ENACTMENT: These regulations are established under the authority of 24 V.S.A. Chapter 117, The Vermont Planning and Development Act, 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 and online at http://legislature.vermont.gov/statutes/chapter/24/117.

PURPOSE: This Bylaw is in accordance with a comprehensive municipal plan and is intended to support implementation of the goals set forth in 24 V.S.A. Section 4302, to encourage the most appropriate use of land throughout the Town of Shaftsbury and to promote future growth in an orderly manner. This Bylaw is further intended to promote the health, safety, and welfare of residents, to support economic prosperity, and to protect environmental quality, by allowing for reasonable use of property while preserving community and property values.

SECTION 1 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 43,560 square feet.

Active Floor Area: The floor area of a building that is open to the public and directly and readily accessible and frequently utilized in support of the retail store and personal service establishment.

Aerobic composting: Composting in the presence of an adequate supply of oxygen.

Animal Mortality: Animal carcasses and body parts not intended for human consumption. Animal mortality does not include food scraps.

Area of Special Flood Hazard: Synonymous in meaning with the phrase "special flood hazard area" for the purposes of these regulations.

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.

Backyard composting facility: A composting facility processing a total feedstock of less than 100 cubic yards/year.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the "100-year flood").

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

Baseline composting facility / baseline system: A simple open-windrow industrial composting facility that is run according to procedures prescribed by the Vermont Agency of Natural Resources.

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 breakfast. 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.

BFE: See Base Flood Elevation.

Bottle Club: A commercial establishment where patrons or members congregate socially, which permits the consumption of alcoholic beverages not purchased on the premises, and which 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, flagpole, or satellite dish.

Building, Accessory: A structure that is 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

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 total 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 float 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 not used as a primary or secondary residence, but used occasionally or seasonally for a temporary shelter in connection with a recreational activity.

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 vacation or recreation 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 telecommunication 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.

Channel: An area that contains continuously or periodic flowing water that is confined by banks and a streambed.

Channel width (or bankfull width): The width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.

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 and includes room and board, plus additional personal services and supervision for the residents' protection. Five community care home residents shall constitute one family unit.

Compost: A stable humus-like material produced by the controlled biological decomposition of organic matter through active management. The organic matter shall not include sewage, septage, or materials derived from sewage or septage.

Composting Facility: A facility for reducing various organic materials to a stable humus-rich material. The facility may use either aerobic or anaerobic processes.

Conditional Use: Certain uses which may be permitted in any district only by approval of the DRB upon a determination that the general and specific standards enumerated in this Bylaw are satisfied.

Critical Facilities: Includes police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

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.

Development: The division of a parcel into two or more parcels, the construction, reconstruction, conversion, relocation, or enlargement of any building or other structure, the construction of

roads, utilities, and any site improvements; any mining, or any change in the use of any building, structure, or land, or extension of use of land.

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, Multifamily: 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.

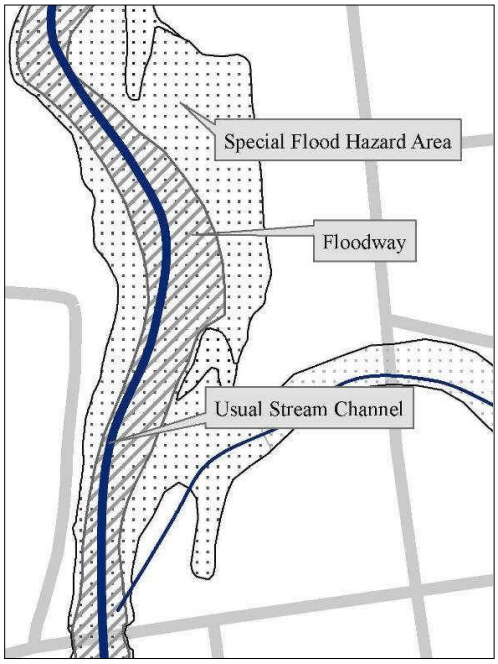
Farm Structure: A building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, including a silo, but excluding a dwelling for human habitation.

FCC: Federal Communication Commission.

Fill: Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

FIRM: See Flood Insurance Rate Map.

Flood: (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.



Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).Flood Insurance Study: An examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

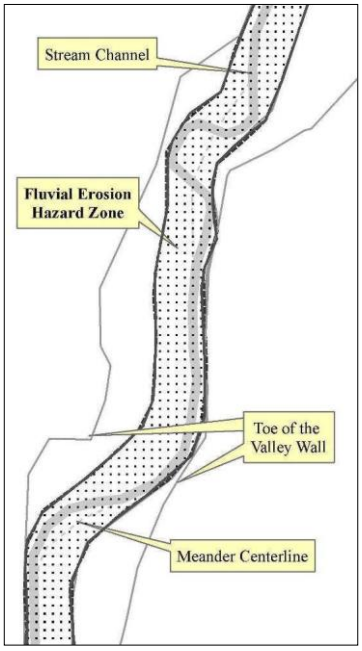
Floodplain or flood-prone area: Any land area susceptible to being inundated by water from any source (see definition of “flood”).

Flood proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on separate map panels.

Fluvial Erosion: Erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

Fluvial Erosion Hazard Zone: Includes the stream and adjacent lands necessary to accommodate the slope and plan form requirements of a geomorphically stable channel, and is subject to fluvial erosion as defined by the Vermont Agency of Natural Resources and delineated on the current Fluvial Erosion Hazard Zone Map.



Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Food-waste derived compost: Compost created using more than 1% food waste.

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.

Historic Structure: Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on the inventory of historic resources contained in the Shaftsbury Town Plan.

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. Specific criteria are listed separately for each land use district.

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 room is not a dwelling unit.

Industrial composting: Registered or certified composting operations regulated by the Agency of Natural Resources where more than half of the feed stock is obtained from off-site sources.

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

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.

Leachate: Liquid containing dissolved, suspended, or miscible materials that passes through or emerges from solid waste.

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

Letter of Map Amendment (LOMA): A letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a licensed engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

Licensed Design Professional: An architect, landscape architect, land surveyor, engineer, or similar professional licensed to practice by the State of Vermont Office of Professional Regulation.

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, mixed use, 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 toward 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, MinimumWidth of: The narrowest portion of a lot, as measured from side lot line to side lot line.

Lowest floor: The lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured home (or Mobile home): A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle". 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, or aircraft. The chassis, cab, or detached body of a motor vehicle shall be considered an entire vehicle.

New construction: For regulation under the Flood Hazard Area Regulations of this Bylaw, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the community (March 3, 2015) and includes any subsequent improvements to such structures.

Nonconforming structure: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Zoning Administrator. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

Nonconforming use: Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Zoning Administrator.

Nonconformity: A nonconforming use, structure, lot, or parcel.

Non-residential: Includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

Nuisance: An annoying, unpleasant, or obnoxious noise, odor, thing, or practice.

Nuisance impacts: Impacts that are likely to be offensive to a typical observer.

On-farm composting: composting which, under the authority of the Agency of Agriculture Food and Markets, is regarded as an Accepted Agricultural Practice.

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 offsite.

Public Building: Public buildings shall mean churches, courthouses, jails, municipal, state, or federal buildings, railroad stations, school buildings, 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.

PublicWater 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."

Recreational vehicle: A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; (d) not attached to permanent water and sewer services, and (e) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Required Agricultural Practices (AAP): The base level of management required for all farms in Vermont as defined by the Secretary of Agriculture, Food and Markets in accordance with Chapter 215: 6 V.S.A. § 4810. Procedures for the construction of farm structures are described in 4.07.

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 SolidWaste 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.

Special Flood Hazard Area: The floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AE, AO, AH, or A1-30 in the most current flood insurance studies and

on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

Start of construction: For purposes of the Flood Hazard Area Regulations of this Bylaw, the "start of construction" means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Street: A town or state highway shown on the Vermont Agency of Transportation General Highway Map for the Town of Shaftsbury, a privately owned vehicle right-of-way, or a 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 damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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.

Top of Bank: That vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

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.

Vermicomposting: A method of composting utilizing red worms or similar worms to break down organic material into a humus-like material.

Violation: The failure of a structure or other development or use to be fully compliant with this bylaw. For the purposes of the Flood Hazard Area Regulations of this Byaw, a structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

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.

Yard, Front: An open space between the building and the front lot line, extending the full length of the lot, or in the case of a corner lot, extending along all streets.

Yard, Rear: An open space between the building and the rear lot line, extending the full length of the lot.

Yard, Side: An open space between the building and a side lot line, extending the full length of the lot.

Yard, Measurement: Requirements for minimum yard depth are measured perpendicularly from the subject building or structure to the respective lot lines.

SECTION 2 ZONING DISTRICTS

2.1 Division into Districts

The Town is divided into the following Zoning Districts designated by the abbreviations in the following table. Separate classes of districts within the same Zoning District shall be:

a) Designated by a numerical suffix;
b) Subject to the regulations applying to the entire Zoning District, except as specifically differentiated in the Bylaw;
c) Subject to the dimensional requirements applicable to the district and class as set forth in the Bylaw.

Zoning District	Classes
Rural	R-40, R-80, R-200
Forest and Recreation	FR
Village	
Village Residential	VR
Village Center	VC-1 and VC-2
Roadside Commercial	RC
Commercial-Industrial	CI
Industrial	I-1 and I-2

2.2 Zoning Map

2.2.1 The boundaries of the zoning districts are as shown on the Zoning Map of the Town of Shaftsbury, adopted as part of this bylaw and filed with the Town Clerk. A full-scale copy of the zoning map is available at the office of the Shaftsbury Zoning Administrator.

2.2.2 Interpretation of the Zoning 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 decision made to the Development Review Board. The following factors shall guide resolution of any such questions:

a) Boundaries indicated as approximately following the center lines of roads, streams, or transportation and utility rights-of-way shall be construed to follow such center lines.
b) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
c) Boundaries indicated as following shorelines shall be construed as lying at the normal mean water level.
d) Boundaries indicated as parallel to or extensions of any feature noted in 2.2.2 a-c, above, shall be so construed.

