

The Town of Shaftsbury
Zoning Bylaw

February 11, 2008

(Originally enacted: November 1980)

Table of Contents

| | |
|--|-----------|
| I. ENACTMENT: | 4 |
| II. PURPOSE: | 4 |
| Section 1 - DEFINITIONS: | 4 |
| Section 2 - ZONING DISTRICTS: | 4 |
| 2.3 Zoning of Streets..... | 5 |
| 2.4 Land Under Water..... | 5 |
| Section 3 - GENERAL REGULATIONS: | 5 |
| 3.2 Dimensional Requirements..... | 6 |
| 3.3 Use Regulations..... | 8 |
| 3.4 Administrative Requirements..... | 8 |
| 3.5 Conditional Use Regulations..... | 9 |
| 3.6 Site Development Plan..... | 11 |
| Section 4 - RESIDENTIAL DISTRICTS: | 13 |
| 4.0 Purpose..... | 13 |
| 4.1. Rural Residence (RR) Districts | 14 |
| 4.2. Village Residence (VR) Districts..... | 16 |
| Section 5 - FOREST AND RECREATION (FR) DISTRICT: | 17 |
| 5.0 Purpose. | 17 |
| 5.1 Permitted Uses in FR District..... | 18 |
| 5.2 Dimensional Requirements in FR District..... | 18 |
| 5.3 Wastewater Disposal in FR District | 18 |
| Section 6 - COMMERCIAL AND INDUSTRIAL DISTRICTS: | 18 |
| 6.1. Village Commercial VC 1 & 2 Districts..... | 18 |
| 6.2 Roadside Commercial (RC) Districts..... | 21 |
| 6.3. Commercial Industrial (CI) Districts..... | 22 |
| 6.4 Industrial (I) Districts..... | 22 |
| 6.5. Recreational Overlay District..... | 23 |
| Section 7 - SPECIAL REGULATIONS: | 25 |
| 7.1 Nonconforming Uses..... | 25 |
| 7.2 Resource Protection..... | 26 |
| 7.3. Parking. | 30 |
| 7.4 Mobile Homes and Travel Trailers..... | 35 |
| 7.5 Extraction of Earth Resources..... | 35 |
| 7.6. Open Space Subdivision..... | 37 |
| 7.7. Swimming Pools and Ponds..... | 40 |
| 7.8 Sewage Disposal Water Supply and Wastewater Disposal. | 40 |
| 7.9 Family Child Care Facilities..... | 41 |
| 7.11 Solid Waste Management Facilities – Transfer Stations | 41 |
| 7.12 Solid Waste Management Facilities – Solid Waste Landfills and Construction and Demolition (C&D) Landfills..... | 44 |
| 7.13 Hazardous Waste Management Facilities..... | 46 |
| Section 8 - ADMINISTRATION AND ENFORCEMENT: | 47 |
| 8.1 Permits..... | 47 |

| | |
|--|-----------|
| 8.2 Zoning Administrator..... | 48 |
| 8.3 Fees. | 48 |
| 8.4 Violations and Penalties. | 48 |
| 8.5 Development Review Board (DRB). | 48 |
| 8.7 Amendments. | 50 |
| 8.8 Review. | 50 |
| 8.9 Validity. | 50 |
| 8.10 Dangerous and Unsafe Buildings..... | 50 |
| 8.11 Air Quality | 51 |
| Section 9.0 - WIRELESS TELECOMMUNICATIONS FACILITIES..... | 51 |
| 9.1 Purpose..... | 51 |
| 9.2 Procedure..... | 52 |
| 9.3 Conditional Use Approval | 52 |
| 9.4 Location..... | 52 |
| 9.5 Height..... | 53 |
| 9.6 Setbacks..... | 53 |
| 9.7 Lighting..... | 53 |
| 9.8 Bulk, Height, Glare | 53 |
| 9.9 Noise | 53 |
| 9.10 Screening/Camouflage/Fencing | 54 |
| 9.11 Co-location..... | 54 |
| 9.12 Access Roads and Above Ground Utilities..... | 54 |
| 9.13 Environmentally Sensitive Areas..... | 54 |
| 9.14 Monitoring, Maintenance, Compliance..... | 54 |
| 9.15 Abandonment or Discontinuation of Use | 54 |
| 9.16 Bond or Security | 55 |
| 9.17 Modifications | 55 |
| 9.18 Independent Review | 55 |
| 9.19 Consistency with Federal Law | 55 |
| Appendix A - DEFINITIONS..... | 56 |
| Appendix B - SIGN ORDINANCE..... | 63 |

I. ENACTMENT:

These regulations are established under the authority of 24 V.S.A. Chapter 117, herein referred to as the Act. The Vermont Statutes Annotated (V.S.A.), which are referenced throughout this document, are available for review at the Town Offices.

II. PURPOSE:

This Bylaw is in accordance with a comprehensive plan and in accordance with 24 V.S.A. Section 4302, to encourage the most appropriate use of land throughout the Town of Shaftsbury and to promote the future growth of the Town in an orderly manner.

The purpose of this Bylaw is to promote health, safety and welfare of the people; to prevent the overcrowding of land; to avoid undue concentration of population; to provide adequate light and air; to lessen congestion in the streets, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Section 1 - DEFINITIONS:

Definitions may be found in Appendix A immediately following the provisions of this Bylaw.

Section 2 - ZONING DISTRICTS:

2.1 Division into Districts

For the purpose of this Bylaw, the Town is divided into the following Zoning Districts designated by the abbreviations set forth below.

Separate classes of districts within the same Zoning District shall be:

1. Designated by a numerical suffix.
2. Subject to the regulations applying to the entire Zoning District.
3. Subject to the dimensional requirements set forth in this Bylaw.

| ZONING DISTRICTS | CLASSES |
|-----------------------|----------------------|
| Rural Residential | RR-40, RR-80, RR-200 |
| Village Residential | VR-10, VR-20, VR-80 |
| Forest & Recreation | FR |
| Roadside Commercial | RC |
| Commercial Industrial | CI |
| Village Commercial | VC 1 and VC 2 |
| Industrial | I -1, I-2 |
| Shore land | S |

2.2 Zoning Map

2.2.1 The Boundaries of the Zoning Districts areas are as shown on the Zoning Map of the Town of Shaftsbury, and are hereby declared to be a part of this Bylaw.

2.2.2. Interpretation of the Map

Any uncertainty as to the location of a District Boundary Line on the Zoning Map shall be resolved by the Zoning Administrator with appeals of any such decisions made to the Development Review Board. A determination shall reflect the carrying out the intent of the Town Plan of Development, applying the following rules:

2.2.2.1. 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.

2.2.2.2. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.

2.2.2.3. Boundaries indicated as following shorelines shall be construed as the normal mean water level.

2.2.2.4. Boundaries indicated as parallel to or extensions of features in 1 through 3 above shall be so construed.

2.2.2.5. Boundaries along contour lines shall follow the listed contours for the zone.

2.2.2.6. Where circumstances are not covered by 1 through 5 above, the DRB, upon appeal, shall interpret the district boundaries.

2.3 Zoning of Streets

Zoning Districts shall include the beds of streets lying within them. Where opposite sides of a street lie in different districts, the boundary shall be deemed to be the center of the right-of-way.

2.4 Land Under Water

Zoning Districts shall include any land under rivers, streams, lakes, or ponds lying within them. Where opposite sides of a river or stream lie in different districts, the boundary shall be the centerline of the river or stream. Where opposite sides of a lake or pond lie in different districts, the boundary shall be deemed to be the center thereof.

Section 3 - GENERAL REGULATIONS:

3.1 Compliance with Bylaws

3.1.1. The application of these regulations is subject to the provision of 24 V.S.A., Sections 4406-9 of the Act. Except as hereinafter provided, no land, no building, no sign,

or part thereof, or other structure shall be constructed, reconstructed, extended, enlarged, moved, occupied, used, altered, razed, or removed, except in conformity with this Bylaw.

3.1.2. Where these Regulations impose a greater restriction upon use of a structure or land than were required by any previous zoning ordinance adopted by the Town of Shaftsbury, or is required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, public or private, then the provisions of these Regulations shall control.

3.1.3. No building or buildings shall occupy alone or in combination a greater percentage of lot area, nor be greater in height, than set forth in the applicable paragraph hereof, except as otherwise specifically provided in this Bylaw.

3.1.4. Except as otherwise specifically provided in this Bylaw, any permitted building or permitted use may be located in that portion of the lot not contained in ~~the~~ any required front, side, or rear yard.

3.1.5. No lot shall be diminished, nor shall any yard, court, or any other open space be reduced, except in conformity with this Bylaw.

3.1.6. In the case of lots lying in more than one district, the provisions of any one of the districts in which one of the lots lie, may be applied for a distance of not over thirty feet into any other adjacent district.

3.1.7. Nothing contained in this Bylaw shall require any change in the plans, construction, or designated use of a building complying with local laws in force prior to this Bylaw, if a prior permit shall have been duly issued, and the entire building shall have been completed in accordance with such plans within one year from the effective date of this Bylaw. See Section 8.1.3. for further information regarding permit effectiveness.

3.1.8. In accordance with Section 4495, 24 V.S.A. nothing contained in this Bylaw shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the Commissioner of Agriculture, Food and Markets or the Commissioner of Forests, Parks, and Recreation, respectively. A person shall notify the Zoning Administrator of the intent to build a farm structure at least 30 days prior to commencement of construction, and shall abide by setbacks approved by the Commissioner of Agriculture, Food and Markets. No permit for a farm structure shall be required.

3.2 Dimensional Requirements

3.2.1. No land development may be permitted on lots that have a frontage of less than 50 feet on a public street. However, with the DRB's approval, land development may be permitted on a lot otherwise conforming with this Bylaw which has access to a public street by a permanent easement or right-of-way not less than 20 feet wide for one lot, or not less than 50 feet wide for more than one lot.

3.2.2. Nothing in this Bylaw shall prohibit the projection of not more than three feet into required setback of pilasters, columns, belt courses, sills, cornices, or other similar architectural features, nor the planting or landscaping of such setback, except as provided in subsection 3.2.6 hereof.

3.2.3. No building in any district shall exceed the height applicable to the district except for transfer station buildings governed by 7.11, but this shall not apply to spires, cupolas, chimneys, penthouses, ventilators, tanks, or similar parts of a building, occupying in the aggregate not more than 10 percent of the area of such building, and not used for any human occupancy, nor to farm silos, flagpoles, windmills with blades less than 20 feet in diameter subject to granting of a variance pursuant to Section 8.7 of this bylaw, rooftop solar collectors less than 10 feet high, or similar features. No antenna or satellite dish shall be erected on the roof of any building nor affixed to a building at a height in excess of 20 feet above the building roof top. The height of any antenna or satellite dish erected on a tower or on a building shall not exceed 50 feet above the ground at said tower or building. A permit shall be obtained from the Zoning Administrator prior to the construction of a tower built to accommodate an antenna.

3.2.4. Notwithstanding other requirements for front yards, on lots abutting a street with a right-of-way less than 50 feet wide, the required front yard facing such street shall be increased by one half the difference between the actual street right-of-way width and 50 feet.

3.2.5. All driveways, parking areas, walks, ramps, stairs/steps, patios, earthen berms, terraces, or courtyards of any type of paving material other than natural and organic vegetation or ground cover, and including curbing or edging, and installed at the natural-finish grade, shall maintain a minimum setback requirement of five (5) feet from the front, side, and rear lot lines, except for road, sidewalk entrances, and shared access (except common driveways).

3.2.6. No fence, wall, hedge, shrubbery, or other obstruction to vision in excess of three (3) feet in height, as measured above the nearest portion of the traveled way, shall be placed or allowed to grow at street intersections within twenty-five (25) feet of the center lines of the intersecting streets.

3.2.7. In regard to excessive slope, construction of buildings, roads, driveways, water supplies and wastewater disposal systems shall be limited to areas of the parcel where final slopes do not exceed 20%.

3.2.8. The area of any pond, lake, stream or wetland, wetland buffer, right of way, or slopes in excess of 25%, shall not be included as any part of the required area of such lot.

3.2.9. Public cemeteries are permitted within any district. They may occupy the entire lot and shall not be subject to setback, side, and rear line dimensional requirements.

3.3 Use Regulations

3.3.1. Any change of use of an industrial or commercial occupancy shall require DRB approval.

3.3.2. No building, structure, or portion thereof, or sign shall be erected, altered, or moved, and no land or buildings, or part thereof, shall be used for any use other than one listed as a permitted use in the district in which it is located. Except as otherwise provided herein, any use not specifically permitted will require review by the DRB.

3.3.3. The use of land for access or for parking in connection with the use shall be considered to be accessory to and part of such use. Except as otherwise provided in this Bylaw, access to or parking in connection with a permitted use may take place in any portion of the lot, including the required front, side, and or rear yard.

3.3.4. No more than one unregistered, un-inspected, or inoperable motor vehicle may be stored on any lot in the VR or VC districts for a period in excess of thirty (30) days, except within a building. No more than two unregistered, un-inspected, or inoperable motor vehicles may be stored on any lot in the RR, RC, or I districts for a period in excess of thirty (30) days, except within a building. This does not apply to bona fide Auto Repair Garages. All unregistered, un-inspected, or inoperable motor vehicles in all districts shall be screened from public view. No scrap or waste material not originating on the premises may be stored or disposed of on any lot, except at a municipal solid waste disposal area. No scrap or waste material originating on the premises may be stored on any lot unless within a building or screened from view, except that 30 days shall be allowed for removal of scrap or waste material resulting from a construction operation, or from a fire, flood or similar emergency.

3.3.5. Within ninety (90) days after a permanent or temporary building or structure has been demolished or destroyed, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over and filled to the normal grade by the owner(s). Note: When extenuating circumstances prevail, the Zoning Administrator may grant additional time.

3.4 Administrative Requirements

3.4.1. Any preexisting, non-conforming small lot may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, provided that:

3.4.1.1. The lot is in individual, separate and non-affiliated ownership with surrounding properties;

3.4.1.2. The lot was in existence on the effective date of this Zoning Bylaw or as amended thereto;

3.4.1.3. The lot is not less than one-eighth of an acre in area with a minimum depth or width dimension of 40 feet; and

3.4.1.4. Any reduction in required front, side, or rear yards, has been approved by the DRB.

3.4.2. If more than one dwelling, other than an accessory dwelling as defined in these Bylaws, is placed on any one lot, such dwelling shall be located so that each dwelling, and any building accessory to it, could be set off as a separate lot conforming to all of the applicable provisions of this Bylaw. Upon such construction or placement the applicant shall provide a Site Development Plan (Section 3.7) demonstrating compliance upon application for a permit or other approval required herein. No building shall be sold into separate ownership except and unless the parcels resulting from such subdivision are in compliance with the above. Upon the sale of such dwelling or building, the proof of certification with the above is left to the owner or his representative. This provision shall not apply to subdivision of a lot which on March 5, 1973 contained two or more structures which were used on or before that date as primary single or two-family residences.

3.5 Conditional Use Regulations

3.5.1. A conditional use may be approved by the DRB only after a public hearing provided that the Board finds that such use is in conformance with other provisions of ordinances, regulations, and bylaws of the Town of Shaftsbury.

3.5.1 The proposed use will not have an undue adverse effect on the character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the Town Plan, and including the following specific criteria:

3.5.1.1 Air Quality: Any changes in the local ambient air quality, including both indirect and stationery sources, types, quantities of air emissions (odors, fumes, gases, dust, smoke, fly ash, et.) shall be reviewed in accordance with the Vermont Protection Regulations for Air Pollution Control Act, 10 V.S.A. Section 551 et seq., as amended.

3.5.1.2. Noise: Site generated noise shall not exceed 70dBA (measured on a one (1) hour LEQ) at the property line in residential zones and 75dBA (measured on a one (1) hour LEQ) at the property line in all other zones, except during site development, outdoor maintenance procedures, transportation ingress and egress, or temporary auxiliary operations deemed similar by the DRB. No vibration shall be produced which is transmitted through the ground and is discernible without aid of instruments at any point beyond the lot line.

