

**The Town of Shaftsbury
Zoning Bylaws and Land Use Regulations**

March 3, 2015

(Originally enacted: November 1980)
(Reformatted, recent revisions approved by voters: March 3, 2015)

Table of Contents

I	ENACTMENT:	1
II	PURPOSE:	1
	Section 1 - DEFINITIONS:	1
	Section 2 - ZONING DISTRICTS:	1
	2.1 Division into Districts	1
	2.2 Zoning Map	2
	2.3 Zoning of Streets	4
	2.4 Land Under Water	4
	Section 3 - GENERAL REGULATIONS:	4
	3.1 Compliance with Bylaws	4
	3.2 Dimensional Requirements	5
	3.3 Use Regulations	6
	3.4 Administrative Requirements	7
	3.5 Conditional Use Regulations	7
	3.6 Site Development Plan	10
	Section 4 - RESIDENTIAL DISTRICTS:	12
	4.0 Purpose	12
	4.1 Rural Residence (RR) Districts	13
	4.2 Village Residence (VR) Districts	16
	Section 5 - FOREST AND RECREATION (FR) DISTRICT	18
	5.1 Purpose	18
	5.2 Permitted Uses in FR District	18
	5.3 Dimensional Requirements in FR District	19
	5.4 Wastewater Disposal in FR District	19
	Section 6 - COMMERCIAL AND INDUSTRIAL DISTRICTS	19
	6.1 Village Commercial VC 1 & 2 Districts	19
	6.2 Roadside Commercial (RC) Districts	22
	6.3 Commercial Industrial (CI) Districts	23
	6.4 Industrial (I) Districts	23
	6.5 Recreational Overlay District	25
	Section 7 - SPECIAL REGULATIONS	27
	7.1 Nonconforming Uses	27
	7.2 Resource Protection	27
	7.3 Parking	29
	7.4 Mobile Homes and Travel Trailers	34
	7.5 Extraction of Earth Resources	34
	7.6 Open Space Subdivision	36
	Open Space Subdivision: see Section 6 (Open Space Subdivision Planning), Appendix C, Subdivision Regulations.	36
	7.7 Swimming Pools and Ponds	36
	7.8 Sewage Disposal Water Supply and Wastewater Disposal	37
	7.9 Family Child Care Facilities	37
	7.10 Community Care Home	37

7.11	Solid Waste Management Facilities – Transfer Stations	37
7.12	Solid Waste Management Facilities – Solid Waste Landfills and Construction and Demolition (C&D) Landfills	40
7.13	Solid Waste Management Facilities – Industrial Composting Facilities	42
7.14	Hazardous Waste Management Facilities	43
7.15	Flood Hazard Area Regulations	44
Section 8	- ADMINISTRATION AND ENFORCEMENT	50
8.1	Permits.....	50
8.2	Zoning Administrator	50
8.3	Fees.	51
8.4	Violations and Penalties.	51
8.5	Development Review Board (DRB).	51
8.6	Appeals and Variances.	51
8.7	Amendments.	53
8.8	Review.....	53
8.9	Validity.	53
8.10	Dangerous and Unsafe Buildings	53
8.11	Air Quality.....	54
Section 9	- WIRELESS TELECOMMUNICATIONS FACILITIES.....	54
9.1	Purpose.....	54
9.2	Procedure.....	54
9.3	Conditional Use Approval.....	55
9.4	Location.....	55
9.5	Height.....	55
9.6	Setbacks.....	55
9.7	Lighting.....	56
9.8	Bulk, Height, Glare	56
9.9	Noise	56
9.10	Screening/Camouflage/Fencing	56
9.11	Co-location	56
9.12	Access Roads and Above Ground Utilities	56
9.13	Environmentally Sensitive Areas	57
9.14	Monitoring, Maintenance, Compliance.....	57
9.15	Abandonment or Discontinuation of Use	57
9.16	Bond or Security.....	57
9.17	Modifications.....	57
9.18	Independent Review	57
9.19	Consistency with Federal Law	57
Appendix A:	DEFINITIONS	58
Appendix B:	SIGN ORDINANCE	70
Appendix C:	SUBDIVISION REGULATIONS	78
Appendix D:	HIGHWAY ACCESS ORDINANCE	102

I ENACTMENT:

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

II PURPOSE:

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

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

Section 1 - DEFINITIONS:

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

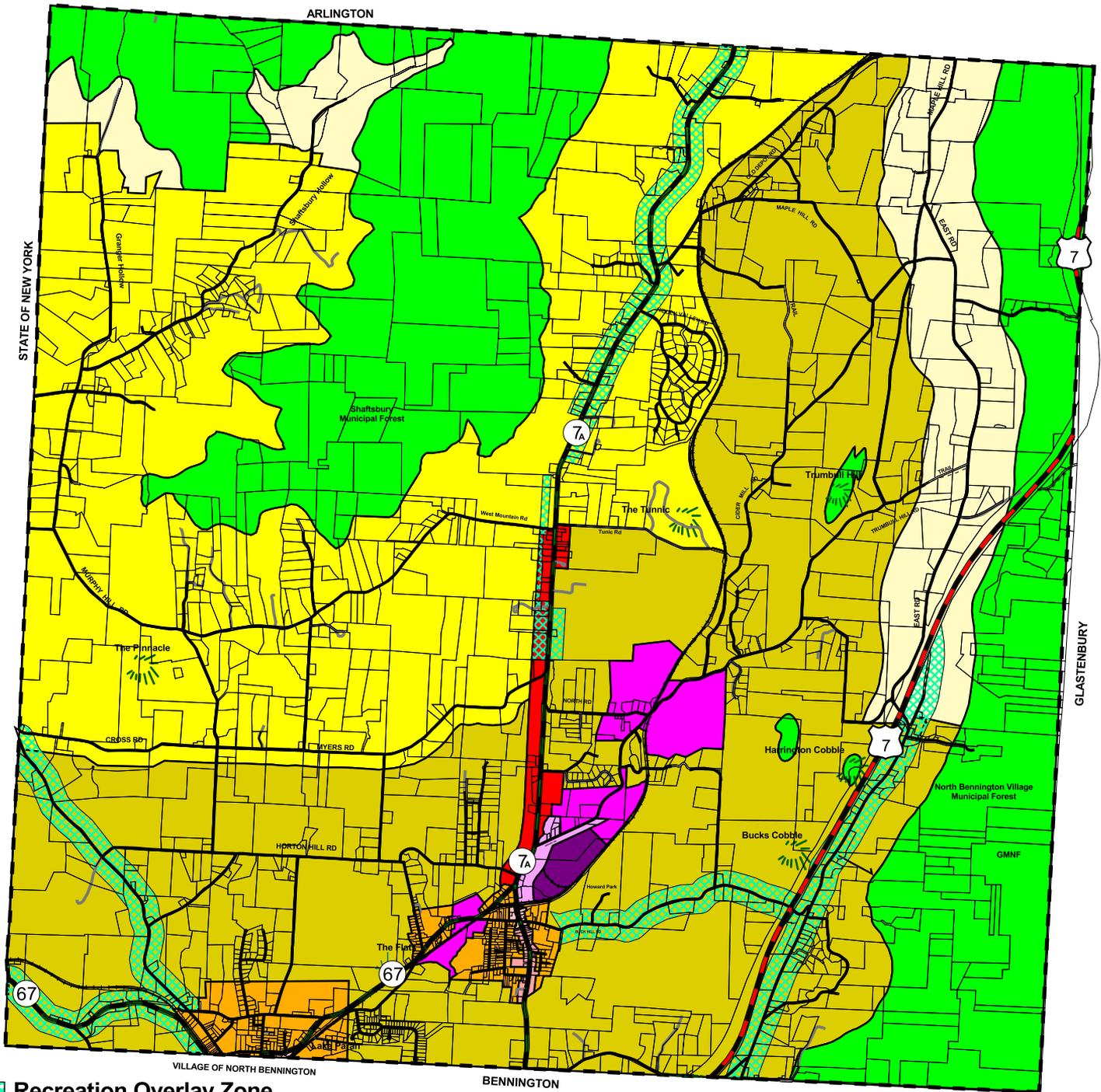
Section 2 - ZONING DISTRICTS:

2.1 Division into Districts

For the purpose of this Bylaw, the Town is divided into the following Zoning Districts designated by the abbreviations set forth below. Separate classes of districts within the same Zoning District shall be:

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

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



- Recreation Overlay Zone
- Land Use Districts**
- Rural Residential 40 (1 Acre)
- Rural Residential 80 (2 Acres)
- Rural Residential 200 (5 acres)
- Village Residential
- Roadside Commercial
- Village Commercial 1
- Village Commercial 2
- Industrial
- Industrial 2
- Commercial Industrial
- Forest and Recreational

Shaftsbury, Vermont Zoning Map



Map approved by voters on March 3, 2015.
 Map produced March 19, 2015 by
 Bennington County Regional Commission
 111 South Street, Suite 203
 Bennington, VT 05201

2.2 Zoning Map

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

The Zoning Map as approved at the March 3, 2015 town meeting is presented on the preceding page. A larger print out of the Zoning Map is available in the office of the Zoning Administrator.

2.2.2 Interpretation of the Map

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

2.2.2.1 Boundaries indicated as approximately following the center lines of roads, streams, transportation and utility rights-of-way, shall be construed to follow such center lines.

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

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

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

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

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

2.3 Zoning of Streets

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

2.4 Land Under Water

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

Section 3 - GENERAL REGULATIONS:

3.1 Compliance with Bylaws

3.1.1 The application of these regulations is subject to the provision of 24 V.S.A. Chapter 117, Sections 4411-15 of the Act. Except as hereinafter provided, no land, no building, no sign, or part thereof, or other structure shall be constructed, reconstructed, extended, enlarged, moved, occupied, used, altered, razed, or removed, except in conformity with this Bylaw.

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

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

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

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

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

3.1.7 Nothing contained in this Bylaw shall require any change in the plans, construction, or

designated use of a building complying with local laws in force prior to this Bylaw, if a prior permit shall have been duly issued, and the entire building shall have been completed in accordance with such plans within one year from the effective date of this Bylaw. See Section 8.1.3. for further information regarding permit effectiveness.

3.1.8 In accordance with Section 4413, 24 V.S.A. nothing contained in this Bylaw shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the Commissioner of Agriculture, Food and Markets or the Commissioner of Forests, Parks, and Recreation, respectively. A person shall notify the Zoning Administrator of the intent to build a farm structure at least 30 days prior to commencement of construction, and shall abide by setbacks approved by the Commissioner of Agriculture, Food and Markets. In the Special Flood Hazard Area, only farm structures that are recognized by the Secretary of Agriculture, Food and Markets as being compliant with accepted agricultural practices do not require a permit.

3.2 Dimensional Requirements

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

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

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

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

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

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

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

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

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

3.3 Use Regulations

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

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

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

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

screened from view, except that 30 days shall be allowed for removal of scrap or waste material resulting from a construction operation, or from a fire, flood or similar emergency.

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

3.4 Administrative Requirements

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

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

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

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

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

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

3.5 Conditional Use Regulations

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

The proposed use will not have an undue adverse effect on the character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies

and standards of the Town Plan, and including the following specific criteria:

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

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

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

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

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

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

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

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

3.5.2.2 Sanitary and Solid Waste: Sanitary/sewage and solid waste generation, treatment, storage, collection, transportation and disposal for proposed projects or activities shall comply with applicable

Vermont State Regulations. Debris and waste resulting from the construction and development of the proposed site shall be included in the review.

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

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

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

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

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

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

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

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

3.5.3.2 Transportation related elements which may need consideration for review include; design

layout of proposed streets, roads, sidewalks, bike paths, driveways, and street intersections; pedestrian crossings; capacity of on and off street parking facilities; access to public streets; shipping and receiving facilities; road construction and surfacing specifications; lighting; drainage; landscaping; grades and profiles.

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

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

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

3.6 Site Development Plan

3.6.1 Review and Approval

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

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

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

3.6.2 Application Requirements

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

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

3.6.2.1.2 Description of the proposed project.

3.6.2.2 The Site Development Plan will also show:

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

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

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

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

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

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

3.6.2.2.7 Tables or charts describing relevant site statistics, including but not limited to total project acreage, undevelopable land calculations, required and proposed parking, percentage of building coverage, maximum building heights, gross square footage and active floor area, landscaping details, and lighting details;

3.6.2.2.8 Existing and proposed exterior lighting;

3.6.2.2.9 Existing and proposed grading and contours at major intervals;

3.6.2.2.10 Existing and proposed storm drainage/discharge plans, natural drainage ways, water courses, and flood plains, including provisions for erosion control, ditches, culverts, catch basins, etc.;

3.6.2.2.11 Location of dumpsters or other exterior recycling/waste disposal facilities; and

3.6.2.2.12 Existing and proposed water supply and wastewater disposal design and location;

3.6.2.3 Building floor plans and elevations.

3.6.2.4 Copies of all state permits and licenses required of the proposed project.

3.6.2.5 Written comments for all required Town services, where applicable; including: water, police, fire, emergency, educational, and maintenance/road.

3.6.2.6 Public hearing on the proposed plan submitted with any application in an Industrial District.

Section 4 - RESIDENTIAL DISTRICTS

4.0 Purpose

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

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

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

4.04 The purpose of the Village Residential Districts is to support the role of the village as the focus of many social and economic activities in the community and to provide for residential and other compatible development that serves the needs of the community. Such development should occur at densities and uses which will maintain the traditional social and physical character of the village, while

not exceeding the capability of the lands, waters, services and facilities to absorb such densities.