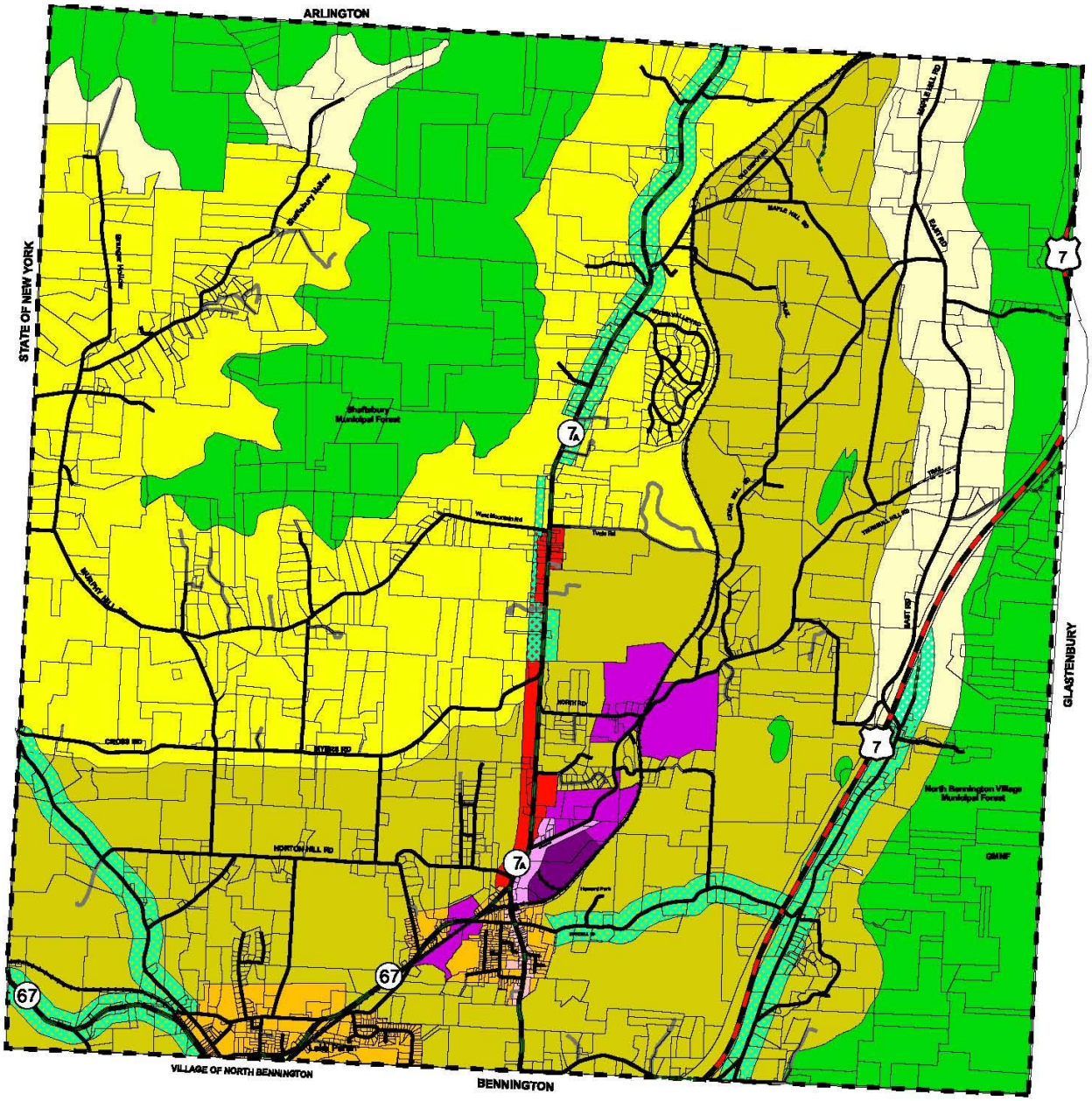
e) Boundaries along topographic contour lines shall follow the listed elevation contour for that district.
f) Where circumstances are not covered by 2.2.2 a-e, above, the Development Review Board shall interpret the district boundaries giving consideration to the Purposes of the respective districts and the intent of the Shaftsbury Town Plan.

2.3 Zoning of Streets

Zoning districts shall include the beds of streets lying within them. When opposite sides of a street lie in different districts, the boundary shall be deemed to be the center of the right-of-way (or the center of the traveled way if the right-of-way cannot be determined).

2.4 Zoning of 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.



Shaftsbury, Vermont
Proposed Zoning Map

- Recreation Overlay Zone
- Rural Residential 40 (1 Acre)
- Rural Residential 80 (2 Acres)
- Rural Residential 200 (5 Acres)
- Village Residential
- Roadside Commercial
- Village Center
- Industrial
- Industrial 2
- Commercial Industrial
- Forest and Recreational

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Map produced November 3, 2016 by
Bennington County Regional Commission
111 South Street, Suite 203
Bennington, VT 05201

SECTION 3 GENERAL REGULATIONS

3.1 Compliance with Bylaws

3.1.1 The application of these regulations is subject to the provisions of 24 V.S.A. Sections 4410-4427. 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, or altered except in conformity with these Regulations.

3.1.2 Except as otherwise specifically provided in these Regulations or as approved by the Development Review Board, any permitted building or permitted use may be located in that portion of the lot not contained in any required front, side, or rear yard.

3.1.3 No lot shall be diminished, nor shall any yard or other open space be reduced, except in conformity with these Regulations.

3.1.4 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.

3.1.5 Nothing contained in these Regulations shall require any change in the plans, construction, or designated use of a building complying with local laws in force prior to these Regulations, 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 these Regulations.

3.2 Dimensional Requirements

3.2.1 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.

3.2.2 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.

3.2.3 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.

3.2.4 No building in any district shall exceed the height applicable to the district except for transfer station buildings governed by Section 7.11, spires, cupolas, chimneys, 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, rooftop solar collectors less than 10 feet high, or wind turbines with blades less than 20 feet in diameter provided the height of the wind turning structure does not exceed the distance between the base of said structure and the nearest property line.

3.2.5 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.

3.2.6 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).

3.2.7 No fence, wall, hedge, shrubbery, or other object 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 when so locating said object would obstruct vision for motor vehicle operators, bicyclists, or pedestrians.

3.2.8 If more than one dwelling, other than an accessory dwelling as defined in these Regulations, 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 these Regulations. Upon such construction or placement the applicant shall provide a Site Development Plan (Section 3.6) 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.

3.2.9 The minimum lot area is required for each principal use and/or dwelling unit on a lot, except as provided for in the Village Center District (Section 6.3.4), and home occupations, accessory dwelling units, and family child care facilities serving six or fewer children do not require additional lot area. For example, a single-family home in the RC District with an accessory dwelling unit and a home occupation would require 40,000 square feet of lot area. If a professional office use were added (within the existing building or in a new principal building), an additional 40,000 square feet of lot area would be required.

3.3 Use Regulations

3.3.1 Any change of use of an industrial or commercial occupancy that substantially modifies any aspect of the site plan or any standard contained in Section 3.5 shall require DRB approval. In addition, the conversion or change in use of land, existing buildings, or other structures to another use is subject to the provisions of these Regulations as follows:

a) The proposed use shall be subject to all the requirements of these regulations pertaining to such use, including but not limited to district, access, and/or parking requirements, as well as any other applicable municipal, state or federal regulations currently in effect.
b) An accessory structure such as a garage or barn may be converted to a principal use allowed within the district in which it is located only if the structure meets the lot size, setback, parking, and other requirements applicable to the proposed use.

c) Changes or conversions involving nonconformities also are subject to and will be reviewed under Section 7.1.

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 or conditionally permitted use in the district in which it is located.

If an application is submitted for a use not specifically identified herein as a permitted or conditionally permitted use, the Development Review Board will review the proposed use to determine if its impacts are substantially similar to a permitted or conditionally permitted use, in which case it shall be reviewed accordingly. If the proposed use and its impacts are determined by the DRB to not be substantially similar to a permitted or conditionally permitted use, it shall not be considered to be a use allowed pursuant to these regulations.

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 these Regulations, 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 R, RC, C-I, 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 Conditional Use Regulations

A conditional use may be approved by the Development Review Board only after a public hearing, provided the Board shall have found that such use is in conformance with other provisions of plans, ordinances, regulations, and bylaws of the Town, and will conform to the following general and specific standards:

3.4.1 The proposed use shall not adversely affect the character of the area, as defined by the purpose of the zoning district in which the project is located and relevant policies and standards of the Town Plan, as well as the following performance standards:

a. Air Quality: The proposed use will not have an undue adverse affect on ambient air quality. Consideration shall be given to types and quantities of air emissions, including odors, fumes, gasses, dust, smoke, and other particulate emissions, and measures shall be taken to ensure that construction activities do not degrade off-site air quality.
b. Noise: Site generated noise shall not exceed 70 dBA (measured on a one hour LEQ) at the property line in Rural and Village zones and 75 dBA (measured on a one 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.
c. Soil and Water Resources: Measures shall be taken to ensure that the proposed use does not adversely affect surface or subsurface water resources, including flood plains, wetlands, streams, ponds, and ground water. Particular attention shall be paid to proper storage, treatment, and disposal of waste products and stormwater runoff, as well as proper installation and maintenance of above ground and underground storage tanks, and to the use, storage, transportation, treatment, and disposal of hazardous materials. Measures shall be taken to prevent soil erosion during and after construction.
d. Natural Landscape: The natural landscape and terrain shall be preserved to the greatest extent possible. Consideration shall be given to retention of natural vegetation, use of appropriate landscaping, and to protection of biological, geological, and hydrological resources on the site and on adjacent properties.
e. Aesthetic Characteristics: Visual impacts associated with the siting of buildings, paved areas, open spaces, landscaping, and accessory site structures and lighting shall be reviewed. Consideration shall be given to the compatibility and preservation of historic sites and structures.
f. No fire, explosive, or other safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities.
g. Odors emitted shall not offend the sensibilities of an average person, as described in Section 9.11 of these Regulations.

3.4.2 The proposed use shall not adversely affect the capacity of existing or planned community facilities including the following performance standards:

a. Water Resources: Consideration shall be given to the short and long term adequacy of water resources to serve the proposed use. The proposed use shall not adversely impact any existing water supply source, system, or facility. A written statement shall be obtained from the Water Board if utilization of the municipal

water system is anticipated, indicating whether the proposed use can be adequately served and that there will be sufficient water supply and pressure for personal/business, and fire fighting use.

b. Sanitary and Solid Waste: Sanitary/sewage and solid waste generation, treatment, storage, collection, transporting, and disposal for proposed uses shall comply with all applicable municipal, state, and federal regulations. Debris and waste resulting from construction and site development shall be disposed of properly. Consideration shall be given to the prevention of health hazards, unsanitary conditions, water and soil contamination, and the adequacy of storage, treatment, and disposal facilities. Any hazardous waste materials that may be generated shall be identified and methods of storage, treatment, transportation, and disposal documented. Waste reduction, recycling, and reuse shall be encouraged.

c. Storm Water: Consideration shall be given to storm water management. Impacts on the existing drainage system, natural streams and drainage ways, and other surface and subsurface waters shall be addressed and specific recommendations for alleviation of potential problems shall be provided.

d. Energy Resources: The visual impact of utility poles, lines, and other equipment shall be minimized to the extent possible. Methods of minimizing adverse impacts and preservation of the natural terrain and landscape, such as underground services, shall be considered. Energy conservation and utilization of renewable energy resources are encouraged.

e. Other Municipal Services: The development will ensure that public services such as police and fire protection, emergency rescue, public transportation, and road maintenance are not hindered and can safely access the site. The proposed use shall not adversely affect traffic on roads and highways in the vicinity of the development.

f. Traffic Congestion and Safety: The proposed use shall not cause unreasonable congestion or unsafe conditions on public or private roadways. Consideration shall be given to design of streets, driveways, sidewalks, bike paths, intersections, pedestrian crossings, and parking and loading facilities. Estimates of vehicle trip generation and turning movements may be required to assist in the evaluation of impacts.

g. Access Management: Site planning shall utilize appropriate access management techniques to maintain safe and efficient vehicle and pedestrian movements. Such techniques may include:

- Limiting the number, width, spacing, and alignment of curb cuts (which may involve closing or relocating existing curb cuts);
- Requiring connections between adjacent lots for both vehicles and pedestrians;
- Restricting parking to the side or rear of buildings;

- Constructing sidewalks from the public right-of-way to storefronts;
- Providing safe access routes for bicycles and racks for bicycle storage;
- Requiring submission of master plans to account for future parking and access needs;
- Requiring access drives to intersect existing side roads or new subdivision or service roads;
- Planning for roadway connections between adjacent developments and discouraging dead-end roads.