3.5.1.3. Soil and Water Resources: Potential pollution of surface or subsurface water bodies, including flood plains, wetlands, and aquifer recharge areas, and other hydrological resources as well as soil and subsoil conditions shall be reviewed with reference to Federal and Vermont State Statutes and local guidelines established for their protection.

3.5.1.4. Landscape: Consideration shall be given to the compatibility and preservation of the natural terrain and landscape, shoreline protection, retention of vegetation, and erosion control.

3.5.1.5. Character: Visual impacts including the siting of building, roads, parking facilities, landscaping, and exterior lighting shall be reviewed. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a functional or visual relationship to the proposed buildings. Consideration shall be given to the compatibility and preservation of prevailing types of architecture and historic areas.

3.5.1.6. No fire, explosive, or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities.

3.5.2. The proposed conditional use shall not have an undue adverse affect on the capacity of existing or planned community facilities including the following specific elements:

3.5.2.1. Water Resources: Consideration shall be given to the short and long term adequacy of water resources for a proposed project or activity or adverse impacts on the existing supply system and facilities. A written statement shall be obtained from the Water Board if the utilization of the municipal water system is anticipated, specifically addressing the ability of supply, dependability, and adequacy of water pressure for personal and fire-fighting use.

3.5.2.2. Sanitary and Solid Waste: Sanitary/sewage and solid waste generation, treatment, storage, collection, transportation and disposal for proposed projects or activities shall comply with applicable Vermont State Regulations. Debris and waste resulting from the construction and development of the proposed site shall be included in the review.

3.5.2.2.1. Consideration shall be given to the prevention of health hazards, unsanitary conditions, ground and surface water and soil contamination, adequacy of existing treatment and disposal facilities. Guidelines not specifically covered in these bylaws shall conform to the municipal subdivision regulations and Section 1218 of Title 18, V.S.A. known as the Vermont Health regulations, Chapter 5 subchapter 10.

3.5.2.2.2. Special or hazardous waste which may adversely affect existing treatment and disposal facilities shall be identified and legal alternative methods of treatment, storage, transporting, and disposal shall be reviewed. Methods of waste reduction, recycling, and reusing shall be encouraged and considered. Vermont State Statutes on Hazardous Materials handling, storage and removal shall be consulted and applied as necessary.

3.5.2.3. Storm Drainage: Consideration shall be given to storm water management for a proposed project or activity. Impacts on the existing drainage system, natural systems on the project sight and adjacent properties, and local surface and subsurface waters shall be addressed and specific recommendations for alleviation of potential problems shall be attached.

3.5.2.4. Energy Resources: Consideration shall be given to the visual impact of utility equipment, poles, lines, etc., location and construction for the proposed project or activity. Methods of minimizing adverse impacts and preservation of the natural terrain and landscape, such as underground services, shall be encouraged and considered. Energy conservation and alternative-renewable energy resources shall be encouraged.

3.5.2.5. Education Services: Impacts on public education services from the proposed project shall be considered in order to facilitate advance planning by the school board. A statement regarding the potential addition(s) to the school population will be required.

3.5.2.6. Other Municipal Services: Impact on operations of public services such as police and fire protection, emergency, rescue, and road maintenance from a proposed project or activity shall be outlined after any necessary consultations with aforementioned services.

3.5.3. The proposed conditional use shall not have an undue adverse affect on traffic on roads and highways in the vicinity of the proposed project or activity.

3.5.3.1. Impacts on the existing transportation and parking facilities shall be reviewed. Consideration shall be given to potential causes of unreasonable congestion or unsafe conditions created by a proposed project or activity.

3.5.3.2. Transportation related elements which may need consideration for review include; design layout of proposed streets, roads, sidewalks, bike paths, driveways, and street intersections; pedestrian crossings; capacity of on and off street parking facilities; access to public streets; shipping and receiving facilities; road construction and surfacing specifications; lighting; drainage; landscaping; grades and profiles.

3.5.3.3. Vehicular and pedestrian traffic generation and movement from a proposed project or activity shall be predicted. Proposed methods to minimize adverse impacts on existing traffic volume, directional flows, composition, peak hour levels of volume, parking facilities, and pedestrian movement, shall be reviewed.

3.5.4. In granting such conditional use, the Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of this section and the zoning regulations. The DRB shall act to approve or disapprove any such requested use within forty-five (45) days after the date of the final public hearing held under the application.

3.5.4.1. Where the DRB finds that insufficient information exists to determine potential effects from a proposed conditional use on the existing or planned community facilities and the character of the area to be affected the Board may issue a temporary permit to be reviewed every ninety (90) days until such time as the Board shall issue a permanent permit or fail to renew the temporary permit. Renewals shall not exceed a period of temporary permit in excess of 270 days.

3.6 Site Development Plan

3.6.1. Review and Approval

3.6.1.1 The DRB shall review and approve Site Development Plans and Applications where required by the Bylaw. In reviewing site development, the DRB may impose appropriate conditions and safeguards with respect to the adequacy of traffic access, of circulation and parking, of landscaping and screening, to protecting utilization of renewable energy resources, and those items included in Section 3.7.2 below. A public hearing will be held for the review of a completed site development plan. The DRB shall act to approve or disapprove such application within forty-five (45) days after the date of the adjournment of the final public hearing; failure to act within such period shall be deemed approval.

3.6.1.2. The DRB shall hold a public hearing on the proposed Site Development Plan, submitted with any application for a permit for any commercial or industrial use.

3.6.1.3. Site Development Plans shall not be required for individual single and two-family residential uses in any district, but a plot plan is required.

3.6.2. Application Requirements

3.6.2.1. The DRB shall hold a public meeting for the preliminary review of the following minimum Site Development Plan and Application requirements:

3.6.2.1.1. Complete Application for Zoning Permit; submitted to the DRB; and

3.6.2.1.2. Description of the proposed project.

3.6.2.2. The Site Development Plan will also show:

3.6.2.2.1. Boundaries, dimensions, and the total area of the lot at a scale adequate to reflect the particular site characteristics;

3.6.2.2.2. Existing and proposed buildings and structures including dimensions and distances to property lines, on the lot and on adjacent lots within a distance of 200 feet from the subject lot;

3.6.2.2.3. Existing and proposed streets and driveways, curb cuts, and points of access to public rights-of-way within a distance of 200 feet from the subject lot;

3.6.2.2.4. Proposed pedestrian and vehicular circulation, including parking areas, services areas, loading zones, and points of access to public rights-of-way, curb cuts, sidewalks, and courtyards;

3.6.2.2.5. Existing and proposed landscaping, trees, shrubs, hedges, green space, benches, and other pedestrian amenities, open space, linkages, park and playground facilities, bodies of water, fences, and stone walls;

3.6.2.2.6. Existing and proposed easements, rights-of-way, and other encumbrances upon the land;

- 3.6.2.2.7. Tables or charts describing relevant site statistics, including but not limited to total project acreage, un-developable land calculations, required and proposed parking, percentage of building coverage, maximum building heights, gross square footage and active floor area, landscaping details, and lighting details;
- 3.6.2.2.8. Existing and proposed exterior lighting;
- 3.6.2.2.9. Existing and proposed grading and contours at major intervals;
- 3.6.2.2.10. Existing and proposed storm drainage/discharge plans, natural drainage ways, water courses, and flood plains, including provisions for erosion control, ditches, culverts, catch basins, etc.;
- 3.6.2.2.11 Location of dumpsters or other exterior recycling/waste disposal facilities; and
- 3.6.2.2.12. Existing and proposed water supply and wastewater disposal design and location;
- 3.6.2.3. Building floor plans and elevations.
- 3.6.2.4. Copies of all state permits and licenses required of the proposed project.
- 3.6.2.5. Written comments for all required Town services, where applicable; including: water, police, fire, emergency, educational, and maintenance/road.
- 3.6.2.6. Public hearing on the proposed plan submitted with any application in an Industrial District.

Section 4 - RESIDENTIAL DISTRICTS

4.0 Purpose

4.0.1 The purposes of the regulations applicable to Residential Districts include development of a wide variety of residential use types, densities, and cost levels. The regulations recognize the fact that relatively high densities of development generally require the provision of public water supply and wastewater disposal system, as well as higher standards of street improvements, such as curbs, gutters, storm sewers, sidewalks, and street lighting. These regulations and the accompanying zoning map are intended to provide for this type of development in areas where such utilities and improvements may be efficiently and economically installed and maintained, while ensuring in other areas a density of development which will permit the permanent use of private on-site water supply and wastewater disposal and greater economy in other improvements.

4.0.2. It is the intent of these regulations to: prevent undue urban sprawl, to maintain and enhance the scenic and environmental qualities, to encourage the preservation of adequate open space, and to provide for residential development as related to the needs of the anticipated future population, as enumerated within the Town Plan.

4.0.3. The purpose of the Rural Residential District is to ensure the preservation of the natural rural and scenic qualities of areas which are planned to be predominantly residential and agricultural in character, while permitting appropriate compact development, but in all cases at densities to avoid the need for municipal water supply and municipal wastewater sewer systems.

4.04 The purpose of the Village Residential Districts is to support the role of the village as the focus of many social and economic activities in the community and to provide for residential and other compatible development that serves the needs of the community. Such development should occur at densities and uses which will maintain the traditional social and physical character of the village, while not exceeding the capability of the lands, waters, services and facilities to absorb such densities.

4.1. Rural Residence (RR) Districts

4.1.1. Permitted Uses in RR Districts

4.1.1.1. Single and multi-family dwellings, subject to the requirements of this Bylaw.

4.1.1.2. Accessory uses customarily incidental to the permitted use, including buildings for housing automobiles, equipment, supplies, household pets, swimming pools, TV dishes, solar panels, and buildings for housing other animals. (Also see Section 7.7 Swimming Pools.)

4.1.1.2.a An Accessory Dwelling unit, as defined in this bylaw, is permitted as a use subordinate to a one-family dwelling, provided such accessory dwelling unit meets all applicable setback, coverage, and parking requirements. The accessory dwelling unit may be located in the one-family dwelling structure or in an existing or new accessory structure. If creation of the accessory dwelling unit involves the construction of a new accessory structure, or an increase in the dimension of a parking area, conditional use review shall be required pursuant to Section 3.5 of this bylaw.

4.1.1.3. Farming, dairying, pasturage, animal and poultry raising shall be permitted. The slaughtering of animals and poultry raised on the premises or for private consumption on the premises shall be permitted. This permitted use shall include Forestry carried on for research, demonstration, education, commercial timber production, and related uses.

4.1.1.4. The following group service uses shall also be permitted after site plan approval:

4.1.1.4.1. Places of worship, convents, parish houses, cemeteries, or other religious uses.

4.1.1.4.2. Family Childcare Facility (see Definitions and Section 7.9)

4.1.1.4.3. Community center, hall, libraries, museums, lodge, club, park or playground operated by a governmental unit or non-profit organization.

4.1.1.4.4. Public and private hospitals and nursing homes.

4.1.1.4.5. Public and private schools and other educational institutions certified by the Vermont Department of Education.

4.1.2. Dimensional Requirements in RR Districts

| DISTRICT: | RR-40 | RR-80 | RR-200 | Group Service Uses, All Districts |
|---|--------|--------|---------|--------------------------------------|
| Minimum Area Per Dwelling Unit (ft. ²): | 40,000 | 80,000 | 200,000 | 130,000 |
| Minimum Lot Width: | 150' | 150' | 300' | 300' |
| Minimum Front Yard: | 30' | 30' | 100' | 50' |
| Minimum Side Yard: | 25' | 25' | 100' | 50' |
| Minimum Rear Yard: | 25' | 50' | 100' | 50' |
| Maximum Building Height | 30' | 30' | 30' | 30' |
| Maximum Bldg Coverage: | 10% | 10% | 10% | 20% |
| Minimum Frontage on Public Highway | 150' | 150' | 300' | 300' |

4.1.3. Conditional Uses Permitted in RR Districts. The following may be permitted as conditional uses in RR Districts in conformance with the provisions of 3.5:

4.1.3.1. Customary home industry or home occupation which is carried on by a resident of the premises, provided such home industry or occupation is carried on within the existing building or outbuildings and does not involve the storage of materials outside the building. The amount of space utilized for the home occupation shall not exceed five hundred square feet or one half the square footage of the buildings, whichever is the lesser, and shall not change the residential character thereof. Retail sales are allowed only for articles created by the applicant.

A home occupation shall be permitted if parking conforms to the requirements of Section 7.3 and reflects the type of business to be created.

In a rural residential zone, contractor's equipment and material may be stored on the premises if it is suitably screened from adjoining properties by natural or artificial materials. No such storage will be allowed in any other residential zone. Farm equipment is excluded. Farming is a permitted use separate and apart from home occupations.

4.1.3.2. Community care homes and accessory uses customarily incidental to such community care homes in accordance with those dimensional requirements specified in 4.1.2 for the RR District in which the community care home is to be located.

4.1.3.3. Bed and Breakfast Inns

4.1.3.4 Veterinary hospitals and accessory uses customarily incidental to such veterinary hospitals in accordance with the dimensional requirements specified in 4.1.2 for the RR District in which the veterinary hospital is to be located, except that the dimensional requirements for a veterinary hospital to be located in an RR-40 District shall be the same as specified in 4.1.2 for an RR-80 District.

4.1.3.5. State or community owned and operated institutions and facilities.

4.2. Village Residence (VR) Districts

4.2.1. Permitted Uses in VR Districts

4.2.1.1. One and two family dwellings subject to the requirements of this Bylaw.

4.2.1.2. Accessory Uses customarily incidental to the permitted use, including buildings for housing automobiles, equipment, supplies, household pets, family gardens, swimming pools, TV dishes, and solar panels. The keeping of four or more dogs over 6 months old will not be permitted in VR Districts. (Also see Section 7.7, Swimming Pools.)

4.2.1.2.a An Accessory Dwelling unit as defined in this bylaw, is permitted as a use subordinate to a one-family dwelling, provided such accessory dwelling unit meets all applicable setback, coverage, and parking requirements. The accessory dwelling unit may be located in the one-family dwelling structure or in an existing or new accessory structure. If creation of the accessory dwelling unit involves the construction of a new accessory structure, an increase in height or floor area of any existing structure, or an increase in the dimension of a parking area, conditional use review shall be required pursuant to Section 3.5 of this bylaw.

4.2.1.3. The following Group Service Uses shall also be permitted after site plan approval:

4.2.1.3.1. Places of worship, convents, parish houses, cemeteries, and other religious uses.

4.2.1.3.2. Family childcare facilities (See Definitions and Section 7.9)

4.2.1.3.3. Community centers, halls, libraries, museums, lodges, clubs, parks, or playgrounds operated by a governmental unit or non-profit organization. State or community (municipality) owned and operated institutions and facilities.

4.2.1.3.4. Public and private hospitals and nursing homes.

4.2.1.3.5. Bed & Breakfast Inns.

4.2.1.3.6. Public and private schools and other educational institutions certified by the Vermont Department of Education.

4.2.2 Dimensional Requirements VR Districts

| DISTRICT: | VR with Public Water | VR without Public Water | Group Service Uses (both Districts) |
|--|----------------------|-------------------------|-------------------------------------|
| Minimum Lot Area Per Dwelling Unit (ft. ²) | 10,000 | 20,000 | 80,000 |
| Minimum Lot Width | 75' | 75' | 200' |
| Minimum Front Yard | 20' | 20' | 50' |
| Minimum Side Yard | 10' | 10' | 25' |
| Minimum Rear Yard | 10' | 10' | 25' |
| Maximum Building Height | 30' | 30' | 30' |
| Maximum Building Coverage | 20% | 20% | 20% |
| Min. Frontage on Public Hwy | 75' | 75' | 200' |

4.2.3 Conditional Uses in VR Districts

4.2.3.0. The following may be permitted as Conditional Uses in VR Districts in conformance with the provisions of Section 3.5.43:

4.2.3.1. Customary home occupation or professional office residence which is carried on by a resident of the premises, provided such home occupation is carried on within an existing building or outbuildings and does not involve the storage of materials outside of a building. The amount of space utilized for the home occupation shall not exceed five hundred (500) square feet or one half the square footage of the building, whichever is the lesser, and shall not change the residential character thereof. Retail sales are allowed only for articles created by the applicant.