4.1 Rural Residence (RR) Districts

4.1.1 Permitted Uses in RR Districts

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

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

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

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

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

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

4.1.1.4.2 Family Childcare Facility (see Definitions and Section 7.9)

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

4.1.1.4.4 Public and private hospitals and nursing homes.

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

4.1.1.4.6 Adaptive reuse of existing transient lodging properties along Historic Route 7A to single or multifamily dwellings. The maximum number of dwelling units permitted in said building(s) shall be determined by the number of units allowed pursuant to approved and currently valid as of January 1, 2011 Vermont state permits for existing water supply and existing wastewater disposal issued by the

Department of Environmental Conservation and shall not be controlled by the minimum area per dwelling unit shown in Section 4.1.2. Such adaptive reuse shall be subject to approval by the DRB under Section 3.5 of the Bylaw, Conditional Use Regulations. Existing buildings or portions thereof shall be exempt from *external* setback regulations. All new construction shall comply with external setbacks. Setback regulations for buildings on the same lot shall not apply. Other regulations of the underlying zoning may be relaxed at the discretion of the Development Review Board.

10% of the total number of units rounded up to the nearest whole unit, or a minimum of one unit, whichever is greater, of an adaptive reuse project 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 unit(s) designated as “affordable”, whether offered as an ownership or rental housing option shall include all relevant costs as defined in VHFA guidelines.

Prior to issuance of any permits under this bylaw, the applicant must demonstrate to the Development Review Board the legal and binding mechanism which will be put in place to affirm compliance with this clause. Prior to issuance of any Certificate of Occupancy associated with the project the applicant must demonstrate and affirm the affordable housing protections are in place.

4.1.2 Dimensional Requirements in RR Districts

DISTRICT	RR-40	RR-80	RR-200	Group Service Uses, All Districts
Minimum Area Per Dwelling Unit (ft. ²)	40000	80000	200000	130000
Minimum Lot Width	150’	150’	300’	300’
Minimum Front Yard	30’	30’	100’	50’
Minimum Side Yard	25’	25’	100’	50’
Minimum Rear Yard	25’	50’	100’	50’
Maximum Building Height	30’	30’	30’	30’
Maximum Bldg Coverage	10.00%	10.00%	10.00%	20.00%
Minimum Frontage on Public Highway	150’	150’	300’	300’

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

4.1.3.1 Home industry, home occupation or professional office space, which is carried on by a resident of the premises, which is customary in a residential area, and which does not have an undue adverse effect upon the character of surrounding area or neighborhood. A home occupation is permitted as a conditional use, in accordance with the following:

A. Such home industry or occupation is carried on within the existing building or outbuildings.

1. The home occupation is conducted on-site by one or more residents of the dwelling and not more than two non-resident employees.
2. 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 five hundred square feet of the primary dwelling but may include the use of existing outbuildings. The total utilized square footage both interior and exterior shall not exceed one thousand five hundred (1,500) square feet and shall observe required setbacks for the district.
3. Exterior displays of goods and wares, or other exterior indications of the home occupation, including alterations to the residential character of the dwelling, are not permitted.
4. The home occupation does not involve the outdoor storage of equipment or materials which are uncharacteristic of a residential use except as noted in B.1 below.
5. Retail sales are allowed only for articles created by the applicant, unless otherwise approved by the DRB.

B. Contractor's equipment

1. Contractor's equipment (including vehicles) may be stored on the premises if adequately screened from the public right-of-way and adjoining properties by natural or artificial materials. The area occupied by such equipment material shall not exceed 1,000 square feet and shall not intrude into required setbacks as described in 4.1.2.
2. Farm equipment is excluded from these requirements. Farming is a permitted use separate and apart from home occupations.

C. In reviewing applications the DRB shall consider the number of employees, the amount of traffic generated by the business, the number of deliveries and any other factors which could impact the immediate neighborhood.

D. Parking shall conform to the requirements of 7.3 and reflect the type of business being proposed.

E. Signage for home occupations shall comply with 3.4.3 of the Sign Ordinance (Appendix B).

F. Examples of home occupations that meet this definition may include, but not be limited to: dressmaking and tailoring, home cooking, teaching or tutoring, photo or artist studio, home professional or business office (e.g., doctor, dentist, attorney, engineer, writer, accountant, realtor, insurance agent), woodworking, and/or furniture repair. Such home occupations specifically exclude kennels, commercial stables, restaurants and tea rooms, mortuaries, motor vehicle repair shops, motor vehicle sales, machine shops, and similar uses.

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

4.1.3.3 Bed and Breakfast Inns

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

4.1.3.5 State or community owned and operated institutions and facilities.

4.2 Village Residence (VR) Districts

4.2.1 Permitted Uses in VR Districts

4.2.1.1 Single and multifamily dwellings subject to the requirements of this Bylaw.

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

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

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

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

4.2.1.3.2 Family childcare facilities (See Definitions and Section 7.9)

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

4.2.1.3.4 Public and private hospitals and nursing homes.

4.2.1.3.5 Bed & Breakfast Inns.

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

4.2.2 Dimensional Requirements VR Districts

DISTRICT	VR-10: VR with Public Water	VR-20: VR without Public Water	VR-80: Group Service Uses (both Districts)
Minimum Lot Area Per Dwelling Unit (ft. ²)	10000	20000	80000
Minimum Lot Width	75'	75'	200'
Minimum Front Yard	20'	20'	50'
Minimum Side Yard	10'	10'	25'
Minimum Rear Yard	10'	10'	25'
Maximum Building Height	30'	30'	30'
Maximum Building Coverage	20.00%	20.00%	20.00%
Min. Frontage on Public Hwy	75'	75'	200'

4.2.3 Conditional Uses in VR Districts

4.2.3.0. The following may be permitted as Conditional Uses in VR Districts in conformance with the provisions of Section 3.5:

4.2.3.1 Home industry, home occupation or professional office space, which is carried on by a resident of the premises, which is customary in a residential area, and which does not have an undue adverse effect upon the character of surrounding area or neighborhood. A home occupation is permitted as a conditional use, in accordance with the following:

A. Such home industry or occupation is carried on within the existing building or outbuildings.

1. The home occupation is conducted on-site by one or more residents of the dwelling and not more than two non-resident employees.
2. 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 five hundred square feet of the primary dwelling but may include the use of existing outbuildings. The total utilized square footage both interior and exterior shall not exceed one thousand (1,000) square feet and shall observe required setbacks for the district.
3. Exterior displays of goods and wares, or other exterior indications of the home occupation, including alterations to the residential character of the dwelling, are not permitted.
4. The home occupation does not involve the outdoor storage of equipment or materials which are uncharacteristic of a residential use except as noted in B.1 below.
5. Retail sales are allowed only for articles created by the applicant, unless otherwise approved by the DRB.

B. Contractor's equipment

1. Contractor's equipment (including vehicles) may be stored on the premises if adequately screened from the public right-of-way and adjoining properties by natural or artificial materials. The area occupied by such equipment material shall not exceed 1,000 square feet and shall not intrude into required setbacks as described in 4.1.2.
2. Farm equipment is excluded from these requirements. Farming is a permitted use separate and apart from home occupations.

C. In reviewing applications the DRB shall consider the number of employees, the amount of traffic generated by the business, the number of deliveries and any other factors which could impact the immediate neighborhood.

D. Parking shall conform to the requirements of 7.3 and reflect the type of business being proposed.

E. Signage for home occupations shall comply with 3.4.3 of the Sign Ordinance (Appendix B).

F. Examples of home occupations that meet this definition may include, but not be limited to: dressmaking and tailoring, home cooking, teaching or tutoring, photo or artist studio, home professional or business office (e.g., doctor, dentist, attorney, engineer, writer, accountant, realtor, insurance agent), woodworking, and/or furniture repair. Such home occupations specifically exclude kennels, commercial stables, restaurants and tea rooms, mortuaries, motor vehicle repair shops, motor vehicle sales, machine shops, and similar uses.

4.2.3.2 State or community owned and operated institutions and facilities.

Section 5 - FOREST AND RECREATION (FR) DISTRICT

5.1 Purpose.

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

5.2 Permitted Uses in FR District

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

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

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

5.3 Dimensional Requirements in FR District

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

5.4 Wastewater Disposal in FR District

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

Section 6 - COMMERCIAL AND INDUSTRIAL DISTRICTS

6.1 Village Commercial VC 1 & 2 Districts

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

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

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

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

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

6.1.2.2.a An Accessory Dwelling unit, as defined in this bylaw, is permitted as a use subordinate to a

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

6.1.2.3 Conditional Uses in a VC1 District.

6.1.2.3.1 Bed and Breakfast Inns

6.1.2.3.2 Family childcare facility (See definitions and Section 7.9)

6.1.2.3.3 Antique or gift shops

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

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

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

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

6.1.2.3.4.4 Site Plan approval is required from the DRB.

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

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

6.1.2.4 Dimensional Requirements VC 1 and VC 2 Districts.

Minimum Lot Area	20,000 square feet
Minimum Frontage on Public Highway	100 feet
Minimum Front Yard	30 feet
Minimum Side Yard	15 feet
Minimum Rear Yard	30 feet
Maximum Building Coverage	15.00%
Maximum Building Height	30 feet
Minimum Lot Width	100 feet

6.1.3 Permitted uses in a VC 2 District

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

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

6.1.4.1 Retail stores, stands, and showrooms.

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

6.1.4.3 Family childcare facilities (See Definitions and Section 7.9)

6.1.4.4 Bed and Breakfast Inns.

6.1.4.5 Mortuary and funeral establishments.

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

6.1.4.7 Professional and business offices and financial institutions.

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

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

6.1.4.10 State or community owned and operated institutions and facilities.

6.2 Roadside Commercial (RC) Districts

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

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

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

6.2.2 Dimensional Requirements of RC Districts

District	RC
Minimum Lot Area	40,000 square feet
Minimum Frontage on Public Highway	200 feet
Maximum Depth of Lot	500 feet
Minimum Front Yard	100 feet
Minimum Side Yard	50 feet
Minimum Rear Yard	50 feet
Maximum Building Coverage	15.00%
Minimum Lot Width	200 feet

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

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

6.3 Commercial Industrial (CI) Districts

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

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

6.4 Industrial (I) Districts

6.4.0 Purpose.

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

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

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

6.4.2.1 In I-1 Districts:

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

6.4.2.1.2 All uses permitted in I-2 Districts.

6.4.2.2 In I-2 Districts:

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

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

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

6.4.2.2.4 Manufacture of ceramic products, glass products, and plastic products; compounding or

treatment of beverages, dairy products, food other than meats, candy, cosmetics, drugs, perfumes and pharmaceuticals.

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

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

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

6.4.2.2.8 Knitting and weaving of textile products.

6.4.2.2.9 Packaging and assembly of any of the above.

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

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

6.4.2.2.12 Communications facilities.

6.4.2.2.13 Public utility power generating plants.

6.4.2.2.14 State or community owned and operated institutions and facilities.

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

6.4.2.2.16 Industrial composting facilities (See Section 7.13).

6.4.2.2.17 Hazardous waste management facilities (See Section 7.14).

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

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

6.4.3 Dimensional Requirements I Districts

District	I-1 and I-2
Minimum Lot Area	80,000 square feet
Minimum Frontage on Public Highway	200 feet
Minimum Front Yard	50 feet
Minimum Side Yard	50 feet
Minimum Rear Yard	50 feet
Maximum Building Height	30 feet
Maximum Building Coverage	20.00%
Minimum Lot Width	200 feet

6.5 Recreational Overlay District

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

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

6.5.3 Permitted Public and Commercial Uses:

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

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

6.5.3.1 The use will not adversely affect the capacity of existing or planned facilities, the character of

the area, traffic on roads and highways in the vicinity, the utilization of renewable energy resources and is in compliance with the Town Plan, and with other provisions or ordinances, regulations and Bylaws of the Town of Shaftsbury. In addition, any application for a recreational use shall address air quality, noise, soil and water resources, landscaping and character as specified under Section 3.5, Conditional Use Regulations.

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

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

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

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

6.5.3.6 Any use not specifically permitted is prohibited.

6.5.4 Dimensional Requirements in the Recreational Overlay District.

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

Minimum Area	20 acres
Minimum Lot Width	300 feet
Minimum Front Yard	100 feet
Minimum Side Yard	100 feet
Maximum Building Height	30 feet
Minimum Frontage on a Public Highway	300 feet
Maximum Lot Coverage (Includes buildings, parking and improved surfaces).	3.00%

6.5.4.2 Steep Slopes, in excess of 20% slope, and wetland areas are not to be included in the area of the land used for calculating coverage except for ingress or egress driveways. No walks, roads, other

driveways, parking areas, or playing fields are permitted to intrude into the required yard setbacks.

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

Section 7 - SPECIAL REGULATIONS

7.1 Nonconforming Uses

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

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

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

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

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

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

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

7.2 Resource Protection

7.2.1 Streams and Drainage Ways. No structure shall be placed, and no land shall be excavated, filled or graded in any zoning district within a distance of 50 feet from the normal bank of any stream or watercourse, shown on the Town Plan as a drainage way, or within a distance of 50 feet from the shore line of any natural or artificial pond, lake or body of water, except with approval of the DRB as a

conditional use. Application for such approval shall be submitted to the DRB with such surveys, maps and other data, as the DRB may require in order to reach its decision. Prior to granting such approval, the Board shall have found that the proposed construction, earth excavation, filling or grading, will not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on natural conditions, or on fish or wildlife habitat, nor interfere with the present or planned storm water drainage system of the Town, and must also comply with Section 3.5 of this Bylaw.

