile home lot size shall be 5,000 square feet.

- 2) Minimum side and rear yards of 5 feet, and a minimum setback from the access road of 20 feet are required for mobile homes and accessory structures on each lot.
- 3) Each mobile home lot shall have at least 50 feet of frontage on a mobile home park road.

D) **Mobile Home Park Standards.** The following standards shall ensure public health, safety, and welfare in mobile home parks in the Town of Sheldon.

- 1) A mobile home park shall have a contiguous area of not less than 5 acres or more than 30 acres.
- 2) The overall density of any mobile home park shall not exceed 1 mobile home per acre.
- 3) Each road shall have a minimum right-of-way width of 33 feet and a compacted gravel surface at least 20 feet wide and 12 inches deep. All mobile home park roads shall be private roads unless constructed to town road standards and accepted by the Selectboard as public roads.
- 4) A minimum of two parking spaces for each mobile home lot shall be provided.
- 5) A strip of land at least 100 feet wide shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home unit, office, utility, or service building may be placed in this buffer area. However, the Board may reduce or eliminate this landscaped area requirement if such modification or waiver will make it possible to preserve a scenic view from the park, provided that privacy for adjacent property owners can be maintained.
- 6) Each mobile home park shall provide at least 10% of its total area for open space and recreational purposes for the use of park residents.
- 7) Sewage disposal, water supply, and garbage facilities shall comply with state regulations. All electric, telephone, and other utility lines shall be underground, unless the applicant can demonstrate that due to utility company standards or pricing procedures,
- 8) Individual tenants of the mobile home park may erect, construct, or place no more than 2 accessory structures on a mobile home lot, provided that such structures combined do not exceed 60% of the floor area of the mobile home. Individual zoning permits shall be required for each such structure.
- 9) A non-porous pad of at least 4 inches thick shall be provided for each mobile home lot.



- 10) The Development Review Board shall have power to impose reasonable conditions as to the ownership, use, and maintenance of open space and recreation as it deems necessary to assure the preservation of such lands for their intended purpose.

### **SECTION 5.10 MOBILE, MODULAR, AND OTHER PRE-FABRICATED HOUSING**

- A) No zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality except upon the same terms and conditions as conventional housing is excluded, provided that they are anchored to a 4 inch or greater pad or permanent foundation.

### **SECTION 5.11 PUBLIC FACILITIES**

- A) In accordance with the Act [Section 4413], the following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off street parking and loading, traffic, noise, lighting, and landscaping or screening requirements, and only to the extent that the regulations do not interfere with the intended functional use:
  - 1) Public utility power generating plants and transmission lines;
  - 2) State or community owned and operated institutions and facilities;
  - 3) Public and private schools and other educational institutions certified by the Vermont Department of Education;
  - 4) Churches and other places of worship (see definitions), convents, and parish houses;
  - 5) Public and private hospitals;
  - 6) Regional solid waste facilities certified by the State [10 V.S.A. chapter 159]; and
  - 7) Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A. 6606a].

### **SECTION 5.12 TELECOMMUNICATIONS FACILITIES**

- A) **Applicability.** New or expanded telecommunications facilities, including but not limited to towers and accessory structures are subject to conditional use review and the provisions of this section. In conformance with 24 V.S.A. § 4412(9), the Zoning Board of Adjustment may permit new or expanded telecommunications facilities if the board finds that the facility will impose not more than a de-minimus impact on the conditional use standards in Section 3.3 and the criteria in (D) below.

**B) Exemptions.**

- 1) Antennae with an aggregate area of not more than fifteen (15) square feet on the largest face and which are on masts that extend not more than twelve feet above the specific roof area to which they are attached and are not located on historic landmarks and structures are exempt from these regulations. Amateur radio, citizens band radio, AM or FM radio, or broadcast television service towers that exceed this requirement but that do not exceed 100 feet in height are exempt from the provisions of this section, but require a zoning permit as an accessory structure.
- 2) No permit shall be required for a Wireless Telecommunication Facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service and which does not exceed 100 feet in height.
- 3) Any telecommunications or renewable energy project which receives a Certificate of Public Good from the Department of Public Service under Act 248, which preempts these regulations.

**C) Supplemental Application Requirements.** In addition to the application requirements required for conditional use review a Wireless Telecommunication Facility permit application shall also include:

- 1) A vicinity map showing the entire vicinity within a 2 mile radius of the Facility, including the location of all existing and proposed towers, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, 50 foot contour lines, landscape features, historic sites and significant wildlife habitats. It shall indicate the property lines of the proposed Facility site parcel and all easements or rights-of-way needed for access from a public way to the Facility.
- 2) Elevations and proposed site plans of the Facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet.)
- 3) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
- 4) A report from a qualified engineer that:
  - a) Describes any tower's design and elevation.
  - b) Documents the elevation above grade for all proposed mounting positions for antennas to be mounted on a tower and the minimum distances between antennas.

- c) Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.
  - d) In the case of new Facilities, demonstrates that existing towers and structures within five miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
  - e) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
  - f) Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.
  - g) Demonstrates the Facility's compliance with the standards set forth in this bylaw or other applicable standards.
  - h) Provides proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
  - i) Includes such other information as determined by the Development Review Board to evaluate the application.
- 5) A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Bylaw and all other applicable laws.
- 6) In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.
- 7) To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required for the facility.
- D) **Construction Standards.** Wireless Telecommunications Facility shall conform to the following construction standards:
- 1) The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the applicant shall provide a copy of a contract or

letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant.

- 2) The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate installation and operation of facilities.
- 3) The minimum distance from the base of any tower to any property line is not less than 100% the total elevation of the tower, including antenna or equipment.
- 4) The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this bylaw.
- 5) The Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Development Review Board, to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.
- 6) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a Wireless Telecommunication Facility shall, on a yearly basis, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Development Review Board, shall mean that the Facility has been abandoned.
- 7) The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
- 8) The proposed equipment is installed on an existing Wireless Telecommunication Facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.
- 9) The Facility provides reasonable opportunity for the installation and operation of other telecommunications equipment.
- 10) Unless otherwise approved by the Development Review Board, an abandoned or unused Wireless Telecommunication Facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the Development Review Board for an extension for removal. If the Facility is not removed, or an extension granted, within 2 years of abandonment or cessation of use, the Development Review

Board may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.

11) Unused portions of a Wireless Telecommunication Facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit.

E) **Additional Conditional Use Criteria.** In addition to the Conditional Use Standards in Section 3.3 and the construction standards in (C) above, the Development Review Board shall approve an application for a Wireless Telecommunications Facility when it finds that the application does not impose more than a de minimus impact on the following criteria:

- 1) The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- 2) The Facility will not have an undue adverse aesthetic impact. In determining this, the Development Review Board shall consider the following factors:
  - a. The results of the balloon test, if conducted.
  - b. The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
  - c. The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
  - d. The duration and frequency with which the Facility will be viewed on a public highway or from public property.
  - e. The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.
  - f. Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.
  - g. The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.
  - h. The sensitivity or unique value of a particular view affected by the Facility.
  - i. Any significant disruption of a viewshed that provides context to an important historic or scenic resource.

- 3) The Facility will not generate undue noise.

### **SECTION 5.13 WIND ENERGY CONVERSION SYSTEM**

- A) **Purpose.** The purpose of this section is to promote the safe, effective, and efficient use of wind energy conversion systems (WECS). All wind driven conversion or power generating facilities, windmills, and wind turbines, consisting of wind turbine generators, transmission lines and accessory buildings and structures, that **will not** be connected to any public utility power grid shall require a conditional use permit in accordance with this Section. WECS that will connect to a public utility power grid require a Certificate of Public Good from the Vermont Public Service Board under Act 248; no zoning permit or approval under these regulations is required.
- B) **Exemptions.** WECS that are by nature ornamental, rather than functional, shall be exempt from attaining a permit if the total height is less than thirty-five (35) feet.
- C) **Application Requirements.** In addition to the conditional use application requirements in Table 2.1, the application shall include a plot plan showing proposed location of all conversion system pole or tower, guy lines where required, guy line anchor bases and their distance from all property lines.
- D) **Design Certification.** The safety of the design shall be certified by a professional engineer or by an authorized factory representative.
- E) **Abandonment.** If the Zoning Administrator determines that any windmill has been abandoned for more than 12 months, or has become a hazard, he/she may revoke its permit and may require that it be removed by the owner.
- F) **Standards.** In addition to the conditional use standards in Section 3.3, WECS shall conform to the following specific standards:
  - 1) *Setback*- No part of the WECS shall be located within or above any required front, side, or rear setback area of the district in which it is located. The WECS shall be located at a distance of at least 1.25 times the height of the facility (measured from the base to the highest reach of the blade) from any structure occupied by humans and from all property lines. The setback from the property lines shall be waived if the abutters of these affected properties so grant their permission in writing.
  - 2) *Height*- The minimum height of the lowest position of the WECS blade shall be at least thirty (30) feet above the ground and forty (40) feet above the highest structure or tree within a two hundred and fifty (250) foot radius.
  - 3) *Aesthetics* – The WECS shall be designed and placed in such a manner to minimize to the greatest extent feasible, all adverse visual impacts on neighboring areas. The colors and

surface treatment of the WECS and supporting structures shall to the greatest extent feasible, minimize disruption of the natural characteristics of the site.

- 4) *Access*- To ensure safety, all towers or poles must be unclimbable by design for the first twelve (12) feet or be enclosed by a six (6) foot fence and locked gate at the perimeter of the base.
- 5) *Noise*- The windmill shall not exceed 60 dBA, as measured at the lot line.

## Article 6 Subdivision Review

<b>Table 6.1 Subdivision Review at a Glance</b>	
<b>Sketch Plan (all subdivisions)</b>	
1. Submission of sketch plan	Applicant
2. Sketch Plan Meeting with Development Review Board	Applicant attendance required
3. Sketch Plan Determination	Development Review Board; within 45 days of sketch plan meeting adjournment
<b>Minor Subdivision (up to a 3 lot subdivision, including the original lot)</b>	
1. Submission of final subdivision application	Applicant; within 6 months of the date of sketch plan approval
2. Development Review Board public hearing	Development Review Board; warned hearing in accordance with Section 9.1 (C) and (D).
3. Subdivision/plat approval or denial	Development Review Board; within 45 days of the hearing adjournment date
4. Final plat recording in the town records	Applicant; within 180 days of the date of subdivision approval
5. Certificate of Compliance	Applicant and Zoning Administrator; if required, after all improvements are completed
<b>Major Subdivision (4 or more lot subdivision, including the original lot)</b>	
1. Submission of preliminary subdivision application	Applicant; within 6 months of the date of sketch plan approval
2. Development Review Board public hearing	Development Review Board; warned hearing in accordance with Section 9.1 (C) and (D)
3. Preliminary subdivision/plat approval or denial	Development Review Board; within 45 days of the hearing adjournment date
4. Submission of final subdivision application	Applicant; within 1 year of the date of preliminary plan approval
5. Final Development Review Board public hearing	Development Review Board; warned hearing in accordance with Section 9.1 (C) and (D)
6. Final subdivision/plat approval or denial	Development Review Board; within 45 days of the hearing adjournment date
7. Final plat recording in town records	Applicant; within 180 of the date of subdivision approval
8. Certificate of Compliance	Applicant and Zoning Administrator; after all improvements are completed



**SECTION 6.1 APPLICABILITY**

A) For all proposed subdivisions of land not specifically exempted in (B) below, subdivision approval from the Development Review Board is required prior to undertaking the following:

- 1) Any contract for sale conveyance or lease of any subdivided portion of a property;
- 2) Any grading, clearing, construction, land development, or other improvement (excluding forestry or agricultural activities);
- 3) Any permit for erection of a structure in such subdivision is granted; or
- 4) The filing of a subdivision plat with the Town Clerk.