4.2.3.2. State or community owned and operated institutions and facilities.

Section 5 - FOREST AND RECREATION (FR) DISTRICT

5.0 Purpose.

The purpose is to provide for forestry and recreational uses and the protection of timber and wildlife resources in the town’s major forested areas, and to protect our watersheds from contamination.

5.1 Permitted Uses in FR District

5.1.1. Private recreational camps consisting of a building not used as a primary or secondary residence, but used occasionally or seasonally for a temporary shelter in connection with a recreational activity.

5.1.2. Forestry carried on for research, demonstration, education, commercial timber production, and related uses.

5.1.3. State or community recreational facilities which are suitable to the forest environment.

5.2 Dimensional Requirements in FR District

| FR DISTRICT | Camps |
|--------------------------|-------|
| Minimum Lot Size (Acres) | 10 |
| Minimum Front Yard | 100’ |
| Minimum Side Yard | 200’ |
| Minimum Rear Yard | 200’ |
| Maximum Height | 30’ |

5.3 Wastewater Disposal in FR District

Camps in the FR District shall dispose of sanitary wastes by using self-contained portable toilets, emptied into an off-site functioning sewer or septic tank system, or a by using a vault or pit privy. (See Definitions, Appendix A). NOTE: Other sewage disposal methods requiring no land discharge of effluents other than wash water may be approved for use by the Zoning Administrator and Building Inspector.

Section 6 - COMMERCIAL AND INDUSTRIAL DISTRICTS

6.1. Village Commercial VC 1 & 2 Districts

6.1.0. Purpose. The purpose of the Village Commercial District is to promote the sound economic development of the town and to encourage the best use of land in central sections of the village for the location of suitable commercial establishments, all in accordance with the Town Plan, as adopted.

6.1.1. Approval of Plans. Except for individual single and two-family residential uses, no permit for construction or utilization shall be issued prior to the approval by the DRB of a Site Development Plan prepared in accordance with 3.7 of this Bylaw.

6.1.2. Permitted uses in a VC1 District. Any use enumerated in Section 4.2.1, Permitted Uses in VR Districts, in conformance with the requirements of Sections 4.2.1 to 4.2.3, and other applicable provisions of this Bylaw.

6.1.2.1. One and two family dwellings subject to the requirements of this Bylaw.

6.1.2.2. Accessory uses customarily incidental to the permitted use, including buildings for housing automobiles, equipment, supplies, household pets, family gardens, swimming pools, TV dishes and solar panels. The keeping of four or more dogs over 6 months old will not be permitted in the VC1 District. (Also see Section 7. Swimming Pools).

6.1.2.2.a An Accessory Dwelling unit, as defined in this bylaw, is permitted as a use subordinate to a one-family dwelling, provided such accessory dwelling unit meets all applicable setback, coverage, and parking requirements. The accessory dwelling unit may be located in the one-family dwelling structure or in an existing or new accessory structure. If creation of the accessory dwelling unit involves the construction of a new accessory structure or an increase in the dimension of a parking area, conditional use review shall be required pursuant to Section 3.5 of this bylaw.

6.1.3. Conditional Uses in a VC1 District.

6.1.3.1. Bed and Breakfast Inns.

6.1.3.2. Family childcare facility (See definitions and Section 7.9)

6.1.3.3. Antique or gift shops.

6.1.3.4. Conversion of an existing building into a professional office provided that the following criteria are met:

6.1.3.4.1 No modification shall be made to alter the residential appearance of the building.

6.1.3.4.2. Parking shall be in the rear yard and shall conform to the requirements of Section 7.3.

6.1.3.4.3. Safe and adequate vehicle ingress and egress shall be provided.

6.1.3.4.4. Site Plan approval is required from the DRB.

6.1.3.4.5. There shall be no substantial exterior modification or expansion of the building.

6.1.3.5. Customary home occupation which is carried on by a resident of the premises, provided such home occupation is carried on within an existing building or outbuildings and does not involve the storage of materials outside of a building. The amount of space utilized in the home occupation shall not exceed five hundred (500) square feet or one half the square footage of the buildings, whichever is the lesser. Retail sales are allowed only for articles created by the applicant.

6.1.3.6. Dimensional Requirements VC 1 and VC 2 Districts.

| | |
|-------------------------------------|--------------------|
| Minimum Lot Area | 20,000 square feet |
| Minimum Frontage on Public Highway: | 100 feet |
| Minimum Front Yard | 30 feet |
| Minimum Side Yard | 15 feet |
| Minimum Rear Yard | 30 feet |
| Maximum Building Coverage | 15% |
| Maximum Building Height | 30 feet |
| Minimum Lot Width | 100 feet |

6.1.4. Permitted uses in a VC 2 District

6.1.4.1. Any use enumerated in Section 4.2.1, Permitted Uses in VR Districts, in conformance with the requirements of Sections 4.2.1.1 and 4.2.1.2., and other applicable provisions of this Bylaw.

6.1.5. Conditional Uses in VC 2 District. The following may be permitted as conditional uses in VC 2 Districts in conformance with the provisions of Section 3.5:

6.1.5.1. Retail stores, stands, and showrooms.

6.1.5.2. Places of worship, convents, parish houses, cemeteries and other religious uses.

6.1.5.3. Family childcare facilities (See Definitions and Section 7.9)

6.1.5.4. Bed and Breakfast Inns.

6.1.5.5. Mortuary and funeral establishments.

6.1.5.6. Retail service establishments, such as barber shops, beauty parlors, caterers, decorators, custom tailoring, appliance repair operations, frozen food locker plants, laundry or dry cleaning agencies, self-service or hand laundries, not using steam, shoe repair or similar establishments, not to include any use deemed as creating a nuisance by the DRB.

6.1.5.7. Professional and business offices and financial institutions.

6.1.5.8. Restaurants, motels, hotels, bed & breakfast inns, and similar establishments letting rooms or serving meals.

6.1.5.9. Accessory uses customarily incidental to the permitted use including buildings for housing automobiles, equipment, and supplies. No dog kennel consisting of more than five dogs over six (6) months old will be permitted in the VC 2 District.

6.1.5.10. State or community owned and operated institutions and facilities.

6.2 Roadside Commercial (RC) Districts

6.2.0 Purpose. The purpose of Roadside Commercial Districts is to provide appropriate locations for limited types of business serving the general public where this is the most suitable use, under controls which preserve good appearance and traffic safety.

6.2.1. Approval of Plans. Except for individual single and two-family residential uses, no permit for construction or utilization shall be issued prior to the approval by the DRB of a Site Development Plan prepared in accordance with 3.7 of this Bylaw.

6.2. Permitted Uses in RC Districts. Any use enumerated in Section 4.1.1., Permitted Uses in RR Districts, may be permitted in RC Districts, in conformance with the requirements of Sections 4.1.1. to 4.1.3., and other applicable provisions of this bylaw..

6.2.3 Dimensional Requirements of RC Districts

| District | RC |
|-------------------------------------|--------------------|
| Minimum Lot Area | 40,000 square feet |
| Minimum Frontage on Public Highway: | 200 feet |
| Maximum Depth of Lot | 500 feet |
| Minimum Front Yard | 100 feet |
| Minimum Side Yard | 50 feet |
| Minimum Rear Yard | 50 feet |
| Maximum Building Coverage | 15% |
| Minimum Lot Width | 200 feet |

6.2.4 Conditional Uses in RC District. The following may be permitted as conditional uses in RC Districts in conformance with the provisions of 3.5:

6.2.4.1. Any use enumerated in section 6.1.4., Conditional Uses in VC Districts, may be permitted as a conditional use in RC Districts, in conformance with the requirements of Sections 6.1.4. to 6.2. and other applicable provisions of this bylaw.

6.3. Commercial Industrial (CI) Districts

6.3.1. All conditional uses allowed in RC or I Districts in conformance with provisions under Sections 3.5 and 3.7.

6.3.2. Conditional Uses allowed under RC District must comply with dimensional requirements outlined in Section 6.2.3. Conditional Uses allowed under I District must comply with dimensional requirements outlined in Section 6.4.3.

6.4 Industrial (I) Districts

6.4.0. Purpose. The purpose of the Industrial Districts is to insure the preservation of the natural village, rural, and scenic qualities of the Town of Shaftsbury, while permitting future growth within the industrial community. Enough land should be properly designated to allow for the expansion and growth of existing and future industry.

6.4.1. Approval of Plans. No permit shall be issued prior to the approval by the DRB of a Site Development Plan prepared in accordance with 3.7 of this Bylaw.

6.4.2 Conditional Uses in I Districts. The following may be permitted as conditional uses in I-1 and I-2 Districts in conformance with the provisions of Sections 3.5.

6.4.2.1 In I-1 Districts:

6.4.2.1.1. Preparing, processing, storing, and selling concrete, paving, and other road materials and similar products.

6.4.2.1.2. All uses permitted in I-2 Districts.

6.4.2.2. In I-2 Districts:

6.4.2.2.1. Storing gravel, sand, topsoil, and similar products.

6.4.2.2.2. Preparing, processing, storing, and selling building materials.

6.4.2.2.3. Manufacture of hand tools including those power driven, and precision instruments, electrical appliances, sporting equipment, or small parts.

6.4.2.2.4. Manufacture of ceramic products, glass products, and plastic products; compounding or treatment of beverages, dairy products, food other than meats, candy, cosmetics, drugs, perfumes and pharmaceuticals.

6.4.2.2.5. Sheet metal fabrication, metal finishing, plating, tool and die manufacture.

6.4.2.2.6. Carpentry and woodworking and manufacture of articles made of wood.

6.4.2.2.7. Printing, publishing, engraving, bookbinding, and graphic arts operations.

6.4.2.2.8. Knitting and weaving of textile products.

6.4.2.2.9. Packaging and assembly of any of the above.

6.4.2.2.10. Retail sales outlet for any of the above provided that the salesroom area does not exceed 10% of total floor space.

6.4.2.2.11. General warehousing establishments selling goods at wholesale and accessory uses customarily incidental to such wholesale establishments.

6.4.2.2.12. Communications facilities.

6.4.2.2.13. Public utility power generating plants.

6.4.2.2.14. State or community owned and operated institutions and facilities.

6.4.2.2.15. Solid waste management facilities (See Sections 7.11 and 7.12).

6.4.2.2.16. Hazardous waste management facilities (See Section 7.13).

6.4.2.3. All conditional commercial uses within the commercial zone shall be considered within the industrial zone, including but not limited to automobile repair garages, sign shops, and light manufacturing trade, but not to include restaurants, tourist homes, and such similar uses.

6.4.2.4. Uses accessory to a conditional use are permitted only when applied for and approval granted as part of the conditional use.

6.4.3 Dimensional Requirements I Districts

| District | I-1 and I-2 |
|-------------------------------------|--------------------|
| Minimum Lot Area | 80,000 square feet |
| Minimum Frontage on Public Highway: | 200 feet |
| Minimum Front Yard | 50 feet |
| Minimum Side Yard | 50 feet |
| Minimum Rear Yard | 50 feet |
| Maximum Building Height | 30 feet |
| Maximum Building Coverage | 20% |
| Minimum Lot Width | 200 feet |

6.5. Recreational Overlay District

6.5.1 Purpose. The purpose of this section is to make lands available for low impact, dispersed recreational uses which require larger tracts of land, while minimizing adverse impact upon adjoining property owners. The Recreational Overlay Zone is an overlay district and shall be superimposed on the other districts established in the Zoning Bylaw. All regulations of the Zoning Bylaw applicable to such underlying districts shall remain

in effect, except where the Recreational Overlay Zone imposes additional regulations, such regulations shall prevail. As an overlay district, additional land use options will be allowed on the subject parcels.

6.5.2 District Delineation. The Recreational Overlay District extends five hundred (500) feet from any paved road as shown on the overlay map. The entrance to any recreational use within the district shall be located no more than three hundred (300) feet from said paved road. The Recreational Overlay District shall be located outside of the Center Shaftsbury Historic District.

6.5.3 Permitted Public and Commercial Uses:

| | | |
|---------------------------------|---------------------------------|----------------------|
| Archery Clubs | Athletic Fields for Team Sports | Equestrian Clubs |
| Golf Courses and Driving Ranges | Swimming Clubs | Outdoor Tennis Clubs |
| Cross Country Skiing Centers | Outdoor Ice Skating Rinks | |
| Snow Shoeing Trails | Sledding Facilities | Nature Centers |

6.5.3.0. Any such facility shall be appropriate to its intended site and shall satisfy the following criteria:

6.5.3.1 The use will not adversely affect the capacity of existing or planned facilities, the character of the area, traffic on roads and highways in the vicinity, utilization of renewable energy resources and is in compliance with the Town Plan, and with other provisions or ordinances, regulations and Bylaws of the Town of Shaftsbury. In addition, any application for a recreational use shall address air quality, noise, soil and water resources, landscaping and character as specified under Section 3.5, Conditional Use Regulations.

6.5.3.2 Transportation related elements which may need consideration for review include: design layout of proposed roads, streets, sidewalks, bike paths, driveways and street intersections; pedestrian crossings, capacity of parking facilities; access to public streets; road construction and surfacing specifications; lighting, drainage, grades and profiles. Vehicular and pedestrian traffic generation and movements from a proposed project or activity shall be predicted. Proposed methods to minimize adverse impacts on existing system volume, directional flows, composition, peak hour levels of volume, parking facilities, and pedestrian movement, shall be reviewed.

6.5.3.3 Serving and consumption of food, beverages, and other refreshments served on the premises shall be clearly incidental to the recreational use, limited to vending machines only and shall not exceed (2.5%) of the subject building coverage.

6.5.3.4 The above listed uses are restricted to daylight hours of operation.

6.5.3.5 Accessory uses customarily incidental to the principal use are permitted.

6.5.3.6 Any use not specifically permitted is prohibited.

6.5.4 Dimensional Requirements in the Recreational Overlay District.

6.5.4.1 The following are the minimum dimensions for the use of the area:

| | |
|--------------------------------------|----------|
| Minimum Area | 20 acres |
| Minimum Lot Width | 300 feet |
| Minimum Front Yard | 100 feet |
| Minimum Side Yard | 100 feet |
| Maximum Building Height | 30 feet |
| Minimum Frontage on a Public Highway | 300 feet |
| Maximum Lot Coverage | 3% |

(Includes buildings, parking and improved surfaces).

6.5.4.2 Steep Slopes, in excess of 20% slope, and wetland areas are not to be included in the area of the land used for calculating coverage except for ingress or egress driveways, no walks, roads, other driveways, parking areas, or playing fields are permitted to intrude into the required yard setbacks.

6.5.5 Buffer Zones. Where recreational uses border residential districts, a fifty (50) foot landscaped buffer zone or berm shall be provided within the one hundred foot setback.

Section 7 - SPECIAL REGULATIONS

7.1 Nonconforming Uses

7.1.1. Requirements. Any nonconforming use of land legally lawfully existing prior to November, 1980, at the time of the adoption of this ordinance, or of any pertinent amendment thereto, may be continued, subject to the following provisions:

7.1.1.1. A nonconforming use may be changed to another nonconforming use only upon approval by the DRB, which shall find that such use is no more objectionable in character than the existing use.

7.1.1.2. No nonconforming use shall, if once changed into a conforming use, be changed back again into a nonconforming use.

7.1.1.3. A nonconforming use of a building or lot may be extended or expanded only upon approval by the DRB, which approval shall be based upon the finding that such proposed extension or expansion does not create a greater nuisance or detriment than the current use, and that such proposal is in conformity with all requirements and regulations governing that particular use.

7.1.1.4. No nonconforming use of a building or lot which has been discontinued or abandoned for a period of one year shall thereafter be resumed.