7.2.2 Shoreland District

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

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

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

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

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

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

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

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

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

7.3 Parking.

7.3.1 Purposes. These regulations are designed to:

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

7.3.1.2 Promote traffic safety.

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

7.3.1.4 Establish attractive, screened parking areas.

7.3.1.5 Encourage greater reliance on pedestrian foot traffic.

7.3.1.6 Encourage shared parking and consolidated curb cuts.

7.3.1.7 Encourage rear-yard parking.

7.3.2 General Regulations

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

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

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

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

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

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

7.3.6 Shared Parking Facilities.

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

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

7.3.7 Truck Loading Spaces and Bus/RV Parking Spaces

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.3.9 Table of Off-Street Parking Requirements

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

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

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

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

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

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

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

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

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

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

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

7.4 Mobile Homes and Travel Trailers

7.4.1 General Regulations

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

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

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

7.4.2 Mobile Home as a Dwelling

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

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

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

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

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

7.5 Extraction of Earth Resources

7.5.1 Removal Restricted

There shall be no removal from the premises in any district of earth, sand, gravel, clay, or stone without a permit as prescribed in 7.5.2 except as surplus material resulting from a bona fide construction, landscape, or agricultural operation. There shall be no permit granted for the removal of earth products from the Village (VR and VC), or Forest and Recreation (FR) Districts or from any land in any District lying more than 1,200 feet above sea level as shown on the U.S. Geological Survey maps including (but not limited to) areas on Hale Mountain, Harrington Cobble, Buck's Cobble, Trumbull Mountain, Maple Hill, and West Mountain.

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

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

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

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

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

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

7.5.2.6 Surety Bond. In accordance with the provisions of Title 24 V.S.A., 4407(8), the Vermont Planning and Development Act, and before a permit is granted under this Section, the applicant shall

submit an acceptable plan for the rehabilitation of the site at the conclusion of the operations and shall post a surety bond with the Treasurer of the Town in an amount and in form approved by the DRB to guarantee conformity with the provisions of the permit issued hereunder.

7.5.3 Existing Operations

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

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

7.6 Open Space Subdivision

Open Space Subdivision: see Section 6 (Open Space Subdivision Planning), Appendix C, Subdivision Regulations.

7.7 Swimming Pools and Ponds

7.7.1 Swimming Pools. A swimming pool is considered an accessory to the use of a dwelling unit provided that such pool is used only by the residents of the premises and their guests, and that no portion of the water area is closer than 20 feet to any lot line.

Any pool less than 3 feet in height and under 1,000 gallons in volume is considered temporary and not subject to these restrictions.

7.7.2 Ponds. A pond may be approved by the DRB provided that there shall be no adverse effect upon the public health and safety, and surrounding use. A duly warned public hearing is required for such approval. No water areas shall be closer than 20 feet to any side or rear lot line except as approved by the DRB. In reviewing such application, the DRB shall require plans and specifications for such development approval, and any other information deemed necessary. Such information shall include:

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

7.7.2.2 The nearest building(s) on adjoining land.

7.7.2.3 Specifications for the any dams to be constructed.

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

7.7.2.5 Natural or proposed drainage and contours.

7.7.2.6 Evaluation and recommendation by the Soil Conservation District.

7.8 Sewage Disposal Water Supply and Wastewater Disposal.

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

7.9 Family Child Care Facilities

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

7.10 Community Care Home

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

7.11 Solid Waste Management Facilities – Transfer Stations

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

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

7.11.1 Lot Size

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

7.11.2 Setbacks

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

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

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

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

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

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

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

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

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

7.11.3 Building Coverage

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

7.11.4 Building Height

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

7.11.5 Vehicle Circulation and Parking

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

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

7.11.6 Screening and Landscaping

All buildings and solid waste disposal, processing, and transfer areas shall be screened from public roadways and from all non-industrially zoned properties. This requirement includes screening the facility from off-site locations that constitute significant scenic vistas as well as views that include historic sites and other scenic areas. A diversity of materials shall be used to create an interesting, naturalized screen rather than a large expanse of uninterrupted, uniform material. Fencing, shade trees, evergreen and flowering shrubs, rocks, berms, or combinations of these materials may be used to achieve these objectives. The owner of the facility shall maintain the screening in a manner that is consistent with these requirements.

7.11.7 Performance Standards

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

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

7.11.8 Operations Plan

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

7.11.9 Host Town Agreement

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

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

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

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

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

7.12.1 Lot Size

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

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

7.12.2 Setbacks

Setbacks shall comply with Section 7.11.2

7.12.3 Vehicle Circulation and Parking

Vehicle circulation and parking shall comply with Section 7.11.5.

7.12.4 Screening and Landscaping

Screening and landscaping shall comply with Section 7.11.6.

7.12.5 Performance Standards

Performance standards shall comply with 7.11.7.

7.12.6 Operations Plan

Operations plan shall comply with Section 7.11.8.

7.12.7 Host Town Agreement

Host town agreement shall comply with 7.11.9.

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

- A. The town may hire a qualified health professional agreeable to both parties whenever possible to conduct a health risk assessment, to be paid for by the applicant;
- B. The town may hire consulting services to evaluate and verify the application, to be paid for by the applicant;
- C. The applicant shall provide adequate funding to ensure operation and maintenance of leachate and landfill gas collection, monitoring, and management systems in perpetuity;
- D. The applicant shall provide monitoring of landfill gas emissions for hazardous and deleterious constituents and control programs to confine risks to the public health and the environment to acceptable levels;
- E. The applicant shall provide comprehensive monitoring of surface waters during the active life and post-closure period, including monitoring of the potential for airborne transport of waste-derived constituents to nearby surface waters;
- F. The applicant 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 applicant shall post a commercial bond acceptable to the Town Administrator that the facility operator, for as long as potential for public impact exists, will be responsible for, and has adequate funding for financial post closure requirements, monitoring, testing, repairs, replacements, and mitigation.
- H. Revocation of an applicant's operating permit by the State of Vermont will result in an automatic zoning violation.

7.13 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, manures, leaf and yard waste and wood waste. Composting activities shall not contain any amount of sewage sludge, domestic septage, septage or animal mortality. Any proposed composting facility shall be expected to have impacts on nearby residential or roadside commercial zones no greater than the impacts of a baseline composting facility. In reviewing applications, the Development Review Board shall take into consideration the requirements of 24 VSA Chapter 117 Section 4413 which prohibits restriction of the functional use by the Town.

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

Any on-farm composting operation which falls under the authority of the Agency of Agriculture Food and Markets (AAFM) as Accepted Agricultural Practice (AAP) 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 as an AAP. Backyard composting facilities are also exempt from this Bylaw.

7.13.1 Lot size:

Lot size shall comply with Section 6.4.3.

7.13.2 Setbacks:

Setbacks shall comply with Section 6.4.3 and this section unless the State of Vermont requires greater setbacks.

The setback to the lot line of any roadside commercial or residentially zoned property 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 DRB may reduce the setback required to lot lines of roadside commercial or residential properties , provided that a professional engineer licensed in the State of Vermont and with experience with industrial composting facilities has certified that:

7.13.2.1 Specific measures, devices and/or technologies are likely, when compared to a baseline composting facility, to significantly reduce nuisance odor, dust, and bioaerosol impacts associated with the facility; and

7.13.2.2 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 and/or technologies identified by the owner; and

7.13.2.3 Reducing the setback is unlikely to result in any increase, relative to a baseline system, of nuisance, odor, dust, and bioaerosol impacts on roadside commercial or residential properties.

The DRB may not reduce the setback if the measures, devices and/or technologies identified and employed by the owner reduce some impacts, but other impacts will likely increase as a result of the reduction in setback. (These impacts include but are not limited to nuisance odor, dust, or bioaerosols.)

7.13.3 Building Coverage

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

7.13.4 Building Height

Building height shall comply with Section 6.4.3.

7.13.5 Vehicle circulation and parking

Vehicle circulation and parking shall comply with Section 7.3.

7.13.6 Screening and landscaping

Screening and landscaping shall comply with Section 7.11.6. The screening shall be of a type proven to be effective in reducing aerosol and dust concentrations.

7.13.7 Operations Plan

The operations plan shall comply with Section 7.11.8.

7.13.8 Host Town Agreement

A host town agreement complying with the provisions of Section 7.11.9 is required.

7.14 Hazardous Waste Management Facilities

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

7.14.1 Owing to the highly technical nature of handling hazardous waste and the potential worst-case impacts of such materials, Hazardous Waste Management Facilities shall be subject to the following requirements:

7.14.1.1 A professional consultant shall be retained by the Town, with all costs paid by the applicant, to advise on the proposed facility including possible hazards associated with it and the potential impacts on the Town.

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

7.14.1.3 No storage of hazardous wastes listed in 7.13.1.2 above shall be permitted for a period greater than one year.

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

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

7.15 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 swamps, marshes, along water courses, or in areas subject to flooding.

7.15.1 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.

7.15.2 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.

7.15.3 Review Procedure and Development Standards

Review Procedure: Except as provided for in Section 7.15.12 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 3.5 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 a 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 7.15.2 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.

7.15.4 Burden of Proof

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

7.15.5 Prohibited Uses

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.

All structures, other than those existing on the effective date of this Bylaw and those specifically identified in Sections 7.15.6 and 7.15.7 are prohibited.

7.15.6 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.

7.15.7 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 non-residential 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

7.15.8 Expansion of Existing Buildings in the Floodway

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

7.15.9 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.

7.15.10 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.

7.15.11 Administration and Enforcement

- A. 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.
- B. If any appeals have been resolved, but the violation remains, the ZA 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.
- C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 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 DRB (including variances and violations) and all supporting findings of fact, conclusions and conditions.

7.15.12 Variances

Variances may be granted in writing by the DRB 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.

7.15.13 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.

7.15.14 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.

Section 8 - ADMINISTRATION AND ENFORCEMENT

8.1 Permits

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

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

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

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

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

8.2 Zoning Administrator

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

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

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

8.3 Fees.

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

8.4 Violations and Penalties.

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 7.15 Flood Hazard Area Regulations.

8.5 Development Review Board (DRB).

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

8.6 Appeals and Variances.

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

8.6.1 That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;

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

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

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

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

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

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

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

8.6.7.2 The hardship was not created by the appellant.

8.6.7.3 The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare, and

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

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

8.6.7.6 An interested person (as defined in section, 4465 24 V.S.A.) may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal with the secretary of the DRB, or the Town Clerk, if no such secretary has been appointed. Within 15 days of the date of such decision or act, a copy of the notice of appeal shall be filed directly with the Zoning Administrator.

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

8.7 Amendments.

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

8.8 Review.

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

8.9 Validity.

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

8.10 Dangerous and Unsafe Buildings

Buildings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such buildings unsafe, unsanitary, dangerous or detrimental to health or safety are to be prevented and prohibited. Buildings found in such condition, and liable to collapse, or presenting other hazardous conditions dangerous to public health or safety, or that might result in serious accident or loss of life, shall, after certification of such dangerous or hazardous condition by the appropriate health officer, safety officer, or an engineer, be demolished, and the debris removed within six weeks of the issuance of an order by the Zoning Administrator for such a demolition. The Zoning Administrator may consult with architects and/or engineers to obtain a professional opinion.

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

In the event the owner or the premises affected by such demolition order shall fail to comply therewith, within the time prescribed, the Selectboard may direct, and arrange for, the demolition of the building or buildings, and assess the owner of the property the cost thereof.

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

8.11 Air Quality

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

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

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

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

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

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

Section 9 - WIRELESS TELECOMMUNICATIONS FACILITIES

9.1 Purpose

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

9.2 Procedure

9.2.1 Conditional use approval is required for all wireless telecommunications facilities that are licensed and/or regulated by the Federal Communications Commission, along with any associated equipment, buildings, and infrastructure. Prior to granting any approval, the DRB shall make affirmative findings upon all of the general conditional use criteria described in §3.5 of the Zoning Bylaw, the criteria described below, any other applicable provisions of this Bylaw, and the goals and policies in the Town Plan. A complete application form shall be filed, along with a site plan showing all information required in §3.6, and any other information required in this Section. A complete application shall also include a report, plans, and elevations stamped by qualified engineers that:

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

9.2.1.2 Describes the tower's proposed capacity, including number, height, and type(s) of antennas

that the tower is expected to accommodate; and documents the need for the proposed site and structure(s), and demonstrates why no other alternative or site will provide adequate coverage or capacity.

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

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

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

9.3 Conditional Use Approval

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

9.4 Location

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

- Shoreline District as defined in 7.2.3
- Historic Districts as defined in the Town Plan;
- Village Districts (VR, VC);
- nor within 300 feet of any residence or school.

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

9.5 Height

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

9.6 Setbacks

The minimum setback requirement for any telecommunications tower or associated structure shall be as required in the applicable zoning district, plus an additional setback equal to the height of the tower (the "fall zone"). The minimum setback for any tower taller than 100' shall be 300' from a dwelling or road. Where a tower is mounted on an existing structure such as a barn silo, church steeple, or utility

pole, and the tower does not increase the height of the structure more than ten feet, then the additional "fall zone" setback is not required.

9.7 Lighting

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

9.8 Bulk, Height, Glare

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

9.9 Noise

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

9.10 Screening/Camouflage/Fencing

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

9.11 Co-location

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

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

9.12 Access Roads and Above Ground Utilities

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

9.13 Environmentally Sensitive Areas

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

9.14 Monitoring, Maintenance, Compliance

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

9.15 Abandonment or Discontinuation of Use

At least 30 days prior to abandonment or discontinuation of use, the owner/operator shall provide written notice by certified mail of any intent to abandon or discontinue the use of the facility or site. Upon abandonment or discontinuation of use, the owner/operator shall physically remove all structures and facilities and return the site to its original condition.