In granting a conditional use, the Development Review Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this Bylaw and the zoning district in which the development is located. The Development Review Board may conduct a conditional use review and a site plan review at the same hearing and shall act to approve or disapprove any requested conditional use within 45 days after the date of adjournment of the final public hearing held on the application.

3.5 Site Plan Review

The Development Review Board shall review and approve Site Development Plans and Applications as prerequisite to the approval of the flowing uses:

1. Uses that are subject to Site Development Plan Review under Sections 4 through 7 of this Bylaw.
2. Uses that are subject to Conditional Use Approval in all zoning districts.

In reviewing site development plans, the DRB may impose appropriate conditions and safeguards with respect to the adequacy of parking, traffic congestion and safety (refer to Section 3.4.2(f) and (g)), circulation for pedestrians and vehicles, the natural landscape and aesthetic characteristics (refer to Section 3.4.2(d) and (e)), stormwater management (refer to Section 3.4.2(c)), landscaping and screening, protecting the utilization of renewable energy resources, exterior lighting, and the size, location and design of signs.

The DRB shall act to approve, approve with conditions, or disapprove any such application for site plan review within 45 days of the adjournment of the public hearing. The DRB may combine a site plan review with a conditional use review for applications requiring both approvals.

3.5.1 Application Requirements: The Zoning Administrator shall determine that a complete application consisting of the following materials has been submitted prior to accepting the application for consideration by the Development Review Board:

- Completed application form;
- Description of the proposed project;
- Site plan as prescribed below;

- Any additional information deemed necessary to allow for a complete review by the DRB.

3.5.2 Site Plan Requirements: A site plan, drawn* to a scale adequate to reflect the particular site characteristics, and showing the following, unless waived by the Zoning Administrator or Development Review Board:

a. Name and address of the owner(s) of record of the property; name and address of the applicant (if different); and the date of the application and related plans.
b. Boundaries, dimensions, and the total area of the lot drawn to a scale adequate to reflect the particular site characteristics.
c. North Arrow.
d. Existing and proposed buildings and improvements including dimensions and distances to property lines and buildings within 200 feet of the subject lot.
e. Existing and proposed vehicular circulation including roads, driveways, parking, loading zones, refuse and recycling container sites, and entrances to public rights-of-way on and within 200 feet of the subject lot.
f. Existing and proposed landscaping, including specimen tress and artificial planters, and open space.
g. Existing and proposed pedestrian and bicycling amenities.
h. Existing and proposed easements, rights-of-way, and other encumbrances on the land.
i. Existing and proposed exterior lighting, both freestanding and building-mounted.
j. Existing and proposed grading and contours.
k. Existing storm water drainage patterns and facilities, and proposed provisions for erosion control and storm water management.
l. Location for existing and proposed water supply and wastewater disposal systems.
m. Copies of all required state permits and licenses required for the proposed project.
n. Written comments for required municipal services, when applicable, including water, police, fire, emergency, education, and highway.

* The site plan shall be prepared by a licensed design professional unless all of the following conditions are met: the application is for a project that is primarily a change of use with no or minimal new construction or building renovation; there are no or minimal changes to parking areas and vehicle access drives; and there is no or minimal site grading proposed and thus no change to stormwater management.

3.6 Existing small lots

Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw, provided:

a) The lot is not less than one-eighth acre in area;

b) The lot has a width or depth dimension of not less than 40 feet;
c) Any reduction in required front, side, or rear yards has been approved by the Development Review Board.

If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

a) The lots are conveyed in their preexisting, nonconforming configuration.
b) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
c) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
d) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

3.7 Agricultural and Silvicultural Practices

In accordance with Section 24 V.S.A. Section 4413, nothing contained in these Regulations shall restrict required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation.

For purposes of this section, "farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

A person shall notify the Zoning Administrator of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required. In the Special Flood Hazard Area, only farm structures that are recognized by the Secretary of Agriculture, Food and Markets as being compliant with required agricultural practices do not require a permit.

SECTION 4 RURAL DISTRICTS

4.1 Purpose: The Rural Districts are intended to ensure the preservation of the natural and scenic qualities of areas that are planned to support farming, forestry, other natural resource based land uses, and residential development at densities consistent with maintaining that rural character while avoiding the need for municipal water supply or wastewater disposal systems. The regulations are further intended to prevent undue sprawling development patterns, to

maintain environmental quality and scenic resources, to encourage the preservation of important open space areas, and to provide sufficient land for future growth in the community.

4.2 Rural Districts (R)

The Rural Districts include the R-40, R-80, and R-200 Districts. The permitted and conditionally permitted uses are the same in each district, while the separate dimensional requirements for each are included in Section 4.2.4.

4.2.1 Permitted Uses in the Rural Districts – No Site Plan Review Required

a. One and two family dwellings.
b. A family child care facility serving six or fewer children.
c. A community care home or group home serving not more than eight persons with a disability.
d. Structures customarily accessory to a permitted residential use of property such as buildings for housing automobiles, equipment, or supplies, family gardens, swimming pools (refer to Section 8.7 for specific requirements), satellite antennas, and solar panels.
e. One accessory dwelling unit per lot that contains a single one family dwelling unit; the floor area of the accessory dwelling unit shall be no larger than 50 percent of the size of the primary dwelling unit on the lot. No additional lot area is required for a permitted accessory dwelling unit. The accessory dwelling unit may be located within the primary residential building or in a new or existing accessory structure, provided all applicable dimensional requirements are satisfied. The accessory dwelling unit is subject to all applicable water supply and wastewater disposal permitting and requirements.
f. Farming, dairying, pasturage, and raising poultry and other animals. Slaughter of poultry and other animals raised on the premises or for private consumption on the premises shall be permitted.
g. Forestry carried on for research, demonstration, education, commercial timber production, and related uses.

4.2.2 Permitted Uses in the Rural Districts Requiring Site Plan Review

a. Places of worship, convents, parish houses, and other religious sites.
b. Cemeteries.
c. Community center, library, museum, lodge, club, park or playground operated by a governmental unit or nonprofit organization.
d. Public and private hospitals and nursing homes.
e. Public and private schools and other educational institutions certified by the Vermont Department of Education.
f. One home occupation per lot is permitted, provided the use is carried on by a resident of the premises, the use does not change the residential character of the property, nor does

the use have an undue adverse effect on the character of the surrounding area or neighborhood. A home occupation must conform to the following criteria:

i. The use is carried on within an existing primary or accessory building, except for outdoor storage as described below.
ii. The use is conducted by one or more residents of the subject lot and not more than two employees who do not reside on the lot.
iii. The home occupation is clearly secondary to the use of the property for dwelling purposes, and the amount of space utilized for the home occupation shall not exceed 500 square feet within the primary dwelling, but may include the use of existing accessory buildings. The total area occupied by the home occupation, including interior space and any exterior storage, shall not exceed 1,500 square feet. No building or storage area used for the home occupation shall encroach upon required setbacks.
iv. Exterior displays other than a permitted sign, and any modifications altering the residential character of the building or lot, are not permitted.
v. No outdoor storage of equipment or materials are allowed, except:
    - Contractor's equipment (including vehicles) may be stored on the premises if adequately screened from public rights-of-way and adjoining properties.
    - Farm equipment that is used as part of an on-site agricultural use is allowed, and is not subject to home occupation requirements.
vi. Retail sales are allowed only for articles created on-site unless otherwise approved by the DRB.
vii. Parking shall conform to the requirements of Section 8.3.
viii. Signs must comply with Section 3.4.3 of the Sign Ordinance.

4.2.3 Uses in the Rural Districts Requiring Both Site Plan and Conditional Use Review

a. Bed and Breakfast Inns.
b. State or municipally owned and operated buildings or facilities.
c. Veterinary hospitals and accessory uses customarily incidental to such veterinary hospitals. **Note**: A veterinary hospital in the R-40 District must conform to the dimension requirements specified in Section 4.2.4 for the R-80 District.
d. Adaptive reuse of existing transient lodging properties, constructed prior to the year 2000, that front on Route 7A to one, two, or multifamily dwellings.
    i. The maximum number of dwelling units permitted in said buildings shall be determined by the number of units allowed pursuant to approved and valid (as of January 1, 2011) Vermont state permits for water supply and wastewater disposal issued by the Vermont Department of Environmental Conservation and not by the dimensional requirements otherwise applicable to this district.

ii. Existing buildings or portions thereof shall be exempt from setback (minimum yard) requirements and from any requirements for separation distances between buildings. The DRB may waive or modify other dimensional requirements, at its discretion, to achieve an efficient and attractive residential development. All new construction shall comply with setback requirements.

iii. 10% of the total number of units, rounded up to the nearest whole unit, or a minimum of one unit, whichever is greater, shall be legally defined and protected as "affordable," consistent with the current Vermont Housing Finance Agency (VHFA) income limits and purchase price limits for Bennington County. All units designated as affordable, whether offered as an ownership or rental housing option, shall include all relevant costs as defined in VHFA guidelines. Prior to the issuance of any permits under this bylaw, the applicant must demonstrate to the DRB the legal and binding mechanism which will be put in place to affirm compliance with this affordability provision. Prior to the issuance of any Certificate of Occupancy associated with the project, the applicant must demonstrate and affirm the affordable housing protections are in place.

e. Public and commercial recreational uses, including:

- Archery clubs
- Golf courses and driving ranges
- Cross country skiing and snowshoeing centers
- Athletic fields for team sports
- Swimming clubs
- Ice skating rinks
- Sledding facilities
- Equestrian clubs
- Tennis clubs
- Nature centers

All such uses shall be subject to the following criteria:

i. The vehicular access to such use shall be located within the area delineated on the Zoning Map as the Recreation Area Access Overlay Zone and must be along, or within 300 feet of, the paved portion of a public roadway.

ii. Serving and consumption of food, beverages, and other refreshments served on the premises shall be clearly incidental to the recreational use.

iii. Operation and sue of the facility shall be restricted to daylight hours.

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

v. Any recreational use not specifically listed in this section is prohibited.

vi. Where the recreational use borders and residential property, a fifty (50) foot landscaped buffer zone or berm shall be provided within the one hundred foot setback (yard).

vii. The following dimensional requirements apply to any of the public and commercial recreational uses identified in this section (4.2.3.e).

Minimum Lot Area	20 acres *
Minimum Lot Width	300 feet
Minimum Front Yard	100 feet
Minimum Side Yard	100 Feet
Minimum Rear Yard	100 feet
Maximum Building Height	30 feet
Minimum Frontage on a Public Highway	300 feet
Maximum Lot Coverage – percent of land covered by buildings, parking, and other improved surfaces	3.00%
* May include land in the Rural and an adjacent district.	