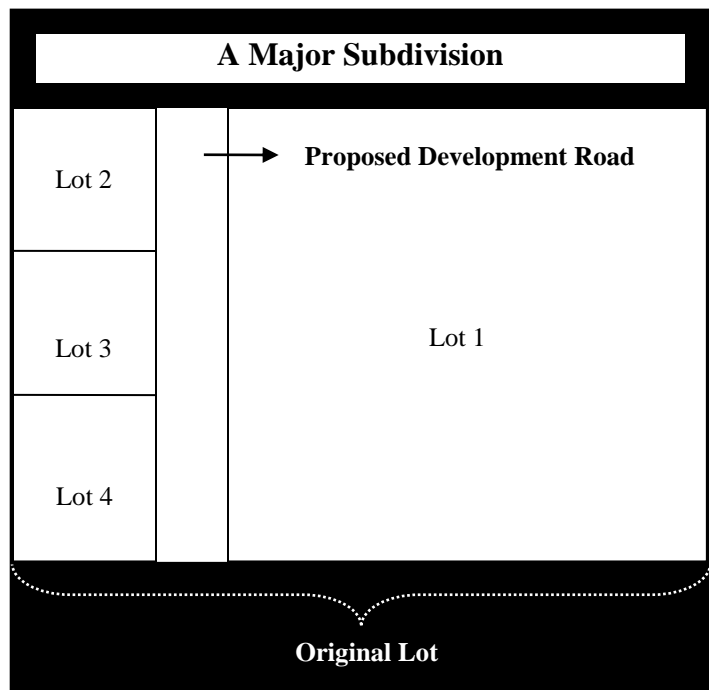
**Subdivision means:**  
 The division of any parcel of land into two or more parcels for the purposes of sale, conveyance, lease, or development. The term subdivision includes boundary line adjustments.

B) **Exemptions.** Parcels leased solely for agricultural or forestry purposes, where no new roads are created, are exempted from the requirements of subdivision regulations.

C) **Minor and Major Subdivisions.** For the purposes of these regulations, subdivisions shall be classified as *minor subdivisions* or *major subdivisions* in accordance with the following:

- 1) Minor Subdivisions shall include any subdivision that divides an existing lot in up to three (3) lots (See Figure 6.1), amendments to an approved subdivision plan, and boundary line adjustments.
- 2) Major Subdivisions shall include any subdivision that divides an existing lot into four (4) or more lots (See Figure 6.1) and planned unit developments (PUDs) that include the subdivision of land.

Figure 6.1



- D) **Coordination with Planned Unit Development Review.** Planned unit developments (PUDs) that include the subdivision of land shall be reviewed as major subdivisions under this Article. Conditional use review under Section 3.3 may occur concurrently with final subdivision review if all application and procedural requirements pertaining to each respective review process are met. PUDs shall meet the standards set forth in Article 8 in addition to the Planning and Design Standards in Article 7, unless otherwise waived by the Development Review Board.
- E) **Modifications of Requirements.** The Development Review Board may waive or modify, subject to appropriate conditions, the provision of any or all improvements and requirements as in its judgment of the special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision. Such modifications and waivers will not have the effect of nullifying the intent and purpose of applicable provisions of these Regulations, the Sheldon Town Plan and/or other municipal ordinances in effect.

The request for a waiver or modification of subdivision application requirements and/or subdivision standards shall be submitted in writing by the applicant with the sketch plan application. It shall be the responsibility of the applicant to provide sufficient information to justify the waiver and enable the commission to reach a decision.

- F) **Boundary Line Adjustments.** Applications for boundary line adjustments, which do not create any additional lots, make conforming lots non-conforming, or increase the nonconformance of any existing lot or use, may be exempted from sketch plan review and proceed immediately from application to final plan review.

## **SECTION 6.2 SKETCH PLAN REVIEW [REQUIRED FOR ALL SUBDIVISIONS]**

- A) **Application Requirements.** Subdivision applicants shall submit to the Zoning Administrator (1) full size original and (10) copies of a subdivision application and proposed sketch plan, which shall include all application requirements specified in Table 6.2. The complete sketch plan application needs to be legible and to scale, but does not need to be completed by a surveyor or engineer. There shall be no fee for the first sketch plan meeting; there will be a fee for subsequent sketch plan meetings.
- B) **Sketch Plan Meeting.** When the Zoning Administrator determines that the sketch plan application is complete, the Zoning Administrator shall place the application on the agenda of the next available regular or special meeting of the Development Review Board for sketch plan review following the public notice and public hearing procedures of Section 9.1(C) and (D). The applicant, or an authorized representative, is required to attend this meeting for the purpose of discussing the subdivision application and the proposed sketch plan. More than one sketch plan meeting may be held if the Development Review Board determines that the sketch plan needs to be substantially redesigned based on new or

previously unidentified information.

C) **Sketch Plan Review Criteria.** In completing sketch plan review, the Development Review Board shall complete the following:

- 1) Classify the sketch plan as either a minor subdivision or a major subdivision.
- 2) Grant or deny any request for waivers (see 6.1(E) above).
- 3) Make a preliminary determination on whether the proposal generally conforms to the subdivision planning and design standards in Article 7, the Town Plan, and any other municipal ordinances or bylaws in effect.

4) If deemed necessary, make specific requirements or recommendations for changes in subsequent submissions, including any requests for additional studies or supporting documentation.

5) If deemed necessary, require the applicant to disclose future development plans in a master buildout plan, which describes the potential build-out of the entire parcel and adjacent parcels, even if the application only includes a portion of the parcel(s). The master buildout plan may be drawn in a sketch plan format.

**A MASTER BUILDOUT PLAN MAY BE NECESSARY WHEN -**

A PROPOSED PROJECT WILL IMPACT THE FUTURE DEVELOPMENT POTENTIAL OF THE REMAINING PARCEL OR ADJACENT PARCELS, OR WHEN FUTURE BUILDOUT OF THE APPLICANT'S HOLDINGS, COMBINED WITH THE CURRENT PROPOSAL MAY HAVE A SIGNIFICANT IMPACT ON THE TOWN OF SHELDON.

**A MASTER BUILDOUT PLAN SHALL INCLUDE -**

AN INDICATION OF PROPOSED ROADS, DRIVEWAYS OR STREETS, THE FUTURE PROBABLE LOT LINES AND BUILDING ENVELOPES OF THE REMAINING PORTION OF THE TRACT, AND A DESCRIPTION OF THE PROBABLE USES.

The Development Review Board may require that the master buildout plan be submitted as part of an extended sketch plan review, or as a part of the preliminary or final subdivision approval. Approval of an applicant's current application does not constitute approval of the master buildout plan.

D) **Action on Sketch Plan.** The Development Review Board shall issue a determination on the sketch plan within 45 days of the close of the sketch plan meeting, which may include requirements or recommendations for modifications to the sketch plan, additional studies, or supporting documentation. The Development Review Board's determination shall specifically note whether the application should be resubmitted for sketch plan review or should be submitted for preliminary plan review (in the case of major subdivisions) or final plan review (in the case of minor subdivisions).

E) **Effect of Sketch Plan Determination:** Sketch plan determinations and associated

recommendations or requirements shall remain in effect for six (6) months from the date of issuance, unless otherwise specifically approved or extended by the Development Review Board. Within six (6) months of the date of issuance of a sketch plan determination by the Development Review Board, the applicant may apply to the Commission for preliminary plan review under Section 6.3 (in the case of a major subdivision) or final plan review under Section 6.4 (in the case of a minor subdivision). Sketch plan approval shall be invalid if a preliminary plan or final plan public hearing has not been warned prior to the expiration of six (6) months; the applicant shall be required to resubmit a new sketch plan application subject to all new zoning and subdivision regulations. The Zoning Administrator may grant extensions beyond this 6 month period when there are delays the applicant is unable to avoid.

**Table 6.2 Subdivision Application Requirements**

Application Information	Sketch	Prelim Plat	Final Plat
Application form [number of copies]	1- full size, 10 11x17 copies	2 full size, 10 11x17 copies	2 full size, 10 11x17 copies
Application fee	✓ (after 1 <sup>st</sup> mtng)	✓	✓
Name of project, if any and name of Town	✓	✓	✓
Name, address of applicant [landowner and/or applicant] and signature of property owner.	✓	✓	✓
Written description of proposed development plans, including number and size of lots and general timing of development	✓	✓	✓
Waiver request, in writing [optional]	✓		
Names, mailing addresses of all adjoining property owners	✓	✓	✓
Proof of all applicable permits required from municipal or state agencies having jurisdiction over the project			✓
Plan/Plat Mapping Requirements Materials	Sketch Plan Paper, Drawn	Prelim Plat Paper, Drawn	Final Plat Mylar, Surveyed
Preparer information, certifications	✓	✓	✓
Scale (minimum 1 inch = 200')		✓	✓
Date, north arrow, legend	✓	✓	✓
Project boundaries, property lines, and total acreage	✓		
A land survey showing existing and proposed property boundaries, property lines, and total acreage (large parcels see Section 6.5[E]).		✓	✓
Location map showing relation of proposed subdivision to adjacent property and surrounding area.	✓	✓	✓
Boundaries and area of all contiguous land belonging to the applicant, including land separated by a public right-of-way	✓	✓	✓
The location of natural features located on the site and adjacent properties including, but not limited to: <ul style="list-style-type: none"> <li>• watercourses;</li> <li>• wetlands;</li> <li>• areas of slope in excess of 20%;</li> <li>• historic or archeological resources;</li> <li>• designated floodplains</li> <li>• prime and statewide agricultural soils;</li> <li>• significant rock outcroppings; and</li> <li>• forested areas.</li> </ul>	✓	✓	✓
Existing and proposed layout of lot lines and dimensions	✓	✓	✓
Location and names of existing and proposed roads, rights of way, trails, driveways, sidewalks, and parking areas on site and on adjacent properties	✓	✓	✓

<b>Plan/Plat Mapping Requirements Materials</b>	<b>Sketch Plan Paper, Drawn</b>	<b>Prelim Plat Paper, Drawn</b>	<b>Final Plat Mylar, Surveved</b>
The location of existing and proposed structures and land uses located on the site and on adjacent properties	✓	✓	✓
Zoning district designations and boundaries	✓	✓	✓
Proposed open space, common land, deferred lots, and/or recreation land within the proposed subdivision	✓	✓	✓
The type and location of existing and proposed restrictions on land, such as easements and covenants	✓	✓	✓
Existing and proposed utilities, water and wastewater infrastructure, culverts and stormwater drainage infrastructure, all associated rights-of-way, easements, and proposed connections	✓	✓	✓
Proposed building envelopes		✓	✓
Design of any required bridges or culverts		✓	✓
Typical cross section of the proposed grading of roadways and sidewalks; street, intersection, parking area and driveway profile and geometry; building lines; and alleys; as well as similar facts on adjacent properties		✓	✓
<b>Supporting Information/Documentation (As May be Required at Sketch Plan Review or Preliminary Plan Review)</b>			
Existing and proposed traffic generation rates and volumes			
Proposed phasing schedule			
Proposed covenants and/or deed restrictions			
Proposed homeowner or tenant association agreements			
Proposed performance bond or surety			
Stormwater and erosion control plan			
Grading plan, showing proposed areas of cut and fill			
Site reclamation plan, for subdivisions involving extraction of natural resources			
Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)			
Fiscal impact analysis (analysis of fiscal costs and benefits to the town)			
Environmental impact assessment (analysis of potential environmental impacts, proposed mitigation measures)			
Other			