7.1.1.5. Any nonconforming use of land, building or structure, damaged or destroyed by fire, accident, or other causes, may be repaired or reconstructed to its condition prior to such damage or destruction, provided such work is completed within two years after the catastrophe.

7.1.1.6 No new nonconforming use shall be created under the variance provisions or any other provision of this Bylaw.

7.2 Resource Protection

7.2.1. Streams and Drainage Ways. No structure shall be placed, and no land shall be excavated, filled or graded in any zoning district within a distance of 50 feet from the normal bank of any stream or watercourse, shown on the Town Plan as a drainage way, or within a distance of 50 feet from the shore line of any natural or artificial pond, lake or body of water, except with approval of the DRB as a conditional use. Application for such approval shall be submitted to the DRB with such surveys, maps and other data, as the DRB may require in order to reach its decision. Prior to granting such approval, the Board shall have found that the proposed construction, earth excavation, filling or grading, will not contribute to any impeded drainage, flood hazard, erosion silting, or other adverse effect on natural conditions, or on fish or wildlife habitat, nor interfere with the present or planned storm water drainage system of the Town, and must also comply with Section 3.5 of this Bylaw.

7.2.2. Flood Hazard Areas

7.2.2.0. Purpose: In addition to the purposes of the zoning district(s) underlying the Flood Hazard Areas, the purpose of this regulation is to protect the public health and safety, person and property against the hazards of flood water inundation, and for the protection of the community against the costs which may be increased when unsuitable development occurs in areas subject to flooding.

7.2.2.1. Flood Hazard Area Map. The National Federal Flood Insurance Administration Flood Hazard Boundary Map is hereby declared to be a part of this regulation. Copies are available at the Town Clerk's Office.

7.2.2.2. Review Procedure and Development Standards.

7.2.2.2.1. Land development including the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure (including prefabricated units and mobile homes), 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 in the Flood Hazard Area may be permitted only by the DRB as a conditional use in accordance with the procedures of Section 3.5. of this Bylaw.

7.2.2.2.2 Prior to issuing a permit for new construction, substantial improvement, filling, or installation of a residential structure shall be granted for a flood hazard area, and a copy of the application shall be submitted to the Vermont Department of Environmental

Conservation in accordance with 24 V.S.A. 4409. A permit may be issued only following receipt of comments from the Department or the expiration of thirty 30 days from the date the application was mailed to the Department, whichever is sooner.

7.2.2.2.3. Adjacent communities and the Vermont Department of Environmental Conservation shall be notified at least 15 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 Federal Insurance Administration.

Federal Insurance Administration
FEMA
Federal Center Plaza
500 C Street S.W.
Washington, DC 20472

7.2.2.2.4. Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which Federal or State law requires approval. Applications for such approval shall be permitted only as a conditional use submitted to the DRB with such surveys, maps and other data, as the DRB may require in order to reach its decision. Prior to granting such approval, the Board shall have found that the proposed construction, earth excavation, filling or grading, will not contribute to any impeded drainage, flood hazard, erosion silting, or other adverse effect on natural conditions, or on fish or wildlife habitat, nor interfere with the present or planned storm water drainage system of the Town and must also comply with Section 3.5 of this Bylaw.

7.2.2.2.5. Minimum Standards: In addition to the district requirements, the DRB shall determine that:

7.2.2.2.6. All development shall be designed to (1) minimize flood damage to the proposed development and to public facilities and utilities, and (2) to provide adequate drainage to reduce exposure to flood hazards.

7.2.2.2.7. Structures shall be (1) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (2) be constructed with materials resistant to flood damage, (2) be constructed by methods and practices that minimize flood damage, and (4) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

7.2.2.2.8. The flood carrying capacity within an altered or relocated portion of a watercourse shall be maintained.

7.2.2.2.9. New or replacement water supply systems and/or wastewater disposal systems are designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and that on-site disposal systems are located so as to avoid impairment of them or contamination from them during flooding.

7.2.2.2.10. New and replacement mobile homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.

7.2.2.2.11. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.

7.2.2.2.12. Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection 7.2.2.2.11.

7.2.2.2.13. Existing buildings to be substantially improved for non-residential purposes shall either (1) meet the requirements of subsection 7.2.2.2.12, or (2) be designed to be water tight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood-proofed shall not be issued until a registered professional engineer 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.

7.2.2.2.14. All new construction and substantial improvements 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. 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.

7.2.2.3. Additional Standards: In addition to the district requirements and minimum standards, the following standards may be required by the DRB based on the best information available indicating the elevation of the 100 year flood:

7.2.2.3.1. The lowest floor (including basement) of residential buildings shall be elevated to at least one foot above the 100 year flood level.

7.2.2.3.2. The lowest floor (including basement) of non-residential buildings and other structures shall be elevated or flood proofed to at least one foot above the 100 year flood level.

7.2.2.3.3. Storage of materials or equipment may be permitted if not subject to damage by floodwater and firmly anchored or secured to prevent flotation.

7.2.2.3.4. Fill may be permitted in the flood hazard area only when it can be demonstrated that flood flows will not be obstructed or diverted. No fill shall be permitted in the floodway when identified except as a flood control measure.

7.2.2.4. Floodproofing Measures: Flood proofing measures may include, but are not limited to the following:

7.2.2.4.1. Anchorage to resist flotation and lateral movement.

7.2.2.4.2. Reinforcement of walls to resist water pressures.

7.2.2.4.3. Use of water-tight doors on bulkheads.

7.2.2.4.4. Use of water-resistant building materials.

7.2.2.4.5. Installation of pumps to control seepage.

7.2.2.4.6. Installation of check valves in building drains.

7.2.2.4.7. Provision of flood shields or other temporary measures to close off entrances and other openings during flooding.

7.2.2.5. Burden of Proof. In reviewing the proposed land development, the burden of proof shall be on the applicant.

7.2.2.6. Prohibited Uses. Junkyards as defined in 24 V.S.A. 2068, solid, and liquid waste disposal sites shall not be permitted within the flood hazard area. Storage of hazardous or potentially toxic solid or liquid material shall not be permitted within the flood hazard area.

7.2.2.7. Application Requirements. Applications shall include in addition to any other requirements of this Bylaw, plans in triplicate drawn to scale showing the nature, location, dimensions, and elevations of the lot, plat, or parcel, existing and proposed structures, fill and storage of materials, flood proofing measures and the relationship of the above to the location of the channel and flood hazard area, based on the best information available of the elevation of the 100 year flood. A valley cross-section showing the stream channel, elevation of land adjoining each side of the channel and areas occupied by the proposed development may be required.

7.2.2.8. Precedent of Law. Where this regulation imposes a greater restriction upon the land development, the provisions of this regulation shall control.

7.2.2.9. Administration and Enforcement. The provisions of this regulation shall be administered and enforced as provided for in Section 8.0 of the permanent Zoning Bylaw of the Town.

7.2.2.10. Disclaimer of Liability. These regulations shall not be construed to imply that areas outside of the Flood Hazard Areas, or land uses permitted hereunder, within such Flood Hazard Areas, will be free from flooding or flood damage. No permit issued hereunder, or development permitted in accordance herewith shall create any liability on the part of the Town of Shaftsbury, or any official, agent, or employee thereof.

7.2.3. Shoreland District

7.2.3.0. Protection of Shorelands. The following standards shall apply to land within 500 feet of the mean high water line of lakes and ponds in excess of 20 acres in surface area, in addition to the requirements of the underlying zoning districts listed in this Bylaw:

7.2.3.1. No development, building, disposal site, waste disposal system, driveway, roadway, or part thereof, shall be placed on land within 50 feet from the mean high water line of such lakes and ponds.

7.2.3.2. Within a distance of 50 feet of the mean high water line, natural vegetation shall be maintained to the extent possible in a condition suitable to prevent shoreline erosion.

7.2.3.3. Minimum lot widths set forth in the dimensional requirements for underlying zoning districts shall be considered the minimum requirement for shoreland frontage.

7.2.3.4. Beaches and boat docks shall be are considered conditional uses and are reviewed as such by the DRB.

7.2.3.5. Lake Paran and Lake Shaftsbury, each containing greater than 20 acres of open surface, shall be included under this regulation.

7.2.4. Water Supply Source Protection Area. No development which would create a possible source of contamination shall be allowed within the wellhead source protection areas delineated on the zoning map. The North Bennington Water Department will define possible sources of contamination in conformance with the Vermont Department of Environmental Conservation.

7.2.5. Wetlands. Any project which may impact a class 1 or 2 wetland shall be referred to the Agency of Natural Resources - Wetlands Division, prior to review and approval by the DRB.

7.2.6 Shaftsbury Historical District. The Shaftsbury Historical Society shall be informed by the Zoning Administrator, of any permit application that involves or affects a designated historical area or structure, as defined in Section VII of the Town Plan. Any resultant suggestions by the Historical Society shall be forwarded to the applicant for their consideration.

7.3. Parking.

7.3.1. Purposes. These regulations are designed to:

7.3.1.1. Require adequate off-street parking, while protecting and preserving adjacent properties and uses.

7.3.1.2. Promote traffic safety.

7.3.1.3. Protect the capacity of highways and roads to conduct traffic smoothly and efficiently.

7.3.1.4. Establish attractive, screened parking areas.

7.3.1.5. Encourage greater reliance on pedestrian foot traffic.

7.3.1.6. Encourage shared parking and consolidated curb cuts.

7.3.1.7. Encourage rear-yard parking.

7.3.2. General Regulations

7.3.2.1. All new structures shall provide parking in conformity with this Bylaw. Any increase in active floor area in an existing building, or any enlargement or addition to an existing building, shall require conforming parking for any such enlargement, addition, new structure, or increase in active floor area.

7.3.2.2. The replacement after fire or other natural disaster within 18 months of an amount of floor space equal to that existing on the date of adoption of this ordinance is not considered an addition of new space. It is thus required only to provide the same amount of parking as that which existed prior to the fire or other natural disaster.

7.3.2.3. Specific existing businesses which have been permitted under the Zoning Ordinance or which pre-exist zoning in buildings existing on the date of adoption of this ordinance may continue operation without providing additional off-street parking. However, as described below certain changes of use may be required to provide additional conforming parking spaces.

7.3.3. Changes of use with no increase in active floor area. Where the existing use which has been permitted under the Zoning Ordinance or which pre-exists zoning did not provide the required number of parking spaces, then the proposed use need not provide additional spaces, as long as it would not require more spaces than the existing use did.

7.3.4. Changes of use with an increase in active floor area. Conforming parking shall be provided for any such enlargement, addition, new structure, or increase in active floor area.

7.3.5. Location of Parking Spaces. Required parking spaces shall be on the same lot as the building or use they serve, unless shared parking arrangements as described below are approved.

7.3.6. Shared Parking Facilities.

7.3.6.1. Parking spaces for one use shall not be counted for any other use. However, the DRB may allow the parking required for two or more buildings or uses to be combined on the same or adjoining lots, if parking demands occur at different times, and if the applicants demonstrate that such parking will remain available for all associated buildings or uses. Adjoining lots must share a common boundary of at least 25 feet in length in order to qualify for shared parking.

7.3.6.2. Shared parking agreements shall be legally binding upon affected properties and property owners, and permits granted under such agreements shall be conditional upon recording of said agreements in the land records with the Town Clerk. A copy of said agreement in a form approved by the DRB, and proof of recording with the Town Clerk

shall be furnished to the Zoning Administrator prior to the occupancy or use of the affected properties and structures.

7.3.7. Truck Loading Spaces and Bus/RV Parking Spaces

7.3.7.1. For retail, wholesale and industrial buildings, one usable and accessible truck loading zone of at least 720 square feet in area (at least 12' x 60' dimensions) shall be provided for each 10,000 square feet of floor area or fraction thereof, or as otherwise approved by the DRB. Required loading spaces shall be on the same lot as the building or use they serve, and shall not be used to satisfy any other parking requirements.

7.3.7.2. For retail uses greater than 4,000 gross square feet in size, one usable and accessible bus/RV parking space of at least 480 square feet in area (at least 12' x 40' dimensions) shall be provided, or as otherwise approved by the DRB.

7.3.7.3. These required loading zones and bus/RV parking spaces shall be located so as to minimize impacts upon adjoining residential properties and uses.

7.3.8. Parking and Loading Space Standards. All parking lots having more than five (5) spaces, including automotive and drive-in establishments and loading areas, shall be contained within structures or subject to the following:

7.3.8.1. The area shall be screened effectively with suitable plantings or fencing on each side which adjoins or faces any lot in a residential district.

7.3.8.2. All access points or aprons to or from a paved road shall be paved for vehicular and pedestrian safety, drainage, and ease of access.

7.3.8.3. All parking surfaces shall be constructed so as to eliminate standing water and the discharge of storm water onto adjacent properties, or onto public sidewalks or streets.

7.3.8.4. The location of spaces shall be suitably marked and maintained by painted lines, concrete bumpers, or other markings as appropriate.

7.3.8.5. Sufficient space shall be provided for the storage of plowed snow, unless removal by other means is provided. Parking spaces and access aisles shall be usable throughout the entire year.

7.3.8.6. All lighting fixtures shall be installed so that neither glare nor illumination shall be cast into drivers' eyes, the traveled way, or onto any other parcels of land.

7.3.8.7. There shall be no storage of materials or equipment, nor display of merchandise, within required parking areas except as specifically provided for in any permit.

7.3.8.8. Parking and loading spaces (except for those serving single and two family dwellings) shall be designed so as to prevent and prohibit backing of vehicles onto any street or highway.

7.3.8.9. Driveways shall be at least fifty (50) feet from the curb line of an intersecting street, unless physically impossible and approved by the DRB.

7.3.8.10. Curb cuts shall be kept to a functional minimum width.

7.3.8.11. Commercial or industrial parking lots with more than thirty parking spaces must have a means to regulate safe traffic patterns utilizing such mechanisms as curbing, landscaped islands to separate rows and/or ingress and egress. If an existing parking lot is modified, causing it to exceed the thirty (30) car threshold, then it too shall be required to conform to this standard.

7.3.8.12. Reasonable provision shall be made for access for fire and emergency vehicles.

7.3.8.13. Parking areas shall be set back at least ten feet from side and rear lot lines, except for allowances for shared parking and access.

7.3.9. Table of Off-Street Parking Requirements

| USE | NUMBER OF OFF-STREET PARKING SPACES PER UNIT |
|--|---|
| Dwelling: one, two, and three family units and townhouses | Two per unit |
| Dwelling: four or more family units | Two per unit, except for housing for the elderly, in which case one space per two units is required |
| Lodging house, and similar types of group activities | Two spaces, plus one space per rental or sleeping unit |
| Theater, gymnasium, auditorium church, or similar place of public assembly with seating facilities | One for each three seats of total seating capacity |
| Building supply establishment | One per 300 square feet of main building(s) area |
| Hotel or motel | One for each sleeping room, plus one for each 100 square feet of public meeting area and restaurant seating area |
| Restaurants, lounges, bars, and night clubs | One for every 30 square feet of gross floor area |
| Tourist home or bed and breakfast facility | Two spaces, plus one additional space for each rooming unit |
| Retail stores and personal service establishments | Base requirement of one space per 200 square feet of active floor area, plus additional spaces based on the following: More than 800 sq. ft. of active floor requires 1 space/ 400 sq. ft. or fraction thereof. |
| Professional buildings | One per 300 sq. ft. of gross floor space |
| Warehousing/storage | A minimum of two spaces plus one space per each employee |
| Manufacturing, industrial, mail order, and similar establishments. | A minimum of two spaces plus one space per each employee |
| Nursing home, or other similar care facilities | One space per two beds at design capacity |
| Service stations/garages | Three spaces per garage bay, with a base minimum of three spaces for employees and customers. More spaces may be required if deemed necessary |

7.3.9.1. The DRB may prescribe for all other permitted and conditional uses safe and adequate parking areas to accommodate, under normal conditions, occupants, employees, members, customers, clients, and visitors to the subject premises. Where there is a mix of uses, then the DRB may require sufficient parking for all uses.

7.3.9.2. Provisions may also be required for safe and adequate ingress and egress, traffic flow aisles, loading areas, lighting, drainage, screening, and landscaping.