4.2.4 Rural District Dimensional Requirements

DISTRICT ➔	R-40	R-80	R-200
Minimum Lot Area per Dwelling Unit or Principal Use *	40,000 square feet	80,0000 square feet	200,000 square feet
Minimum Lot Width	150 feet	150 feet	300 feet
Minimum Front Yard	30 feet	30 feet	100 feet
Minimum Side Yard	25 feet	25 feet	100 feet
Minimum Rear Yard	25 feet	50 feet	100 feet
Maximum Building Height	30 feet	30 feet	30 feet
Maximum Building Coverage	10 percent	10 percent	10 percent
Minimum Frontage on Public Right-of-Way	150 feet	150 feet	300 feet

* For new subdivisions within the Rural Districts, the minimum lot area per dwelling unit applies to the overall density of the parcel to be subdivided, subject to other provisions of these Land Use Regulations, including the Subdivision Regulations. The minimum lot area for individual lots may be reduced to not less than 20,000 square feet in any R District provided the new lot boundaries follow natural or historic features of the landscape (e.g., stream, stone wall, tree line) and that the total allowable density for the parcel being subdivided is not exceeded. For dimensional requirements in an open space subdivision, refer to Section 6.0 of the Subdivision Regulations.

Example: In the R-80 District, a 400,000 square foot parcel could be subdivided into a maximum of 5 lots (notwithstanding limitations imposed by these land use regulations and any approved density bonus for an open space subdivision). One or more individual lot may be reduced in area as noted above, but the total number of lots being created (5) may not exceed the density otherwise permitted pursuant to these requirements.

SECTION 5 FOREST AND RECREATION DISTRICT

5.1 Purpose: The Forest and Recreation District is intended to provide for forestry and recreational uses and for the protection of natural resources including forests, wildlife, and surface and ground waters.

5.2 Forest and Recreation District (FR)

5.2.1 Permitted Uses in the FR District – No Site Plan Review Required

a. 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.
b. Forestry carried on for commercial timber production, maple syrup production, research, demonstration, education, or related uses.

5.2.2 Permitted Uses in the FR District – Site Plan Review Required

Commercial or non-commercial facilities supporting non-motorized low-impact dispersed recreational activities suitable to the forest environment (e.g., hiking, hunting, back country skiing, snowshoeing, etc.).

5.2.3 Wastewater Disposal in the FR District

a. 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 system, or by using a vault or pit privy (see Definitions – Appendix A). Other sewage disposal methods requiring no land discharge of effluent other than wash water may be approved for use by the Zoning Administrator.

5.2.4 Dimensional Requirements in the FR District

Minimum Lot Area	10 acres
Minimum Lot Width	300 feet
Minimum Front Yard	100 feet
Minimum Side Yard	200 Feet
Minimum Rear Yard	200 feet
Maximum Building Height	30 feet

SECTION 6 VILLAGE DISTRICTS

6.1 Purpose: The Village Districts are intended to promote compact development that accommodates a mix of uses at a scale consistent with the traditional character of South Shaftsbury. Residential uses at relatively high density are planned in and around a center that includes public service facilities as well as businesses that supply both jobs and goods and

services for local residents and visitors. The development pattern should support and encourage walking and human interaction. The density and type of development permitted should support infill development on unused or underutilized lots, expansion of existing buildings, and a diversity of uses in keeping with the social and physical character of the village area. The extent and intensity of new growth must be limited by the ability to provide services and meet environmental and public health standards.

6.2 Village Residential District (VR)

6.2.1 Permitted Uses in the VR District – No Site Plan Review Required

a. One and two family dwellings.
b. A family child care facility serving six or fewer children.
c. A community care home or group home serving not more than eight persons with a disability.
d. Structures customarily accessory to a permitted residential use of property such as buildings for housing automobiles, equipment, or supplies, family gardens, swimming pools (refer to Section 8.7 for specific requirements), satellite antennas, and solar panels.
e. One accessory dwelling unit per lot that contains a single one family dwelling unit; the floor area of the accessory dwelling unit shall be no larger than 50 percent of the size of the primary dwelling unit on the lot. No additional lot area is required for a permitted accessory dwelling unit. The accessory dwelling unit may be located within the primary residential building or in a new or existing accessory structure, provided all applicable dimensional requirements are satisfied. The accessory dwelling unit is subject to all applicable water supply and wastewater disposal permitting and requirements.

6.2.2 Home Occupations in the VR District – Site Plan Review Required

One home occupation per lot is permitted, provided the use is carried on by a resident of the premises, the use does not change the residential character of the property, nor does the use have an undue adverse effect on the character of the surrounding area or neighborhood. A home occupation must conform to the following criteria:

a. The use is carried on within an existing primary or accessory building, except for outdoor storage as described in 6.2.2(e).
b. The use is conducted by one or more residents of the subject lot and not more than two residents who do not reside on the lot.
c. The home occupation is clearly secondary to the use of the property for dwelling purposes, and the amount of space utilized for the home occupation shall not exceed 500 square feet within the primary dwelling, but may include the use of existing accessory buildings. The total area occupied by the home occupation, including interior space and any exterior storage, shall not exceed 1,000 square

feet. No building or storage area used for the home occupation shall encroach upon required setbacks.

d. Exterior displays other than a permitted sign, and any modifications altering the residential character of the building or lot, are not permitted.
e. No outdoor storage of equipment or materials are allowed, except:
    i. Contractor's equipment (including vehicles) may be stored on the premises if adequately screened from public rights-of-way and adjoining properties.
    ii. Farm equipment that is used as part of an on-site agricultural use is allowed, and is not subject to home occupation requirements.
f. Retail sales are allowed only for articles created on-site unless otherwise approved by the DRB.
g. Parking shall conform to the requirements of Section 8.3.
h. Signs must comply with Section 3.4.3 of the Sign Ordinance.

6.2.3 Other Permitted Uses in the VR District Requiring Site Plan Review

a. Multifamily dwellings. Note: Minimum lot size for a multifamily dwelling is equal to 10,000 square feet per dwelling unit if a connection to public water is used and 20,000 square feet per dwelling unit if there is no connection to a public water system.
b. Places of worship, convents, parish houses, and other religious sites.
c. Cemeteries.
d. A family child care facility serving no more than six full-time and four part-time children.
e. Community centers, halls, libraries, museums, lodges, clubs, parks, or playgrounds operated by a governmental unit or a nonprofit organization.
f. State or municipally owned and operated buildings or facilities.
g. Public and private hospitals and nursing homes.
h. Public and private schools and other educational institutions certified by the Vermont Department of Education.
i. Bed and Breakfast Inns.
j. Structures accessory to uses included in this section.

6.2.4 VR District Dimensional Requirements

	For All Uses in Section 6.2.1 and 6.2.2 and for multifamily dwellings		For All Uses in Section 6.2.3 (except multifamily dwellings)
	With Connection to Public Water	No Connection to Public Water	
Minimum Lot Area per Dwelling Unit or Principal Use	10,000 square feet	20,000 square feet	80,000 square feet
Minimum Lot Width	75 feet	75 feet	200 feet
Minimum Front Yard	20 feet	20 feet	50 feet
Minimum Side Yard	10 feet	10 feet	25 feet
Minimum Rear Yard	10 feet	10 feet	25 feet
Maximum Building Height	30 feet	30 feet	30 feet
Maximum Building Coverage	40%	30%	20%
Minimum Frontage on Public Highway	75 feet	75 feet	200 feet

6.3 Village Center District

6.3.1 Permitted Uses in the VC District – No Site Plan Review Required

a. One and two family dwellings.
b. A family child care facility serving six or fewer children.
c. A community care home or group home serving not more than eight persons with a disability.
d. Structures customarily accessory to a permitted residential use of property such as buildings for housing automobiles, equipment, or supplies, family gardens, swimming pools (refer to Section 8.7 for specific requirements), satellite antennas, and solar panels.
e. One accessory dwelling unit per lot that contains a single one family dwelling unit; the floor area of the accessory dwelling unit shall be no larger than 50 percent of the size of the primary dwelling unit on the lot. No additional lot area is required for a permitted accessory dwelling unit. The accessory dwelling unit may be located within the primary residential building or in a new or existing accessory structure, provided all applicable dimensional requirements are satisfied. The accessory dwelling unit is subject to all applicable water supply and wastewater disposal permitting and requirements.
f. Customary home occupation carried on by a resident of the premises, provided the use is carried on within an existing principal or accessory building and does not involve the storage of materials outside the building. The amount of space utilized for the home occupation shall not exceed 500 square feet or one-half the floor area of the principal building on the lot, whichever is less. Retail sales are allowed only for articles created by a resident of the premises.

6.3.2 Permitted Uses in the VC District Requiring Site Plan Review

a. Multifamily dwellings.
b. Antique or gift shops.
c. Places of worship, convents, parish houses, and other religious sites.
d. Cemeteries.
e. A family child care facility serving more than six children.
f. Community centers, halls, libraries, museums, lodges, clubs, parks, or playgrounds operated by a governmental unit or a nonprofit organization.
g. State or municipally owned and operated buildings or facilities.
h. Public and private hospitals and nursing homes.
i. Public and private schools and other educational institutions certified by the Vermont Department of Education.
j. Bed and Breakfast Inns.
k. Retail service establishments such as barber shops, beauty parlors, caterers, decorators, tailors and clothing repair businesses, appliance repair businesses, laundries/dry cleaners, food warehousing, or similar establishments but not including any used deemed by the DRB as causing a nuisance.
l. Professional offices and financial institutions.
m. Structures accessory to uses included in this section.

6.3.3 Additional Conditional Permitted Uses in the VC District Requiring Site Plan Review

a. Retail stores, stands, and showrooms.
b. Mortuary and funeral establishments.
c. Restaurants.

6.3.4 VC District Dimensional Requirements

Minimum Lot Area *	10,000 square feet
Minimum Lot Width	50 feet
Minimum Front Yard	5 feet
Minimum Side Yard	10 feet
Minimum Rear Yard	10 feet
Maximum Building Height	30 feet
Maximum Building Coverage	70%
Minimum Frontage on Public Right-of-Way	50 feet
* The minimum lot area applies to each principal building on a lot. The building(s) may contain one or more dwelling units and/or other principal uses. There is no minimum lot size per dwelling or other individual use and a mix of uses may be permitted by the DRB within a single principal building without requiring additional lot area beyond the minimum requirement (i.e., 10,000 square feet per principal building). Density is constrained by water supply and wastewater disposal permit requirements.	

SECTION 7 COMMERCIAL AND INDUSTRIAL DISTRICTS

7.1 Purpose: Shaftsbury's Commercial and Industrial districts are intended to provide opportunities for business development that supports a diverse and vibrant economy while providing good jobs for residents. Development in these areas is to be carefully planned to protect neighboring properties and the environment, be compatible with the surrounding area, and reflect best practices in site design and transportation planning. Residential development in these districts, where permitted, should provide options for housing in an attractive setting that is not adversely impacted by nearby commercial or industrial uses.