9.16 Bond or Security

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

9.17 Modifications

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

9.18 Independent Review

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

9.19 Consistency with Federal Law

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

Appendix A: DEFINITIONS

Appendix A. Definitions

Accepted 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.

Accessory Structure: A structure which 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.

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

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

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

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.

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

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 continental breakfast (to paid

guests only). No more than six (6) rooms shall be used for such sleeping accommodations. Meals are not generally served nor are dining facilities available for the public at large.

BF E: 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 may or may not furnish entertainment and/or mixing beverages to its patrons.

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

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

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

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

Building Height: The vertical distance from the average finished grade within 10 feet of the walls of the building to the highest point of flat or mansard roofs, including the top of a parapet, or to the mean level between the eaves and ridges for gable, hip, or gambrel roofs.

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

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

Campground: Any tract or parcel of land occupied by two or more travel trailers, recreational vehicles, tent site, or temporary cabins for a brief period for 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 telecommunications providers.

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

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.

Common plan of development: Where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

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

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 if general and specific standards are met.

Critical facilities: Include 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: Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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

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

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

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

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

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

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

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

FAA: Federal Aviation Administration

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

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

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.

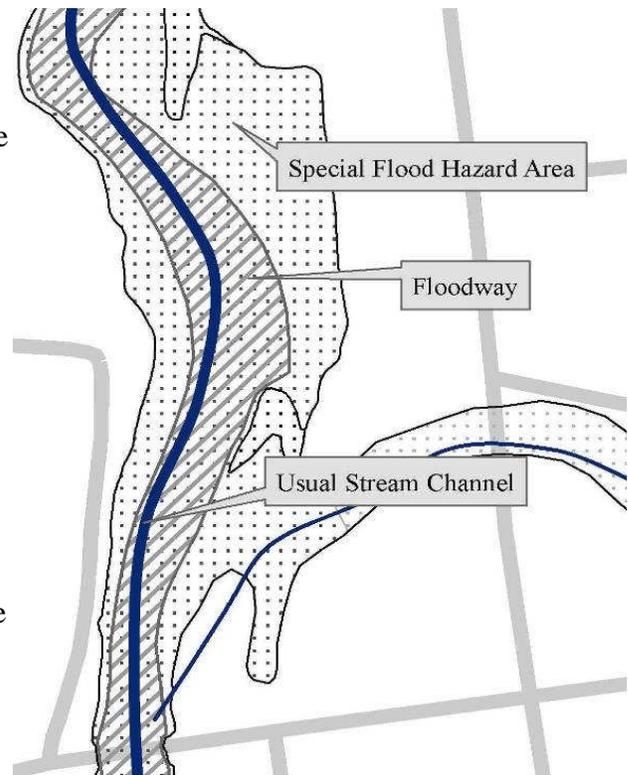
Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic 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.



Floodway, Regulatory in Town of Shaftsbury: 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.

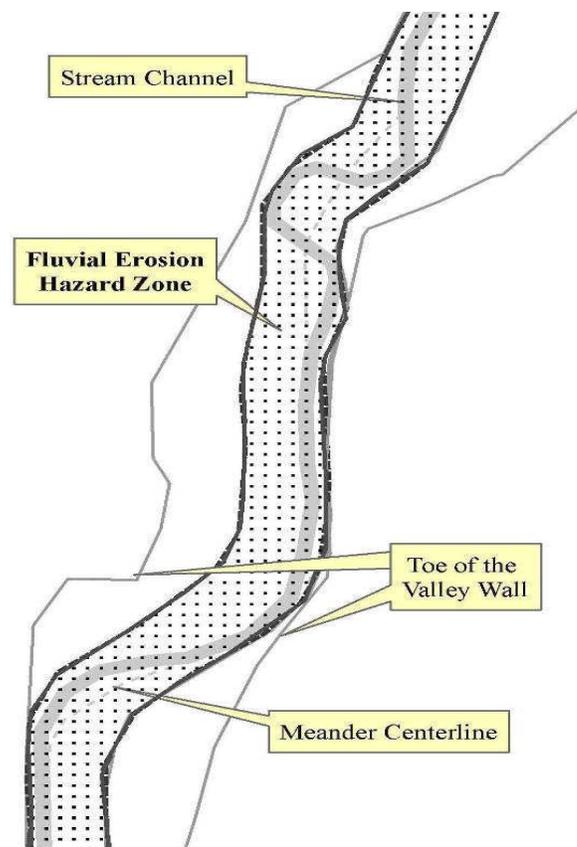
Fluvial Erosion: Erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

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 a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

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

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

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.

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

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

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

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

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.

Lot: A plot or parcel of land occupied or capable of being occupied by one principal building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Bylaw. In the case of multiple dwellings and public, institutional, commercial, industrial, or

agricultural buildings, a group of buildings on the same or contiguous premises, all under the same ownership, may be considered as occupying the same lot.

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

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

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

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

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

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, aircraft, or hovercraft. The chassis, cab, or detached body of a motor vehicle shall be considered an entire vehicle.

Multifamily dwelling: A residential structure containing three or more separate units.

New construction: For regulation under 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 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 (including grain bins and silos), 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 by decision of the Zoning Administrator.

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 off-site.

Public Building: Public buildings shall mean churches, courthouses, jails, municipal rooms, state and country institutions, railroad stations, school buildings, school and society halls, hotels and restaurants, and buildings used or rented for tenements, boards, or roomers, and places of amusement, factories, mills, workshops, or buildings in which persons are employed and shall include buildings used as nurseries, convalescent homes, homes for the aged, and tents and outdoor structures used for public assembly. The word "building" as used, shall mean barns, sheds, office buildings, shops other than workshops, and space wherein goods are offered for sale at wholesale or retail.

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

Quarry: See "Extraction of Earth Resources."

Recreational vehicle: A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when

measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

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

Street: A town, or state, or incorporated village highway, a street of an incorporated village, or a street way for motor vehicles shown on a subdivision plan approved by the DRB. The word "street" shall include the entire right-of-way thereof. If a boundary of the right-of-way has not been surveyed and so

recorded and is not marked by fence line or other physical feature, the boundary shall be deemed to be 25 feet from the center line of the traveled way.

Structure: For regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks. **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.

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

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

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

Appendix B: SIGN ORDINANCE

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1.0 PURPOSE

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

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

2.0 DEFINITIONS

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

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

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

3.0 GENERAL REGULATIONS

3.1 **PROHIBITED SIGNS:** are signs which:

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

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

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

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

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

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

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

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

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

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

3.1.11 No sign shall be erected in an FR District.

3.2 **EXEMPT SIGNS:** are signs which:

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

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

3.3 **TEMPORARY SIGNS:**

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

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

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

3.3.2.1 Not exceed eight (8) square feet.

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

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

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

3.3.5 Safety zone, and posted signs.

3.4 SIGNS IN RURAL RESIDENTIAL AND VILLAGE RESIDENTIAL DISTRICT:

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

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

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

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

3.5 SIGNS IN VILLAGE COMMERCIAL, ROADSIDE COMMERCIAL DISTRICT:

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

3.5.2 In all Village Commercial (VC), and Roadside Commercial (RC) Districts where the premises have one or more occupants requiring a sign, they are permitted to have one identification sign with an

area not exceeding 32 square feet for all occupants combined.

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

3.6 SETBACK

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

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

3.7 HEIGHT:

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

3.8 LIGHTED SIGNS USING DEFLECTORS:

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

3.8.2 Internally illuminated signs are not permitted.

4.0 STRUCTURAL REGULATIONS

4.1 MAINTENANCE REGULATIONS:

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

4.2 WIND PRESSURE AND DEAD LOAD:

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

4.3 OBSTRUCTION TO SAFETY:

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

5.0 NON-CONFORMING / NON-COMPLYING SIGNS

5.1 All signs and supporting structures which are non-conforming or non-complying to the provisions of this Ordinance upon the date of adoption, or as subsequently amended, shall be brought into compliance, if the sign creates a nuisance or safety hazard in the opinion of the Administrator.

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

6.0 ADMINISTRATION, INTERPRETATION, AND ENFORCEMENT

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

6.2 Permits, plans, fees, and inspections:

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

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

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

7.0 APPEALS AND VARIANCES

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

7.2 That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;

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

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

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

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

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

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

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

8.0 PENALTIES

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

9.0 VALIDITY

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

10.0 EXEMPTIONS

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

Appendix C: SUBDIVISION REGULATIONS

SUBDIVISION REGULATIONS
TOWN OF
SHAFTSBURY, VERMONT

Approved for adoption by the Planning Commission

October 26, 1999

Approved for adoption by the Select Board

January 17, 2000

Revision approved by the Planning Commission

June 25, 2013

Revision approved by Town Vote

March 3, 2015

1.0 GENERAL PROVISIONS

1.1 ENACTMENT

These regulations are established under the authority of 24 V.S.A. Chapter 117, herein referred to as the Act.

1.2 PURPOSE

The purpose of these regulations is to provide for orderly growth and coordinated development in the Town of Shaftsbury with respect to the comfort, convenience, safety, health, welfare of the people; to implement the Town Plan, to assure conformance with the municipal zoning regulations, and to regulate the approval and filing of subdivision plats.

2.0 GENERAL PLANNING STANDARDS

2.1 PURPOSE

No subdivision of land shall be made and no land in any subdivision shall be sold, transferred in ownership, or contracted to be sold or leased, and no street construction shall be started until a subdivision permit has been granted by the DRB and other required local and state permits have been issued. The subdivider shall familiarize himself with all state and town regulations relative to health, buildings, roads and other pertinent issues so that he is aware of the obligations and standards expected. The subdivider may avail himself of the assistance of the DRB before preparation of the application or plans. Standards for the design and layout of necessary public improvements not otherwise provided for in this bylaw shall conform to the standards set by the agencies having jurisdiction over the improvements.

2.2 CHARACTER OF LAND FOR SUBDIVISION

Land considered for subdivision shall be of such character that it can be used for building purposes without danger to public health, or safety, or to the environment.

2.3 NATURAL RESOURCES

The DRB is charged with ensuring the conservation of natural, rural, and scenic resources of Shaftsbury, while allowing uses permitted by the Zoning Bylaws. Particular attention will be given to the following:

1. The development or subdivision of lands containing significant agricultural, or forest, lands, public water supplies, wildlife habitat, and/or mineral and earth resources shall be planned to minimize impacts on these resources.
2. Vital and valuable resources and other assets of a community nature shall be identified and

protected by the DRB. These include:

- A) Streams: year-round watercourses shall be preserved in a free-flowing state with a buffer of at least 50 feet maintained between the stream bank and development.
- B) Hillsides, Mountains, and Ridgelines: Development shall be carefully planned through proper siting of structures and protection of natural vegetation to minimize environmental damage and visual impacts, particularly in areas where natural slopes exceed 20% and on sites prominently exposed to public views. During construction, builders shall utilize conservation practices which minimize erosion, lessen impact on roads, streams, wildlife habitats, and prevent other environmental hazards.
- C) Wetlands: Any development that would significantly impact any of the wetland benefits noted in the Town Plan (Section 5.2.3) shall not be permitted.
- D) Aquifers and Recharge Areas: Shall be protected from activities or development that would adversely affect the quantity or quality of available groundwater.

2.4 AGRICULTURAL LAND

Agricultural land is an important component of the working landscape of the Town. To promote agricultural uses and the retention of productive farms and agricultural land, development of open lands containing primary or secondary agricultural soils should be configured to minimize the encroachment of residential uses on agricultural land. The following guidelines should be used in subdivision design:

1. The right to use land for agricultural purposes adjacent to any subdivision should be guaranteed through the imposition of right-to-farm covenants.
2. Building sites should be designated to minimize impact on prime agricultural fields. The DRB may require designation of building envelopes and/or adherence to appropriate provisions of Section 6 of these regulations in order to achieve proper siting of houses in developments containing prime agricultural soils.
3. Boundaries of subdivision lots should follow existing natural divisions such as fence lines, streams, etc. to minimize the fragmentation of tillable fields or pastures.

2.5 LOT LAYOUT

The layout of lots shall be appropriate for the intended construction and shall conform to the requirements of the municipal zoning regulations. Consideration in lot layout shall be given to topographic conditions, aesthetics, surface and ground water resources, fragile (natural resource and natural hazard) lands as identified in the Town Plan, important agricultural land and soil conditions. Lot layout shall not result in an undue modification of the natural conditions of the land. Lots should be configured as regular shapes; unusual or unusable extensions from regular shapes shall be avoided. Lot length shall not exceed four times lot width.

2.6 DENSITY OF DEVELOPMENT AND SUITABILITY OF LAND

Residential density should maintain a level of density compatible with land capability. While the intensity of use is established in the municipal zoning regulations, the actual density permitted on any site may be further limited by the DRB if significant portions of the site have severe limitations for development. Factors that may limit development include: remoteness, access by narrow or seasonal roads or inadequate infrastructure, topographic limitations, soils rated severe for percolation or erodability, or important agricultural soils. Land subject to periodic flooding, poor drainage, or other hazardous conditions should not contain any portion of land designated for a building site.

2.7 EROSION CONTROL

An erosion-control plan shall be prepared as part of the approval process which details procedures that will be used to: (1) minimize the potential for increased runoff to surface waters, (2) minimize the potential for erosion and siltation of drainageways, and (3) stabilize exposed soils.