7.3.9.3. Gross square footage does not include basement or attic space, unless such space is used as active floor area as defined in this Ordinance.

7.3.9.4. Parking/loading: Where calculation of required number of spaces results in a fraction, the fraction shall be counted as a whole space.

7.3.10. Minimum Dimensions. The following dimensions for off-street parking spaces and aisle widths shall apply:

| | 30 degrees | 45 degrees | 60 degrees | 90 degrees |
|--------------|------------|------------|------------|------------|
| Aisle Width | 11 feet | 13 feet | 18 feet | 26 feet |
| Stall Length | 18 feet | 20 feet | 21 feet | 20 feet |
| Stall Width | 10 feet* | 10 feet* | 10 feet* | 10 feet* |

* Except for handicapped-accessible parking spaces, which shall be 13 feet wide and in accordance with CABO/ANSI standards. Such accessible spaces shall be provided according to the following formula:

| Total Parking Spaces in Lot | Accessible Spaces Required |
|-----------------------------|----------------------------|
| 1 to 25 | 1 |
| 26 to 50 | 2 |
| 51 to 75 | 3 |
| 76 to 100 | 4 |
| 101 to 150 | 5 |
| 151 to 200 | 6 |
| 201 to 300 | 7 |
| 301 to 400 | 8 |

7.3.11. Flexibility of Rules. Should proposed parking spaces be at different angles than those specified above, or where one-way aisles are used, the DRB shall prescribe appropriate aisle widths and stall lengths.

7.3.12. Overnight Parking. In the Village Residential (VR) District, overnight parking of one commercial automobile or one light commercial vehicle (maximum 10,000 pound gross vehicle weight or 135 inch wheel base) shall be permitted. Overnight parking of more than one commercial vehicle or, commercial vehicles exceeding the maximum weight or size, may be permitted with the approval of the DRB.

7.4 Mobile Homes and Travel Trailers

7.4.1. General Regulations

7.4.1.1. Nothing herein shall prevent the use of a mobile home or travel trailer at a camp grounds operated by the State of Vermont on state land.

7.4.1.2. A trailer, travel trailer, mobile home, or recreational vehicle may be used temporarily for not over 6 months as a field office, accessory to a permitted construction operation being executed on the premises.

7.4.1.3. On any lot meeting the dimensional and other requirements of this Bylaw, the permanent resident may store his unoccupied travel trailer anywhere except in the required front yard.

7.4.2. Mobile Home as a Dwelling

7.4.2.1. A mobile home may be occupied as a dwelling for a period of not exceeding one year by the owner of the lot on which such mobile home is located, provided that:

7.4.2.1.1. Such owner is actively constructing a residence thereon for which a valid building permit shall have been obtained.

7.4.2.1.2. Water supply and wastewater disposal systems, in conformance with these regulations, have been provided.

7.4.2.2. A travel trailer may be occupied on any lot by a non-paying guest of the resident of such lot for a period not exceeding thirty days in any twelve month period.

7.4.2.3. A mobile home may be used as a single-family dwelling, provided that it is located on a lot meeting all of the requirements of this Bylaw applicable to a single-family dwelling in the district in which it is located, is suitably anchored to a permanent masonry foundation, and complies with the municipal provisions regarding water supply and wastewater disposal.

7.5 Extraction of Earth Resources

7.5.1. Removal Restricted

There shall be no removal from the premises in any district of earth, sand, gravel, clay, or stone without a permit as prescribed in 7.5.2 except as surplus material resulting from a

bona fide construction, landscape, or agricultural operation. There shall be no permit granted for the removal of earth products from the Village (VR and VC), or Forest and Recreation (FR) Districts or from any land in any District lying more than 1,200 feet above sea level as shown on the U.S. Geological Survey maps including (but not limited to) areas on Hale Mountain, Harrington Cobble, Buck's Cobble, Trumbull Mountain, Maple Hill, and West Mountain.

7.5.2. Permit for Removal of Earth Products. Earth product removal is deemed a conditional use, applicable to the provisions of Section 3.5. The DRB, after a duly warned public hearing, may grant a permit for the removal of earth, sand, gravel, clay, or stone, under the following conditions:

7.5.2.1. The applicant shall submit a plan showing the location of the area from which the above material is proposed to be removed, the existing grades in the area, together with finished grades at the conclusion of the operation.

7.5.2.2. The operator shall provide for proper drainage of the area of the operation during and after completion, and upon completion no bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance, except in ledge rock. No removal shall take place within twenty feet of a property line, except that where the grade from a property line rises towards the lot where removal is to take place, the material lying above the grade of the property line may be removed.

7.5.2.3. At the conclusion of the operation, or of any substantial portion thereof, the whole area where removal has taken place shall be covered with not less than four inches of top soil, and seeded with a suitable cover crop, except that portion where ledge rock is exposed. Where performance of these conditions is not feasible, the DRB may permit reasonable alternatives such as permanent fencing or terracing.

7.5.2.4. If the extraction is wholly or partly from a water course, the Vermont Fish and Game Department and Stream Alterations Section of the Department of Environmental Conservation shall be contacted for approval. The work shall be carried on in such a manner that there shall be no obstruction or substantial change in normal flow, and at the conclusion of work in any section there shall be no increase in erosion or flood hazards.

7.5.2.5. In addition to earth removal equipment, the DRB may permit the use of a portable stone crusher or other processing equipment on the premises as specified by the applicant, under reasonable stipulations such as hours and other conditions of use, and it may impose appropriate conditions for the protection of public and private property and rights including roads and water supplies.

7.5.3. Surety Bond. In accordance with the provisions of Title 24 V.S.A., 4407(8), the Vermont Planning and Development Act, and before a permit is granted under this Section, the applicant shall submit an acceptable plan for the rehabilitation of the site at the conclusion of the operations and shall post a surety bond with the Treasurer of the Town in an amount and in form approved by the DRB to guarantee conformity with the provisions of the permit issued hereunder.

7.5.4. Existing Operations

7.5.4.1. Existing sand and gravel, or other extractive operations, must conform with this Bylaw with respect to any expansion of the operation onto adjacent and previously unpermitted or unaffected parcels of land.

7.5.4.2. Sites upon which there has been no operation for over two consecutive years shall be deemed to have been abandoned. Before any operation may resume, the site must comply with Section 7.5 in its entirety.

7.6. Open Space Subdivision

7.6.0. Purpose. The purpose of an open space subdivision is to promote compact development within those areas most suitable for residential use while preserving surrounding or adjacent open space. Open space subdivisions enable and encourage flexibility in the of design and development of tracts of land, so as to promote the most appropriate use of land, to facilitate the economical provision of streets and utilities, and to enhance the environmental quality of the area through maximum preservation of open land.

7.6.1. Permissible Sites. Open space subdivision shall be permitted in Rural Residential or Village Residential Districts, in accordance with the provisions of this subsection, provided that:

7.6.1.1. Where community water, or sewer, or both, are to be utilized, the tract of land to be developed shall be at least ten acres in size.

7.6.1.2. Where such public utilities are not available, the tract of land to be developed shall be at least twenty acres in size, and the wastewater disposal and water supply system shall comply with the applicable provisions of the municipal subdivision regulations.

7.6.1.3. At least 30% of the gross land area of the subdivision, and at least 20% of the "usable" land area of the subdivision shall be designated as open space as defined in Section 7.6.5. or 7.6.6. Usable land shall include land lying outside of easements or rights of way; lying outside of a wetland and/or wetland buffer; lying beyond the limits of a pond, lake or stream; with slopes of less than 25%; free of surface ledge and lying outside a flood plain.

7.6.2. Permitted Permissible Uses in Open Space Cluster Subdivisions

7.6.2.1. One family dwelling and two family dwellings.

7.6.2.2. Mobile home parks and campgrounds.

7.6.2.3. Places of worship and parish houses.

7.6.2.4. Community centers, parks, and playgrounds.

7.6.2.5. Any other uses permitted in the District in which the open space subdivision is located. The lot occupied by such use shall be separately shown on the Site Plan and the

area shall not be included as any part of the Open Space Subdivision for purposes of determining the number of dwelling units in such subdivision.

7.6.2.6. Any conditional use permitted in the District in which the Open Space Subdivision is located may also be permitted as a conditional use in the Open Space Subdivision. The lot occupied by such conditional use shall be separately shown on the Site Plan and the area shall not be included as any part of the Open Space Subdivision for purposes of determining the number of dwelling units in such subdivision.

7.6.2.7. Accessory uses and signs, in compliance with the requirements of the District in which the subdivision is located.

7.6.3. Density of Dwellings. In Open Space Subdivisions, the total number of dwelling units shall not exceed the number that could be permitted if the tract were subdivided into lots conforming to the provisions applicable to the district in which such tract is situated and comply with State and local water supply and wastewater regulations.

7.6.3.1. Density Bonuses. A plan for development which incorporates open space design and includes at least 20% of the gross land area of the subdivision as dedicated open land shall be eligible for a density bonus. The permitted number of units shall be calculated by dividing developable lot area (i.e. total lot area minus area in wetlands or flood plain, area of land exhibiting slopes in excess of 20%, area of land located in the forest and recreation zoning district, and/or areas of land encumbered by rights-of-way, easements, or buffer zones) by the required area per dwelling unit for that district, and then increasing that number by 15%.

7.6.4. Lot Dimensional Requirements

7.6.4.1. Individual lots in an Open Space Subdivision may be reduced in required area, width, and yard dimensions, to not less than the following:

| District in which Located | RR 40 | RR 80 | RR 200 |
|----------------------------|--------------------|--------------------|--------------------|
| Minimum Lot Area | 20,000 | 30,000 | 40,000 |
| Minimum Lot Width | 75 feet | 100 feet | 150 feet |
| Min. Lot Area/Family. Unit | 20,000 square feet | 30,000 square feet | 40,000 square feet |
| Minimum Front Yard | 20 feet | 25 feet | 30 feet |
| Minimum Side Yard, Each | 10 feet | 15 feet | 20 feet |
| Minimum Rear Yard | 10 feet | 20 feet | 30 feet |
| Minimum Road Frontage: | 75 feet | 100 feet | 150 feet |

7.6.5. Public/Commonly Owned Open Land

7.6.5.1. The DRB may require that the plat show one or more designated areas of character, size, shape, and location suitable to be used as community open land or park; such open land shall be at least 20 percent of the total area of the subdivision.

7.6.5.2. Such land shall be offered for dedication to the Town for park or conservation purposes or shall be dedicated to a community association or other entity, as herein provided. As a condition of approval of a plan of development which includes community open land, the applicant shall provide for a non-profit community association or cooperative, organized under the laws of the State of Vermont, composed of all present and future owners of lots in such subdivision or project. Each dwelling unit shall be entitled to one vote, to be cast by the owner thereof, and membership shall be mandatory for all owners of dwelling units. Each owner shall be liable for his proportionate share of assessments for maintenance, upkeep, and other cost of operations, on the basis of their respective assessed valuations in the grand list of the Town. The open land and other properties and facilities of such association or cooperative shall be held for the benefit of the occupants of all dwellings therein. The charter of such association or cooperative shall be subject to the approval of the DRB.

7.6.5.3. Open land dedicated to the Town shall abut a public street or have direct access to a public street through a right-of-way dedicated to public use. Open land owned by a community association shall be freely accessible to all lot owners within the subdivision. Required rights-of-way shall not be included in any playground area, shall be at least 20 feet wide, and shall be constructed and maintained in a manner suitable for pedestrian or vehicular traffic, with maximum grade of 10 percent. When a property line of a subdivision abuts existing open land, the DRB may require the new public open land to form a continuation of the existing area to provide a single unified area.

7.6.6. Designated Open Land Privately Owned

7.6.6.1. Instead of requiring that designated open land be dedicated to the town or a community association, the DRB may approve an open space design that includes designated open land located on one or more individual privately owned lots. Such open land must be clearly depicted on the plat, include at least 20 percent of the total area of the subdivision, be of a character, size, and location consistent with the objectives of this section, and be approved by the DRB.

7.6.6.2. To ensure that designated open land remains undeveloped, each lot shown on the plat as containing any portion of the designated open land shall include a building envelope. All primary and accessory structures shall be located within the building envelope and no portion of the building envelope shall lie within the designated open land.

7.6.6.3. An easement, deed restriction, or other appropriate legal vehicle in a form approved by the DRB, shall be applied to the designated open land on each lot containing said open land. Such easement or restriction shall provide for land conservation, agricultural use, recreational access, or other purpose deemed appropriate by the DRB.

7.6.6.4. The DRB may require that provision be made to ensure that designated open land be accessible to all lot owners within the subdivision. The DRB also may require, when a property line of the subdivision abuts existing open land, that the newly designated open land be contiguous to the existing open land.

7.7. Swimming Pools and Ponds

7.7.1. Swimming Pools. A swimming pool is considered an accessory to the use of a dwelling unit provided that such pool is used only by the residents of the premises and their guests, and that no portion of the water area is closer than 20 feet to any lot line. Any pool less than 3 feet in height and under 1,000 gallons in volume is considered temporary and not subject to these restrictions.

7.7.2. Ponds. A pond may be approved by the DRB provided that there shall be no adverse effect upon the public health and safety, and surrounding use. A duly warned public hearing is required for such approval. No water areas shall be closer than 20 feet to any side or rear lot line except as approved by the DRB.

7.7.2.0. In reviewing such application, the DRB shall require plans and specifications for such development approval, and any other information deemed necessary. Such information shall include:

7.7.2.1. Map of entire property showing location of the pond with respect to present structures, roads, and boundaries.

7.7.2.2. The nearest building(s) on adjoining land.

7.7.2.3. Specifications for the any dams to be constructed.

7.7.2.4. An estimate of the surface area of the pond and volume of water of the proposed impoundment.

7.7.2.5. Natural or proposed drainage and contours.

7.7.2.6. Evaluation and recommendation by the Soil Conservation District.

7.8 Sewage Disposal Water Supply and Wastewater Disposal.

Section 4.00, Wastewater supply and wastewater disposal, of the Shaftsbury Subdivision Regulations is hereby considered to be part of this Zoning Bylaw. The construction of a new residential dwelling and the conversion or expansion of an existing residential dwelling or principal building to two or more units which are not subject to the Shaftsbury Subdivision Regulations shall comply with Section 4.00 of the town's Subdivision Regulations. If applicable, any permit issued under Section 8.10 of this Bylaw shall also require conformance to this section.

7.9 Family Child Care Facilities

A state registered or licensed family child care home serving six or fewer children, not including children of the proprietor, shall be considered by right to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time and four part-time children, as defined in 33 V.S.A. Section 4902(3)(A), shall be considered to constitute a permitted single-family residential use of property, but shall be subject to site plan approval pursuant to this bylaw. A family Childcare home (or facility) serving in excess of six full-time and four part-time children may be permitted as a conditional use.

7.10 Community Care Home

In addition to other provisions of this bylaw, a state licensed or registered residential care home or group home serving not more than eight persons who have a disability as defined in 9 V.S.A. s.4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another such home.

7.11 Solid Waste Management Facilities – Transfer Stations

Solid waste management facilities are permitted as conditional uses in the I-1 and I-2 Districts. Such facilities shall be certified by the State under 10 VSA Chapter 159 for the collection, storage, recycling, transfer, and/or disposal of solid waste, but shall not include junk vehicles and scrap metal stored in junk yards. In reviewing applications, the Development Review Board shall take into consideration the requirements of 24 VSA Chapter 117 Section 4413 which prohibits restriction of the functional use by the Town.

Any such solid waste management facility must meet the requirements of Sections 3.5, 3.6, and 6.4 in addition to the requirements of this section.

7.11.1 Lot Size

The minimum lot size for any solid waste management facility shall be a minimum of 5 acres for up to 20,000 tons per year, 8 acres for 20,000 – 30,000 tons per year, and 3 additional acres for each 10,000 tons over 30,000 tons per year unless otherwise prescribed by the State of Vermont.