7.2 Roadside Commercial District (RC)

7.2.1 Permitted Uses in the RC District – No Site Plan Review Required

a. One and two family dwellings.
b. A family child care facility serving six or fewer children.
c. A community care home or group home serving not more than eight persons with a disability.
d. Structures customarily accessory to a permitted residential use of property such as buildings for housing automobiles, equipment, or supplies, family gardens, swimming pools (refer to Section 8.7 for specific requirements), satellite antennas, and solar panels.
e. One accessory dwelling unit per lot that contains a single one family dwelling unit; the floor area of the accessory dwelling unit shall be no larger than 50 percent of the size of the primary dwelling unit on the lot. No additional lot area is required for a permitted accessory dwelling unit. The accessory dwelling unit may be located within the primary residential building or in a new or existing accessory structure, provided all applicable dimensional requirements are satisfied. The accessory dwelling unit is subject to all applicable water supply and wastewater disposal permitting and requirements.
f. Farming, dairying, pasturage, and raising poultry and other animals. Slaughter of poultry and other animals raised on the premises or for private consumption on the premises shall be permitted.
g. Forestry carried on for research, demonstration, education, commercial timber production, and related uses.

7.2.2 Home Occupations in the RC District – Site Plan Review Required

One home occupation per lot is permitted, provided the use is carried on by a resident of the premises, the use does not change the residential character of the property, nor does the use have an undue adverse effect on the character of the surrounding area or neighborhood. A home occupation must conform to the following criteria:

a. The use is carried on within an existing primary or accessory building, except for outdoor storage as described in 7.2.2(e).
b. The use is conducted by one or more residents of the subject lot and not more than two employees who do not reside on the lot.
c. The home occupation is clearly secondary to the use of the property for dwelling purposes, and the amount of space utilized for the home occupation shall not exceed 500 square feet within the primary dwelling, but may include the use of existing accessory buildings. The total area occupied by the home occupation, including interior space and any exterior storage, shall not exceed 1,500 square feet. No building or storage area used for the home occupation shall encroach upon required setbacks.
d. Exterior displays other than a permitted sign, and any modifications altering the residential character of the building or lot, are not permitted.
e. No outdoor storage of equipment or materials are allowed, except:
    i. Contractor's equipment (including vehicles) may be stored on the premises if adequately screened from public rights-of-way and adjoining properties.
    ii. Farm equipment that is used as part of an on-site agricultural use is allowed, and is not subject to home occupation requirements.
f. Retail sales are allowed only for articles created on-site unless otherwise approved by the DRB.
g. Parking shall conform to the requirements of Section 8.3.
h. Signs must comply with Section 3.4.3 of the Sign Ordinance.

7.2.3 Permitted Uses in the RC District Requiring Site Plan Review

a. Veterinary hospitals and accessory uses customarily incidental to veterinary hospitals.
b. Antique or gift shops.
c. Plant nurseries, garden supply stores, and landscaping businesses.
d. Places of worship, convents, parish houses, and other religious sites.
e. Cemeteries.
f. State or municipally owned and operated buildings or facilities.
g. Professional offices, provided that parking is located in the rear yard and safe and adequate vehicle ingress and egress is provided.
h. Motels, hotels, bed and breakfast inns, and similar lodging establishments.
i. Structures accessory to uses included in this section.
j. Restaurants.

7.2.4 Uses in the RC District Requiring Site Plan and Conditional Use Review

a. Adaptive reuse of existing transient lodging properties, constructed prior to the year 2000, that front on Route 7A to one, two, or multifamily dwellings, subject to the following conditions:

i. The maximum number of dwelling units permitted in said buildings shall be determined by the number of units allowed pursuant to approved and valid (as of January 1, 2011) Vermont state permits for water supply and wastewater disposal issued by the Vermont Department of Environmental Conservation and not by the dimensional requirements otherwise applicable to this district.

ii. Existing buildings or portions thereof shall be exempt from setback (minimum yard) requirements and from any requirements for separation distances between buildings. The DRB may waive or modify other dimensional requirements, at its discretion, to achieve an efficient and attractive residential development. All new construction shall comply with setback requirements.

iii. 10% of the total number of units, rounded up to the nearest whole unit, or a minimum of one unit, whichever is greater, shall be legally defined and protected as "affordable," consistent with the current Vermont Housing Finance Agency (VHFA) income limits and purchase price limits for Bennington County. All units designated as affordable, whether offered as an ownership or rental housing option, shall include all relevant costs as defined in VHFA guidelines. Prior to the issuance of any permits under this bylaw, the applicant must demonstrate to the DRB the legal and binding mechanism which will be put in place to affirm compliance with this affordability provision. Prior to the issuance of any Certificate of Occupancy associated with the project, the applicant must demonstrate and affirm the affordable housing protections are in place.

b. Public and commercial recreational uses, including:

- Archery clubs
- Golf courses and driving ranges
- Cross country skiing and snowshoeing centers
- Athletic fields for team sports
- Swimming clubs
- Ice skating rinks
- Sledding facilities
- Equestrian clubs
- Tennis clubs
- Nature centers

All such uses shall be subject to the following criteria:

i. The vehicular access to such use shall be located within the area delineated on the Zoning Map as the Recreation Area Access Overlay Zone and must be along, or within 300 feet of, the paved portion of a public roadway.

ii. Serving and consumption of food, beverages, and other refreshments served on the premises shall be clearly incidental to the recreational use.
iii. Operation and sue of the facility shall be restricted to daylight hours.
iv. Accessory uses customarily incidental to the principal use are permitted.
v. Any recreational use not specifically listed in this section is prohibited.
vi. Where the recreational use borders and residential property, a fifty (50) foot landscaped buffer zone or berm shall be provided within the one hundred foot setback (yard).
vii. The following dimensional requirements apply to any of the public and commercial recreational uses identified in this section (7.2.4.b).

Minimum Lot Area	20 acres *
Minimum Lot Width	300 feet
Minimum Front Yard	100 feet
Minimum Side Yard	100 Feet
Minimum Rear Yard	100 feet
Maximum Building Height	30 feet
Minimum Frontage on a Public Highway	300 feet
Maximum Lot Coverage – percent of land covered by buildings, parking, and other improved surfaces	3.00%
* May include land in the RC and an adjacent district.	

7.2.5 RC District Dimensional Requirements

	For All Uses in Sections 7.2.1 and 7.2.2	For All Uses in Sections 7.2.3 and 7.2.4
Minimum Lot Area per Dwelling Unit or Principal Use	40,000 square feet	80,000 square feet
Minimum Lot Width	200 feet	200 feet
Minimum Depth of Lot	200 feet	400 feet
Minimum Front Yard	50 feet	50 feet
Minimum Side Yard	25 feet	50 feet
Minimum Rear Yard	25 feet	50 feet
Maximum Building Coverage	15%	15%
Minimum Frontage on Public Highway	200 feet	200 feet

7.3 Commercial-Industrial District (CI)

7.3.1 Permitted Uses in the CI District Requiring Site Plan Review

a. Retail stores, stands, and showrooms.
b. Retail service establishments such as barber shops, beauty parlors, caterers, decorators, tailors and clothing repair businesses, appliance repair businesses, laundries/dry cleaners, food warehousing, or similar establishments but not including any used deemed by the DRB as causing a nuisance.
c. Mortuary and funeral establishments.
d. Professional offices and financial institutions.
e. Restaurants.
f. Motels, hotels, bed and breakfast inns, and similar lodging establishments.
g. Antique or gift shops.
h. Places of worship, convents, parish houses, and other religious sites.
i. Community centers, halls, libraries, museums, lodges, clubs, parks, or playgrounds operated by a governmental unit or a nonprofit organization.
j. State or municipally owned and operated buildings or facilities.
k. Public and private hospitals and nursing homes.
l. Public and private schools and other educational institutions certified by the Vermont Department of Education.
m. Veterinary hospitals and accessory uses customarily incidental to veterinary hospitals.
n. Structures accessory to uses included in this section.
o. Automobile gas stations and repair garages.

7.3.2 Uses in the CI District Requiring Site Plan and Conditional Use Review

a. Preparing, processing, storing, and selling concrete, paving, and other road materials and similar products.
b. Storage of sand, gravel, topsoil, and similar products.
c. Preparing, processing, storing, and selling building materials.
d. Manufacture of hand tools including those power driven, precision instruments, electrical appliances, sporting equipment, or small component parts.
e. Manufacture of ceramic, glass, plastic, and composite products.
f. Sheet metal fabrication, metal finishing, plating, and tool and die manufacture.
g. Carpentry, woodworking, and production of manufactured housing and housing components.
h. Printing, publishing, engraving, bookbinding, and graphic arts establishments.
i. Knitting and weaving of textile products.
j. Production of specialty food products.
k. Assembly and packaging of materials and manufactured products.

l. Retail sales outlet for products manufactured or assembled on site, provided that the retail sales area does not exceed 10% of the total floor area.
m. General warehousing establishments selling goods at wholesale.
n. Communications facilities.

7.3.3 CI District Dimensional Requirements

	For All Uses in Section 7.3.1	For All Uses in Sections 7.3.2
Minimum Lot Area	40,000 square feet	80,000 square feet
Minimum Lot Width	100 feet	200 feet
Minimum Front Yard	25 feet	50 feet
Minimum Side Yard	25 feet	50 feet
Minimum Rear Yard	25 feet	50 feet
Maximum Building Height	30 feet	30 feet
Maximum Building Coverage	40%	20%
Minimum Frontage on Public Highway	100 feet	200 feet

7.4 Industrial Districts (I-1 and I-2)

7.4.1 Uses in the I-1 and I-2 Districts Requiring Site Plan and Conditional Use Review

a. Storage of sand, gravel, topsoil, and similar products.
b. Preparing, processing, storing, and selling building materials.
c. Manufacture of hand tools including those power driven, precision instruments, electrical appliances, sporting equipment, or small component parts.
d. Manufacture of ceramic, glass, plastic, and composite products.
e. Sheet metal fabrication, metal finishing, plating, and tool and die manufacture.
f. Carpentry, woodworking, and production of manufactured housing and housing components.
g. Printing, publishing, engraving, bookbinding, and graphic arts establishments.
h. Knitting and weaving of textile products.
i. Production of specialty food products.
j. Assembly and packaging of materials and manufactured products.
k. Retail sales outlet for products manufactured or assembled on site, provided that the retail sales area does not exceed 10% of the total floor area.
l. General warehousing establishments selling goods at wholesale.
m. Communications facilities.
n. Solid waste management facilities (refer to Sections 8.9 and 8.10).
o. Industrial composting facilities (refer to Section 8.11).
p. Hazardous waste management facilities (refer to Section 8.12).
q. Automobile salvage yards, subject to all applicable State requirements.

7.4.2 Additional Use in the I-1 District Requiring Site Plan and Conditional Use Review

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

7.4.3 I Districts (I-1 and I-2) Dimensional Requirements

	For All Uses in Sections 7.4.1 and 7.4.2
Minimum Lot Area	80,000 square feet
Minimum Lot Width	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 Frontage on Public Highway	200 feet

SECTION 8 SPECIAL REGULATIONS

8.1 Nonconformities

8.1.1 Nonconforming Uses

a. Any use of a structure or land lawfully in existence as of the effective date of these regulations, which does not conform to the uses allowed for the zoning district in which it is located, shall be considered a nonconforming use. Nonconforming uses may be continued indefinitely, but are subject to the following provisions:
   i. No nonconforming use may be changed, except to a conforming use or 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. A nonconforming use shall not, if once changed into a conforming use, be changed back again into a nonconforming use.
   ii. 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 in districts where it is permitted.
   iii. No nonconforming use of a building or lot which has been discontinued or abandoned for a period of one year shall thereafter be resumed.

iv. 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.