### **SECTION 6.3 PRELIMINARY PLAN REVIEW [REQUIRED FOR MAJOR SUBDIVISIONS]**

- A) **Application Requirements.** Within six (6) months of the date of issuance of a sketch plan determination (unless this time limit is specifically extended by the Development Review Board), applicants for major subdivision approval as defined in Section 6.1(D) above shall submit (1) original and (10) 11 x 17 reductions of a preliminary subdivision application and plat, including all associated fees, to the Zoning Administrator. The complete subdivision application and preliminary plat shall include all the information and materials required for preliminary plan review listed in Table 6.2 above (unless specifically waived by the Development Review Board).
- B) **Public Hearing Requirements.** When the Zoning Administrator determines that the preliminary plan application is complete, the Zoning Administrator shall schedule a public hearing at the next available Development Review Board meeting following the public notice and public hearing procedures of Section 9.1(C) and (D).
- C) **Preliminary Plan Review Criteria.** In completing preliminary plan review, the Development Review Board shall determine that the proposed subdivision conforms to all of the standards and conditions contained in Article 7, Planning and Design Standards, conforms to the goals and policies of the Sheldon Town Plan, and conforms to any other applicable local ordinances or bylaws. In addition, the Development Review Board may impose other modifications as necessary, including specific changes for subsequent submissions, additional studies, or supporting documentation to protect the public safety and welfare and to ensure compliance with the Town Plan, these regulations, and other bylaws and ordinances in effect.
- D) **Phasing.** The Development Review Board may require the plat to be divided into two or more phases to ensure project conformity with the Sheldon Town Plan and the Capital Budget and Program currently in effect. Conditions may be imposed upon filing an application for final plan approval for each phase, as the Board deems necessary, to ensure the orderly development of the plat and to avoid overburdening town facilities and services.
- E) **Action on Preliminary Plan.** Within 45 days of the date the public hearing is closed, the Development Review Board shall issue a determination on the preliminary plan, which may include recommendations for modifications, additional studies, or supporting documentation to be submitted in final plan review.
- F) **Effect of Preliminary Plan Approval.** Approval of a preliminary subdivision plan and plat does not constitute approval of the subdivision and does not guarantee approval of the final plat. Within six (6) months of the issuance of a preliminary plan decision, the applicant may apply to the Development Review Board for final plan review under Section 6.4. Preliminary subdivision approval shall be invalid if a final plan review public hearing has not been warned prior to the expiration of six (6) months; the applicant shall be required to resubmit a new sketch plan application subject to all new zoning and subdivision regulations. The

Zoning Administrator may grant extensions beyond this six (6) month period when there are delays the applicant is unable to avoid.

#### **SECTION 6.4 FINAL PLAN REVIEW [REQUIRED FOR ALL SUBDIVISIONS]**

- A) **Application Requirements.** Within six (6) months of the date of issuance of sketch plan approval for minor subdivisions, or preliminary plan approval for major subdivisions (unless this timeframe is specifically extended by the Development Review Board), subdivision applicants shall submit a (1) original and (10) 11 x 17 reductions of a final subdivision application and final plat, including all application fees, to the Zoning Administrator. The complete final subdivision application and plat shall be prepared by a licensed engineer or land surveyor and shall include all the information and materials required for final plan review listed in Table 6.2 above (unless specifically waived by the Development Review Board).
- B) **Public Hearing Requirements.** When the Zoning Administrator determines that the final plan application is complete, the Zoning Administrator shall schedule a public hearing at the next available Development Review Board meeting following the public notice and public hearing procedures of Section 9.1(C) and (D). Copies of the hearing notice shall be sent, at least 15 days prior to the hearing date, to the clerk of an adjacent municipality in the case of a plat located within 500 feet of a municipal boundary.
- C) **Final Plan Review Criteria.** In completing a final plan review, the Development Review Board shall determine that the proposed subdivision conforms to all of the standards and conditions contained in Article 7, Planning and Design Standards, conforms to the goals and policies of the Sheldon Town Plan, and conforms to any other applicable local ordinances or bylaws. In addition, the Development Review Board may impose other conditions of approval as necessary to protect the public safety and welfare and to ensure compliance with the Town Plan, these regulations, and other bylaws and ordinances in effect.
- D) **Action on Final Plan.** Within 45 days of the date the final public hearing is closed, the Development Review Board shall issue a written decision in conformance with the requirements of Section 9.1(F) that approves, conditions and approves, or disapproves the final subdivision application. If the Development Review Board fails to act within 45 days, the final subdivision plat shall be deemed approved.
- E) **Effect of Final Approval.** The Development Review Board's approval of a final subdivision plan and associated plat shall not be construed to constitute acceptance by the municipality of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Selectboard in accordance with state statutes. Each approval shall contain a time limit within which all improvements shall be completed, not to exceed three years, unless otherwise required or extended by the Development Review Board.



## **SECTION 6.5 PLAT RECORDING REQUIREMENTS**

- A) Within 180 days of the date of receipt of final plan approval under Section 6.4, the applicant shall file two (2) copies of the final subdivision plat, including one (1) mylar copy and (1) paper copy, for recording with the town. Approval of subdivision plats not filed and recorded within this 180 day period shall expire. However, the Zoning Administrator may grant one 90-day extension for plat filing.
- B) Prior to plat recording, the plat must be signed by the Chair of the Development Review Board.
- C) For any subdivision that requires the construction of roads or other public improvements by the applicant, the Development Review Board may require the applicant to post a performance bond or comparable surety to ensure completion of the improvements in accordance with approved specifications. The form, content, amount, and manner of execution of such bond or surety shall be to the satisfaction of the Sheldon Selectboard, which has jurisdiction over roads and other improvements. The term of such bond or surety may be fixed for a maximum of three years, within which time period said improvements must be completed. The term of such bond or surety may, with mutual consent of the Development Review Board and applicant, be extended for an additional period not to exceed three years.
- D) The municipality shall meet all recording requirements for final subdivision plan approvals as specified for municipal land use permits under Section 9.1(H).
- E) **Exemption for Large Parcels.** Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original lot from which lots are subdivided) when:
  - 1) The parent parcel is 10 acres or less in size, and/or
  - 2) Greater than 50% of the parent parcel acreage is subdivided into lots. (ex. If a 100 acre parent parcel subdivides off 50 acres, a survey is required for the entire parent parcel. If a 100 acre parent parcel subdivides off 49 acres, a survey is only required for the new lots being created, not the parent parcel).

## **SECTION 6.6 REVISIONS TO AN APPROVED PLAT**

- A) No changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the Development Review Board for final subdivision review and the Board approves such revisions after public hearing. In the event that such changes are recorded without complying with this requirement, the revisions shall be considered in violation of subdivision approval.

# Article 7. Planning and Design Standards

## SECTION 7.1 APPLICATION OF STANDARDS

The Development Review Board shall evaluate any minor or major subdivision in accordance with the procedures described in Article 6 and the standards set forth below. The Board may require modification of subdivision design, phasing, and/or additional measures to avoid or mitigate any undue adverse impacts and to ensure conformance with these regulations.

## SECTION 7.2 GENERAL SUBDIVISION STANDARDS

- A) **Character of the Land.** The Development Review Board shall determine that any land proposed for subdivision is of a character appropriate for the intended purpose and density of use, as proposed in the subdivision application, without inflicting undue adverse impact on public health and safety, the environment, neighboring properties, or the character of the surrounding area and community.
- B) **Compatibility with Existing Settlement Patterns.** Subdivisions shall be designed and laid out to achieve the purpose and desired settlement pattern of the district in which they are located. To the extent feasible, new subdivisions shall:
- 1) maintain and extend desired settlement patterns, including lot area and configuration, road layout, and building locations for the neighborhood or district in which they are located; and
  - 2) maintain contiguous tracts of open land; and connect to, and extend where appropriate, existing road, path, utility and open space corridors.
- C) **Conformance with the Town Plan and Other Regulations.** Subdivision proposals shall conform to the goals and policies of the Sheldon Town Plan, other provisions of these regulations, the capital budget and program, and all other bylaws, ordinances and regulations of the Town of Sheldon currently in effect.
- D) **Density and Lot Layout.** Density, lot size, and layout shall conform to zoning district dimensional standards in Article 2, unless modified or waived by the Development Review Board under planned unit development provisions, in accordance with Article 8.
- 1) No new lot created shall have an area or frontage less than the minimum required for the district in which it is located (see Table 2.1). Any public right-of-way or private street shall create lot frontage (corner lots, therefore, have frontage on two roadways).

- 2) Dogleg lots, bowling alley lots, and lots otherwise contorted in order to get around these bylaws are not permitted. Lot lines should be designed to follow existing land characteristics such as land contours, fence lines, roads, and paths, as well as to protect significant natural resources or to avoid excessively steep slopes, water courses, or wetlands, and where no other form of subdivision or PUD is possible.
  - 3) No new lot shall be created unless it has an approved access on a Class 1, 2, 3, or 4 public highways, private street, or permanent easement (as approved by the Development Review Board in Section 4.2).
  - 4) Lower densities of development may be required by the Board based on site limitations.
  - 5) Lot layout shall be appropriate for the intended use, and reflect the purpose of the district in which lots are created.
  - 6) Side lot lines shall generally be at right angles to straight roads, or radial to curved roads.
- E) **Establishment of Building Envelopes.** The Development Review Board may require the designation of building envelopes to limit the location of structures and associated site development to one or more portions of a lot. Building envelopes shall be designed to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excluding road and utility rights-of-way or easements) on one or more portions of a lot. The size and shape of the building envelope shall be, at a minimum, determined by district setback requirements, unless otherwise required by the Development Review Board or these regulations. The Development Review Board may also require the identification of specific building footprints if, in their judgment, such information is required to meet the standards set forth in these regulations.
- F) **Energy Conservation.** To conserve energy, all subdivisions shall use the least amount of area for roadways and the least length of sewer, water and utility lines within environmentally and economically sound limits. Clustered development (i.e. Planned Unit Developments) shall be considered wherever feasible and desirable. The siting of buildings should maximize solar access, and landscaping should effectively be used to provide wind barriers and reduce heat loss or gain.
- G) **Monuments & Lot Corner Markers.** Permanent monuments and corner markers shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

### SECTION 7.3 ROAD STANDARDS

- A) **Applicability of Road Standards.** These standards shall apply to all proposed public and private roads. Acceptance of private roads by the municipality is subject to the approval of

the Selectboard. Construction of a road(s) to these standards in no way ensures acceptance.

**B) Private Roads Serving Less Than 4 Lots.** Private roads serving less than four (4) lots shall conform to the minimum dimensional and geometric design standards for local roads and streets contained within the *Vermont State Standards for the Design of Transportation Construction, Reconstruction, and Rehabilitation on Freeways, Roads, and Streets*, dated October 1997, or as most recently amended and the following specific standards.

- 1) Private roads serving less than four (4) lots are not required to meet the Development Road Standards for the Town of Sheldon. However, the Development Road Standards may be applied to private roads serving less than four (4) lots when the Development Review Board determines such standards are necessary to provide suitable access to, or accommodate anticipated future subdivision.
- 2) A right of way of a minimum of fifty (50) feet will be required.
- 3) A minimum traveled way of sixteen (16) feet will be required.