7.11.2 Setbacks

No building, structure, or area used for solid waste disposal, processing, or transfer, shall be located within 175 feet of any public roadway. This does not include commercial vehicle parking and circulation areas, access drives, offices, employee parking and scale houses. The minimum setback from the lot lines of an adjacent industrially zoned property is specified in Section 6.4.3. The minimum setback from the transfer station to the lot line of any roadside commercial or residentially zoned property shall be 600 feet.

The DRB may reduce the 600 foot setback required to the lot lines of roadside commercial or residential properties by up to 25 percent of the calculated setback distance, provided that the DRB makes the following findings:

7.11.2.1 The applicant has identified specific measures, devices and/or technologies that are expected to reduce visibility, noise, glare, odor, dust and other impacts associated with the facility; and

7.11.2.2 The identified measures, devices and/or technologies will in fact significantly reduce visibility, noise, glare, odor, dust and other impacts associated with the proposed facility; and

7.11.2.3 That the character and conditions that exist, or likely to exist at the site of the facility will not adversely affect the effectiveness of the measures, devices and/or technologies identified by the owner; and

7.11.2.4 Reducing the setback will not result in any increase of visibility, noise, glare, odor, dust or any other impacts upon roadside commercial or residential properties; and

7.11.2.5 The reduction of the setback distance is proportional to the reduction in impacts achieved by the measures, devices and/or technologies identified and employed by the owner.

The DRB may not reduce the setback if the measures, devices and/or technologies identified and employed by the owner reduce some impacts, but other impacts will likely increase as a result of the reduction in setback. (These impacts include but are not limited to visibility, noise, glare, odor, dust.) When considering whether to grant a reduction in the setback, the DRB shall consider whether the proposed site has any unique characteristics or features that will increase or decrease adverse impacts on abutting or nearby properties. The measures the DRB may consider in determining whether to grant a reduction of setbacks include but are not limited to the applicant limiting hours of operation, truck size, and/or truck/automobile traffic.

The DRB may increase setbacks by 25 percent if berms, fences screening and landscaping is not possible and/or cannot abate environmental impacts.

7.11.3 Building Coverage

Total building coverage, of all buildings and structures on the lot, shall comply with Section 6.4.3.

7.11.4 Building Height

The maximum height of the transfer station building shall be 40 feet measured from the tipping floor to the average height of the roof. All other buildings shall comply with Section 6.4.3.

7.11.5 Vehicle Circulation and Parking

Vehicle circulation and parking shall comply with Section 7.3 except as modified herein. There shall be a minimum of one parking space per employee of the solid waste management facility and one space for each commercial vehicle. Adequate space shall be provided for any maneuvering, loading, and unloading of such vehicles. Trailers or containers loaded with solid waste remaining on site overnight shall be covered with impermeable tarps.

Adequate, safe, and clearly signed access, parking, and unloading areas shall be provided for any noncommercial vehicles that enter the facility for the purpose of disposing of solid waste.

7.11.6 Screening and Landscaping

All buildings and solid waste disposal, processing, and transfer areas shall be screened from public roadways and from all non-industrially zoned properties. This requirement includes screening the facility from off-site locations that constitute significant scenic vistas as well as views that include historic sites, and other scenic areas.

A diversity of materials shall be used to create an interesting, naturalized screen rather than a large expanse of uninterrupted, uniform material. Fencing, shade trees, evergreen and flowering shrubs, rocks, berms, or combinations of these materials may be used to achieve these objectives. The owner of the facility shall maintain the screening in a manner that is consistent with these requirements.

7.11.7 Performance Standards

The Development Review Board shall find that the proposed solid waste management facility does not have an undue adverse impact (shall not have an impact that offends the sensibilities of the average person) on any of the following (these requirements are in addition to the standards for conditional uses enumerated in Section 3.5):

1. **Water Quality.** The solid waste management facility shall construct and maintain containment and treatment facilities in accordance with Agency of Natural Resource requirements to ensure that surface and ground water resources are protected from contamination. Stormwater discharges shall be managed consistent with Agency of Natural Resource requirements (Environmental Protection Rules Chapter 18) and shall not adversely impact surface or ground water quality.
2. **Lighting.** Outdoor lighting shall be limited to the amount of lighting necessary for safe vehicle movement and security. All lights shall be shaded, shielded or directed so that they do not reflect or shine on or into any residential structures.
3. **Transportation related elements** shall comply with the standards for conditional uses enumerated in Section 3.5.3.1, 3.5.3.2, and 3.5.3.3).

7.11.8 Operations Plan

The Development Review Board shall review an operations plan for all solid waste facilities including but not limited to hours of operation, number of employees, provisions for closure, routes for traffic arriving and departing the facility, provisions for dealing with litter on and off site and other issues particular to the specific application that may impact residents of the Town.

7.11.9 Host Town Agreement

In addition to satisfying all zoning and planning requirements, an applicant for any proposed solid waste facility shall be required to negotiate a Host Town Agreement with the Town of Shaftsbury that may include appropriate and reasonable Host Town fees. In developing this Host Town Agreement and determining the Host Town fees, the following shall be considered.

1. Impact on public services and infrastructure required for the facility and the costs associated with any improvements.
2. Host Town fees that reflect the initial and ongoing impacts of the facility on the infrastructure and environment of Shaftsbury and any long term devaluation of land in the Town.
3. Impact on agricultural lands and, where appropriate, offsetting protection of similar lands by purchase or conservation easements.
4. Reasonable access by Town Representatives for purposes of inspecting facility operations.

7.12 Solid Waste Management Facilities – Solid Waste Landfills and Construction and Demolition (C&D) Landfills

Solid waste landfills and construction and demolition (C&D) landfills are permitted as conditional uses in the I-1 and I-2 Districts. Such facilities shall be certified by the State under 10 VSA Chapter 159 for the disposal of solid waste and construction and demolition debris. In reviewing applications, the Development Review Board shall take into consideration the requirements of 24 VSA Chapter 117 Section 4413 which prohibits restriction of the functional use by the Town.

Any such solid waste management facility must meet the requirements of Sections 3.5, 3.6, and 6.4 in addition to the requirements of this section.

7.12.1 Lot Size

The minimum lot size for any solid waste management facility shall be governed by Section 6.4.3 except as modified below.

For solid waste that is intended for permanent disposal at the facility, the minimum lot size for the facility shall be 25 acres. If the DRB finds based on independent scientific analysis of subsurface conditions that a larger area is needed to ensure that any future underground discharge from the disposal area – regardless of the presence or type of lining or other containment system used – will not contaminate off-site properties or groundwater supplies, the DRB shall increase the area requirement accordingly. The DRB may require the applicant to provide funds to the Town to retain the services of a professional qualified to conduct such scientific analysis.

7.12.2 Setbacks

Setbacks shall comply with Section 7.11.2

7.12.3 Vehicle Circulation and Parking

Vehicle circulation and parking shall comply with Section 7.11.5.

7.12.4 Screening and Landscaping

Screening and landscaping shall comply with Section 7.11.6.

7.12.5 Performance Standards

Performance standards shall comply with 7.11.7.

7.12.6 Operations Plan

Operations plan shall comply with Section 7.11.8.

7.12.7 Host Town Agreement

Host town agreement shall comply with 7.11.9.

7.12.8 An applicant for all landfills and for any other solid waste facilities that might use waste processing systems with a potential for significant off-site impacts shall meet all the requirements listed below as well as all requirements listed in 7.11.9 above:

1. The town may hire a qualified health professional agreeable to both parties whenever possible to conduct a health risk assessment, to be paid for by the applicant;
2. The town may hire consulting services to evaluate and verify the application, to be paid for by the applicant;

3. The applicant shall provide adequate funding to ensure operation and maintenance of leachate and landfill gas collection, monitoring, and management systems in perpetuity;
4. The applicant shall provide monitoring of landfill gas emissions for hazardous and deleterious constituents and control programs to confine risks to the public health and the environment to acceptable levels;
5. The applicant shall provide comprehensive monitoring of surface waters during the active life and post-closure period, including monitoring of the potential for airborne transport of waste-derived constituents to nearby surface waters;
6. The applicant shall provide funding for independent third-party monitoring of landfill operations and oversight of continuing compliance with permit conditions and for as long as the waste may present a threat;
7. The applicant shall post a commercial bond acceptable to the Town Administrator that the facility operator, for as long as potential for public impact exists, will be responsible for, and has adequate funding for financial post closure requirements, monitoring, testing, repairs, replacements, and mitigation.
8. Revocation of an applicant's operating permit by the State of Vermont will result in an automatic zoning violation.

7.13 Hazardous Waste Management Facilities

Commercial hazardous waste Treatment, Storage and Disposal Facilities (TSDF's) proposed under 10 VSA 6606a and subject to Vermont Hazardous Waste Management Regulations shall be permitted as a conditional use in I-1 and I-2 districts.

- 7.13.1 Owing to the highly technical nature of handling hazardous waste and the potential worst-case impacts of such materials, Hazardous Waste Management Facilities shall be subject to the following requirements:
 - 7.13.1.1 A professional consultant shall be retained by the Town, with all costs paid by the applicant, to advise on the proposed facility including possible hazards associated with it and the potential impacts on the Town.
 - 7.13.1.2 The applicant shall list all permitted wastes that are to be handled. Any wastes not on this list shall specifically not be permitted at the proposed facility.
 - 7.13.1.3 No storage of hazardous wastes listed in 7.12.1.2 above shall be permitted for a period greater than one year.

7.13.1.4 Following the advise of the professional consultant, the Development Review Board shall make recommendations to the Select Board regarding fees to be paid to the Town sufficient to cover all impacts from normal operations and worst-case scenarios. The recommended fees shall be sufficient to cover impacts including, but not limited to, new equipment, training expenses, insurance, roads, other Town services and risk during transport of wastes to and from the site.

7.13.1.5 Minimum lot size shall be not less than 400,000 square feet Additionally, setbacks to neighboring properties shall be sufficient to allow continuing normal use of the neighboring property following any potential worst-case scenario anticipated in 7.13.1.4 above.

Section 8 - ADMINISTRATION AND ENFORCEMENT

8.1 Permits

8.1.1. Before any land development, including; the division of a parcel of land, the site preparation, construction, reconstruction, conversion, structural alteration, relocation, enlargement, razing or removal of any building or other structure, any mining, excavation or landfill, and any change in the use of any building or other structure, or any extension of the use the land is performed, a permit shall be obtained from the Zoning Administrator by the landowner.

8.1.2 The Zoning Administrator shall maintain a full and accurate record of all applications, permits and violations acted upon by the Officer. Each permit issued shall be posted within view from a public right-of-way most nearly adjacent to the subject property until the time for appeal has passed. Within three days following the issuance of a permit a copy shall be filed with the Listers and posted in at least one public place as provided in 24 V.S.A. Section 4449.

8.1.2.1 No permit shall take effect until the time for appeal (24 V.S.A. Section 4465) has passed, or in the event that an appeal is properly filed, no such permit shall take effect until adjudication of the appeal by the DRB is complete and the time for taking to the Environmental Court has passed without an appeal being taken. If an appeal is taken to the Environmental Court, the permit shall not take effect until the Environmental Court rules in accordance with 10 V.S.A Section 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.

8.1.2.2. When an approved project is completed, a Certificate of Occupancy must be obtained from the Zoning Administrator prior to the occupation or utilization, in whole or in part. This is to ensure that the work is done was performed in accordance with the approved plans and specifications and the requirements of this Bylaw.

8.1.2.3. A valid permit shall expire one year from its effective date except that an applicant may request a one year extension prior to the expiration of the original permit. A second extension of the original permit may be granted by the Zoning Administrator. If a permit expires prior to a substantial completion of the project, a new application and filing fee will be is required.

8.2 Zoning Administrator

8.2.1. A Zoning Administrator, shall be nominated for a term of three years or to fill a vacancy by the Planning Commission, and appointed by the Select Board. The Zoning Administrator shall administer the bylaws literally, and shall not have the power to permit any land development that is not in conformance with such bylaws.

8.2.2. A Zoning Administrator may be removed for cause at any time by the Select Board after consultation with the Planning Commission.

8.2.3. When a vacancy arises, or in the event of a temporary absence of the Zoning Administrator, the Planning Commission may nominate, and the Select Board, may appoint an acting Zoning Administrator.

8.3 Fees.

In accordance with subsection 4440 of Chapter 117, Title 24 VSA, the Select Board may prescribe reasonable fees to be charged with respect to the administration of this Bylaw.

8.4 Violations and Penalties.

Anyone found in violation of the provisions of this Bylaw shall be subject to the penalties prescribed in sections 4451 through 4454, Chapter 117, Title 24 V.S.A., as they exist or are hereafter amended or revised.

8.5 Development Review Board (DRB).

There shall be a DRB, created as provided by sections 4460 through 4464 inclusive of Title 24 V.S.A., with the powers and duties as provided therein.

8.6 Appeals and Variances.

In accordance with Title 24 VSA, Chapter 117, subsection, 4469 when a variance from the provisions of a zoning regulation is the relief requested by the appellant, the DRB may grant such variances, and render a decision in favor of such appellant, if all the following facts are found by the Board and such finding is specified in its decision.

8.6.1. That 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 the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by

the provisions of the zoning regulation in the neighborhood or district in which the property is located;

8.6.2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

8.6.3. That such unnecessary hardship has not been created by the appellant;

8.6.4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and

8.6.5 That the proposed use shall not emit any noxious gases that could endanger the health, comfort, safety, or welfare of any person or which could cause injury or damage to property, businesses, residences, animals, or vegetation. The proposed use shall not emit any dust, dirt, smoke, or odor that is offensive at any off-site property, or that exceeds nuisance levels in any roadside commercial or residential zone.

8.6.6. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the Town Plan.

8.6.7 On appeal from the decision by the Zoning Administrator in which a variance from the provisions of this bylaw is requested for a structure that is primarily a renewable energy resource structure, the DRB may grant a variance if all the following facts are found:

8.6.7.1 It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaw.

8.6.7.2 The hardship was not created by the appellant.

8.6.7.3 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, and

8.6.7.4 The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and the Town Plan.

8.6.7.5 In rendering a decision in favor of an appellant under this section, the DRB may attach such conditions to such variances as it may consider necessary and appropriate under the circumstances to implement the purposes of this Bylaw and to carry out the intent of the Town Plan.

8.6.7.6 An interested person (as defined in section, 4465 24 V.S.A.) may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal with the

secretary of the DRB, or the Town Clerk, if no such secretary has been appointed. Within 15 days of the date of such decision or act, a copy of the notice of appeal shall be filed directly with the Zoning Administrator.

8.6.7.7 Fee on Appeal: Applications to the DRB for variance shall be accompanied by a fee, as set by the Select Board.

8.7 Amendments.

This Bylaw and the boundaries of zoning districts established herein may from time to time be amended in accordance with subsection 4441 and 4442 of Chapter 117, Title 24 VSA.

8.8 Review.

The provisions of this Bylaw shall be reviewed by the Planning Commission on an annual basis to determine what, if any, revisions are appropriate.

8.9 Validity.

If any section or provisions of this ordinance Bylaw is adjudged to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the Bylaw as a whole, or of any part thereof, other than the part so adjudicated.

8.10 Dangerous and Unsafe Buildings

Buildings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such buildings unsafe, unsanitary, dangerous or detrimental to health or safety are to be prevented and prohibited.

Buildings found in such condition, and liable to collapse, or presenting other hazardous conditions dangerous to public health or safety, or that might result in serious accident or loss of life, shall, after certification of such dangerous or hazardous condition by the appropriate health officer, safety officer, or an engineer, be demolished, and the debris removed within six weeks of the issuance of an order by the Zoning Administrator for such a demolition. The Zoning Administrator may consult with architects and/or engineers to obtain a professional opinion.

Alternatively, within the six week period after the issuance of a demolition order, an application, together with the posting of appropriate financial surety in an amount to be determined by the Zoning Administrator, may be made for the building or buildings to be repaired or rebuilt in accordance with the Zoning Bylaw.