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

8.1.2 Nonconforming Structures

a. Any structure lawfully in existence as of the effective date of these regulations, which is not in compliance with the provisions of these regulations regarding lot size, density, height, setbacks, or other dimensional requirements for the district in which it is located, or any other requirement of these regulations, shall be considered a noncomplying structure. A noncomplying structure may be continued indefinitely, but shall be subject to the following provisions:

i. A noncomplying structure may undergo normal maintenance and repair without a permit provided that such maintenance and repair does not result in an enlargement or alteration that would increase the degree of noncompliance.

ii. A noncomplying structure shall not be moved, enlarged, or substantially altered unless the relocation, enlargement, or alteration complies with the all the regulations, including use regulations, for the district in which it is located, or unless the Development Review Board approves a Waiver (Section 9.6) or Variance (Section 9.8) for the modification.

iii. A noncomplying structure may be repaired, restored, or reconstructed after damage from any cause, provided that the repair, restoration, or reconstruction occurs within one year after such damage occurred and does not increase the degree of noncompliance which existed prior to the damage.

8.2 Resource Protection

8.2.1 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 shoreline of any natural or artificial pond or lake, except with approval of the Development Review Board as a conditional use. Application for such approval shall be submitted to the Development Review Board with such surveys, maps, and other data, as the Development Review Board 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.

8.2.2 Water Supply Source Protection Area

No development which would create a possible source of contamination shall be allowed within the source protection areas or in any area that could adversely affect the reservoirs and water treatment facilities of the North Bennington Water Department.

8.2.3 Wetlands

Any development that may impact a class 1 or 2 wetland shall be referred to Wetlands Program of the Vermont Agency of Natural Resources Watershed Management Division, and any comments received shall be considered prior to a decision on the zoning permit application by the Zoning Administrator or the Development Review Board.

8.2.4 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 suggestions by the Historical Society shall be forwarded to the applicant for their consideration.

8.3 Parking

8.3.1 Purpose

These regulations are designed to require adequate off-street parking, while protecting and preserving adjacent properties and uses; promote traffic safety; protect the capacity of highways and roads to conduct traffic smoothly and efficiently; establish attractive, screened parking areas; encourage greater reliance on pedestrian foot traffic; encourage shared parking and consolidated curb cuts; and to encourage rear-yard parking.

8.3.2 General Regulations

a. All new structures shall provide parking in conformity with these regulations. Any increase in active floor area in an existing building, or any enlargement or addition to an existing building, shall require conforming parking for the entire property.

b. 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.

c. Specific existing businesses which have been permitted under the Land Use Regulations 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.

d. Changes of Use:

i. If the new use involves no increase in active floor area and the existing use which has been permitted under the Land Use Regulations or which pre-exists those regulations did not provide the required number of parking spaces, then the proposed use need not provide additional spaces, as long as the new use does not require more spaces than the existing use did.

ii. If the new use involves an increase in active floor area, additional parking shall be provided for any such enlargement, addition, new structure, or increase in active floor area.

e. Location of Parking Spaces: Required parking spaces shall be on the same lot as the building or use they serve, unless off-site or shared parking arrangements as described in Section 8.3.2 (f) or (g), below, are approved by the Development Review Board.

Parking for commercial and industrial uses, and for multi-family housing, shall be located in the side and rear yards, to the extent feasible based on site conditions and the location of buildings on the subject and adjacent lots.

f. Parking Requirements in the Village Center (VC) District: The Development Review Board may reduce the number of required parking spaces consistent with anticipated actual demand if it determines that a significant number of customers and/or employees may reasonably be expected to make use of a municipal/public parking lot located within or adjacent to the VC District, or if it determines that a significant number of customers and/or employees can reasonably be expected to arrive on bicycle or foot.

g. Shared Parking Facilities:

i. Parking spaces for one use shall not counted for any other use. However, the Development Review Board 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.

ii. 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 Development Review Board 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.

h. Truck Loading and Bus/RV Parking Spaces

i. 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.

ii. These required loading zones shall be located so as to minimize impacts upon adjoining residential properties and uses.

i. 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:

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

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

iii. 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. Storm water shall be managed consistent with state law and accepted practices for low impact development.

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

v. 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.

vi. Lights used to illuminate parking areas and drives shall be the minimum necessary for safety and security, and shall be arranged and designed to deflect light downward and away from adjacent properties and public highways. Shielded and/or cut-off fixtures shall be used. All parking lights shall be extinguished by 10:00 pm or within one hour of the end of business hours, whichever is later, and remain extinguished until one hour before the commencement of business hours. For reasons of security, a maximum of 20% of the total lights used for parking lot illumination may remain in operation during such period.

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

viii. Parking and loading spaces (with exceptions only as specifically approved by the Development Review Board) for commercial, industrial, or multifamily housing shall be designed so as to prevent and prohibit backing of vehicles onto any street or highway.

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

x. Curb cuts shall be kept to a functional minimum width, consistent with state and standard and the Shaftsbury Highway Access Ordinance.

xi. For all parking lots with more than ten parking spaces must provide for safe traffic patterns by 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 ten car threshold, then it too shall be required to conform to this standard.

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

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

xiv. For all parking lots with more than ten parking spaces, unless specifically exempted by the Development Review Board, landscaping shall be provided according to the following standards. A perimeter landscaped strip at least 5 feet wide between and adjacent to a line defining the exterior boundary of the parking area and adjoining property lines. Where the landscaped strip adjoins a public street or pedestrian walkway, it shall be a minimum of ten (10) feet in depth as measured from the highway right-of-way and shall be continuous except at points of access.

Interior landscaped areas, at minimum equal to at least 10% percent of the parking area (excluding perimeter landscaped areas), shall be integrated into parking lot design and be regularly maintained.

One shade tree shall be planted for every 2,000 square feet of parking lot. Each tree shall be planted within a minimum 200 square feet of unpaved area. Trees shall be planted throughout the parking lot in locations approved by the Development Review Board.

8.3.3 Table of Off-Street Parking Requirements

USE	NUMBER OF OFF-STREET PARKING SPACES REQUIRED
One-family Dwelling	Two per unit
Two, Three, and Multifamily Dwellings	1.5 per unit
Housing for elderly residents	One space per two units
Lodging Establishments, including Motels, Hotels, and Bed and Breakfast Inns	One for each guest room plus one per employee on-site at any one time
Theater, Gymnasium, Auditorium, Church, or similar place of public assembly	One for each three seats of total seating capacity
Building Supply establishment	One per 300 square feet of main building(s) area
Restaurants, Lounges, Bars, and Night Clubs	One for each 100 square feet of gross floor area
Retail Stores	Five parking spaces plus one space for each 400 square feet of active floor area in excess of 800 square feet (e.g., a 2,000 s.f. store would require 5 + 3 = 8 parking spaces)
Professional Offices and Personal Service Establishments	One per 300 square feet of gross floor area
Warehousing/Storage	Two spaces plus one for each employee on-site at any one time
Manufacturing, Industrial, Mail Order, and similar establishments	Two spaces plus one space for each employee on-site at any one time
Nursing Home or similar care facility	One space per two beds at design capacity
Service Stations/Garages	Three spaces per garage bay, with a minimum of three spaces; more spaces may be required by the Development Review Board if deemed necessary.

- The Development Review Board 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, the DRB may require sufficient parking for all uses.
- Gross square footage does not include basement or attic space, unless such space is used as active floor area as defined in these regulations.
- Where calculation of the number of required parking spaces results in a fraction, the fraction shall be counted as a whole space.

8.3.4 Minimum Dimensions for Off-Street Parking Spaces and Aisle Widths

	Angle of Parking			
	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

- The number, dimension, and location of handicap accessible parking spaces shall be as prescribed by federal and/or state accessibility codes.

8.4 Mobile Homes and Travel Trailers

8.4.1 General Regulations

a. 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 these Regulations 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 all municipal and state requirements regarding water supply and wastewater disposal.

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

c. On any lot meeting the dimensional and other requirements of these Regulations, the permanent resident of the lot may store their unoccupied travel trailer anywhere except in the required front yard. This travel trailer may be occupied by a non-paying guest of the resident of the lot for a period not exceeding 30 days in any twelve month period.

d. Nothing herein shall prevent the use of a mobile home or travel trailer at a public or private campground.

8.5 Extraction of Earth Resources

8.5.1 General Regulations

There shall be no removal from the premises in any district of earth, sand, gravel, clay, or stone without a permit as prescribed in this section 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.

8.5.2 Permit for Removal of Earth Products

Earth product removal is deemed a conditional use, subject to the requirements of Section 3.4, and giving consideration to the recommendations included in the Shaftsbury Sand And Gravel Pit Planning Study (June, 2007). The Development Review Board, after a duly warned public hearing, may grant a permit for the removal of earth, sand, gravel, clay, or stone, under the following conditions:

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

b. The operator shall provide for proper drainage of the site during and after completion, and upon completion no disturbed area 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.

c. 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 topsoil and seeded with a suitable cover crop, except that portion where ledge rock is exposed. Where performance of these conditions is deemed not feasible by the Development Review Board, reasonable alternatives such as permanent fencing or terracing may be permitted.

d. 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 rights, roads, and water supplies.

e. Surety Bond: 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 Development Review Board to guarantee conformity with the provisions of the permit issued hereunder.

8.5.3 Existing Operations

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. Sites which have not been active for over two consecutive years shall be deemed to have been abandoned. Before any operation may resume, the site must comply with all applicable sections of these Regulations.

8.6 Open Space Subdivision

8.6.1 Modification of Zoning Requirements

Lot size, density, and other dimensional requirements for lots located in a subdivision approved as an Open Space Subdivision may be modified in conformance with the provisions of Section 6.0 of the Shaftsbury Subdivision Regulations.

8.7 Swimming Pools and Ponds

8.7.1 Swimming Pools

A swimming pool is considered a permitted accessory structure to the principal use of the property provided that the pool is used only by the residents of the premises and their guests. No portion of the water area of the pool shall be closer than 20 feet to any lot line. Any pool less than 3 feet in height and under 1,000 gallons in volume is not subject to these restrictions and does not require a zoning permit.

8.7.2 Ponds

A pond may be approved by the Development Review Board provided that there is no adverse effect upon the public health and safety or up surrounding properties. No water areas shall be closer than 20 feet from any lot line.

Site plan approval is required for construction of a new pond. In addition to applicable requirements of Section 3.5 (Site Plans), the application shall include: specifications for any dam(s) to be constructed, an estimate of the surface area of the pond and of the volume of water of the proposed pond, and if required by the Development Review Board, an evaluation and recommendation by a licensed design professional.