2.8 GROWTH MANAGEMENT

A subdivision shall not cause an undue impact with respect to the ability of the community to provide municipal or educational services. If, after consulting with the school board, the superintendent of schools, and municipal officials, the DRB determines that the subdivision will result in a rate of growth whereby the Town cannot adjust financially or provide necessary services, the DRB may impose conditions to limit the impact of the project and/or require the time phasing of project to mitigate undue impact.

3.0 STREET STANDARDS

3.1 STREET LAYOUT

Streets shall be logically related to the topography so as to produce usable lots, reasonable grades, good drainage, and safe intersections in relation to the proposed use of the land to be served by such streets.

3.2 NEW STREETS

Any new street within a subdivision shall meet the following minimum requirements whether intended for acceptance by the Town or not:

1. Gradient: All roads shall have a maximum grade of 8% and a minimum grade of 2%, as provided for in the Town's policies and specifications for highways. A grade of over eight (8%) percent may be accepted under certain conditions only, if the Select Board finds it would be in the best interest of the Town, but nothing over twelve (12%) percent will be accepted.
2. Access:
 - A) All lots within a subdivision shall have at least 50 feet of frontage on a public street or be served by a permanent easement or right-of-way of at least 50 feet in width. Such access

shall be legally recorded, improved to standards set forth herein, free from mortgage and with all drainage rights provided. The DRB may approve a permanent easement or right-of-way not less than 20 feet wide serving one lot only, and legally recorded along with the provision that the single lot will not be further subdivided.

- B) Rights-of-way serving lots which do not front on an existing public or private street shall not intersect said existing street at intervals less than 300 feet, unless the DRB determines that a smaller or greater interval is appropriate based upon the resulting character of the lot(s) through which the rights-of-way pass. Proposed roads within a development shall, where possible, be designed to provide an open (non-closed) system with at least two entrances onto existing public roads in order to promote safety and efficient road maintenance.
 - C) When a parcel to be created has no available access, but is adjacent to other holdings of the applicant, the access requirements preceding may be waived, provided that, as a condition of the waiver, the following language is made a term of any contract of sale or lease of the parcel and is recited in any deed and contained upon the final plat for filing purposes:
"The parcel may not be developed or conveyed: (1) without first receiving approval by the Shaftsbury DRB pursuant to section 3.2 (2) of the Shaftsbury Subdivision Regulations; or (2) unless the parcel is conveyed to the owner of an adjacent parcel, the two parcels are legally and effectively merged, and the resulting combined parcel complies with all applicable regulations.
 - D) The DRB may require that the development of three or more abutting lots be designed to reduce direct access to a highway from the lots individually, with a maximum of one direct access for every two lots.
 - E) Any time access to a parcel is by means other than a public road, a maintenance agreement in a form acceptable to the DRB shall be required.
3. Culverts: Adequate drainage culverts, not less than eighteen (18) inches in diameter, must be installed at all necessary points. Culverts may be of the corrugated or spiral type used for roadwork and all sections joined with bands recommended by the companies which manufacture the culvert. If concrete culverts are used, they must be of an approved make with joints well cemented and meet the State specifications on concrete pipe. All culverts must be installed well below the surface of the road with not less than sixteen (16) inches of gravel over the top. An elliptical culvert of equivalent size to an eighteen (18) inch culvert may be used where necessary to obtain the necessary sixteen (16) inch covering of gravel. All culverts must be installed with adequate pitch and proper ditches to carry run-off away from the road.
4. Drainage: An adequate storm water drainage system for the entire subdivision area shall be provided, unless, in the judgment of the DRB, the natural topography and easy access to natural watercourses makes a storm drainage system unnecessary. Storm drainage shall be carried to existing watercourses, or connect to existing storm drains. If the storm water drainage system creates a discharge over any adjacent property, the subdivider shall obtain an easement therefor from the adjacent owner and shall hold the Town harmless from any claims for damage

resulting therefrom.

5. **Width of Traveled Portion and Shoulders:** The width of the traveled portion shall be at least 20 feet, with a two-foot shoulder on each side of the traveled portion. Guard rails will be required as advised by the Road Foreman and/or DRB.
6. **Road Composition:** Sub-grade is to be firm and free of excess moisture, and stabilized with 2” (or less in size) crushed gravel in any soft spots known to exist. The road shall be constructed to one of the following standards:

Paved Road Base – well drained subsoil: Sub-base of not less than 12” (after compaction) of 2” (or less in size) crushed gravel, and a top of 6” (after compaction) of workable, fine crushed gravel for the full shoulder-to-shoulder width – a total of 18 inches of gravel.

Paved Road Base – poorly or moderately drained subsoil: Sub-base of not less than 12” (after compaction) of 6” (or less in size) bank run gravel placed on a full width stabilization mat, and a top of 6” (after compaction) of workable, fine crushed gravel for the full shoulder-to-shoulder width – a total of 18 inches of gravel.

There shall be a ditch along the outside of the toe of the shoulder which shall be lower than the bottom of the gravel.

7. **Dead-End Roads:** Any road which is a dead-end road shall be provided with a place at the end for turning around equipment, school buses, and emergency vehicles. A cul-de-sac may be used with a sixty (60) foot radius, minimum fifty (50) foot radius traveled area. A “T” or a fish tail, minimum fifty (50) feet each arm may also be used. Type of turnaround shall be reviewed by the Road Foreman. Where dead end roads are a possibility in the development of adjoining land, road and utility r.o.w. must be extended to the outer property line of the parcel to accommodate potential future development.
8. **Paved Road Entrance:** Any new road entering a paved highway or a paved town road must have a blacktop apron 24 feet in length from the edge of the highway it is entering. The design of said apron is to be approved by the Road Foreman.
9. **Unpaved Road Entrance:** Where paved access roads or driveways enter an unpaved town road, written approval by the Road Foreman is required for the distance the paving may extend into the right-of-way. (Generally, this will be along the edge that receives routine road maintenance.) Where culvert repair or other road maintenance requires cutting and replacement of paving, that expense will be borne by the owners of the lots accessing that road.
- 10.** The petitioner is also responsible for any road signs necessary. All signs must be purchased from the Town of Shaftsbury and must conform to E-911 and the Manual of Uniform Traffic Control Devices (M.U.T.C.D.). The name of a road shall be approved by the Select Board and the E-911 commission.

The DRB may impose other road design standards in order to ensure that slopes and horizontal and

vertical curvature, embankments, and soil erosion precautions are adequate to meet the needs of the subdivision and protect the environment. The DRB may seek the advice of a qualified engineer, the Road Foreman or the Board of Selectmen in making a determination under this subsection.

3.3 EXISTING PRIVATE STREETS

That portion of any existing private street serving three or more lots to be created shall be improved to meet the standards cited in Section 3.2.

3.4 EXISTING PUBLIC STREETS

If the access road to the subdivision is less than the standard for the class of road so designated, the DRB may require the subdivider to improve the access road to the standards cited in Section 3.2. The DRB may also require the subdivider to make arrangements for maintenance of the access road satisfactory to the DRB until such a time as the Board of Selectmen may reclassify the road. In the case of subdivisions requiring construction of new streets, any existing street which provides either frontage to new lots or access to new streets shall meet the minimum standards established by the Town of Shaftsbury for such street. Where a subdivision requires undue expenditures to improve existing town streets to conform to minimum requirements, the DRB may disapprove such subdivision until the Selectmen shall certify that funds for the improvements have been assured.

3.5 DEDICATION TO THE TOWN

Any street intended for dedication to the Town shall be constructed to meet the requirements in the Town's policies and specifications for town highways, established by the Road Foreman and Board of Selectmen. Acceptance of such streets shall be at the discretion of the Board of Selectmen.

3.6 DEFERRAL OF STREET REQUIREMENTS

1. The DRB may waive the requirements of Sections 3.2 - 3.4, except the requirement for right-of-way width. Waivers may be granted only to subdivision streets serving no more than three lots.
2. Any waiver of the street standards granted by the DRB shall be recited in any deed for any lot served by such street in the form as follows:

"The access road serving this lot does not meet the established minimum requirements of the Town of Shaftsbury Subdivision Regulations in regard to gradient, width, sub-base materials, or other design criteria, and therefore the use of this road for residential purposes is not recommended."

4.0 WATER SUPPLY & WASTEWATER DISPOSAL

4.1 GENERAL

Wherever feasible, it is recommended that projects subject to the jurisdiction of these rules connect to approved municipal water and sewer facilities. For projects proposing on-site water supply and sewage disposal, these rules are intended to: prevent the creation of health hazards; prevent surfacing sewage or

the pollution or contamination of drinking water supplies, groundwater and surface water; ensure the availability of an adequate supply of potable water; insure the provision of adequate drainage as related to the proper functioning of sewage disposal or water supply systems; and insure that facilities are designed and constructed in a manner which will promote sanitary & healthful conditions during operation and maintenance. Granting of a permit or certification of compliance under these rules does not relieve the project owner of the responsibility for satisfactory functioning of the systems approved, nor limit his/her responsibility or liability under other statutes or rules.

4.2 REQUIREMENTS

The following requirements shall have been met before final approval is granted by the DRB:

1. If applicable, a State subdivision, water supply & wastewater disposal, exemption, and/or deferral of permit shall have been granted by the Department of Environmental Conservation, Agency of Natural Resources.
2. For each lot within a subdivision, and/or the creation or extension of a commercial enterprise, a site specific sewage treatment & disposal system design by a professional engineer or certified site technician shall have been submitted to and approved by the Administrative Officer. The design shall meet the requirements of subchapter 10 of chapter 5 of the Vermont Health Regulations. Such design and accompanying information shall be made available for the use of subsequent purchasers of each property. Inspection of the system installation shall occur in accordance with SC10,C5,VHR, and construction shall be supervised by the Administrative Officer and by a professional engineer or certified site technician, who shall report, in writing to the DRB, that construction was completed in conformance with the approved plans, specifications, and permit conditions. This certification shall be the responsibility of the property owner at the time of installation.
3. Water supplies intended to utilize the North Bennington Public Community System will meet the requirements as to ability to service, design, and construction established by the Town of Shaftsbury Water Board, and shall be approved by the Water Board Supervisor. Proposed on-site systems will adhere to the standards of the water supply rule, Chapter 21 of the Environmental Protection Rules, Agency of Natural Resources, and will ordinarily utilize those provisions of Appendix A, Part 11, Small Scale Water Systems, of said rules, regarding design and construction of potable water supplies, storage, and distribution systems. Such designs and accompanying information shall be made available for the use of subsequent purchasers of each property. Inspection of the system installation shall occur in accordance with said rules, and construction and development of on-site supplies shall be by a licensed well contractor, who, upon completion, shall supply a copy of the well log to the DRB. Complying with installation requirements shall be the responsibility of the property owner of record.
4. Any property development requiring the DRB's approval which is located on a lot containing an existing structure may be exempted from the requirements of Sections 4.2 and 4.3 provided:
 - ~ an adequate potable water supply is present;
 - ~ a functioning on-site sewage disposal system is present which is not causing pollution or a health hazard (to be certified by a professional engineer or certified site technician);

- ~ there will be no increased water usage; and
- ~ all portions of the existing wastewater treatment and disposal system are located at least 100 feet from any newly created lot line.

4.3 DEFERRAL OF WATER SUPPLY AND WASTEWATER DISPOSAL REQUIREMENTS

1. The owner of an unimproved lot of land may waive his/her development rights thereto involving the construction, placement or erection of any building or structure, the useful occupancy of which would require the installation of water supply and wastewater disposal facilities. The DRB may grant approval of permit with deferral provided that the owner waives his/her right to develop, as noted above, or to convey, by sale or by lease, the parcel of land without first meeting the requirements of subsection 4.2 of these regulations. The terms and conditions of the deferral shall be binding upon all successors in title. A parcel created under the provisions of this section shall not be resold unless a subdivision permit is obtained or the waiver of development rights is included in the deed or lease and notice of the purchaser's name and address is filed with the DRB prior to conveyance.
2. Any waiver of development rights shall be made a term of any contract of sale or lease of the parcel, and shall be recited in any deed and be contained upon the final plat for filing purposes in the form as follows:

"In order to comply with the Town of Shaftsbury Subdivision Regulations, the grantee shall not construct, place, or erect a structure or building on the parcel of land created and/or conveyed herein, the useful occupancy of which will require the installation of water supply and wastewater disposal facilities, without first complying with section 4.2 of said regulations. By acceptance of this, the owner or grantee acknowledges that this lot may not qualify for approval for development under the appropriate regulations, and that the Town of Shaftsbury DRB may deny an application to develop the lot."

3. To remove the deferral encumbrance so imposed, the owner or purchaser of a parcel created under the provisions of this section who subsequently seeks to develop said parcel, must comply with the following:
 - A) New application must be made to the DRB, indicating compliance with subsection 4.2 of these regulations;
 - B) The DRB will review the proposal at a public hearing following public notice;
 - C) Should the subdivision permit be granted, a new plat, with the deferral language of subsection 4.3(B) removed, must be filed as provided for in these regulations.

Upon successful completion of these conditions, the waiver of development rights clause shall be dispensed with in any subsequent deed.

5.0 APPLICATION & APPROVAL PROCEDURE

5.1 APPLICABILITY

Application and approval is required for the division of a parcel of land into two or more lots. Whenever any subdivision of land is proposed to be made, before any contract for sale of such subdivision or any part thereof is made, before any grading, clearing, logging, permit for erection of a structure in such proposed subdivision is granted, the subdivider shall apply in writing to the DRB for and secure approval of the proposed subdivision.