In the event the owner or the premises affected by such demolition order shall fail to comply therewith, within the time prescribed, the Selectboard may direct, and arrange

for, the demolition of the building or buildings, and assess the owner of the property the cost thereof.

Violations of this bylaw shall be punishable as a civil violation. The Zoning Administrator may enforce violations by commencing an enforcement action in the name of the Town of Shaftsbury in a Vermont court. A civil penalty of not more than \$100.00 may be imposed for violation of this ordinance. Each day the violation continues shall constitute a separate violation. The Zoning Administrator may request a judicial order that the violation cease.

8.11 Air Quality

The Zoning Administrator shall determine if dust, dirt, smoke, or odor emitted would offend the sensibilities of an average person, and if so, whether a nuisance level or offensive level has been exceeded. Failure of the responsible party to correct the offensive pollution shall constitute a zoning violation.

In assessing odor the ASTM-E544 five point scale for detectable odor shall be used (0=no odor, 1=very faint, 2=faint, 3=noticeable or distinct, 4=strong, and 5=very strong). Nuisance levels and offensive levels of odor are determined as follows:

An odor is considered a nuisance if, over a 24 hour period, it is either very faint (intensity=1) and lasts for more than four hours or is faint (intensity=2) and lasts for more than one hour.

An odor is considered offensive if, over a 24 hour period, it is faint (intensity=2) and lasts for more than four hours, noticeable (intensity=3) and lasts for more than one hour, or stronger than noticeable (intensity=4 or 5) and lasts for more than 10 minutes.

If an odor is intermittent, the Zoning Administrator may sum shorter periods over 24 hours to determine the total duration.

Bona fide agricultural activities are exempt from these limitations on dust, dirt, smoke and odor.

Section 9.0 - WIRELESS TELECOMMUNICATIONS FACILITIES

9.1 Purpose

The purpose of this section is to ensure appropriate review and oversight of wireless telecommunications tower facilities and associated infrastructure, to protect the scenic, historic, environmental, and residential resources and qualities of the community, and to minimize the visual and environmental impacts of these facilities, all within the parameters dictated by federal law.

9.2 Procedure

9.2.1. Conditional use approval is required for all wireless telecommunications facilities that are licensed and/or regulated by the Federal Communications Commission, along with any associated equipment, buildings, and infrastructure. Prior to granting any approval, the DRB shall make affirmative findings upon all of the general conditional use criteria described in §3.5 of the Zoning Ordinance, the criteria described below, any other applicable provisions of this Ordinance, and the goals and policies in the Town Plan. A complete application form shall be filed, along with a site plan showing all information required in §3.7, and any other information required in this Section. A complete application shall also include a report, plans, and elevations stamped by qualified engineers that:

9.2.1.1. Describes the height, design, and elevation of all proposed infrastructure;
Documents the height of all proposed antenna mounting positions on a tower;

9.2.1.2. Describes the tower's proposed capacity, including number, height, and type(s) of antennas that the tower is expected to accommodate; and documents the need for the proposed site and structure(s), and demonstrates why no other alternative or site will provide adequate coverage or capacity.

9.2.1.3. Applicants shall also submit photographs of existing conditions at the proposed site, and accurate photo simulations showing post-construction conditions at the site. Additional information may be required by the DRB.

9.2.1.4. An applicant must be a wireless service provider or FCC licensee, or landowner with an executed contract to provide land or facilities to one of those entities. A permit shall not be granted for facilities to be built on speculation.

9.2.1.5. An applicant for a co-location permit shall comply with Sections 9.2, 9.3, 9.14, 9.15, 9.17, 9.18, and 9.19.

9.3 Conditional Use Approval

After conditional use approval by the DRB, a zoning permit shall be issued following procedures outlined in Section 8.1.1 through Section 8.1.3, and upon payment of the fee prescribed in Section 8.3.

9.4 Location

Telecommunications towers and associated equipment, buildings, and infrastructure shall not be located in:

Shoreline District as defined in 7.2.3

Historic Districts as defined in the Town Plan;

Village Districts (VR, VC);

nor within 300 feet of any residence or school.

9.4.1. Applicants are encouraged to locate antennas within existing tall structures such as church steeples or barn silos; in these instances, the above standards may be modified.

9.5 Height

In addition to other standards herein, no tower or structure shall exceed 130 feet in height. No tower or structure may be higher than 10 feet above the average height of buildings within 300 feet of the proposed facility. If there are no nearby buildings, then no tower or structure shall be higher than 40 feet above the average tree canopy height measured within 100 feet of the proposed facility.

9.6 Setbacks

The minimum setback requirement for any telecommunications tower or associated structure shall be as required in the applicable zoning district, plus an additional setback equal to the height of the tower (the "fall zone"). The minimum setback for any tower taller than 100' shall be 300' from a dwelling or road. Where a tower is mounted on an existing structure such as a barn silo, church steeple, or utility pole, and the tower does not increase the height of the structure more than ten feet, then the additional "fall zone" setback is not required.

9.7 Lighting

Towers requiring lighting shall not be permitted, unless the DRB finds it the only viable alternative to meet reasonable facility requirements of a communications service provider. The only tower lighting that may be permitted is that required by FAA regulation. All lighting shall be shielded to minimize or prevent glare onto adjoining properties or into the night sky.

9.8 Bulk, Height, Glare

All towers and related infrastructure shall be designed to minimize the visual impact of height and mass. Materials shall be of a type, style, color, and location so as to blend into the site, minimize glare, and not result in undue adverse visual impacts to the natural landscape or the built environment.

9.9 Noise

The DRB may require the applicant to provide a study from a qualified engineer as to the maximum projected noise from the proposed facility, measured in dB Ldn (decibels, logarithmic scale, accounting for greater sensitivity at night). This study shall include existing or ambient measurements, plus noise that may be created or caused by the proposed facility.

9.10 Screening/Camouflage/Fencing

Screening shall be required at the perimeter of the site, unless it is demonstrated that existing natural foliage is sufficient. Required screening shall be at least ten feet in depth, and at least ten feet tall, with the potential to grow to significant size at maturity. Disturbance to existing topography or vegetation shall be minimized, unless found necessary to mitigate visual or aesthetic impacts. The location and type of security fencing shall be shown and described on the site plan.

9.11 Co-location

9.11.1. The principle of co-location shall be employed to the greatest extent possible. The applicant shall demonstrate that there are no other existing tower sites that can accommodate the proposed use(s). If other sites do exist, then the applicant must demonstrate that they are technically inadequate, and/or that bona fide, good faith negotiations with that landowner have failed. The duration and terms of any offer shall be disclosed to the DRB.

9.11.2. Any permit granted shall include a condition requiring that other wireless service providers shall be allowed to co-locate on any new or existing tower. The applicant shall provide written evidence as to how it will comply with this condition, and under what terms co-location will be allowed.

9.12 Access Roads and Above Ground Utilities

Any roads or above ground utilities shall follow the contour of the land, and be sited and constructed to minimize visual impacts to the greatest extent possible.

9.13 Environmentally Sensitive Areas

The Town Plan and Zoning Ordinance describe environmentally sensitive areas including steep slopes, wetlands, floodways, unique natural features, wildlife habitat, historic sites, high elevations, ridgelines, and scenic resources. Telecommunications facilities and associated infrastructure shall avoid undue adverse impacts on these areas to the greatest extent possible. Where there may be adverse impacts, then the project shall be designed to mitigate these impacts to the greatest extent possible.

9.14 Monitoring, Maintenance, Compliance

The owner/operator shall provide the Town of Shaftsbury with copies of facility reports submitted to or received from the State and/or Federal Agencies.

9.15 Abandonment or Discontinuation of Use

At least 30 days prior to abandonment or discontinuation of use, the owner/operator shall provide written notice by certified mail of any intent to abandon or discontinue the use of

the facility or site. Upon abandonment or discontinuation of use, the owner/operator shall physically remove all structures and facilities and return the site to its original condition.

9.16 Bond or Security

As a condition of permit approval, the DRB shall require a bond or other means of security approved by Town counsel to ensure that sufficient funds will be available to remove all structures and restore a site should the owner/operator be unwilling or unable to do so.

9.17 Modifications

Any change in the number or size of facilities or equipment, or change in technology from the original permit, shall require an amendment to that permit.

9.18 Independent Review

If needed or requested, the DRB may engage independent consulting assistance to review the application for conformance with the Zoning Ordinance and Town Plan. Consistent with federal law, the applicant will be required to pay any costs associated with that review. Payment shall be received before the DRB may issue its decision.

9.19 Consistency with Federal Law

These regulations are consistent with the Telecommunications Act of 1996, in that they do not prohibit the provision of wireless telecommunications services, do not discriminate among service providers, and do not preempt FCC regulations governing radio frequency emissions.

Appendix A - DEFINITIONS

Accessory Use: A use customarily incidental and subordinate to a principal use on the same lot.

Acre: A unit of land measurement equal to 160 square rods or 43,560 square feet.

Active Floor Area: Open to public and directly and readily accessible and frequently utilized. Supports the retail store and personal service establishment.

Antenna: A device attached to a tower or other structure for transmitting or receiving wireless signals.

Automobile Filling Station: Building or land which is used for the sale of motor fuel and oil, with or without motor vehicle accessories or for lubricating, washing, or servicing vehicles.

Automobile Repair Garage: Any garage other than that of a private residence available to the public which is used for storage, repair, rental, greasing, washing, servicing, painting, adjusting, or equipping of automobiles or other motor vehicles.

Bed & Breakfast Inn: A single family home, licensed by the State, which is operated to provide lodging for pay, including overnight sleeping accommodations and optional continental breakfast (to paid guests only). No more than six (6) rooms shall be used for such sleeping accommodations. Meals are not generally served nor are dining facilities available for the public at large.

Bottle Club: A commercial establishment where patrons or members congregate socially, which permits the consumption of alcoholic beverages not purchased on the premises and may or may not furnish entertainment and/or mixing beverages to its patrons.

Building: Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals, or materials. Any other structure more than eight feet high shall be considered as a building, but excluding an electric light, telephone or telegraph pole, highway or railroad bridge, or flagpole, or satellite dish.

Building, Accessory: Any building which is subordinate to and whose use is incidental and accessory to the use of the principal ownership. A detached accessory building shall be one that is not attached to the principal building by any covered porch, breezeway, or other roofed structure.

Building Area: The ground area enclosed by the walls of a building, together with the area of all covered porches and other roofed portions.

Building Coverage: The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

Building Height: The vertical distance from the average finished grade within 10 feet of the walls of the building to the highest point of flat or mansard roofs, including the top

of a parapet, or to the mean level between the eaves and ridges for gable, hip, or gambrel roofs.

Building Line: A line parallel to a street at a distance equal to the required front yard, or at a greater distance when otherwise legally established by the municipality or by private covenant.

Camp: A building having no permanent foundation, and not utilized as a residence, either primary, or secondary.

Campground: Any tract or parcel of land occupied by two or more travel trailers, recreational vehicles, tent site, or temporary cabins for a brief period for vacational or recreational purposes. There shall be no distinction made between non-commercial (no charge, no service) and commercial operations; bona fide "primitive" or "wilderness" camping areas are specifically excluded.

Co-location: The use of a single mount or tower for more than one antenna for one or more telecommunications providers.

Camper Trailer: A vehicle similar to a travel trailer or motor home, not exceeding thirty feet in length, and designed and used primarily for recreational travel purposes. To be considered a travel trailer, such vehicle must rest on its own wheels. The provisions hereof applicable to travel trailers shall also be applied to any motor vehicle not exceeding thirty feet in length, whose body has been equipped for occupancy for recreational purposes.

Commercial: The exchange or buying and selling of commodities with the general public for more than four days in any one month.

Commercial Vehicle: (a) A vehicle that is registered to a business and/or has the name of a business or trade painted or affixed to the outside of the vehicle. (b) Any vehicle used for commercial purposes.

Community Care Home: A residential facility traditionally utilized by the elderly, which provides custodial care which includes room and board, plus additional personal services and supervision for the residents' protection. Five community care home residents shall constitute one family unit.

Conditional Use: Certain uses which may be permitted in any district only by approval of the DRB if general and specific standards are met.

dBa: The unit of dBA is the measured A-scale sound level; dB, decibel, is a unit of sound pressure equal to 20 times the logarithm (base 10) of the magnitude of a sound pressure P to the reference sound pressure P_r.

Dog Kennel: A facility designed for the keeping of more than five dogs greater than six (6) months old.

Dump: Any area where trash, garbage, inoperable motor vehicles, used materials, or refuse of whatever nature are collected, stored, or deposited.

Dwelling, Multiple: A building containing separate dwelling units for three or more families, having separate or joint entrances, services, or facilities.

Dwelling, One Family (Single Family): A building designated for or occupied as a residence by one family, and equipped with sanitary facilities and not more than one kitchen.

Dwelling, Two Family: A building designated for or occupied as a residence by two families, equipped with sanitary facilities and not more than two kitchens.

Dwelling Unit: A dwelling or part of a dwelling occupied or intended to be occupied by one family for residential purposes, containing full housekeeping facilities for the exclusive use of the occupants.

Dwelling Unit, Accessory: An efficiency or one bedroom dwelling unit located within or appurtenant to an owner-occupied one-family dwelling that is clearly subordinate to the one-family dwelling, which has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided that the property has sufficient wastewater capacity and that the unit does not exceed 30 percent of the total habitable floor area of the one-family dwelling, but is at least 400 square in floor area.

Extraction of Earth Resources: The use of a lot or portion thereof for the purpose of removing minerals, stone, sand, gravel, or top soil for resale or reuse, other than removal that is incidental to construction of a permitted building or other structure on the lot.

FAA: Federal Aviation Administration

Family: Any number of individuals related by blood, marriage, or adoption, living together as a single housekeeping unit, provided that a group of not more than five persons keeping house together, but not necessarily related by blood or marriage, may be considered a family.

Family Child Care Home or Facility: A home or facility where the owner or operator is licensed or registered by the State for child care. (See section 7.9)

Farm Structure: A building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, including a silo, but excluding a dwelling for human habitation.

FCC: Federal Communication Commission

Fragile Area: An area of land or water which has unusual or significant flora, fauna, geological, or similar features of scientific, ecological, or educational interest. Fragile areas shall include Natural Areas as identified by the Shaftsbury Town Plan and the Vermont Natural Areas Inventory.

Home Occupation: The use of a minor portion of a dwelling unit by a resident of that dwelling unit, or; the use by a resident of an accessory building on the same lot as such dwelling for an occupation which is customary in residential areas, and which does not change the character thereof.

Hotel (shall also include the term "motel"): A building or group of buildings providing commercial lodging for persons with or without meals, and intended for the accommodation of transients. A hotel is not a dwelling unit.

Industry: Any process whereby the nature, size, or shape of articles or raw materials are changed, or where articles are assembled, packaged, or mailed.

Inoperable Motor Vehicle: A vehicle that cannot be legally operated on a public highway.

Land Development: The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, the construction of roads, utilities, and any site improvements; or of any mining, excavating, or land fill, and any change in the use of any building or other structure, or land, or extension of use of land.

Landfill: Land approved by the State of Vermont for the sanitary disposal of garbage, refuse, debris, and other solid and liquid wastes in accordance with State laws.

LEQ: Equivalent sound level; an A-weighted average measure over a given time period.

Lot: A plot or parcel of land occupied or capable of being occupied by one principal building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Bylaw. In the case of multiple dwellings and public, institutional, commercial, industrial, or agricultural buildings, a group of buildings on the same or contiguous premises, all under the same ownership, may be considered as occupying the same lot.

Lot Line: The established division line between lots or between a lot and a street.

Lot Line, Front: All dividing lines between a street and the lot shall be considered front lines.

Lot Line, Rear: The line or lines bounding a lot at the rear and approximately parallel to and at the maximum distance from the front lot line.

Lot Line, Side: The line or lines bounding a lot that extends from the street towards the rear in a direction approximately perpendicular to the street. In the case of corner lots, or through lots, all lines extending from streets shall be considered side lot lines.

Lot, Minimum Width of: The narrowest portion of a lot, as measured from side lot line to side lot line.