8.8 Water Supply and Wastewater Disposal

8.8.1 The construction of a new residential building, the conversion or expansion of an existing residential or other principal building to two or more units are subject state water supply and wastewater treatment requirements, and those state permits shall be in place prior to issuance of a local permit.

8.9 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 or commercial composting facilities.

Any such solid waste management facility must meet the requirements of Sections 3.4, 3.5, and 7.4 in addition to the requirements of this section.

8.9.1 Dimensional Requirements

a. Lot Size: The minimum lot size shall be 5 acres for facilities certified to process up to 20,000 tons per year, 8 acres for 20,001 – 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.

b. Setbacks: Minimum distance between any building, structure, or area used for solid waste disposal, processing, or transfer – other than commercial vehicle parking and circulation areas, access drives, offices, and employee parking and scale houses and:

Any public roadway = 175 feet;
The lot line of any adjacent property located in an I-1, I-2, or C-I District = 50 feet;
The lot line of any adjacent property located in a Residential or the Roadside Commercial District = 600 feet.

The Development Review Board may reduce the 600 foot setback required to the lot lines of roadside commercial or residential properties to 450 feet, provided that the Development Review Board makes the following findings:

i. The applicant has identified specific measures, devices and/or technologies designed to reduce visibility, noise, glare, odor, dust and other impacts associated with the facility; and

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

iii. 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

The Development Review Board 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 Development Review Board 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 that may be considered in determining whether to grant a reduction in the setback distance 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 up to 25 percent if berms, fences, screening and landscaping are not possible and/or cannot abate environmental impacts.

c. Building Coverage: Total building coverage of all buildings and structures on the lot shall not exceed 20 percent.

d. 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. Other buildings and structures shall not exceed 30 feet in height.

8.9.2 Vehicle Circulation and Parking

Vehicle circulation and parking shall comply with Section 8.3 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.

8.9.3 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.

8.9.4 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.

8.9.5 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.

8.9.6 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:

a. Impact on public services and infrastructure required for the facility and the costs associated with any improvements.
b. 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.

c. Impact on agricultural lands and, where appropriate, offsetting protection of similar lands by purchase or conservation easements.
d. Reasonable access by Town Representatives for purposes of inspecting facility operations.

8.10 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.

Any such solid waste management facility must meet the requirements of Sections 3.4, 3.5, and 7.4 in addition to the requirements of this section.

8.10.1 Dimensional Requirements

a. Lot Size: The minimum lot size for the facility shall be 25 acres. If the Development Review Board 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 required lot area shall be increased requirement accordingly. The Development Review Board may require the applicant to provide funds to the Town to retain the services of a professional qualified to conduct such scientific analysis.

b. Setbacks: Minimum distance between any building, structure, or area used for solid waste disposal, processing, or transfer – other than commercial vehicle parking and circulation areas, access drives, offices, and employee parking and scale houses and:

   Any public roadway = 175 feet;
   The lot line of any adjacent property located in an I-1, I-2, or C-I District = 50 feet;
   The lot line of any adjacent property located in a Residential or the Roadside Commercial District = 600 feet.

   The Development Review Board may reduce the 600 foot setback required to the lot lines of roadside commercial or residential properties to 450 feet, provided that the Development Review Board makes the following findings:

   a. The applicant has identified specific measures, devices and/or technologies designed to reduce visibility, noise, glare, odor, dust and other impacts associated with the facility; and

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

c. 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

The Development Review Board 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 Development Review Board 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 that may be considered in determining whether to grant a reduction in the setback distance 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 up to 25 percent if berms, fences, screening and landscaping are not possible and/or cannot abate environmental impacts.

8.10.2 Vehicle Circulation and Parking

Vehicle circulation and parking shall comply with Section 8.3 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.

8.10.3 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.

8.10.4 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.

8.10.5 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.

8.10.6 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:

a. Impact on public services and infrastructure required for the facility and the costs associated with any improvements.
b. 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.
c. Impact on agricultural lands and, where appropriate, offsetting protection of similar lands by purchase or conservation easements.
d. Reasonable access by Town Representatives for purposes of inspecting facility operations.

8.10.7 Monitoring, Oversight, and Financial Responsibility

The owner of a landfill and any other facility using waste processing systems with a potential for significant off-site impacts shall meet all the requirements listed below as well as all requirements of any relevant Host Town Agreement.

a. The Town may hire a qualified health professional agreeable to both parties, whenever deemed necessary by the Town, to conduct a health risk assessment, to be paid for by the owner of the solid waste facility.
b. The Town may hire consulting services to evaluate and verify accuracy of any permit application, to be paid for by the applicant/solid waste facility owner.
c. The solid waste facility owner shall provide adequate funding to ensure operation and maintenance of leachate and landfill gas collection, monitoring, and management systems in perpetuity;
d. The solid waste facility owner shall provide monitoring of landfill gas emissions for and control programs to limit risks to the public health and the environment to safe levels;
e. The solid waste facility owner shall provide comprehensive monitoring of surface waters during the active life and post-closure period, including monitoring for airborne transport of waste-derived constituents to nearby surface waters;
f. The solid waste facility owner shall provide funding for independent third-party monitoring of landfill operations and oversight of continuing compliance with permit conditions for as long as the waste may present a threat;
g. The solid waste facility owner shall post a commercial bond acceptable to the Town that the owner, for as long as potential for impacts to public health and the environment exists, will be responsible for and has adequate funding for, post closure requirements, monitoring, testing, repairs, replacements, and mitigation.
h. Revocation of the solid waste facility owner's operating permit by the State of Vermont will result in an automatic zoning violation.

8.11 Solid Waste Management Facilities – Industrial Composting Facilities

Industrial Composting Facilities using aerobic, anaerobic, or vermicomposting techniques are permitted as conditional uses in the I-1 and I-2 Districts. Such facilities shall be registered or certified by the State under 10 VSA Chapter 159 for the composting of food waste, manure, leaf and yard waste, and wood waste. Composting activities shall not contain any amount of sewage sludge, septage from residential or commercial wastewater disposal, or animal mortality. A proposed composting facility shall be expected to have impacts on properties located in Residential or Roadside Commercial zones no greater than the impacts of a Baseline Composting Facility.

Industrial Composting Facilities must meet the requirements of Sections 3.4, 3.5, and 7.4 in addition to the requirements of this section.

Any on-farm composting operation which falls under the authority of the Agency of Agriculture Food and Markets (AAFM) is exempt from this Bylaw. The Zoning Administrator shall request an opinion from the AAFM that an on-farm composting application qualifies under the authority of AAFM. Backyard composting facilities also are exempt from this Bylaw.

8.11.1 Dimensional Requirements

	Industrial Composting Facilities *
Minimum Lot Area	80,000 square feet
Minimum Lot Width	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 Frontage on Public Highway	200 feet

* Setbacks for any building or structure in an Industrial Composting Facility and the lot line of any adjacent property in the I-1 or I-2 District shall comply with this table unless the State of Vermont requires greater setbacks.

The setback to the lot line of any adjacent property located in the Roadside Commercial or any Residential district shall be 400 feet for a Baseline Composting Facility processing of up to 10,000 cubic yards of organic waste per year. This setback shall be increased by an additional 200 feet for each additional 10,000 cubic yards of organic waste processed per year, or fraction thereof.

The Development Review Board may reduce the required setback to the lot line of adjacent properties located in Roadside Commercial or Residential districts provided that a professional engineer licensed in the State of Vermont and with experience with industrial composting facilities has certified that:

a. Specific measures, devices, or technologies to be employed on the site will significantly reduce nuisance odor, dust, and bioaerosol impacts associated with the facility; and
b. The character and conditions that exist, or are likely to exist at the site of the facility are unlikely to adversely affect the effectiveness of the measures, devices, or technologies identified by the owner; and
c. Reducing the setback is unlikely to result in any increase, relative to a Baseline Composting Facility, of nuisance, odor, dust, or bioaerosol impacts on properties located in Roadside Commercial or Residential districts.

The Development Review Board 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 nuisance odor, dust, or bioaerosols.)

8.11.2 Vehicle Circulation and Parking

Vehicle circulation and parking shall comply with Section 8.3 except as modified herein. There shall be a minimum of one parking space per employee of the composting 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 depositing compost.

8.11.3 Screening and Landscaping

All buildings and compost processing and storage 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.

8.11.4 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.

8.11.5 Operations Plan

The Development Review Board shall review an operations plan for all composting 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.

8.11.6 Host Town Agreement

In addition to satisfying all zoning and planning requirements, an applicant for any proposed composting 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:

a. Impact on public services and infrastructure required for the facility and the costs associated with any improvements.
b. 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.
c. Impact on agricultural lands and, where appropriate, offsetting protection of similar lands by purchase or conservation easements.
d. Reasonable access by Town Representatives for purposes of inspecting facility operations.

8.12 Hazardous Waste Management Facilities

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

8.12.1 Special Standards for Hazardous Waste Management Facilities

Due to the unique challenges and dangers associated with the operation of a Hazardous Waste Treatment, Storage, and Disposal Facility, the following standards shall apply to any such facility, in addition to the requirements of Sections 3.4, 3.5, and 7.4.

a. An independent professional consultant shall be retained by the Town, with all costs paid by the applicant, to advise on any proposed facility/application. The consultant should assess all potential hazards and impacts on the Town, and make specific recommendations for mitigating risks to public health, safety, and property values.

b. Dimensional Standards shall be established based on the professional assessment of the application and site by the independent consultant. In no case shall the lot size be less than 400,000 square feet. Additionally, setbacks to neighboring properties must be sufficient to allow continuing normal use of the neighboring property following any potential worst-case scenario assessed by the consultant.

c. The applicant shall list all permitted wastes that are to be handled. Any wastes not on this list shall be prohibited at the proposed facility.

d. Storage of hazardous wastes identified by the applicant/facility owner shall be permitted for a period not to exceed one year.

e. Following the advice of the independent consultant, the Development Review Board shall make recommendations to the Select Board regarding required fees, insurance, surety bonds, or other appropriate financial instruments sufficient to cover all impacts from

normal operations and worst-case scenarios. The recommendations 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.

8.13 Flood Hazard Area Regulations

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

8.13.1 Flood Hazard Area Maps

These regulations shall apply in all areas in the Town of Shaftsbury identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Federal Emergency Management Agency which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Zoning Administrator. If the boundary cannot be accurately determined or if an applicant disagrees with the determination made by the Zoning Administrator, the applicant may seek a Letter of Map Amendment from FEMA; a Letter of Map Amendment from FEMA shall constitute proof of the correct location of the boundary.

8.13.2 Base Flood Elevations and Floodway Limits

Where available (i.e., Zone A1 – A30, AE, and AH), the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In flood hazard areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA or state or federal agencies.

8.13.3 Review Procedure and Development Standards

Review Procedure: Except as provided for in Section 8.13.12 all 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 or manufactured homes), or of any mining, excavation, or land fill, and any change in the use of land in the Flood Hazard Area may be permitted only by the Development Review Board as a conditional use, in accordance with the procedures of Section 3.4 of this Bylaw. A permit is required for all development in the Special Flood Hazard Area.

In Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

Upon receipt of a complete application for a substantial improvement or for new construction, the Zoning Administrator shall transmit one copy of the application and supporting information to the State National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. Section 4424. A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.

Adjacent communities and the State NFIP Coordinator 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 Federal Insurance Administrator.

Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal and State law before work on the project can commence.

Development Standards: In addition to the district requirements, the Development Review Board shall determine that all development in the flood zone(s) is:

a. Reasonably safe from flooding.
b. Designed and anchored to prevent flotation, collapse, or lateral movement of the structure.
c. Constructed of materials and utility equipment that are resistant to flood damage.
d. Constructed using methods and practices that will minimize flood damage.
e. Consistent with the need to minimize flood damage.
f. Designed so that public utilities and facilities, such as sewer, gas, electrical, and water systems, are located, elevated, and constructed to minimize or eliminate flood damage. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. Construction shall insure that electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities are designed and/or located so as to prevent water from entering or accumulating within components during conditions of flooding.
g. Designed so that adequate drainage is provided so as to reduce exposure to flood hazards.
h. Base flood elevation and floodway data identified in Section 8.13.2 shall be used to ensure that the lowest floor (including basement) of residential buildings is elevated to be one foot or more above the base flood elevation and the floodway be kept free of obstructions.
i. The lowest floor (including basement) of any substantially improved non-residential buildings and other structures, shall be elevated or flood proofed to at least one foot above the 100 year flood level, or be designed to be watertight with the walls substantially impermeable to at least two feet above the base flood elevation 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 or architect has reviewed the structural design, specifications, and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for

meeting the provisions of this subsection. Structures to be substantially improved in Zone A, A1-30, AE, and AH shall be located such a that the lowest floor is at least one foot above base flood elevation; this must be documented in as-built condition with a FEMA Elevation Certificate.

j. Enclosures below grade on all sides (including below grade crawlspaces and basements) are prohibited. Fully enclosed areas that are above grade, below the lowest floor, below base flood elevation, and subject to flooding, shall:
    i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits, and
    ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: a minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings shall be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
k. Storage of materials or equipment may be permitted if not subject to damage by floodwater, and are firmly anchored or secured to prevent flotation.
l. Fill may be permitted in the flood hazard area only when it can be demonstrated that flood flows will not be obstructed or diverted.
m. New and replacement or substantially improved manufactured homes shall be elevated on a suitable support such that the top of supporting structure under the entire manufactured home is at least one foot above the base flood elevation.
n. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
o. Recreational Vehicles placed on sites within Zones A1 – A30, AH and AE shall be fully licensed and ready for highway use.
p. In the Floodway, encroachments or development above grade and below the elevation of the floodway are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will not:
    i. Result in any increase in flood levels (0.00 feet) during the occurrence of the base flood; and
    ii. Increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
q. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

8.13.4 Burden of Proof

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

8.13.5 Prohibited Uses

The following uses are specifically prohibited in the Special Flood Hazard Areas:

1. New residential or non-residential structures (including the placement of manufactured homes);
2. Storage or junk yards;
3. New fill except as necessary to elevate structures above the base flood elevation;
4. Accessory structures in the floodway;
5. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
6. All development not exempted, permitted, or conditionally permitted.
7. Storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials. This includes storage containers of gasoline, fuel oil, oxygen, acetylene, LP gas and other similar products.
87. All structures, other than those existing on the effective date of this Bylaw and those specifically identified in Sections 8.13.6 and 8.13.7 are prohibited.

8.13.6 Uses Permitted in Flood Hazard Areas Without Conditional Use Review

The following uses are permitted in flood hazard areas, provided that they do not reduce the flood carrying capacity of the stream. A permit may be issued for these uses by the Zoning Administrator without conditional use approval by the Development Review Board.

Any state and federal permits applicable to the subject activity must be submitted as part of the zoning permit application; alternatively, a Project Review Sheet from the Department of Environmental Conservation – identifying all required state and federal permits – may be filed as an attachment to the permit application. Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal and State law before work on the project can commence.

1. Non-substantial improvements;
2. Accessory structures;
3. Building utilities;
4. At-grade parking for existing buildings;
5. Recreational vehicles;
6. Replacement septic and water supply systems.

8.13.7 Conditional Uses in Flood Hazard Areas

The following uses are conditionally permitted in flood hazard areas, subject to the requirements of this section and all other applicable sections of the zoning Bylaw. Any state and federal permits applicable to the subject activity must be submitted as part of the zoning permit application.

1. Substantial improvement, elevation, relocation, or flood proofing of existing nonresidential structures. In the case of flood proofing, the applicant shall present a FEMA certificate of flood proofing;
2. Replacement storage tanks for existing structures;
3. Improvements to existing structures in the floodway;
4. Grading, excavation; or the creation of a pond;
5. Improvements to existing roads;

6. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
7. Public utilities

8.13.8 Expansion of Existing Buildings in the Floodway

No existing building in the floodway may be enlarged to create a greater encroachment on the floodway.

8.13.9 Application Requirements

Applications shall include, in addition to any other requirements of this Bylaw, plans 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, flood hazard area, and base flood elevations.

8.13.10 Precedent of Law

The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

8.13.11 Administration and Enforcement

This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA Sections 1974a, 4451 and 4452. A copy of the notice of violation will be mailed to the State National Flood Insurance Program Coordinator.

If any appeals have been resolved, but the violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Violations of the Required Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 VSA Section 4812.

The provisions of this regulation shall be administered and enforced as provided for in Section 8 of this Bylaw. The Zoning Administrator shall maintain a record of:

1. All permits issued in areas covered by this bylaw;
2. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood-proofed buildings in the Special Flood Hazard Area;
3. All flood proofing and other certifications required under this regulation; and,
4. All decisions of the Development Review Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

8.13.12 Variances

Variances may be granted in writing by the Development Review Board only in accordance with all the criteria in 24 V.S.A. §4469, § 4424 (E), and 44 CFR Section 60.6.

Any variance issued in the Special Flood Hazard Area shall not increase flood heights, and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and may result in increased flood insurance premiums up to amounts as high as $25 for $100 of coverage. Such notification shall be maintained with a record of all variance actions.

8.13.13 Disclaimer

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 officer, agent, or employee thereof.

8.13.14 Definitions

The National Flood Insurance Program definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations.

8.14 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 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 of 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 pursuant to Section 9.4 of this Bylaw. A 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 Town may request a judicial order that the violation cease.

8.15 Air Quality

The Zoning Administrator shall determine if dust, dirt, smoke, or odor produced by any land use 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.

These limitations on dust, dirt, smoke, and odor do not apply to agricultural activities exempt from municipal zoning pursuant to 24 VSA Section 4413.

SECTION 9 ADMINISTRATION AND ENFORCEMENT

9.1 Permits

9.1.1 Before any land development, including the division of a parcel into two or more parcels, the construction, reconstruction, conversion, relocation, or enlargement of any building or other structure, the construction of roads, utilities, and any site improvements; any mining, or any change in the use of any building, structure, or land, or extension of use of land., a permit shall be obtained from the Zoning Administrator by the landowner. A permit is required for all development in the Special Flood Hazard Area.

9.1.2 The Zoning Administrator shall maintain a full and accurate record of all applications, permits and violations acted upon. 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.

9.1.3 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 Development Review Board is complete and the time for subsequent appeal 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.

9.1.4 When an approved project is completed, a Certificate of Zoning Compliance must be obtained from the Zoning Administrator prior to the occupation or utilization, in whole or in part, to ensure that the work was performed in accordance with the approved plans and specifications and the requirements of this Bylaw, including certification by the builder of compliance with the Vermont Residential or Commercial Building Energy Standards.

9.1.5 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 is required.

9.2 Zoning Administrator

9.2.1 A Zoning Administrator, shall be nominated for a term of three years, or to fill a vacancy, by the Planning Commission and shall be 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.

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

9.2.3 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.

9.3 Fees

The Select Board may prescribe reasonable fees to be charged with respect to the administration of this Bylaw.

9.4 Violations and Penalties

This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA Section 1974a, 4451, and 4452. A copy of the Notice of Violation shall be mailed to the State National Flood Insurance Program Coordinator when the violation concerns Section 8.13, Flood Hazard Area Regulations.

9.5 Development Review Board (DRB)

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

9.6 Waivers

Requests for waivers of setback requirements are considered by the Development Review Board. The purpose of waivers is to allow for minor additions to a principal or accessory structure that would not be counter to the purpose of this Bylaw or the Town Plan, but which might not meet the standards for the granting of a variance. A waiver may be granted only to reduce dimensional requirements as provided below, and compliance with all other requirements of this

Bylaw is required. The Development Review Board may grant a waiver provided all of the following conditions are satisfied:

i. The proposal is for an addition to an existing principal or accessory structure, and said addition does not increase the footprint of the structure by more than 5 percent, provided that the addition shall not increase the building footprint by more than 200 square feet.

ii. The addition is the minimum size that is necessary for it to serve its intended function.

iii. The addition is specifically intended to improve access or safety, or for a minor addition to an existing building.

The Development Review Board may impose conditions regarding the design and screening of the addition to mitigate any impacts on neighboring properties. Development in the flood hazard area must meet all requirements of Section 8.13 of this bylaw.

9.7 Appeals

9.7.1 Decisions of the Zoning Administrator

Any applicant or other interested person (as defined in 24 V.S.A. Section 4465) may appeal a decision or act of the Zoning Administrator by filing a notice of appeal with the Development Review Board within 15 days of the date of such decision or act.

a. The Development Review Board shall hold a public hearing on a notice of appeal within 60 days of its filing. The Board shall give public notice of the hearing under, and shall mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

b. A decision on appeal, to include written findings of fact, shall be rendered within 45 days after hearing completion. The Development Review Board may reject an appeal without hearing, and render a decision within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on substantially or materially the same facts, by or on behalf of the appellant. Copies of the decision shall be mailed to the appellant and hearing participants, and filed with the Zoning Administrator and Town Clerk.

9.7.2 Decisions of the Development Review Board

Any interested person who has participated in a regulatory proceeding before the Development Review Board may appeal the decision of the Development Review Board within 30 days of such decision to the Vermont Environmental Court, as provided for in 24 V.S.A. Section 4471.

9.7.3 Notice of Appeal

A notice of appeal shall be in writing and include:

i. the name and address of the appellant;

ii. a brief description of the property with respect to which the appeal is taken;
iii. a reference to applicable bylaw provisions;
iv. the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
v. the alleged grounds why such relief is believed proper under the circumstances.

9.8 Variances

The Development Review Board shall hear and decide upon requests for variances. The Board may grant a variance, and render a decision in favor of the appellant, only if *all* of the following facts are found, and the findings are specified in its written decision:

i. 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 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;

ii. That because of such physical circumstances and 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 necessary to enable the reasonable use of the property;

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

iv. That 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, nor be detrimental to the public welfare; and

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

On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Development Review Board may grant such variance only if it finds that all of the facts listed in 24 V.S.A. Section 4469(b) are found in the affirmative and specified in its decision.

In rendering a decision in favor of an appellant under this section, the Development Review Board may attach such conditions 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.

9.9 Amendments

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

9.10 Review

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

9.10 Validity

If any section or provision of this 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.