The sale, exchange, or other transfer of parcels between adjoining lot owners, where such transaction does not create additional building sites or cause any existing lot to be made noncomplying regarding density and dimensional requirements, shall not be considered a subdivision. The DRB requires review and approval of such transaction and shall consider the proposal, presented in accordance with Section 5.4 of these regulations at a regularly scheduled meeting following a fifteen day period after public notice. The resulting parcel configuration shall be required to illustrate that no additional lot was created, but rather, that the description of the adjacent parcels are rewritten with the adjustment reflected. Proposed deed descriptions showing merged parcels are required to accompany the plans. Compliance with Section 5.9 is also required.

5.2 SKETCH PLAN SUBMISSION

Prior to submitting an application for subdivision, the applicant shall submit to the Administrative officer three copies of a sketch plan of the proposed subdivision which shall include: existing and proposed property lines; type, location, and size of existing and proposed streets, utilities, and existing structures; name and address of owner of record and applicant; and name of owners of record of adjacent properties. The sketch plan shall be presented at a scale which adequately depicts natural features, proposed improvements and general site conditions.

The applicant or his authorized representative shall attend a meeting of the DRB to discuss the requirements of these regulations, and to receive the DRB's decision as to classification of minor or major subdivision category, as defined in Section 8 of these regulations. The DRB shall study the sketch plan to determine its conformance to or conflict with the town plan and zoning bylaws; evaluate its compatibility with existing or proposed private or public developments; assess potential impacts to public facilities and services; and consider any special problems that may be encountered. The DRB shall determine whether the sketch plan meets the purposes of these regulations and may make specific recommendations for changes; such recommendations to be made no later than the time of the next regular meeting of the DRB.

5.3 GENERAL APPLICATION PROCEDURES

The Administrative Officer shall provide to any applicant the necessary forms for any municipal permit, and will coordinate the municipal effort in administering its development review programs. The Administrative Officer shall also inform applicants that they should contact the Agency of Natural Resources Permit Specialist for possible requisite state permits.

The applicant shall, within six months of the sketch plan approval and classification, proceed to file application on forms provided by the Administrative officer and prepared/approved by the DRB. Upon submission of the application, the applicant shall pay a fee in accordance with the schedule established by the DRB and approved by the Board of Selectmen for the administration of subdivision review. Included in said fee shall be the anticipated costs of any public hearing and/or warning expenses not otherwise provided for herein. In addition, the applicant shall notify all adjacent landowners to the proposed subdivision, in writing, of the intent of application, including the date, time, and location of the first public hearing to be held by the DRB; such notification to be mailed or delivered not less than ten days prior to the first public hearing.

Major subdivisions are required to meet procedures for submission and review of preliminary and final phases. The preliminary stage is waived for minor subdivisions, which shall require only the submission of a final plat.

5.4 PRELIMINARY PLAT SUBMISSION REOUIREMENTS

Four copies of the preliminary plat shall be submitted at least ten days prior to the warned public hearing, conforming to the layout shown on the sketch plan plus any recommendations made by the DRB, and shall contain, or be accompanied by, the following information:

1. Proposed subdivision name or identifying title;
2. Name and address of owner of record, with deed identification, subdivider, and designer of the plat, said designer to be qualified to perform such design under applicable regulations of the State of Vermont.
3. Location and dimensions of all boundaries and area of entire parcel and/or contiguous parcels in single ownership, whether or not all land therein is to be subdivided, along with location and dimensions of proposed lot lines and areas of proposed lots;
4. Location of existing and proposed easements, structures, watercourses and wetlands, wooded areas, and other essential existing physical features;
5. Names of adjacent landowners of record and evidence of notification, such as a certificate of mailing;
6. Location and details of existing or proposed water mains, sewer lines, drainage ways, drainage structures;
7. Applicable zoning designation and district boundaries;
8. Existing street(s) names, rights-of-way boundaries and present widths, private ways, curb cuts and intersections;
9. Proposed street(s) limits, profiles, cross sections and construction specifications/details;

10. Contours in sufficient detail to clearly indicate existing and proposed grades where proposed change in elevation will be five feet or more, and/or in order for the DRB to properly evaluate specific aspects of the project, such as storm water drainage, landscaping, etc.;
11. Proposed connection with existing municipal water supply or proposed location of on-site water supplies;
12. Proposed locations of any wastewater disposal systems, including location and results of test pits and percolation tests;
13. Drainage plan, indicating provisions for collection and discharge of storm drainage;
14. Soil classification, if required by the DRB, taken from U.S.S.C.S. delineation/designation;
15. Landscaping plan, satisfying the requirements of Section 2.7 of these regulations at a minimum, and indicating proposed erosion control procedures;
16. Vicinity map at a scale not greater than 1" = 1500' , locating the outline of the entire parcel in relation to surrounding area, and including the nearest street intersection, if possible;
17. Numerical and graphic scale with plan not to exceed a scale of 1" = 100' , unless a smaller scale is approved by the DRB, original and revision dates, magnetic and true north arrows;

In the case where a subdivision creates only one new lot and said lot comprises not more than 10% of the gross land area of the original parcel, the requirements of Section 5.4 shall apply only to the new lot and a sketch plan of the subdivision with original parcel boundaries shall be required.

5.5 REVIEW AND APPROVAL OF PRELIMINARY PLAT

The DRB shall consider the preliminary plat at a public hearing following a fifteen day public notice period, advertised and warned.

The DRB shall review the impact of each major subdivision and determine that such subdivision:

1. Will not result in undue water or air pollution. In making this determination, consideration shall be given to elevation of land in relation to flood plains, nature of soils and their ability to adequately support waste disposal, slope of the land and its effect on effluents, potential effects of construction and continued activity on air quality, applicable state and local health and resource regulations.
2. Does have sufficient water available for reasonably foreseeable needs of the development, and will not burden existing water supplies.
3. Will not cause unreasonable soil erosion or undue reduction in the capacity of the land to hold water.

4. Will not cause unreasonable highway congestion or unsafe conditions with respect to use of highways existing or proposed.
5. Will not have undue adverse impact on the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas.
6. Maintains efficiency of allocation and distribution of street, facility, and utility installation, construction, and maintenance.
7. Will not cause unreasonable burden on the ability of the municipality to provide services, including education, fire, rescue and police protection, solid waste disposal, water supply and wastewater disposal, and road maintenance.

In light of findings made on these standards, the DRB may require reasonable modifications, impose conditions, and/or mandate appropriate phasing of the proposed subdivision.

Within forty-five days after the meeting on the preliminary plat, the DRB shall take action to approve, with or without modifications, or disapprove said preliminary plat. The DRB shall state in its records any modifications which it will require, or the grounds for disapproval. The records and preliminary plat shall also reflect the amount, surety, and conditions of any bonds which will be required before final approval.

Approval of a preliminary plat shall not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the DRB may require additional modifications as a result of further review of the subdivision or as a result of new information obtained at any public hearing held pursuant to these regulations.

5.6 FINAL PLAT SUBMISSION REQUIREMENTS

Within six months of the preliminary approval for a major subdivision, or sketch plan approval for a minor subdivision, the applicant shall submit four copies of the final plat at least ten days prior to the public hearing, conforming to the layout shown on the preliminary plat and/or sketch plan plus any recommendations made by the DRB, and shall contain, or be accompanied by, the following information:

1. All requirements for a preliminary plat as delineated in section 5.3;
2. Evidence of acceptance of location, design, and specifications of proposed driveways, private streets and drainage plans by the Town Road Foreman, together with existing and proposed road profiles and crosssections, construction plans, and specifications; also, acceptance by Board of Selectmen of streets intended for dedication to the Town;
3. Evidence of approval by the Administrative Officer of the design of those improvements required pursuant to section 4 (Water Supply and Wastewater Disposal), of these regulations and if applicable, copies of Vermont Agency of Natural Resources permits regarding same;

4. Copies of such covenants or deed restrictions as are intended to cover all or part of the parcel, and methods of dedication of proposed easements, rights-of way, and open spaces, which may be required by these regulations. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him/her of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has legally been accepted by the town;
5. If the subdivision abuts a state highway, or if a proposed street intersects a state highway, a statement from the Vermont Agency of Transportation approving such;
6. If a subdivision is to be served by a public water supply or by public sewers, a statement from the municipal department or company involved, attesting to availability of such service and approval of design and connection;
7. The plat shall contain the following statement: "The subdivision regulations of the Town of Shaftsbury are a part of this plat, and approval of this plat is contingent upon completion of all the requirements of said regulations, excepting only any variances or modifications made in writing by the DRB, and attached hereto.";
8. The identifying number and date of approval of all applicable state and local permits, including the town subdivision permit number;
9. Space shall be reserved on the plat for endorsement by all appropriate parties;

5.7 REVIEW AND APPROVAL OF FINAL PLAT

A public hearing on the final plat shall be held by the DRB within thirty days after the time of its submission to the Administrative Officer. Said hearing shall be advertised and warned in accordance with the 24 V.S.A. S4447. In addition, notice of such hearing shall be forwarded to the Bennington County Regional Commission, and to the clerk of an adjacent municipality, in the case of a project located within five hundred feet of a municipal boundary, at least fifteen days prior to the hearing.

Within forty-five days following the public hearing, the DRB shall take action to approve, with or without modifications and/or conditions, or disapprove, the final plat. The DRB shall state in its records any modifications and/or conditions which it will require, or the grounds for disapproval.

5.8 PERFORMANCE GUARANTEE REQUIREMENTS

To ensure that all required improvements are undertaken and completed in conformance with the final plat, the DRB may require that no building permit be issued for any structure on any lot within the subdivision until a licensed professional engineer certifies that all such improvements have been completed. For a subdivision that is to be developed in phases, all required improvements for a phase must be certified complete prior to the issuance of a building permit for any structure on any lot within that phase of the subdivision. Alternatively, the DRB may require that the subdivider follow the

procedures set forth in subparagraph (1) and (2) below.

1. In an amount set by the DRB, the subdivider shall file with the Board of Selectmen a certified check, irrevocable letter of credit, performance bond, or other performance guarantee approved by the Board of Selectmen, to cover the full cost of required improvements. Any such performance guarantee shall be satisfactory to the Board of Selectmen and municipal attorney as to form, sufficiency, manner of execution, and surety. The DRB shall fix the term of any bond up to three years. The term of such bond may, with the consent of the owner, be extended for a period of time which may extend to the date of completion of the improvements covered by the bond. For projects to be completed in phases, the provisions of this section may be applied separately to each phase of the project. As improvements are completed, the developer shall be released from all liability except for the portion of the improvements not yet completed. The DRB shall require the subdivider to submit construction cost estimates to establish an appropriate figure for said performance guarantee.
2. In addition to surety guaranteeing completion of improvements, surety covering maintenance of roads and improvements for a period of two years from completion shall be furnished in an amount not to exceed ten (10) percent of the cost of the improvement.

5.9 FILING OF APPROVED PLAT

Four copies of the approved final plat shall be submitted and distributed as follows: one each to the DRB files, Building Inspector, Road Foreman, Board of Listers. No changes, erasures, modifications, or revisions shall be made in any subdivision plat after approval has been given by the DRB and endorsed in writing on the plat, unless the plat is first resubmitted to the DRB and the DRB approves any modifications.

The express approval or assent by omission of the subdivision plat shall expire in ninety days unless within that period the plat shall have been duly filed and recorded in the office of the Town Clerk in accordance with 27 V.S.A. S 1403.

6.0 OPEN SPACE SUBDIVISION PLANNING (Approved by voters March 3, 2015)

6.1 PURPOSE

The purpose of an open space subdivision is to promote compact development within those areas most suitable for residential use while preserving surrounding or adjacent open space. Open space subdivisions enable and encourage flexibility in the development of tracts of land, promote the most appropriate use of land, facilitate the economical provision of streets and utilities, and enhance the environmental quality of the area through maximum preservation of open land, as provided for in Section 6.1.2 of the Town Plan.

6.2 OBJECTIVES OF OPEN SPACE DESIGN

The following objectives shall be used to guide the design of open space subdivisions and location of conserved open lands:

1. Conservation and improvement of natural features and green areas, including areas along roads, the banks of rivers, streams and lakes, hillsides, ridgelines, and fields.
2. Retention of important fish and wildlife habitat, and nature observation areas; protection of the quality of water resources.
3. Protection of natural drainage ways and flood water retention areas, and groundwater recharge areas.
4. Provision, in appropriate areas of population concentration, of areas of land for recreational use.
5. The provision of adequate controls to assure the permanence of open space use in areas so designated, through public acquisition of easement or other suitable type of agreement.
6. Open space plans shall be designed to take the greatest possible advantage of all existing natural features noted above, and to make such open land easily available, if not adjacent to all of the lots in the subdivision.
7. Locate wastewater disposal systems on most suitable soils.
8. Ensure site development on least fertile soils and maximize the usable area remaining for agriculture.
9. Locate building sites within wooded areas or along the edges of open fields.
10. Avoid loss or degradation of scenic vistas.
11. Protect important historic sites.
12. Configure lots so as not to preclude access to recreational resources.
13. Minimize potential for environmental pollution.

6.3 OPEN SPACE SUBDIVISION

The DRB may require consideration of an open space subdivision when failure to do so would result in one or more of the following:

1. A significant reduction in the agricultural use potential of the land;
2. Degradation of the natural visual appeal of a hillside, ridgeline, or open field;

3. Encroachment upon a natural or historic area, wildlife habitat, or a stream, wetland, or other water resource;
4. Elimination of access to an important recreational resource;
5. Cause excessive erosion, ground or surface water contamination, or otherwise endanger environmental quality.