Manufactured Home: A structure designed to be transported on its own chassis, with axles that may be removed to allow the sitting of the home for permanent habitation as a one family dwelling. Said structure is designed and approved for use by the U.S. Department of Housing and Urban Development and carries a label approving it for said use. Manufacturer's installation instructions are considered to be a part of the requirements for the placement of a mobile home on a site as a one family dwelling.

Mobile Home Park: Any premises used or permitted to be used for occupation of two or more mobile homes.

Motel: (See definition of Hotel)

Motor Vehicle: Any conveyance propelled by engine or other self-propelled device, typically used to transport passengers and their cargo along the ground, including but not limited to passenger cars, trucks, buses, recreational vehicles, motorcycles, snowmobiles, and all-terrain vehicles. For the purposes of these Bylaws, a motor vehicle shall not include tractors or any other farm-related equipment, boats, aircraft, or hovercraft. The chassis, cab, or detached body of a motor vehicle shall be considered an entire vehicle.

Nonconforming Structure: A structure, the location, size, height, or construction of which does not conform to all the applicable provisions of this Bylaw, but which was legally existing at the effective date hereof, or of any pertinent amendment hereto.

Nonconforming Use: A use of land, building, or premises, which is not a use permitted by the provisions of this Bylaw for the district in which such land, building, or premises, are situated, but which was legally existing at the effective date hereof, or of any pertinent amendment hereto.

Nuisance: An annoying, unpleasant, or obnoxious noise, odor, thing, or practice by decision of the Zoning Administrator.

Open Space Subdivision: The subdivision or development of land whereby the buildings or lots are sited in such a way that they may not conform with minimum lot size or yard requirements, but do conform with the overall density for the district, considering only developable land on the site. An open space subdivision allows for communal open space, environmental protection, economies of development, and economical provision of services.

Privy, Pit: A small building (outhouse) constructed over an excavation for the purpose of human waste disposal utilizing natural decomposition. Pit privies do not require physical removal of the waste byproducts, are always within roofed structures, and never allow for surface land discharge. The DRB recommends all pit privies be constructed 100 feet downhill or 200 feet uphill from a water source, and the actual pit located at least 3 feet above the highest ground water level.

Privy, Vault: The same design and function as a pit privy, except that the excavation consists of a concrete (or other impervious material) pit that requires the physical removal of waste byproducts off-site.

Public Building: Per 18 V.S.A. subsection 1301, public buildings shall mean churches, courthouses, jails, municipal rooms, state and country institutions, railroad stations, school buildings, school and society halls, hotels and restaurants, and buildings used or rented for tenements, boards, or roomers, and places of amusement, factories, mills, workshops, or buildings in which persons are employed and shall include buildings used as nurseries, convalescent homes, homes for the aged, and tents and outdoor structures used for public assembly. The word "building" as used, shall mean barns, sheds, office

buildings, shops other than workshops, and space wherein goods are offered for sale at wholesale or retail.

Public Water Supply: A system of water supply owned and operated by a municipality or other governmental unit, or by a corporation authorized and regulated by the State of Vermont for purposes of public water supply, as defined in the water supply rule, Chapter 21 of the Environmental Protection Rules of the State of Vermont.

Quarry: See "Extraction of Earth Resources."

Right-of-Way: A strip of land acquired by reservation, dedication, prescription or condemnation, and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sewer line, and other similar uses; generally the right of one to pass over the property of another, as an easement.

School: Any day care center or any school certified by the Vermont Department of Education, including parochial, private, and public schools, colleges, and universities.

Solid Waste: As defined in Vermont Solid Waste Management Rules 05PO043, any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material including solid, liquid, semi-solid or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and adsorbent bedding used for soil enrichment or dissolved materials in industrial discharges which are point sources regulated under 10 V.S.A., ch 47.

Street: A town, or state, or incorporated village highway, a street of an incorporated village, or a street way for motor vehicles shown on a subdivision plan approved by the DRB. The word "street" shall include the entire right-of-way thereof. If a boundary of the right-of-way has not been surveyed and so recorded and is not marked by fence line or other physical feature, the boundary shall be deemed to be 25 feet from the center line of the traveled way.

Structure: An assembly of materials for occupancy or use, including but not limited to, a building, manufactured home or trailer, swimming pool, tennis courts, billboard, sign, wall, or fences greater than six (6) feet in height and not connected with an operating farm.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either: (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or, (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.

Telecommunications facility/Wireless communication facility: A tower, pole, antenna, or other structure intended for receipt or transmission of radio, telephone, or television

signals or other electromagnetic signals by a telecommunications or wireless service provider. This includes all appurtenant equipment and infrastructure, including but not limited to access trails or roads, guy wires, building, or other equipment or structures.

Telecommunications provider/Wireless service provider: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

Temporary: Unless otherwise defined, shall mean up to but not exceeding ninety (90) days.

Tower: A structure more than 20 feet in height above the ground elevation built for the purpose of support, elevation, or placement of antennas for broadcast services or wireless services.

Transfer station: A solid waste management facility where solid waste is collected, aggregated, sorted, stored and/or processed for the purpose of subsequent transfer to another solid waste management facility for further processing, treatment, transfer, or disposal.

Travel Trailer: (Shall also include the terms trailer and recreational vehicle) A vehicle, not attached to permanent water and sewer services, designed and used primarily for recreational travel purpose. To be considered a travel trailer, such vehicle must be designed to rest on its wheels. The provisions hereof applicable to travel trailers shall also be applied to any motor vehicle, the body of which has been equipped for occupancy for recreational purposes.

Wetland: Those areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but excluding such areas that grow food or crops in connection with farming activities.

Appendix B - SIGN ORDINANCE

1.0 PURPOSE

The purpose of this bylaw is to regulate all exterior signs and all interior signs placed for exterior observance, and to prohibit the indiscriminate use of other outdoor advertising. Further, these regulations are to encourage the use of signs which:

1. are compatible with the community character;
2. are readable and clear;
3. do not impair the safety of vehicular traffic are not distracting or confusing to vehicular traffic;
4. will be maintained in good and safe repair.

2.0 DEFINITIONS

2.1 SIGNS: shall mean any structure, display, device, or representation which is designed or used to advertise, call attention to, or direct a person to any business, association, profession, community, product, institution, service, entertainment, person, place, thing, or activity of any kind whatsoever, and which is intended to be visible from a public right-of-way. This shall include signs placed in or on a window or door, which are intended to be visible from the exterior of the premises.

2.2 SIGN AREA: shall mean the entire area within a circle, triangle, or parallelogram other geometric pattern of similar character enclosing the extreme limits or writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display, or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign.

2.3 RIGHT-OF-WAY: shall mean any publicly owned space used for vehicular or pedestrian traffic, including the airspace above. When the boundary of the right-of-way is not known, it shall be assumed to be 25 feet from the center of the traveled way.

3.0 GENERAL REGULATIONS

3.1 PROHIBITED SIGNS: are signs which:

3.1.1. Advertise any activity, business, products, or service no longer produced or conducted on the premises. Such signs shall be removed by the owner within six (6) months from the date of cessation of the activity, business product, or service produced or conducted on the premises.

3.1.2. Advertise an activity, business, product, or service not located on the premises on which the sign is placed.

3.1.3. Project into or over the public right-of-way.

3.1.4. Have blinking, flashing, or fluttering lights, or other illuminating devices which have a changing light intensity, brightness, or color.

3.1.5. Contain or consist of pennants, ribbons, streamers, spinners, other moving devices, strings of light bulbs, or similar devices.

3.1.6. Contain moving parts. This shall not include time or temperature devices, provided such devices are not used primarily as advertising mediums, nor shall it include traditional rotating barber poles, or a sign hung to swing in the wind.

3.1.7. Extend above the roof line or parapet of the building to which they are attached.

3.1.8. Appear to direct the movement of traffic, or which interferes with, imitates, or resembles any official traffic, directional, or route sign, signal, or device.

3.1.9. Prevent a clear and unobstructed view of official signs, and approaching or merging traffic.

3.1.10. No sign will be erected within 25 feet of any intersection of any town or state highway, except if mounted on the exterior of a building.

3.1.11. No sign shall be erected in an FR District.

3.2 EXEMPT SIGNS: are signs which:

3.2.1. Are erected, maintained, and administered by the Town of Shaftsbury, or the State of Vermont, or the Federal Government. A permit is not required, but compliance for size, setbacks, etc. is required, unless such sign identifies a street or public facility, or is necessary for the public health and safety.

3.2.2. Are erected without advertising, displayed for the direction, instruction, or convenience of the public, including signs which identify rest rooms, freight entrances, posted areas, or the like, with an area not exceeding two square feet, provided such signs are on the premises of the activity served by the sign.

3.3 TEMPORARY SIGNS:

A person may, without obtaining a permit, display a sign or signs, provided that:

3.3.1. Signs for an event of a civic, philanthropic service or religious organization, campaign, fair, exposition, or similar events are removed upon completion.

3.3.2. Signs announcing an auction, tag or special sale, special rate, seasonal activity, or special entertainment, provided that such sign shall:

3.3.2.1.a. Not exceed eight (8) square feet.

3.3.2.2.b. Not be displayed for more than fourteen (14) days of a calendar month, nor more than sixty (60) days of a calendar year, cumulatively, for any single enterprise, regardless of the change of announcement.

3.3.3. Construction signs -- one free standing sign on the site under construction. The area shall not exceed 32 square feet, and maintain a minimum setback of ten (10) feet. The sign shall not be erected earlier than one month prior to the start of construction, nor more than 14 days after completion.

3.3.4. "For Sale" or "Rent" signs as commonly used for the sale or rent of property that does not exceed 2' x 3'.

3.3.5. Safety zone, and posted signs.

3.4 SIGNS IN RURAL RESIDENTIAL AND VILLAGE RESIDENTIAL DISTRICT:

3.4.1. For each building used for dwelling purposes -- one (1) sign not exceeding six (6) square feet in area having the name of the owner or occupant.

3.4.2. For other than dwelling purposes -- where the property has one or more occupants requiring a sign, they are permitted to have one identification sign with an area not exceeding 32 square feet for all occupants combined.

3.4.3. For home occupations -- one (1) sign not exceeding eight (8) square feet in area, if one sided, and four (4) square feet, if two sided, and a zoning permit has been obtained for the home occupation.

3.4.4. For a subdivision, one (1) sign with the name of the subdivision or housing project, not exceeding ten (10) square feet, and not exceeding six (6) feet high from the natural ground surface.

3.5 SIGNS IN VILLAGE COMMERCIAL, ROADSIDE COMMERCIAL DISTRICT:

3.5.1. In all districts designated primarily as commercial or industrial districts, signs shall be not more than 32 square feet, if one sided, and not more than 16 square feet, if two sides are used.

3.5.2. In all Village Commercial (VC), and Roadside Commercial (RC) Districts where the premises have one or more occupants requiring a sign, they are permitted to have one identification sign with an area not exceeding 32 square feet for all occupants combined.

3.5.3. For a subdivision, one (1) sign with the name of the subdivision or project, not exceeding 10 square feet, and not exceeding 6 feet high from the natural ground level.

3.6 SETBACK

3.6.1. In all districts, residential, commercial, or industrial, free standing signs shall be setback a minimum of ten (10) feet from any property line or public right-of-way.

3.6.2. Where any premises does not allow the minimum setback, by reason of proximity of building to lot lines, the sign shall be erected in such a way as to not project into or over the public right-of-way, and must receive approval from the DRB.

3.7 HEIGHT:

In all districts, residential, commercial, or industrial, free standing signs shall not exceed 10 feet in height, measured from the natural ground level to the top-most part of the sign. Exceptions to this may be granted on an individual basis, by obtaining a variance from the DRB.

3.8 LIGHTED SIGNS USING DEFLECTORS:

3.8.1. The light from any sign, or advertising lights, shall be so shaded, shielded, or directed, and shall be maintained at a sufficiently low level of intensity and brightness, that it shall not adversely affect neighboring premises, or the safety and vision of a motor vehicle operator moving on public roads or highways. All lighted signs and advertising lights shall be shaded, shielded, or directed so that they shall not reflect or shine on, or into, any residential structures.

3.8.2. Internally illuminated signs are not permitted.

4.0 STRUCTURAL REGULATIONS

4.1 MAINTENANCE REGULATIONS:

All signs and other advertising structure, together with all supports, braces, hooks, guys, and anchors, shall be kept in good repair, and shall be painted or cleaned as often as necessary to maintain a clean, neat, safe, and orderly appearance. The time period for correction of disrepair shall not exceed sixty (60) days from the date of notice.

4.2 WIND PRESSURE AND DEAD LOAD:

Any sign or advertising structure shall be designed and constructed to withstand a wind pressure load, and shall comply with all applicable building code ordinances of the Town of Shaftsbury (National Building Code, and National Electrical Code).

4.3 OBSTRUCTION TO SAFETY:

All signs shall be erected, relocated, or maintained so as to allow free ingress and egress from any door, window, or fire escape. No sign shall be attached to a stand pipe or fire escape.

5.0 NON-CONFORMING / NON-COMPLYING SIGNS

5.1. All signs and supporting structures which are non-conforming or non-complying to the provisions of this Ordinance upon the date of adoption, or as subsequently amended,

shall be brought into compliance, if the sign creates a nuisance or safety hazard in the opinion of the Administrator.

5.2. The property and/or sign owner of such signs shall be in violation of this ordinance until the sign is removed. The Town of Shaftsbury may, with thirty (30) days prior written notice to the property and sign owner, remove such signs without further notice or further proceedings, at the expense of the property and/or sign owner. The expense may be recovered by the Town in any action of this bylaw, which shall be instituted in the appropriate court having jurisdiction over this matter.

6.0 ADMINISTRATION, INTERPRETATION, AND ENFORCEMENT

6.1. This section shall be administered, interpreted, and enforced in conformity with the provision of Title 24 VSA Chapter 117, and Section 8 of the Shaftsbury Zoning Bylaws as exists or is hereafter amended. Any decision or act by the Zoning Administrator may be appealed within fifteen (15) days of such act or decision, to the DRB.

6.2. Permits, plans, fees, and inspections:

6.2.1. No sign shall be erected, altered, or relocated without a permit from the Zoning Administrator

6.2.2. Applications for signs shall be accompanied by detailed plans and specifications and any other information as the administrative authority may require.

6.2.3. Any sign may be inspected periodically by the administrative authority for compliance or other requirements of the law.

7.0 APPEALS & VARIANCES

7.1 In accordance with Title 24 VSA, Chapter 117, subsection 4468, when a variance from the provisions of a zoning regulation is the relief requested by the appellant, the DRB may grant such variances, and render a decision in favor of such appellant, if all the following facts are found by the DRB and such finding is specified in its decision:

7.2. That 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 the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;

7.3. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

7.4. That such unnecessary hardship has not been created by the appellant;

7.5. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and

7.6. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the Town Plan.

7.7. In rendering a decision in favor of an appellant under this section, the DRB may attach such conditions to such variances as it may consider necessary and appropriate under the circumstances to implement the purposes of this Bylaw and to carry out the intent of the Town Plan.

7.8. An interested person (as defined in section 4464, 24 V.S.A.) may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal with the secretary of the DRB, or the Town Clerk, if no such secretary has been elected. Within 15 days of the date of such decision or act, a copy of the notice or appeal shall be filed directly with the Zoning Administrator.

7.9. Fee on Appeal: Applications to the DRB for variance shall be accompanied by a fee as set by the Select Board.

8.0 PENALTIES

Any person who violates any of the provisions of this ordinance shall be subject to the penalties prescribed in Title 24 V.S.A. Chapter 117 as now exists or is hereafter amended.

9.0 VALIDITY

This ordinance shall supersede all previous sign ordinances and/or sections of the Zoning Bylaw dealing therewith. The invalidity of any section or provision of this ordinance, and its application to any sign, shall not invalidate any other section or provision, or application, of this ordinance.

10.0 EXEMPTIONS

Nothing in this Ordinance shall exempt any applicant for a sign permit from full compliance with all other applicable state and local laws.