**C) Roads Serving Four or More Lots.** All roads serving four or more lots shall be designed in accordance with the Development Road Standards for the Town of Sheldon, any other road ordinances in effect at the time, and shall conform to the minimum dimensional and geometric design standards for local roads and streets contained within the *Vermont State Standards for the Design of Transportation Construction, Reconstruction, and Rehabilitation on Freeways, Roads, and Streets*, dated October 1997, or as most recently amended.

**D) Additional Design Standards.** All roads shall meet the following additional design standards.

- 1) Dead end roads are specifically discouraged and are prohibited in excess of 1,200 feet. All dead end roads shall be constructed with a suitable turn around at the end; "T", "Y", and cul-de-sac configurations suitable to topography and adequate for emergency vehicles to turn around efficiently are permitted.
- 2) Roads shall logically relate to topography to minimize site disturbance and to produce usable lots in relation to the proposed use of the land they will serve, including the amount of cut and fill required, reasonable grades, and safe intersections. Road grades should be consistent with local terrain. Maximum road grade shall not, in any 50-foot section, exceed an average of eight percent.
- 3) Roads shall be designed and laid out to:
  - a) avoid impacts on natural, historic, cultural and scenic resources, and to enhance the vitality of the village areas.

- b) follow existing linear features, such as utility corridors, tree lines, hedgerows, and fence lines, and should avoid fragmentation of agricultural land and open fields.
  - c) be consistent with existing road patterns in village and other settlement areas, including the selection of visually compatible materials, the preservation of existing features, and the management of vegetation within the road corridor; and
  - d) to maximize connectivity within the subdivision and to adjoining parcels and road networks.
- E) **Road Construction Standards.** Road construction, including specifications relating to crown, grade, sub-base and surfacing, shall conform to the Vermont Agency of Transportation's Standard A-76 and the Sheldon Development Road Standards, as most recently amended.
- F) **Intersections.** A new or relocated road shall be located so that:
- 1) A safe sight stopping distance is provided as determined by probable traffic speed, terrain, alignments and climatic extremes. Generally, sight distance should be eleven (11) times the speed limit (e.g. a curb cut on a road with 40 mph speed limit would require a minimum sight distance of 440 feet which provides a gap of 7.5 seconds of travel time).
  - 2) It is directly opposite an existing road or driveway to form a four-way intersection wherever feasible. The Development Review Board shall not permit intersections that create centerline offsets of less than 125 feet.
  - 3) It intersects the existing roadway at an angle between 70 and 90 degrees.
  - 4) The gradient within 100 feet of an intersection shall not exceed 3 percent.
  - 5) No structure or planting is situated to impair corner visibility.
- G) **Road drainage.** Stormwater management facilities shall be provided to manage stormwater runoff from all proposed roads and or parking areas in accordance with Section 7.10 of these regulations. Generally, roadbeds, shoulders, ditches, and culverts shall be designed and maintained in conformance with the Vermont Better Backroads Manual, as most recently amended.
- H) **Connectivity and coordination with adjoining properties.** The arrangement of roads in a subdivision shall provide for connectivity with roads in adjoining neighborhoods and/or allow for future connection to adjoining properties not yet subdivided. Road connectivity from neighborhood to neighborhood increases accessibility for fire protection and

emergency services, allows for movement of traffic and pedestrians to and from community facilities, and increases the feasibility of constructing or extending needed utilities and public services. Where it is not feasible or appropriate to connect a proposed road with adjacent neighborhood(s), the Development Review Board may require the set aside of rights-of-way for future access to development on the lot or adjacent properties, require connectivity via pedestrian rights of way in conformance with Section 7.4 (C) below, or otherwise modify or waive this requirement.

- I) **Access Management.** All road and driveway accesses shall be designed in accordance with Section 4.2, Access Requirements. In addition, to better manage traffic flow and safety, avoid congestion and frequent turning movements, preserve the carrying capacity of important travel corridors, and to avoid strip development, the following access management standards shall apply to all subdivisions:
  - 1) Shared driveways and/or internal development roads providing access to multiple lots are encouraged and may be required to limit the number of access points onto public highways in accordance with Section 4.2.
  - 2) If a subdivision has frontage on primary and secondary roads, access shall be from the one with the least amount of traffic unless the Board determines that topographical or traffic safety conditions make such an access impracticable.
  
- J) **Upgrade to Existing Roads.** Where an existing road is inadequate or unsafe, the Development Review Board, in consultation with the Selectboard, may require the applicant to upgrade the road to conform to these standards. In situations where a development may require an increase in capacity of an existing road, such as realignment or widening, or where the municipal plan or capital program indicates that such improvements may be required in the future, the applicant may be required to reserve land for such improvements. Any existing road that provides either frontage to new lots or access to new roads also shall meet these requirements. Where a subdivision requires expenditure by the municipality to improve existing roads to conform to these standards, the Development Review Board may disapprove such subdivision until the Selectboard certifies that funds for the improvements have been ensured; or the applicant may be required to contribute to any or all of the expenses involved with road improvements necessitated by the project.
  
- K) **Road Names & Signs.** Roads shall be named in accordance with any municipal road naming ordinance or policy currently in effect, and shall have specific historic, cultural, or geographic relevance. Road names shall be identified on signs designed and located in accordance with municipal policy and shall be clearly depicted on the final plat.
  
- L) **Driveways.** All driveways shall comply with standards in Section 4.2.

## **SECTION 7.4 SIDEWALKS, AND PEDESTRIAN ACCESS**

- A) All developments in Sheldon shall contain provisions for pedestrian traffic that is adequate in terms of safety convenience, access to points of destination, attractiveness, and connections with pedestrian ways on adjoining properties.
- B) Sidewalks shall be required along internal streets of major subdivisions and may be required for minor subdivisions. In addition, sidewalks in major subdivisions (existing or required) shall be required to connect to existing sidewalks along major arteries bordering the subdivision and to connect to existing sidewalks on adjoining properties.
- C) The Development Review Board may require pedestrian rights-of-way in the form of perpetual unobstructed easements at least twenty (20) feet in width to facilitate pedestrian and bicycle circulation within the subdivision and to ensure access to adjoining properties, uses, or public facilities.

## **SECTION 7.5 OUTDOOR LIGHTING**

- A) The Development Review Board may require outdoor lighting where necessary in major subdivisions to illuminate areas such as streets, sidewalks and parking areas.
- B) Outdoor lighting fixtures shall be designed to shield the light source and direct the light downward. It must be located and adjusted so as not to cast light directly on adjacent roadways or properties.
- C) Any outdoor lighting must also meet lighting requirements according to Section 4.10.

## **SECTION 7.6 COMMUNITY SERVICES AND FACILITIES**

- A) **Municipal Facilities and Services.** The proposed subdivision will not create an undue adverse effect on municipal facilities or create an unreasonable demand for public services (e.g. shall not result in an increase in student enrollment in excess of existing or planned school capacity). A fiscal analysis and/or the phasing of development in accordance with the growth anticipated in a duly adopted capital budget and program may be required as appropriate, with the cost borne by the applicant.
- B) **Fire Protection Facilities and Emergency Access.** Subdivisions shall provide adequate water storage or distribution facilities for fire protection and adequate access for emergency service vehicles to the satisfaction of the Development Review Board. The applicant shall submit documentation from the Sheldon Fire Department as to the adequacy of emergency access and fire protection facilities. Where recommended by the Sheldon Fire Department, Development Review Board shall require the applicant to install fire hydrants, dry hydrants, or ponds.

## **SECTION 7.7 WATER SUPPLY AND WASTEWATER DISPOSAL**

- A) Proposed developments may be serviced by private or community water and/or wastewater systems, which shall be permitted in accordance with Section 4.12. Community systems shall comply with the legal requirements of Section 7.12.

## **SECTION 7.8 UTILITIES**

- A) **Locations.** All utilities, existing and proposed, throughout the subdivision shall be shown on the final plat and be located as follows:
- 1) The Development Review Board may require that all utilities, including but not limited to electric, gas, telephone, and cable television, be located underground throughout the subdivision, unless deemed unreasonable and prohibitively expensive.
  - 2) The applicant shall coordinate subdivision design with utility companies to insure adequate and suitable areas for under and above ground installation, both for the proposed subdivision and areas adjacent to the subdivision.
  - 3) Utility corridors shall be shared with other utility and or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, forest and conservation lands, and any adverse impacts to natural, cultural or scenic resources and to public health.
- B) **Utility easements.** Utility easements of sufficient width shall be provided so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision. Such easements shall be shown on the final plat.

## **SECTION 7.9 PROTECTION OF FARMLAND**

- A) Within the Rural Lands I and II districts, subdivision boundaries, lot layout, and building envelopes shall be located and configured to avoid undue adverse impacts on prime and statewide agricultural soils and other productive farmland. Methods for avoiding such undue adverse impacts include but are not limited to the following:
- 1) Building envelopes shall be located at field and orchard edges or, in the event that no other land is practical for development, on the least fertile soil in order to minimize the loss of productive agricultural land, impacts of existing farm operations and disruption to the scenic qualities of the site.
  - 2) Vegetated buffer areas may be required between agricultural and other uses to minimize land use conflicts.
  - 3) Access roads, driveways, and utility corridors shall be shared to the extent feasible; and



where sites include linear features such as existing roads, tree lines stonewalls and/or fence lines, shall follow these to minimize the fragmentation of productive agricultural land and minimize visual impacts.

## **SECTION 7.10 STORMWATER MANAGEMENT AND EROSION CONTROL**

- A) **Stormwater Management.** Stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches, shall be designed to accommodate potential stormwater runoff from the entire upstream drainage area, based on conditions of total potential development. The Development Review Board will require the applicant to maintain post-development peak storm flows at predevelopment levels. All stormwater management facilities shall be designed in accordance with best management practices (BMPs) for stormwater management as most recently amended by the Vermont Agency of Natural Resources. The preparation and implementation of a stormwater management plan, prepared by a professional engineer licensed by the State of Vermont, may be required by the Development Review Board. Off-site easements and/or management facilities may also be required by the Development Review Board as needed to accommodate stormwater runoff on adjoining properties or downstream from the proposed development.
- B) **Erosion Control.** Land shall be subdivided and improved so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. All areas exposed during construction shall be protected in accordance with the standards of the Natural Resources Conservation Service, the Agency of Natural Resources, or other appropriate regulatory body. Permanent vegetation and structures shall be established according to a schedule as required by the Development Review Board. The Development Review Board may require the preparation and implementation of a sedimentation and erosion control plan to ensure the site improvements, excluding excavation, road and driveway construction and site clearing and grading, shall not unduly impact neighboring properties or surface waters. Such a plan, if required, shall be prepared by a professional engineer licensed by the State of Vermont.

## **SECTION 7.11 LANDSCAPING AND SITE PRESERVATION**

- A) **Site Preservation of Existing features.** Site amenities such as trees and tree lines, water courses or drainageways, scenic roads, historic sites, unique geologic features, fences, stonewalls, or any other feature which the Development Review Board feels are an asset to the site and/or community shall be preserved insofar as possible through harmonious design and appropriate construction methods in accordance with policies and goals set forth in the Town plan. Development near streambanks shall maintain existing vegetation as much as possible.
- B) **Landscape improvements.** The Development Review Board may require landscape improvements for the purpose of reducing the visibility of unsightly or incompatible areas from the road and adjoining properties, which must meet seasonal conditions, soil conditions, and light on the site, in accordance with the following standards:

- 1) Landscaping shall take the form of shade trees, deciduous shrubs, evergreens, well kept grasses, ground cover and site modifications such as berms.
- 2) In determining the amount and type of plantings to be required, the Development Review Board shall take into account at least the following:
  - a) Existing trees, shrubs, evergreens and other vegetation to be preserved on the site;
  - b) The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;
  - c) The landform and overall landscaping plan for the development; and
  - d) Other factors which affect the safety and appearance of the development.
- 3) Where any land use in a Industrial/Commercial District abuts land in any other district, a strip of land, at least twenty-five feet in width shall be maintained as a landscape area in the front yard, side yards and rear yard which adjoin these districts.
- 4) Where any non-residential land use in a residential district (Village, Rural Land I, or Rural Land II) abuts any residential land use in a residential district, a strip of land at least fifteen feet in width shall be maintained as a landscape area in the front yard, side yards and rear yard which adjoin these uses.
- 5) Street trees shall be required along state and town highways particularly in the village districts.
- 6) Parking areas for uses other than single and two-family dwellings shall be required to be landscaped or screened from adjacent uses.
- 7) Landscaping shall be installed in the time frame established by the Development Review Board.