6.4 PERMISSIBLE SITES

Open space subdivision shall be permitted in Rural Residential or Village Residential Districts, in accordance with the provisions of this subsection, provided that the wastewater disposal and water supply system shall comply with the applicable regulations of the Vermont Agency of Natural Resources.

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

6.4.2 Permitted Permissible Uses in Open Space Subdivisions:

6.4.2.1 One family dwelling and two family dwellings; multifamily dwellings if allowed in the underlying zoning district.

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

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

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

6.4.3 Density Bonuses: A plan for development which incorporates open space design and includes at least 20% of the usable land area of the subdivision as dedicated open land shall be eligible for a density bonus. The permitted number of units shall be calculated by dividing developable

lot area (i.e. total lot area minus area in wetlands or flood plain, area of land exhibiting slopes in excess of 25%, area of land located in zoning districts where open space subdivision is not permitted, and/or areas of land encumbered by rights-of-way, access easements, or buffer zones) by the required area per dwelling unit for that district, and then increasing that number by 20%.

If a density bonus is awarded, the resulting parcels from the subdivision may not be further subdivided.

6.4.4 Lot Dimensional Requirements for entire subdivision parcel.

The requirements in this section shall apply to the entire lot being submitted for subdivision. There is no minimum requirement for individual lots within the subdivision and it is conceivable that the developed land could be held in common.

District in which Located	VR	RR 40	RR 80	RR 200
Minimum Lot Width		75 feet	100 feet	150 feet
Minimum Front Yard	15 feet	20 feet	25 feet	30 feet
Minimum Side Yard	10 feet	10 feet	15 feet	20 feet
Minimum Rear Yard	10 feet	10 feet	20 feet	30 feet
Minimum Road Frontage	50 feet	75 feet	100 feet	150 feet

6.5 DESIGNATED OPEN LAND -COMMONLY OWNED OR PUBLICLY OWNED

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

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

approval of the DRB.

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

6.5.4 Land to be used as public open land shall be maintained in a condition for the purpose intended. Undesirable growth and debris shall be removed from all such areas. Wooded areas and those in proximity to watercourses shall be left in a natural state. There shall be no depositing, dumping, or storage of waste, or other natural or man-made material, supplies, or equipment, on any subdivision area designated as open land. No work, removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from its original condition, until a site plan, prepared in accordance with final plat procedures, shall have been approved by the DRB.

6.6 DESIGNATED OPEN LAND PRIVATELY OWNED

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

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

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

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

7.0 ADMINISTRATION & ENFORCEMENT

7.1 AUTHORITY

The DRB is hereby authorized and empowered to do all acts and things set forth and provided for in 24 V.S.A. Sections 4401 (b)(2) and 4413 – 4421.

7.2 ENFORCEMENT, VIOLATIONS & PENALTIES

These regulations shall be enforced in accordance with 24 V.S.A. Sections 4444 and 4445.

7.3 APPEALS

Any person, aggrieved by an official action of the DRB, may appeal therefrom to the Bennington County Superior Court, as provided for in 24 V.S.A. Section 4475.

7.4 OTHER REGULATIONS

These regulations are not intended to interfere with or abrogate any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these Regulations imposes restrictions different from those imposed by any other provision of these Regulations or any other ordinance, rule, regulation, or other provision of law, those provisions which are more restrictive or impose higher standards shall control.

7.5 CONDITIONS

The DRB may impose reasonable conditions on the subdivision of land for the design, dedication and improvement of land so as to conform to the physical development of Shaftsbury and for the safety and general welfare of the future land owners in the subdivision and of the community at large.

7.6 MODIFICATIONS

Where the DRB finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations or where there are special circumstances of a particular plat, it may vary these regulations so that substantial justice may be done and the public interest secured.

Where the DRB finds that, due to the special circumstances of a particular plat, the provisions of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision it may modify such requirements, subject to appropriate conditions.

In granting waivers and modifications, the DRB shall require such conditions as will secure substantially the objectives of the requirements so waived or modified.

No such waiver or modification may be granted if it would have the effect of nullifying the intent and purpose of the Plan, the Zoning Regulations, the Capital Budget and Program, or these Subdivision Regulations.

7.7 ACCEPTANCE OF STREETS

Nothing herein is intended to modify the requirements of law with reference to the acceptance of streets by the Town, or to modify or control the construction, reconstruction, or extension of roads by the Town or State.

7.8 SEVERABILITY

If any provision of these regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not invalidate any other portion.

7.9 EFFECTIVE DATE

The effective date of these regulations is shown on the front cover.

8.0 DEFINITIONS

ACT: Title, 24 V.S.A. Chapter 117, the Vermont Municipal and Regional Planning and Development Act.

ADMINISTRATIVE OFFICER: An individual appointed by the Planning Commission with the approval of the Board of Selectmen, as provided for in 24 V.S.A. 4442, who is responsible for the administration of the municipal subdivision and zoning regulations.

ADJACENT LANDOWNER: An owner of contiguous land including land immediately across road or highway.

AGRICULTURAL LAND: Land with primary or secondary agricultural soils that is used, or has been used, with potential viability for reclamation, for any row crop, hay, vegetables, small fruits, nursery, Christmas trees, or orchard.

APPLICANT: Shall mean the owner of record or his agent duly authorized in writing.

AUTHORIZED AGENT OR REPRESENTATIVE: A person or group of persons, who have been duly authorized in writing filed with the DRB by the subdivider to act in his or her behalf.

BUILDING ENVELOPE: That portion of a lot which shall contain all principal buildings to be constructed on the lot.

CERTIFIED SITE TECHNICIAN: An individual certified by the Vermont Department of Environmental Conservation for design of single-lot creation subdivisions.

DEVELOPMENTAL RIGHTS: The right of an owner or lessee of a parcel of land to construct, erect, or place any building or structure the useful occupancy of which will require the installation of plumbing or sewage disposal facilities.

DRB: The Development Review Board.

EASEMENT: The authorization of a property owner for the use by another, and for a specialized purpose, of any designated part of his or her property.

FINAL SUBDIVISION PLAT: The final drawings on which the subdivider's plan of subdivision is presented to the DRB for approval and which, if approved, may be filed for record with the Municipal Clerk, as per the requirements of sections 5.6, 5.7 and 5.9 of these regulations.

FOREST LAND: Land with prime forest soils that is used, or has been used with potential viability for reclamation, for commercial forestry.

MULTIFAMILY DWELLING: A structure including three or more dwelling units.

OPEN LAND: Land unoccupied by structures, buildings, streets, rights-of-ways, or parking lots; especially meadow land and agricultural land.

OPEN SPACE DEVELOPMENT/SUBDIVISION PLANNING: 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.

PLAT: A map or representation of the project on paper or a piece of land or mylar (reproducible material) subdivided into lots and streets, drawn to scale.

PRELIMINARY PLAT: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the DRB for its consideration, as per the requirements of sections 5.4 and 5.5 of these regulations.

PROFESSIONAL ENGINEER: An engineer, registered in the State of Vermont, who has been trained in, and engages primarily in, civil or sanitary engineering.

PUBLIC HIGHWAY: Any class 1, 2, or 3 town road or state highway shown on the official highway map of the Town of Shaftsbury on the effective date of this ordinance.

REGISTERED SURVEYOR: A land surveyor, licensed and registered in the State of Vermont.

RESUBDIVISION: A change of recorded subdivision plat if such change affects any street layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any such change if it affects any map or plan legally recorded.

SKETCH PLAN: A sketch of a proposed subdivision as per the requirements of section 5.2 of these regulations.

STREET: Any road, highway, avenue, street, land, or other way between right-of-way lines, whether publicly or privately owned, used or to be used for vehicular traffic.

SUBDIVIDER: Any person, firm, cooperation, partnership, or association having an interest in land who shall lay out for the purpose of sale, lease, or development any interest, lot, unit, or plat in a subdivision.

SUBDIVISION: The division of a parcel of land into two or more lots, or other divisions for the purpose of sale, lease, or development. The word subdivision shall refer to the land to be subdivided or to the process of subdivision, as appropriate to the context, and shall include resubdivision.

SUBDIVISION, MAJOR: Any subdivision which is not a minor subdivision.

SUBDIVISION, MINOR: A subdivision containing not more than four (4) lots which have frontage on an existing public street, and which does not require any new street, street extension or extension of municipal facilities.

SUBDIVISION PLAT: See PLAT.

WASTEWATER DISPOSAL SYSTEM: A system, designed by a professional engineer or certified site technician, that is used to treat and dispose of domestic, commercial, or industrial wastewater. The design and construction of such a system shall meet all of the requirements of Chapter 5/Subchapter 10 of the Vermont Health Regulations.

WATER BOARD SUPERVISOR: Official hired by the Water Board (the five members of the Shaftsbury Selectboard) to administer the Shaftsbury Water Department.

Appendix D: HIGHWAY ACCESS ORDINANCE

TOWN OF SHAFTSBURY

TOWN HIGHWAY ACCESS ORDINANCE

ADOPTED JANUARY 7, 2013
Re-ADOPTED FEBRUARY 11, 2013
EFFECTIVE APRIL 12, 2013

Section I Authority and Purpose

- a) Under 19 V. S. A. § 1111, the Selectboard has the authority to regulate access onto Town Highways. The rules contained in this Ordinance will guide the Town of Shaftsbury, Board of Selectmen, Road Foreman, Zoning Administrator and the Development Review Board (DRB) in providing reasonable and safe access onto Town Highways, and in preventing adverse effects to the condition of Town Highways.
- b) In carrying out the provisions of this Ordinance, Town officials will be guided by the standards adopted by the Agency of Transportation, being: Sheet B-71 *Standards for Residential and Commercial Drive*, and Sheet A-76 *Standards for Town and Development Roads*, including any amendments thereto or replacements thereof.
- c) The Selectboard hereby authorizes the Road Foreman, the Zoning Administrator, and the DRB to review and determine the conditions under which access onto Town Highways shall be allowed for driveways and private roads. The Road Foreman, Zoning Administrator and the DRB shall act on applications for Access Permits consistent with the terms, conditions and procedures described in this Ordinance.

Section II General Provisions

- a) For purposes of this Ordinance, the term "Town Highway" includes roads classified as Class 1, Class 2, Class 3 and Class 4 Highways.
- b) No person shall construct or use an access from public or private land to a Town Highway without first obtaining an Access Permit from the Town. An applicant for an Access Permit shall submit a complete **Town Highway Access Permit Application** to the Zoning Administrator.
- c) At the site of the proposed access to a Town Highway, the applicant must physically mark the location of the proposed access, either with flags or other acceptable means, showing the precise location and width of the proposed access.
- d) No construction of a Town Highway access shall begin until the Town has issued a Preliminary Access Permit, consistent with the procedures described herein, and the applicant has delivered notification to the Road Foreman, as provided under Section III - Notification.

- e) A Final Access Permit allowing permanent use of an approved access shall be granted by the Zoning Administrator after construction of the access is complete and after the Road Foreman has viewed the access and certified the access has been constructed consistent with the requirements of the Preliminary Access Permit.

Section III Notification

- a) Upon issuance of the Preliminary Access Permit, the property owner shall provide the Road Foreman advance notice of the date and time construction will begin on the proposed access. The notice shall be in writing and shall be delivered to the Road Foreman ten (10) business days in advance of construction of the access. The property owner shall permit Road Foreman to observe and inspect construction of the access.
- b) Upon completion of the construction of the access, the property owner shall provide the Road Foreman with notice that construction of the access is complete, which shall be delivered to the Road Foreman within ten (10) business days of completion of construction of the access. The property owner shall permit the Road Foreman to inspect the completed access and determine whether the access has been constructed consistent with the requirements of the Preliminary Access Permit.

Section IV Liability

- a) The property owner, and any person who performs any work on the property owner's behalf, shall hold harmless and defend and indemnify the Town of Shaftsbury and its elected and appointed officials, from any and all damages that may occur as a consequence of the location, design, construction, maintenance and/or use of the access. The duty to indemnify shall include, but not be limited to the Town's reasonable attorney's fees.
- b) In the event that the property owner, or any person performing any work on the property owner's behalf, causes any damage to utilities, property and/or appurtenances, the property owner shall be responsible for the cost of repairing said damages. In the event of an emergency, the Town or utility company can make necessary and reasonable repair to said damages at the property owner's sole expense. It is the owner's responsibility to notify the proper agencies before performing any excavation work so as to minimize the possibility of damage to underground utilities.
- c) If, at any time, a Town Highway is damaged due to the design and/or construction, the lack of appropriate maintenance, the use of the access, or lack of appropriate water drainage, the property owner is solely responsible for the costs of making repairs and/or improvements necessary approved by the Road Foreman to repair the Town Highway and prevent future damage to the Town Highway. If repairs and/or improvements are not made within thirty (30) days of notice, or immediately in the case of an emergency, the Town may, in the exercise of its sole and absolute discretion, make said repairs and/or improvements at the property owner's sole expense.