## **SECTION 7.12 LEGAL REQUIREMENTS**

- A)** Every subdivision plat shall show all proposed road and pedestrian rights-of-way, as required under these Regulations, regardless of whether a proposed right-of-way is intended to be accepted by the Town. In the event that the right-of-way is not intended for acceptance by the Town, the mechanism by which the right-of-way is to be maintained, owned and/or conveyed shall clearly be documented.
- B)** The applicant shall provide the Development Review Board with appropriate documentation for the adequate management and maintenance of all commonly owned entities, including community wastewater and water supply systems, community facilities,

parking areas, road, trail and utility rights of way, and open space. Ownership, management, and maintenance shall be clearly dictated in a covenant, easement, and/or other legal mechanism approved by the Development Review Board. All legal documents applying to a particular parcel shall be included in the deed and recorded in the Sheldon Land Records.

# Article 8. Planned Unit Developments

## SECTION 8.1 PURPOSE AND APPLICABILITY

- A) In accordance with Section 4417 of the Act, Planned Unit Developments (PUDs) are permitted in order to:
- encourage flexibility in design and unified treatment of the development site;
  - to promote the clustering of development to retain neighborhood character;
  - to avoid undue adverse impacts to, or the fragmentation of, significant natural resources and functional open space in Rural Lands I and II Districts;
  - to promote concentrated, compact, mixed use, pedestrian-scale development that maintains a traditional village character in the Village Districts;
  - and to facilitate the efficient and economical provision of streets and utilities.

The Development Review Board may modify the dimensional requirements of these regulations simultaneously with planned unit development approval. Such modifications shall be subject to the general and specific conditions and standards in this section and all other applicable provisions of this bylaw.

## SECTION 8.2 APPLICATION REQUIREMENTS

- A) All applications for a proposed PUD shall be meet the application requirements for a major subdivision. If a proposed PUD also includes a conditional use or a use that requires site plan approval, such a proposal shall also meet the applications requirements for conditional use and/or site plan.
- B) In addition to the above application requirements, all PUD applications shall also include the following:
- 1) A brief summary of the project and how it meets the standards in this section; and
  - 2) A statement setting forth the nature of all proposed modifications of this bylaw, including proposed standards for the design, bulk, and spacing of buildings and sizes of lots and open space; and
  - 3) Articles of association, bylaws, or declarations of condominium for those developments that will provide common open space, recreation, roads, parking areas, community water

& sewer systems, or other facilities used, owned, or maintained in common.

- 4) Plans for the permanent maintenance and/or management of open space areas included within the development.

### **SECTION 8.3 PUD STANDARDS**

A) PUDs shall meet all Planning and Design Standards and other provisions of these regulations, Planned Unit Developments shall meet the following standards:

- 1) The project shall be consistent with the Sheldon Town Plan.
- 2) Uses of the site shall not differ from those allowed within the district where the project is located. Mixed uses shall be arranged and buffered to ensure visual and acoustical privacy to residents in the development.
- 3) The number of units shall not exceed the number which could be permitted if the land were subdivided into lots in conformance with the applicable district requirements of this bylaw.
- 4) The development shall be an effective and unified treatment of the project site, and make appropriate provision for preservation of streams, stream banks, visual and physical access to the Missisquoi River, slopes greater than 25%, wetlands, soils, historic sites, natural areas, wildlife habitat, floodplain, and views.
- 5) The minimum setback requirements for the district in which the project is located shall apply to the periphery of the development.
- 6) If applicable, the Development Review Board shall require that a proposed PUD be phased over a reasonable period of time in order to ensure that adequate municipal facilities and services may be provided.

B) **Open Space.** Planned Unit Developments shall be designed to incorporate open space, which may include land intended for outdoor recreation or lands with important natural, cultural, or agricultural resource value. Open space shall be approved by the Development Review Board, in accordance with the following:

- 1) The location, shape, and character of the open space shall be suitable for its context and intended use. Areas preserved for agricultural and forestry use should be of a size that retains their eligibility for available tax abatement programs.
- 2) Twenty-five (25%) of the land in all PUDs, regardless of zoning district, shall be required to be open space in perpetuity.

- 3) Sewage disposal areas and utility and road rights-of-way or easements, access and parking areas shall not be counted as open space.
- 4) Open space shall be located to conform with and extend existing areas sharing similar characteristics, natural features, or uses of adjacent parcels.
- 5) Open space may be held under common ownership. Land held in common shall be subject to the requirements of Section 7.12.
- 6) The Development Review Board shall impose conditions upon PUD approval that clearly restricts open space from future subdivision through an easement, deed restriction, or other similar legally enforceable tool. Permit conditions shall stipulate the permitted and restricted use of the open space; permitted uses may include forestry or agricultural use, outdoor recreation, or protection of important natural or cultural features. Permit conditions shall establish ownership and a plan for maintenance and long term stewardship, which may include but is not limited to a conservation easement, enrollment in the Vermont Current Use Program, or a homeowners association. All costs associated with administering and maintaining open space shall be the responsibility of the applicant and subsequent landowners. Such permit conditions shall run with the land and shall be enforceable by the Town.

# Article 9. Administration, Appeals, and Enforcement

## SECTION 9.1 MUNICIPAL ADMINISTRATIVE REQUIREMENTS

A) **Appointments.** The following appointments shall be made in association with the administration and enforcement of these regulations as provided for in the Act:

- 1) **Zoning Administrator.** The Zoning Administrator shall be nominated by the Planning Commission and appointed by the Selectboard for a term of three years. The Zoning Administrator may be removed from office for just cause by the Selectboard after consultation with the Planning Commission. In the absence or disability of the Zoning Administrator, an acting Zoning Administrator shall be appointed by the Selectboard from nominations submitted by the Planning Commission and shall have the same duties and responsibilities as the Zoning Administrator. The Zoning Administrator may hold any other office in the municipality except membership on the Development Review Board. Salary for the Zoning Administrator shall be paid out of the General Fund in an amount and schedule established by the Selectboard.

The Zoning Administrator shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall:

- a) Approve, deny, or refer applications for zoning permits under Section 9.1 (E).
- b) Issue Certificate of Compliance under Section 9.2.
- c) As necessary and/or in response to a written complaint, inspect and investigate public or private property at reasonable times in order to determine compliance with these bylaws.
- d) Pursue violations of these bylaws through procedures set forth under Section 9.4.
- e) Provide forms and maintain a full and exact record, available to the public, of all applications and fees received, permits issued and denied, and violations reported.
- f) Maintain a record of development in the flood hazard area in accordance with Section 9.1(H).

### 2) **Development Review Board**

- a) **Appointments:** A Development Review Board shall be appointed by the Select Board in accordance with the Act [Section 4460]. The Development Review Board shall be constituted of nine (9) members and their terms of office shall be

determined by the Select Board. Vacancies for both expired and unexpired terms shall be filled by the Select Board for unexpired terms and upon the expiration of terms. Members may be removed for cause by the Select Board upon written charges after a public hearing is held.

- b) **Alternates:** Alternates may be assigned by the Select Board for a specified term in situations where one or more members are disqualified or are otherwise unable to serve.
  
- c) **Duties:** In accordance with the Act [Subchapter 10], the Development Review Board shall have the following powers and duties:
  - i. to elect officers, and establish and apply rules of procedure, subject to the Act [Section 4461] and Vermont’s open meeting laws [1 V.S.A., Sections 310-314];
  - ii. To employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services;
  - iii. To hear and decide appeals including, without limitation, any appeal alleging an error committed by the Zoning Administrator under Section 9.3;
  - iv. To hear and decide appeals for variances from the provisions of these regulations under Section 3.4;
  - v. To hear and decide applications for conditional uses under Section 3.3;
  - vi. To examine or cause to be examined any property, maps, books, or records bearing on matters connected with any proceeding under these regulations;
  - vii. To request, in association with the review of proposed development, additional studies to be supplied and paid for by the applicant;
  - viii. To make permanent, written record of all findings of fact and conclusions of law for all matters heard and decided by the Development Review Board;
  - ix. To hear and decide upon requests for access approval under Section 4.2;
  - x. To consider and act upon applications for Planned Unit Developments (PUDs) under Article 8;
  - xi. To consider and act upon applications for subdivision approval in accordance with Article 6;
  - xii. To impose reasonable conditions and safeguards as it deems appropriate and



necessary, in accordance with the provisions of these regulations;

3) **Planning Commission.**

- a) **Appointments:** In accordance with the Act [§§4322,4323], a Planning Commission consisting of not less than 3 nor more than 9 voting members shall be appointed by the Legislative Body for 3 year terms; however no more than 2 Commissioners shall be reappointed or replaced during any calendar year, and a majority of Commissioners shall be residents of the municipality. Vacancies shall be filled by the Legislative Body for the unexpired terms and upon the expiration of such terms. Any member may be removed at any time by unanimous vote of the Legislative Body. The Planning Commission shall elect a chair and clerk, and adopt rules of procedure to guide its official conduct in accordance with the requirements of the Act [§4323] and Vermont's Open Meeting Law [1 V.S.A., §310-314].
- b) **Alternates:** Alternates may be assigned by the Select Board for a specified term in situations where one or more members are disqualified or are otherwise unable to serve.
- c) **Duties:** The Planning Commission shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and decide:
  - i. Prepare a plan and amendments thereof for consideration by the legislative body and to review any amendments thereof initiated by others;
  - ii. Prepare and present to the legislative body proposed bylaws and make recommendations to the legislative body on proposed amendments to such bylaws;
  - iii. Undertake capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources and wetland protection. Data gathered by the Planning Commission that is relevant to the geographic information system established under 3 V.S.A. § 20 shall be compatible with, useful to, and shared with that system;
  - iv. Prepare and present to the legislative body recommended building, plumbing, fire, electrical, housing, and related codes and enforcement procedures, and construction specifications for streets and related public improvements;

- v. Prepare and present a recommended capital budget and program for a period of five years, as set forth in 24 V.S.A. §4440 of this title, for action by the legislative body, as set forth under 24 V.S.A §4443 of this title;
- vi. Hold public meetings;
- vii. Require from other departments and agencies of the municipality such available information as relates to the work of the Planning Commission;
- viii. In the performance of its functions, enter upon land to make examinations and surveys;
- ix. Participate in a regional planning program;
- x. Retain staff and consultant assistance in carrying out its duties and powers;
- xi. Undertake comprehensive planning, including related preliminary planning and engineering studies;
- xii. Perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of the Act.

B) **Fees.** The Selectboard shall establish a schedule of application fees and amend the schedule as needed to cover some or all the cost of the administration and enforcement of these bylaws. In accordance with the Act [Section 4440], the fee schedule may include provisions that require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees shall be posted in the offices of the Municipal Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Selectboard.

C) **Public Notice Requirements**

- 1) A warned public hearing shall be required for site plan (Section 3.2), conditional use (Section 3.3), variance review (Section 3.4), appeals (Sections 9.3), and subdivision review (Article 6). Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the hearing by *all* of the following:
  - a) publication of the date, place and purpose of the public hearing in a newspaper of general circulation in the town;
  - b) posting of the same information in three (3) or more public places within the municipality, including the posting of a hearing notice, on a form provided by the

Town of Sheldon, within view of the public right(s)-of-way nearest to the property for which the application is being made;

- c) written notification to the applicant and to owners of all properties adjoining the property subject to subdivision or development, without regard to public rights-of-way, which includes a description of the proposed project, 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; and
  - d) for hearings on subdivision plats located within 500 feet of a town boundary, written notification to the clerk of the adjoining municipality.
- 2) The applicant shall be required to bear the cost of public warning and the cost and responsibility of:
- a) posting notice within view of the public right-of-way most nearly adjacent to the property for which the application is being made; and
  - b) notifying adjoining landowners as required above, as determined from the current municipal grand list. 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.
- 3) No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board where reasonable efforts have been 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 Development Review Board or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.
- D) Meeting and Hearing Requirements.** All meetings and hearings of the Development Review Board, except for deliberative and executive sessions, shall be open to the public.
- 1) For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Development Review Board. Any action of the Board shall be taken by a concurrence of the majority of the members of the Board.
  - 2) The Development Review Board shall keep minutes of all its proceedings, which shall include the names of all members present, names of other active participants, all motions, proposals, and resolutions made, major discussion on all motions, proposals,

and resolutions made, and the results of any vote taken. Minutes shall be filed in the Town Office as public records not more than 5 days after the meeting.

- 3) Public hearings of the Development Review Board shall be noticed and warned in accordance with C above. In accordance with the Board's adopted Rules of Procedure and Ethics Policies, in any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person for purposes of appeal under Section 9.3, to demonstrate that they meet

the criteria as defined in Article 10. The Development Review Board shall keep a record of the name, address, and participation of each of these persons.

- 4) During all public hearings, the Development Review Board may:
- a. examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
  - b. require the attendance of any person having knowledge concerning the application;
  - c. require an independent technical review of one or more aspects of an application, such as, but not limited to, a traffic study, environmental impact analysis, or economic impact analysis, to be paid for by the applicant.
  - d. take testimony and require that all information be documented as accurate, and administer oaths or take acknowledgement in respect to those matters.
- 5) The Development Review Board may continue a hearing on any application or appeal pending the submission of additional information affecting the approval under question, provided that the next hearing date, time, and place are announced at the hearing and that the date is set for no less than 60 days from the date of the original hearing. If at the continued hearing, the indicated information is not provided, the Board shall hear all available evidence and close the public hearing.

<p><b><u>Deliberations:</u></b> <b><u>Getting from the Public Hearing to the Decision</u></b></p> <p>⇒ <b>Once the Board has heard evidence on a case in a public hearing, the Board needs to deliberate on the evidence and come to a decision.</b></p> <p>⇒ <b>Deliberations start after the Chair closes the public hearing and opens deliberations.</b></p> <p>⇒ <b>Deliberations are not subject to the open meeting law, and therefore if minutes are taken they are not part of the public record.</b></p> <p>⇒ <b>Deliberations may be open to the public or closed to the public.</b></p> <p>⇒ <b>During open deliberations, the public may stay to listen but cannot participate in the discussion.</b></p> <p>⇒ <b>If the board is deliberating in private, the public must leave.</b></p>
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E) **Issuance of Zoning Permit.** A zoning permit shall be issued for all land development and land subdivision by the Zoning Administrator only in accordance with the Act [§4449] and these regulations. If the Zoning Administrator finds these regulations to be unclear in relation to determining a proposals conformance, the Zoning Administrator must refer the application to the Development Review Board for a determination.

**The Zoning Administrator must refer all land development that requires conditional use review, site plan review, subdivision approval, variance approval, access by right of way approval, and any other board approval to the Development Review Board before a zoning permit or denial may be issued.**

- 1) Within 30 days of receipt of a completed application, including all application materials and fees, the Zoning Administrator shall either issue or deny a permit in writing, or refer the application to either the Development Review Board for their review and action. If the Zoning Administrator fails to act within the 30 day period, a permit shall be deemed issued on the 31<sup>st</sup> day. In the case of referral for Board approval, the Zoning Administrator shall issue or deny a zoning permit based on and concurrently with the Board's decision (see also Section 9.1 (F) below). Each permit or denial issued shall include a statement of the time in which appeals may be made under Section 9.3.
- 2) When the Zoning Administrator issues a zoning permit, the applicant shall post a permit notice, on a form provided by the Town of Sheldon, within view of the public right-of-way most nearly adjacent to the subject property until the applicable time for appeal under Section 9.3 has passed. The notice shall contain a statement of the appeal period and information noting where a full description of the project and approval can be found.
- 3) Within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall post a copy of the permit in the Town Clerk's Office until the expiration of the appeal period and a copy shall be provided to the Listers.
- 4) All zoning permits issued for land development in the Flood Hazard Area Overlay District shall be in compliance with Section 3.5 (A) and (F).
- 5) For development where a prior permit or approval has been issued, including subdivision plat approval, no zoning permit shall be issued until documentation is provided that all applicable conditions of the prior permit or approval have been met.
- 6) In accordance with the Act [§4449(a)], when an application for a zoning permit seeking approval of a structure is submitted, the administrative officer shall provide the applicant with a copy of the applicable building energy standards under 30 V.S.A. §§ 51 (residential building energy standards) and 53 (commercial building energy standards). However, the administrative officer need not provide a copy of the standards if the

structure is a sign or a fence or the application certifies that the structure will not be heated or cooled. In addition, the administrative officer may provide a copy of the Vermont Residential Building Energy Code Book published by the Department of Public Service in lieu of the full text of the residential building energy standards.

F) **Decisions of the Development Review Board.** The Development Review Board shall prepare a written decision for all land development and land subdivision applications referred from the Zoning Administrator within 45 days after the adjournment of the public hearing. Within the same time period, the Zoning Administrator shall send the Board's decision, in addition to a permit or denial in accordance with the board's decision, to the applicant or appellant by certified mail. Copies of each decision shall also be mailed to every person or body appearing and having been heard at the hearing, be recorded in the municipal land records, and a copy maintained on file in the municipal office in accordance with the Act. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46<sup>th</sup> day. In addition:

- 1) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on recorded evidence. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals under Section 9.3 may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
- 2) In making a decision in favor of the applicant, the Development Review Board may attach conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect.

G) **Zoning Permit Effective Date.**

- 1) **For permits issued without board review.** No zoning permit shall take effect until the time for appeal under Section 9.3 (A) has passed or, in the event that a notice of appeal is properly filed, until final adjudication of that appeal by the board is complete and the time for appealing the board's decision under Section 9.3 (B) has passed without an appeal being taken.
- 2) Permits remain in effect for one (1) years from the date of issuance, unless the permit specifies otherwise, except for subdivision approvals, which never expire. All development authorized by the zoning permit shall be substantially commenced within this period. At a minimum, development must include the complete construction of an access, a foundation, and a water supply and wastewater system, or the zoning permit shall become null and void and reapplication and approval for further development shall be required.

- 3) The Zoning Administrator may administratively issue one (1) permit extension of not more than one (1) years from the date of application, if the application for an extension is made in writing prior to permit expiration, and it is determined by the Zoning Administrator that the extension is justified due to delays in the issuance of other necessary permits, project financing, or other unforeseen circumstances.

H) **Recording Requirements.**

- 1) Within 30 days after the issuance of a zoning permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the municipal land records as provided in 24 V.S.A. 1154(a). The applicant may be charged the cost of the recording fees as required by law.
- 2) The Zoning Administrator shall maintain a record of development within the Flood Hazard Area Overlay District including:
  - a) All permits issued for development in areas of special flood hazard;
  - b) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
  - c) The elevation, in relation to mean sea level, to which buildings have been floodproofed;
  - d) All flood proofing certifications required under this regulation; and
  - e) All variance actions, including justification for their issuance.
- I) **Combined Review.** In cases where development proposals require more than one Board review or approval, the Development Review Board may warn and hold a joint hearing for the purpose of reviewing and acting on the proposal. In cases where a joint hearing cannot be conducted to address each necessary review, the proceedings for each review shall occur concurrently or semi-concurrently (initiating one review process while the preceding process is nearing completion).
  - 1) To the extent feasible, the review process shall be conducted in the following order:
    - a) Site Plan; then
    - b) Access by right-of-way; then
    - c) Requests for Waivers or Variances; then

- d) Conditional Use Review; then
  - e) Subdivision Approval (preliminary and final) or PUD approval
- 2) All notice requirements and provisions applicable to each purpose of the hearing shall be complied with. Notice for combined review, to the extent feasible, shall be made in the same public notice. In the case of differing notice requirements, the process which provides more notice, by amount of time or by other means, shall apply.
  - 3) All decision requirements and deadlines applicable to each purpose of the proceedings shall apply. Separate written decisions shall be issued for each review conducted as part of the combined review, but shall be coordinated where possible.
- J) **Review Under Pending Amendment to these Regulations.** If public notice for the first public hearing by the Sheldon Selectboard has been issued with respect to amendment of these regulations, the Zoning Administrator shall review any new application received within 150 days following the date of public notice under the proposed amendment and applicable existing requirements of these regulations. If the new bylaw or amendment has not been adopted or rejected within this 150-day period, or the bylaw is rejected, the application shall be reviewed under the existing regulations. An application that has been denied under a proposed bylaw or amendment that has not been adopted, or had been rejected, shall be reviewed again at no cost under the existing regulations at the request of the applicant.
- K) **Computation of Time.** Where an event is required or permitted to occur by these bylaws before, on, or after a specified period of time, the first day shall not be counted and the final day shall be counted in calculating the period.

## **SECTION 9.2 CERTIFICATE OF COMPLIANCE**

- A) **Certificate of Compliance.** Following the completion of a subdivision, a Certificate of Compliance is required for all major subdivisions and for any minor subdivision where it is a condition of approval to ensure that a subdivision has been completed in accordance with the Final Subdivision Plat and that public and private improvements have been installed in accordance with any conditions of subdivision approval. For phased subdivisions, each phase must receive a certificate of compliance before any subsequent phase may be commenced.
- 1) A letter requesting a Certificate of Compliance shall be submitted to the Zoning Administrator with as-built plans, drawn to scale, which show the location of all monuments, utilities, structures, roadways, easements, and other improvements as constructed.



- 2) Within 14 weekdays of receipt of the application for a certificate of compliance, the Zoning Administrator will inspect the subdivision to ensure that all work has been completed in conformance with the conditions of subdivision approval. If the Zoning Administrator fails to either grant or deny the certificate of compliance within 14 weekdays of the submission of an application, the certificate shall be deemed issued on the 15<sup>th</sup> day.

### **SECTION 9.3 APPEALS**

A) **Decisions of the Zoning Administrator.** The applicant or an interested person may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the the Town Clerk and by filing a copy of the notice with the Zoning Administrator within 15 days of the act or decision. Any interested person may appear and be heard in person or be represented by an agent or attorney at the hearing.

- 1) The Board shall hold a public hearing warned in accordance with Section 9.1 (C) within 60 days of receiving a notice of appeal and mail a copy of the hearing notice to the appellants not less than 15 days prior to the hearing date.
- 2) The Board may reject an appeal without hearing, and issue a decision and findings of fact within 10 days of the filing of a notice of appeal, if the Board considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by the appellant.
- 3) Upon completion of a hearing, the Board shall issue a written decision in accordance with Section 9.1 (F).