Section V Permit Procedure

- a) A complete Access Permit Application consists of the following:
 1. Answers to all questions on the application form provided by the Zoning Administrator;
 2. A site plan, survey plat map or scale drawing showing:
 - i. location of the proposed access point;
 - ii. sight distances from the proposed access point up and down the Town Highway;
 - iii. location and distances of nearby driveways and road intersections;
 - iv. location and distances of existing culverts and ditches, including direction of water flow;
 - v. location and distances of brooks, streams and watercourses, including the direction of water flow;
 - vi. topography of the area, showing the slope of the proposed access, the slope of the land adjacent to the proposed access, and the grade of the Town Highway; and
 - vii. all work to be performed in, and changes to be made to, the Town Highway right-of-way.
 3. The signature of the property owner and the date the property owner signed the Application.
 4. The signature of the applicant and the date the applicant signed the Application, if the applicant is not the property owner.
- b) The Zoning Administrator and Road Foreman shall both participate in the review of the Access Permit Application.
 1. The Zoning Administrator shall review the Application to determine if the proposed access complies with the Town's Zoning Bylaws.
 2. The Road Foreman shall review the application, including conducting a site visit, to determine if the proposed access provides safe ingress to and egress from the owner's property to the Town Highway and will have no adverse impacts upon the Town Highway.
- c) A Preliminary Access Permit may be issued if approved by both:
 1. the Road Foreman; AND
 2. Zoning Administrator or Development Review Board.
- d) Once the Application is filed, the Zoning Administrator shall refer the Application to the Road

Foreman. The Road Foreman shall review the application and conduct a site visit. The Road Foreman can approve a Preliminary Permit with such conditions as the Road Foreman determines are necessary to protect the public safety and abate any potential adverse impacts on the Town Highway. The Road Foreman shall return the Application to Zoning Administrator, showing one of the following actions:

1. Approved;
2. Approved with conditions; or
3. Denied.

If the Road Foreman approves a Preliminary Access Permit with conditions, the Road Foreman shall state on the Preliminary Access Permit the conditions the applicant must satisfy when constructing the access. If the Road Foreman denies the Application, the Road Foreman will provide the applicant a brief written explanation stating the reasons the Application was denied.

- e) The Zoning Administrator may approve the Preliminary Access Permit if the proposed access meets all requirements of the Town Zoning Bylaws, and there is no issue which requires review by the DRB. If the proposed access does not comply with the Town Zoning Bylaws, the Zoning Administrator shall deny the Application. The Zoning Administrator may elect not to act on the Access Permit Application and refer the Application to the DRB when DRB review is required. (For example, if the proposed access requires a variance from the Zoning Bylaws, involves a conditional use, or affects a non-conforming use or non-conforming structure, the Zoning Administrator is required to refer the Access Permit Application to the DRB. The foregoing list is not an exhaustive list and there are other situations requiring the Zoning Administrator to refer an Access Permit Application directly to the DRB.)
- f) The DRB shall review the Access Permit Application, following the same procedures the DRB follows for acting on a Zoning Permit application. The DRB shall take one of the following actions on the Application:
 1. Approved;
 2. Approved with conditions; or
 3. Denied.

The DRB may not alter or amend the conditions imposed by the Road Foreman without the Road Foreman's prior approval. The DRB may not impose conditions which conflict with, or are contrary to, the conditions imposed by the Road Foreman without the Road Foreman's prior approval. If the DRB denies the Application, the Development Review Board shall provide the Applicant a brief written statement stating why the Application was denied.

- g) The Zoning Administrator shall issue a Preliminary Access Permit once the Application is both approved by the Road Foreman, and approved by either the Zoning Administrator or the DRB. The Preliminary Access Permit shall be on a Town form, stating all of the conditions imposed

by Road Foreman and/or the DRB.

Section VI Construction & Final Approval

- a) Once the Town issues the Preliminary Access Permit, the applicant shall provide the Road Foreman the notices required pursuant to Section III – Notification. After the applicant issues notice, the applicant may construct the access as approved by the Town, complying with all of the conditions imposed by the Road Foreman and/or the DRB.
- b) A Preliminary Access Permit shall be valid for one (1) year. The Preliminary Access Permit expires one (1) year after issuance if construction of the access is not completed consistent with the terms and conditions of the Preliminary Access Permit. Prior to the expiration of the one-year period, an applicant may obtain an extension of the Preliminary Access Permit. The Zoning Administrator may grant the applicant one (1) one-year extension. If the applicant does not complete construction of the access during the extension period, the Preliminary Access Permit shall expire and not be further extended.
- c) The Road Foreman shall conduct a final inspection of the constructed access after being provided notice, pursuant to Section III – Notification, above. The Road Foreman will determine if the access has been constructed consistent with the Preliminary Permit conditions and the requirements of the Ordinance. The Road Foreman shall also inspect the access to determine if the access has caused any unforeseen changes in water flow or drainage that has an adverse impact a the Town Highways or Town Right-of-Way. If the Road Foreman finds unforeseen adverse impacts, the Road Foreman may require the property owner to take additional remedial measures to abate the adverse impacts. If the Road Foreman determines that the access construction is complete and complies with the requirements of the Preliminary Access Permit and this Ordinance, and the construction has not caused any adverse impacts on a Town Highway or Right-of-Way, the Road Foreman shall issue the property owner a Final Access Permit

Section VII Section VII Inspections

- a) The applicant is responsible for coordinating a meeting with the Road Foreman to review the application and for permitting the Road Foreman to conduct a full site inspection. During the site inspection the Road Foreman shall be permitted to assess all conditions which potentially affect road safety, water run-off, and adverse impacts on the Town Highway.
- b) During construction, the property owner shall permit the Road Foreman to make such inspections of the construction of the access as the Road Foreman deems necessary or appropriate.
- c) The applicant is responsible for coordinating a site inspection with the Road Foreman when all construction of the owner’s access is complete, consistent with the requirements of Section III – Notification. The property owner shall permit the Road Foreman to conduct whatever inspection the Road Foreman deems reasonably necessary to determine if the access has been constructed consistent with the terms and conditions of the Preliminary Access Permit.

Section VIII Minimum Design Requirements for Driveway or Private Road Access

to a Town Highway

- a) For Access Permit Applications involving unique situations posing difficult or questionable conditions, the Road Foreman or the DRB may require a professionally engineered access design, at the sole expense of the applicant or owner. The engineer shall address all of the design criteria outlined below, plus any unique circumstances adversely impacting public safety and/or the Town Highway.
- b) Driveways within the limits of the Town Right-of-Way for a paved Town Highway shall have a minimum depth of twelve (12) inches of gravel or crushed stone, sized between three-fourths inch ($\frac{3}{4}$ ") to one inch (1") as sub-base material. Private roads within the limits of the Town Right-of-Way for a paved Town Highway shall have a minimum depth of fifteen inches (15) inches of gravel or crushed stone, sized between three-fourths inch ($\frac{3}{4}$ ") to one inch (1") as sub-base material.
- c) Gravel driveways within the limits of the Town Right-of-Way for a graveled Town Highway shall have a minimum depth of six inches (6) inches of gravel or crushed stone, sized between three-fourths inch ($\frac{3}{4}$ ") to one inch (1") as sub-base material.
- d) No access shall be permitted that results in water draining or washing directly onto a Town Highway or Right-of-Way and potentially erodes the Town Highway.
- e) All driveways and private roads shall be constructed so as not to impair drainage within the Town Right-of-Way, alter the stability of Town Highway or improved areas, or change the drainage of adjacent areas. If there is no drainage ditch along the road frontage, the property owner shall drain any water from the driveway or private road onto the owner's own property so that the water drainage shall not affect the Town Right-of-Way or Town Highway. Water drained from a driveway or private road shall be dispersed into vegetated areas to prevent road erosion and to avoid overburdening culverts and ditches.
- f) The maximum gradient of driveways and private roads may not exceed eight percent (8%). Steeper grades may be allowed provided:
 1. more stringent erosion controls will be effective in minimizing erosion of the Town Highway;
 2. sight distances are more than adequate to protect the traveling public; and
 3. other measures are required to address conditions which potentially adversely affect public safety and/or the integrity of the Town Highway and the Town Right-of-Way.
- g) Entrance width for a driveway shall be between twenty five (25) and thirty (30) feet, The Road Foreman may authorize a variance in the width of the driveway, but in no case shall a driveway be less than twelve (12) feet. The Road Foreman has the discretion to determine the width of the driveway depending upon the amount of anticipated traffic, public safety and impacts on the Town Highway and Town Right-of-Way.

- h) Entrance width for a private road shall be no less than twenty (20) and no more than twenty-four (24) feet.
- i) Entrances should be constructed with no more than a three percent (3%) grade away from the road edge for at least twenty (20) feet, and entrances should be nearly level with the road surface of the Town Highway.
- j) The apron for a driveway and a private road having access to a paved Town Highway shall be paved. The paved apron shall be the minimum width permitted by the Road Foreman, as described in this Section, and shall extend back from the Town Highway a minimum length of twenty (20) feet.
- k) Driveways and private roads should intersect the Town highway at a ninety degree (90°) angle, but the Road Foreman may, when special conditions exist, allow angles of not less than sixty degree (60°) angle. The Road Foreman has the discretion to determine whether a variance from ninety (90) degrees is appropriate considering issues of public safety and impacts on the Town Highway and Town Right-of-Way.
- l) The turning radius at each side of the driveway or private road shall be not less than fifteen (15) feet. The Road Foreman shall have the discretion to require a larger radius, considering site conditions, traffic, public safety and potential adverse impacts on the Town Highway and Town Right-of-Way.
- m) A vehicle operator preparing to exit the access and enter onto a Town Highway should be able to see oncoming vehicle and pedestrian traffic without obstruction. The field of view should be clear for a minimum of 150 feet in either direction. The chart contained in the Vermont Agency of Transportation's *B-71 Standards*, showing safe sight distances, shall be followed when the posted speed limits exceed 25 miles per hour.

Section IX Culverts

- a) The Road Foreman may require the owner to install a polyethylene culvert with flared "trumpet" style end sections having a minimum diameter of fifteen (15) inches to accommodate uninterrupted water drainage under the access. The owner shall install the culvert in a good and workmanlike fashion consistent with directions provided by the Road Foreman. The Road Foreman may permit the owner to install a culvert that is smaller than 15 inches in diameter if water and field conditions demonstrate a smaller culvert will allow adequate water flows and controlled drainage that do not adversely impact the Town Highway or the Town Right-of-Way. The Road Foreman may require the owner to install a culvert that is larger than 15 inches in diameter if water and field conditions demonstrate a larger culvert is needed to allow adequate water flows and controlled drainage that do not adversely impact the Town Highway or the Town Right-of-Way. The Road Foreman or the DRB may require, at the owner's expense, an engineering analysis to determine the appropriate size for a culvert and the appropriate location for the culvert.
- b) The Town shall be responsible for routine maintenance and repair of roads, ditches and culverts

lying within the Town Right-of-Way that are the result of normal wear and tear. The property owner shall be responsible for the cost of repairing damage to a culvert, with the except of damage resulting from normal wear and tear. If a culvert needs to be replaced, the owner shall be responsible for the cost of replacing the culvert.

- c) The Town shall install culverts placed in the Town Right-of-Way that are required by a Preliminary Access Permit. The property owner shall be responsible for the cost of the culvert and culvert installation.
- d) The property owner shall maintain sufficient gravel and/or asphalt material on the driveway to properly cover the culvert(s). The depth of the material shall be sufficient to prevent crushing and to prevent changes to the direction of the water flow from the driveway or private road. A crushed culvert due to traffic is considered damage and not normal wear and tear. The Town may replace the crushed culvert, at the property owner's sole expense, after providing the property owner with five business days (5) days prior written notice mailed to the property owner's last known address.
- e) Changes to the direction of the water flow from the owner's property or driveway, from a private road, or from an adjacent property shall not be permitted to increase the water flow onto or through a culvert lying within the Town Right-of-Way.
- f) The Selectboard shall determine if the Town or property owner shall bear the cost of replacing or upgrading culverts upstream of the property owner's access to the Town Highway access, taking into account how the owner's development of the owner's property has affected water flows, drainage, the Town Highway and/or the Town Right-of-Way.

Section X Enforcement and penalties

- a) Violation of this Ordinance shall be a civil offense and enforced in accordance with the provisions of 24 V. S. A. §§ 1974a and 1977. A civil penalty of not more than Seven hundred (\$700.00) dollars may be imposed for each violation of this Ordinance and the waiver fee shall be set at
 - 1. One hundred (\$100.00) dollars for the first offense;
 - 2. Two hundred (\$200.00) dollars for a second offense occurring within one (1) year of the citation for the first offense; and
 - 3. Three hundred (\$300.00) dollars for all subsequent offenses occurring within two (2) years of the first citation.

Each day a violation of this Ordinance occurs shall constitute a separate violation of this Ordinance.

- b) For purposes of this Ordinance, the Selectboard may designate any of the following persons as enforcement officers: a member of the Selectboard, the Town Agent, a Constable, an attorney retained by the Town, or a law enforcement officer who is providing contract services for the Town.

- c) Violation of any provision of this Ordinance, of a Preliminary Access Permit, or of a Final Access Permit shall be grounds for revocation of the property owner’s Preliminary or Final Access Permit. The Zoning Administrator may revoke a Preliminary or Final Access Permit for a violation of this Ordinance or the owner’s Access Permit.
- d) A property owner may appeal the Zoning Administrator’s decision to revoke the property owner’s Preliminary or Final Access Permit. The appeal shall be heard by the DRB, following the same procedures the DRB follows for hearing

Section XI Fees

The Select Board shall set the fees for Access Permits and shall have the Treasurer maintain any Security Instruments in accordance with applicable provisions of Vermont State Law (Title 19 – Highways).

The Select Board may require the applicant to reimburse the Town for the cost of inspections and special engineering services, testing or third party inspection that the Town may incur during the permit process.

Section XII Effective Date

This ordinance shall become effective sixty (60) days after the adoption date shown below, unless a petition is filed within 44 days after adoption.

Adopted this 7th day of January 2013.

Shaftsbury Selectboard

Chair, Lon McClintock

Vice-Chair, Karen Mellinger

Craig Bruder

Carl Korman

William Obenauer