B) **Decisions of the Development Review Board.** The applicant or any other interested person who has participated in a public hearing concerning the matter being appealed may appeal a decision of the Development Review Board within 30 days of its issuance to the Vermont Environmental Court.

- 1) Participation in a public hearing shall consist of offering, through written or oral testimony, evidence of a statement of concern related to the subject of the proceeding.
- 2) Notice of appeal shall be sent by certified mail, with fees, to the Environmental Court and by mail to the Zoning Administrator, who shall provide a list of interested persons to the appellant within 5 working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person.

C) **Notice of Appeal.** A notice of an appeal, for appeals of Zoning Administrator and board decisions, shall be in writing and include:

- 1) the name and address of the appellant;
- 2) a brief description of the property with respect to which the appeal is taken;
- 3) a reference to applicable provisions of these regulations;
- 4) the relief requested by the appellant; and
- 5) the alleged grounds why such relief is believed proper under the circumstances.

## **SECTION 9.4 VIOLATIONS AND ENFORCEMENT**

- A. **Violations.** The commencement or continuation of any land development, subdivision or use which is not in conformance with the provisions of these regulations shall constitute a violation. All violations will be pursued in accordance with the Act [§§ 4451, 4452] and/or as a civil matter enforced in accordance with the provisions 24 VSA 1974(a) et. Seq at the discretion of the Zoning Administrator. Each day that a violation continues shall constitute a separate offense.
- B. **Filing a Complaint.** Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such a complaint, immediately investigate, and take action as appropriate in accordance with these regulations.
- C. **Notice of Violation.** Pursuant to the Act [§4451], no action may be brought under this Section unless the alleged offender has had at least 7 days notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7 day period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the 7 day period. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the 7 day notice period and within the next succeeding 12 months.
- D. **Enforcement Via Superior Court - Environmental Division [§4451].** In accordance with the Act [§§ 4451, 4452], the Administrative Officer shall institute in the name of the municipality any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected for violations shall be paid over to the municipality. The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§4454].
- E. **Enforcement Via the Judicial Bureau [§4451].** In lieu of enforcement via the Superior Court – Environmental Division, penalties shall be imposed by the Zoning Administrator for initial, second and subsequent violations of any provision of these Development Regulations in accordance with 24 VSA 1974(a).

**F. Violation of Flood Hazard Area Overlay District Regulations.** Where a violation of the Flood Hazard Overlay District standards and regulations in Section 3.5 has not been cured after a warning notice has been sent in accordance with (C) above, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of:

- 1) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location,
- 2) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance,
- 3) a clear statement that the public body making the declaration has authority to do so and a citation to that authority,
- 4) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and
- 5) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

**G. Enforcement Limitations.**

- 1) An action, injunction or other enforcement proceeding relating to any municipal land use permit may be instituted within 15 years of the date the alleged violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.
- 2) No action, injunction or enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit was recorded in the land records of the municipality as required by the Act [§4449].
- 3) Nothing in this Section shall prevent any action, injunction or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to, a municipality's authority under Title 18 relating to the abatement or removal of a public health risk or hazard.

# Article 10. Definitions

## SECTION 10.1 INTERPRETATION

A) Except where specifically defined herein, all words used in these regulations shall carry their customary meaning. The word "shall" is mandatory and the word "may" is permissive. Any interpretation by the Zoning Administrator may be appealed to the Development Review Board for a declaratory ruling. In such cases, the Board shall base its ruling upon the following definitions, state statute, and the need for reasonable and effective implementation of this bylaw.

## SECTION 10.2 DEFINITIONS

**Accessory Dwelling:** A secondary dwelling unit established in conjunction with and clearly subordinate to a primary single family dwelling unit which is retained in common ownership, is located within, attached to or on the same lot as the primary dwelling unit, and which otherwise meets applicable criteria of this bylaw. The accessory dwelling unit shall have facilities and provisions for independent living, including sleeping, food preparation, and sanitation facilities.

**Accessory Use/Structure:** A use or structure which is incidental and subordinate to the principal use or structure, located on the same lot as the principal use or structure, and clearly related to the principal use or structure. Examples include detached patios and porches, garages, signs, and tool sheds.

**Agribusiness:** Any individual, partnership, corporation, or organization primarily supplying services or goods to producers of marketable agricultural products, including greenhouses, nurseries, farm cooperatives. Agribusiness does not include the slaughter of animals for commercial purposes or the service and sale of major farm equipment such as tractors, spreaders, bulk tanks, etc.

**Agriculture:** The growing and harvesting of crops; raising of livestock, raising of horses, operation of orchards, including maple orchards or sugar bushes; and the sale of farm produce on the premises where it is produced.

**Auction House:** A facility used for the temporary storage and sale on premises of new and used goods by means of a request or invitation for bids. This definition specifically excludes retail sales.

**Basement:** Any area of the building having its floor sub graded (below ground level) on all sides.

**Bed and Breakfast:** An existing residential building that is used as a residence and which contains sleeping rooms, with or without individual sanitary facilities, for rental accommodation for durations not typically more than two (2) weeks, which serves breakfast to guests and may serve other meals to guests.

**Business Office:** Financial institutions, consulting firms, real estate or insurance agencies, doctors, lawyers, architects, accountants, travel agencies, and establishments providing similar services, but not including manufacturing, repairing, processing, or fabrication of any article, substance, or commodity.

**Camper:** Any vehicle used as temporary sleeping, camping or living quarters, which is mounted on wheels, a truck or a camper body, or towed by a motor vehicle. This definition includes recreation vehicles and travel trailers, but specifically excludes mobile homes (see Mobile Home and Recreational Vehicle).

**Campground:** A parcel of land upon which three or more campsites are located for occupancy by a tent, cabin, lean-to, or similar structure as temporary living quarters for recreation, education, or vacation purposes. "Primitive" campgrounds are further characterized as campgrounds which are limited to substantially unimproved camp sites intended for tenting use only.

**Child Care Home:** A state registered or licensed child care business serving 6 or fewer children on a full time basis and up to 4 additional children on a part time basis, conducted within a single family dwelling by a resident of that dwelling (See also Day Care Facility).

**Club:** A building or use catering exclusively to members and their guests for recreational, educational, civic, religious, fraternal, or other non-profit purposes.

**Commercial Indoor Recreation Facility:** A building or structure designed, equipped and used for sports, leisure time, and other recreational activities and that operates as a commercial use. Such uses may include, but are not limited to bowling alleys, theaters, table tennis and pool halls, skating rinks, gymnasiums, swimming pools, and hobby workshops..

**Commercial Outdoor Recreation Facility:** Any facility for outdoor recreation, including but not limited to: tennis courts, golf courses, athletic fields, swimming pools, golf driving ranges, shooting/archery ranges, skating rinks, riding stable, and trails for hiking, horseback riding, bicycling, snowmobiling, and cross-country skiing, that operates as a commercial use.

**Commercial Use:** An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

**Commonly Owned Entities:** Land within a development or subdivision that is not individually owned or dedicated for public use, but which is designed to be held in common, for use, enjoyment, management and maintenance by the residents of the development or subdivision.

Such land may include but not be limited to open space areas, parking lots, pedestrian walkways, utilities, and utility and road rights-of way.

**Community Care Facility:** A facility providing room, board and personal care services which contains common cooking, dining and recreation facilities which serves the elderly and/or the infirm. See also Day Care Facility and Group Home.

**Conformance with the Town Plan:** A proposed application conforms to the Sheldon Town Plan in effect if (1) it makes progress toward attaining, or at least does not interfere with, the goals, and policies contained in the municipal plan; (2) it provides for proposed future land uses, densities, and intensities of development contained in the town plan; and (3) it carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the town plan.

**Conservation Easement:** A legal interest in real property imposing limitations on future use and development for the purpose of protecting natural, scenic or open space values of said property, and/or maintaining its availability for agricultural, forest, recreational or open space uses.

**Contiguous:** Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous.

**Day Care Facility:** A facility providing day care services, for profit or otherwise, for children and/or the elderly. Pursuant to the Act [Section4412(5)] a state registered or licensed day care facility serving six (6) or fewer children shall be considered by right to constitute a permitted residential use of the property

**Density:** The number of dwelling units, principal uses or structures permitted per area of land, excluding land area within road rights-of-way.

**Development:** See Land Development.

**Driveway:** A minor, private travel way serving up to three parcels, which provides access for vehicles to a parking space, garage, dwelling or other structure.

**Dwelling, Multiple Family:** A building on a single lot containing three or more dwelling units.

**Dwelling, Single Family:** A building containing one dwelling unit and that is not attached to any other dwelling by any means.

**Dwelling, Two Family:** A building on a single lot containing two dwelling units.

**Dwelling Unit:** One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family or individual maintaining a household.

**Earth Resource Extraction:** Any land alteration or excavation which involves the moving or extraction of sand, gravel, topsoil, loam, sod, landfill, or similar substance for commercial purposes, except when incidental to or in connection with the construction of a building. Mining is considered earth resource extraction. Common agricultural tillage, ground care, gardening, and excavations in cemeteries shall be exempt from this bylaw.

**Easement:** A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

**Excavation:** Any breaking of ground, removal, or recovery by any means whatsoever of soil, rock, minerals, mineral substances, or organic substances, other than vegetation, from water or land, on or beneath the surface, whether exposed or submerged. Common agricultural tillage, ground care, gardening or excavations in cemeteries shall be exempt.

**Farm Structure:** A building, enclosure or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in state law [10 V.S.A. §6001(22)], but excludes a dwelling for human habitation. See also Accepted Agricultural Practices.

**Flea Market:** An occasional or periodic market held in an open area or an enclosed structure (walls, windows, and a roof), where groups of individual sellers offer goods for sale to the public.

**Frontage:** The distance of the portion of a lot line abutting a road right-of-way

**Garage Sale/Yard Sale:** The use of land or structures for the sale of goods or materials for a limited period of time. Such sales shall not take place more than 3 times in a calendar year and shall not take place for a total of 6 days over a calendar year.

**Gas Station:** A place or business providing motor vehicle fuel, lubricants, and related products and accessories, or which has facilities for servicing motor vehicles. A gas station may provide general repairs, maintenance for sale incidental to the operation of motor vehicles, but is distinguished from an establishment which has its principal activity major repairs, body work, or vehicles and part sales (see Major Motor Vehicle & Equipment Establishments).

**Group Home:** A residential structure or boarding house which provides, for profit or otherwise, room, board and/or personal care to less than eight (8) residents who are unrelated to the operator. Pursuant to the Act [Section 4412(G)], a group home licensed or registered by the State of Vermont which houses less than eight (8) residents, who have a handicap or disability as defined by 9 V.S.A. Section 4501, shall be considered by right to constitute a permitted

single-family use of the property, unless it is located within one thousand (1,000) feet of another such home. See also Community Care Facility.

**Hazardous Materials:** Any material or combination of materials that may be explosive, flammable, toxic, acidic, corrosive, etiologic agent, caustic, pathogenic, or radioactive in either liquid, solid, or gaseous form, or when acted upon by heat or radioactivity may become hazardous. Any material when present in sufficient quantity or combination which may be reasonably assumed to constitute a peril for health and safety of employees, nearby residents, fire fighters, and others who may be exposed to them.

**Height, Building:** The height of a building or structure as measured vertically from the highest point on top of the building or structure to the average (of the highest and lowest) finished grade at the foundation or base.

**Home Occupation:** An accessory use conducted within a minor portion of a single family dwelling or accessory structure by resident family members, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the floor area dedicated to the business use is less than 25% of the total floor area of the dwelling unit, and which does not change the character thereof..

**Hotel/Motel Establishment:** Any building other than a rooming and boarding house or tourist home where sleeping accommodations are provided for compensation. Included are motels, cabins, tourist courts, motor lodges, etc.

**Interested Person:** A party who may legally appeal to the Development Review Board or Environmental Court as prescribed by Section 4465b of the Act generally including any of the following: the party owning title to the subject property, or the designated agent of said party; a person owning or occupying property in the immediate neighborhood per the Act, Section 4465(b)(3); any 10 property owners in the town who file a petition with the Development Review Board per the Act Section 4465(b)(4); the Selectboard of the town, or of any adjoining town; and certain state agencies.

**Junk:** Old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof. Any of the above items used in a bona fide agricultural operation are excluded from this definition.

**Junk Motor Vehicle:** means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery.



**Junk Yard:** Any place of outdoor storage or deposit that is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. "Junkyard" also means any place of outdoor storage or deposit, not in connection with a business that is maintained or used for storing or keeping junk taking up 200 square feet or more which are visible from any portion of a public highway. However, the term does not include a private garbage dump or a sanitary landfill that is in compliance with Section 2202 of Title 24 of V.S.A. and the regulations of the secretary of human services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

**Land Development:** 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 in the Flood Hazard Overlay District shall mean any man-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.

**Light Industry:** Processing, warehousing, assembly, or fabrication of certain materials and products where no process involved will produce noise, vibration, air or water pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties.

**Lot:** A parcel of land owned by a lot owner(s), the boundaries of which are: 1) established by a deed or deeds recorded in the land records of the Town of Sheldon; or 2) shown on a plat approved by the Sheldon Development Review Board. A public or private right of way that divides a lot shall not create a subdivision.

**Lot Area:** Total area within the property lines excluding any part thereof lying within the boundaries of an existing or proposed, public or private, street.

**Lot Coverage:** That percentage of the lot area covered by impervious surface, such as all principal and accessory buildings, structures, parking areas, loading areas, or driveways.

**Major Subdivision:** The subdivision of a single lot into four or more lots and planned unit developments (PUDs).

**Manufactured home:** A structure that is 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". Manufactured homes must meet the Federal Manufactured Home Construction and Safety Standards Act (42 USC Section 5401 [1976], commonly known as the HUD code.

**Manufacturing:** The processing, packaging, assembly or fabrication of any article, substance, or commodity.

**Minor Subdivision:** The subdivision of a single lot into no more than 3 lots, amendments to an approved subdivision plan, and boundary line adjustments.

**Mixed Use:** A building or parcel containing two or more uses which are otherwise allowed as permitted or conditional uses within the district in which the building or parcel is located

**Mobile Home:** A manufactured home, which is designed to be moved on wheels as a whole or in sections, and is ready for occupancy upon arrival at the site except for incidental unpacking, assembly, connections with utilities, and placement on foundation.

**Mobile Home Park:** Any parcel or contiguous lots of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two mobile homes. A parcel or contiguous lots owned by agricultural employers providing up to four mobile homes for use by full-time workers or employees, and a parcel or contiguous lots used solely on a seasonal basis for vacation or recreational mobile homes shall not be considered a mobile home park.

**Non-Conforming Structure:** Structure not conforming with the zoning regulations covering bulk, dimensions, height, area, yards, density, or off-street parking or loading requirements, where such structure complied with all applicable laws, ordinances, and regulations prior to enactment of these regulations as amended.

**Non-Conforming Use:** Use of land or structure which does not comply with all zoning regulations where such use conformed to all applicable laws, ordinances, and regulations prior to enactment of these regulations as amended.

**Open Space:** Land not occupied by structures, buildings, roads, rights-of-way, recreational facilities, and parking lots. Open space may or may not be held in common.

**Personal Services Establishment:** Businesses providing services of a personal nature, including but not limited to barber or beauty shops, caterers, decorators, florist, photographic studio, shoe shine & repair, laundry, dry cleaners, electrical appliance, and television repair shop.

**Places of Worship:** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities

**Planned Unit Development (PUD):** One or more lots or parcels of land to be developed as a single entity with a mix of land uses. The Development Review Board may approve a plan that

deviates from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building use, density, intensity, lot coverage, parking, required common open space, or other standards.

**Plat:** A map or representation on paper, Mylar or other accepted material, of a piece of land subdivided into lots and roads, drawn to scale and prepared for filing with the Town Clerk.

**Pre-Existing Small Lot:** Any lot in existence on the effective date of these regulations which is not conforming to the applicable district requirements with respect to minimum lot size and frontage.

**Principal Structure/Use:** A structure or use directly involved with the primary purpose of ownership on a particular lot, which, together with its accessory structures/uses, constitutes all structures and uses of said lot.

**Public Facilities:** A building or other facility owned, leased, held, used, and/or controlled exclusively for public purposes by the Town of Sheldon, or any other department or branch of government. Such a facility may be further characterized as “**open**” to the general public (e.g., town office, meeting hall, post office) or “**closed**” to the general public (e.g., highway maintenance facility, utility substation, solid waste facility).

**Processing of Earth Resources:** The processing, combination, breaking down, aggregation, or chemical transformation of sand, gravel, topsoil, loam, sod, landfill, or similar earth resource for commercial purposes.

**Reasonable Use:** A use of real property which is allowed within the district in which the property is located, which provides some (but not necessarily all) potential benefit to the owner, and which does not lead to unreasonable interference with another’s use of property, or with the natural flow of water. Reasonable use does not mean highest and best use; nor does it include accessory uses, structures, or additions, which may be customary, but are not necessary, to the existing or intended principal use (e.g., garages, swimming pools).

**Restaurant:** An establishment where food and drink are prepared, served, and consumed primarily within the principal building, which includes diners, bars, lounges, nightclubs, and similar establishments.

**Retail Store:** Premises where goods or merchandise are offered for retail sale to the general public for personal, business, or household consumption and services incidental to the sale of such goods are provided. Retail stores include, but are not limited to grocery, hardware, and general stores, and include small repair shops, agricultural supply stores, farm co-operatives, nurseries, etc. Retail stores also include sale and minor servicing of mobile homes, travel trailers, farm machinery, construction equipment, but not auto service stations or major motor vehicle repair establishments.

**Road, private:** Any road or street and associated right-of-way serving 3 or more dwelling units constructed according to the Sheldon Development Road Standards, which is not publicly owned and maintained. The word “road” shall mean the entire right-of-way.

**Road, public:** A road or street and associated right-of-way serving 3 or more dwelling units constructed according to the Sheldon Development Road Standards, which is constructed within the boundaries of an officially deeded or dedicated and accepted public right-of-way. The word “road” shall mean the entire right-of-way.

**Rooming/Boarding House:** A dwelling or part thereof, in which lodging is provided by the owner or operator to boarders as their primary residence, and in which individual cooking and eating facilities are not provided for boarders.

**Setback:** The horizontal distance from a right-of-way edge, lot line, boundary or other delineated feature (e.g., a stream bank or channel, shoreline, or wetland area), to the nearest part of a building, structure, or parking area on the premises. In the case of a public highway, the distance shall be measured from the edge of the highway right-of-way.

**Sign:** Any display or representation used or placed as an announcement, direction, or advertisement. The word "placed" shall include erected, constructed, or otherwise fastened, affixed, or made visible in any manner whatsoever.

**Site Plan:** A drawing to scale of a proposed development and surrounding area including information required by Section 3.2 of these regulations, and any other applicable section, and any other information which may be required to determine compliance with the provisions of these Regulations.

**Structure:** An assembly of materials for occupancy or use, which requires a fixed location on the ground in order to be used. Included in addition to buildings are signs, garages, carports, porches, walls, swimming pools, and any other out-buildings or building features. I

**Subdivision:** The division of any parcel of land into two or more parcels for the purposes of sale, conveyance, lease, or development. The term “subdivision” includes boundary line adjustments.

**Telecommunications Facility:** A support structure which is primarily for communication or broadcast purposes and which will extend vertically 20 feet, or more, in order to transmit or receive communication signals for commercial, industrial, municipal, county, state or other governmental purposes, and associated ancillary facilities that provide access and/or house equipment

**Undue Adverse Impact (or effect):** An unnecessary or excessive effect or impact that (1) violates a clearly stated community standard, to include applicable provisions of these regulations, other municipal bylaws and ordinances in effect, or clearly defined standards and

policies of the Sheldon Town Plan *and* (2) which cannot be avoided through site or design modifications, on- or off-site mitigation, or other conditions of approval.

**Use:** Specific purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or is intended to be occupied.

**Violation:** The failure of any land development or subdivision to be fully compliant with these regulations, including the standards for the Flood Hazard Overlay District in Section 3.3(C)(6). For a structure or other development in the Flood Hazard Area Overlay District without the elevation certificate, other certifications, or other evidence of compliance 12 required in 44 CFR 60.3, a violation shall be presumed until such time as that documentation is provided.

**Warehousing:** An establishment used primarily for storage of goods, wares, and merchandise which does not involve retail or wholesale sales.

**Zoning Permit:** Written approval issued by the appropriate municipal board or official for any development, subsequent to required application and review.

### **SECTION 10.3 DEFINITIONS – FLOOD HAZARD OVERLAY DISTRICT**

**A) Applicability.** Land development in the Flood Hazard Overlay District is subject to all definitions in Section 10.2 and all definitions below:

**Base flood (In reference to development in the Flood Hazard Area Overlay District):** The flood having a 1 percent chance of being equaled or exceeded in any given year. Also, known as the “100-year flood”.

**Base Flood Elevation (BFE) (In reference to development in the Flood Hazard Area Overlay District):** The height of the base flood, 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 average depth of the base flood, usually in feet, above the ground surface.

**Existing Manufactured Home Park or Subdivision (in reference to development in the Flood Hazard Area Overlay District):** 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 floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision (In reference to development in the Flood Hazard Area Overlay District):** 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).

**Flood Insurance Rate Map (FIRM) (In reference to development in the Flood Hazard Area Overlay District):** An official map of a community on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study (In reference to development in the Flood Hazard Area Overlay District):** An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**Floodproofing (In reference to development in the Flood Hazard Area Overlay District):** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**Floodway (In reference to development in the Flood Hazard Area Overlay District):** 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.

**Historic Structures (In reference to development in the Flood Hazard Area Overlay District):** 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.

**Lowest floor (In reference to development in the Flood Hazard Area Overlay District):** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or enclosure, usable solely for parking of vehicles, building access, or storage in a 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 Section 3.3 (C) (6).

**Mean sea level:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Mobile Home Park:** For development in the Flood Hazard Area Overlay District, a **manufactured home park or subdivision** shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale and a **new manufactured home park or subdivision** shall mean 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.

**New Construction (In reference to development in the Flood Hazard Area Overlay District):** for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**Recreational Vehicle:** 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 (See Camper).

**Special Flood Hazard Area (In reference to development in the Flood Hazard Area Overlay District):** the land in the floodplain within a community subject to a 1 percent chance or greater chance of flooding in any given year. The area may be designated as Zones A, AO, AH, A1-30, AE, or A99 on the FIRM maps.

**Start of Construction (In reference to development in the Flood Hazard Area Overlay District):** 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.

**Structure:** A structure shall mean a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under these regulations. A “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

**Substantial Damage (In reference to development in the Flood Hazard Area Overlay District):** 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.

**Substantial improvements (In reference to development in the Flood Hazard Area Overlay District):** Means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, over 3 years or over the period of a common plan of development, the cumulative cost of which 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: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.



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