

# **THE TOWN OF SHREWSBURY, VT ZONING REGULATIONS**



**2009**

**(ADOPTED BY THE SHREWSBURY SELECTBOARD 7/1/2009)**

The preparation of these regulations was funded through a Municipal Planning Grant administered by the Vermont Department of Housing and Community Affairs, Agency of Commerce and Community Development.

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## **ARTICLE I GENERAL PROVISIONS**

### **SECTION 101: Title**

In accordance with the Vermont Municipal & Regional Planning and Development Act, Title 24 V.S.A. Chapter 117 (hereinafter, "Act"), Section 4401(b), there are hereby established zoning regulations for the Town of Shrewsbury, Vermont, which are set forth in the text and Zoning Map which constitute these regulations. These regulations shall be known and cited as the "Town of Shrewsbury, Vermont, Zoning Regulations."

Other maps are cited within the text of these regulations and are hereby included in these Zoning Regulations by reference. They include, but are not limited to, the Shrewsbury Town Plan maps, the National Flood Insurance Program maps, the Vermont Agency of Natural Resources' Wellhead Protection Area maps, the U.S. Fish and Wildlife Service's National Wetlands Inventory maps, and the Vermont Agency of Natural Resources' Vermont Significant Wetland Inventory maps may be used in the review of permit applications.

### **SECTION 102: Purpose**

It is the purpose of these regulations to promote the health, safety, and general welfare of the people of Shrewsbury and to implement the Town Plan which is designed to reinforce the historical, rural character of Shrewsbury and the natural beauty of its mountain setting.

### **SECTION 103: Amendments**

These Regulations may be amended according to the requirements and procedures established in Sections 4441 and 4444 of the Act.

### **SECTION 104: Interpretation**

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not intended by these regulations to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon the use of a structure or land than is required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of these regulations shall control.

### **SECTION 105: Effective Date**

These amendments shall take effect in accordance with the procedures contained in Sections 4442 of the Act. On the day they are effective, they shall amend in its entirety any previous zoning regulation.

**SECTION 106: Severability**

The invalidity of any article or section of these Regulations shall not invalidate any other part.

## **ARTICLE II ESTABLISHMENTS OF ZONING DISTRICTS AND ZONING MAP**

### **SECTION 201: Purpose**

Zoning districts and Overlay Zones are established in the Town of Shrewsbury to further the public health, safety and welfare of the Town. The districts and overlay zones seek to provide an orderly, attractive, compatible, and logical growth pattern by allocating various functions and uses to areas best suited for them.

### **SECTION 202: Zoning Districts**

#### **202.1 Establishment**

Pursuant to Sections 4411 and 4414 of the Act, the Town of Shrewsbury hereby establishes the following Zoning Districts and Overlay Zones.

- A. Historic Village A - Shrewsbury Center
- B. Historic Village B - Cuttingsville
- C. Historic Village C - Northam
- D. Historic D – Brown Covered Bridge
- E. Village Residential – North Shrewsbury
- F. Rural Residential
- G. Limited Residential
- H. High Elevation
- I. Special Features Overlay
- J. Flood Hazard Area Overlay

The uses allowed in each district are specified in Article VI.

#### **202.2 Application of Regulations**

No land development may commence except in conformance with this Regulation. Any use not expressly permitted in a district is prohibited in that district.

#### **202.3 Special Features Overlay District**

There may be some land within zoning districts that is also within one or more of the Special Features Overlay Districts. Additional requirements apply. Please check the Official Zoning Map and see Section 208.

## **202.4 Flood Hazard Area Overlay**

There may be some land within the following zoning districts that is also within the Flood Hazard Area Overlay District. Additional requirements apply. Please check the Official Zoning Map and see Attachment A: Flood Hazard Area Regulations.

## **SECTION 203: Historic Districts**

### **203.1 Description**

Pursuant to Section 4414 (F) of the Act, the Town of Shrewsbury establishes four (4) Historic Districts: Shrewsbury Center, Cuttingsville, Northam and Brown Bridge.

### **203.2 Purpose**

To maintain structures and areas of historic or architectural significance which include distinctive design or landscape characteristics, areas and structures with a particular relationship to the historic and cultural values of the surrounding area, and/or structures whose exterior architectural features bear significant relationship to the remainder of the structures or to the surrounding area. Properties in these districts are referenced in national and state registers of historic places, properties and districts.

With respect to external appearances and other than normal maintenance, no structure within a designated historic district may be rehabilitated, substantially altered, restored, moved, demolished or changed and no new structure within an historic district may be erected without approval by the Development Review Board.

## **SECTION 204: Northam Village Residential District**

### **204.1 Description**

The North Shrewsbury village area is an important social, civic, and cultural area of the town. The pattern of densely settled, mixed-use residential and commercial structures and various municipal buildings such as the Town Offices, Town Garage, Town School, and Northam Firehouse is similar to many traditional Vermont settlements. This area also contains a high concentration of historic structures including the Northam Church and Pierce's Store, which is managed by the Vermont Preservation Trust.

### **204.2 Purpose**

To encourage residential development in and near a historic village which will serve as a nucleus for future village-type residential growth in the Town.



## **SECTION 205: Rural Residential**

### **205.1 Description**

All lands outside of Village Residential and Historic districts that generally have access to public roads.

### **205.2 Purpose**

To encourage 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 development including clustering.

## **SECTION 206: Limited Residential**

### **206.1 Description**

All lands that are generally more remote and have limited access to public roads.

### **206.2 Purpose**

To regulate the growth of areas in Town whose inaccessibility, soils, slopes, high groundwater table, floodplains, farmland, and natural areas render them either unsuitable or incompatible for any but limited development, in order to encourage continued use as valuable and productive for agriculture, forestry, recreation, watershed, wildlife and natural areas and to protect sensitive ecological areas.

## **SECTION 207: High Elevation Districts – Preservation and Residential**

### **207.1 Description**

- A. High Elevation Preservation District - All lands above 2300 feet above sea level.
- B. High Elevation Residential District - All lands between 2000 and 2300 feet above sea level.

### **207.2 Purpose**

To protect the natural beauty of the mountain terrain and its resource as a critical wildlife habitat, fragile natural environment above 2000 feet elevation, and to foster the important role played by these areas in the water cycle. Land development in this these Districts shall be limited to the following:

- A. Above 2300 feet (Preservation District): open space uses including forestry and agriculture.

B. Lands between 2000 and 2300 feet: Forestry, agriculture and single family residential use only and shall be subject to Conditional Use Approval.

## **SECTION 208: Special Features Overlay Zones**

### **208.1 Description**

The Special Features Overlay Zones are superimposed over all underlying zoning districts, and include Wetlands, Deer Wintering Areas, Wellhead Protection Areas, Meadowlands, Steep Slopes, Ridgelines, and Wildlife Corridors.

### **208.2 Purpose**

The purpose of the Special Features Overlay Zones is to ensure the protection of the Town's ecological and aesthetic resources. The Town Plan has identified fragile areas, natural areas, critical wildlife habitat areas, and resource areas which deserve special attention. Due to the diversity of land use districts that include these resources, and land forms and land capabilities within these districts.

### **208.3 Application of Overlays**

The provisions of the overlay zone take precedence over the requirements of the underlying districts. Unless otherwise noted, all proposed uses in the Special Features Overlay Zone shall be subject to conditional use review. In considering an application, the Development Review Board shall evaluate the immediate and long range impact of the proposed use on the resource. Specific standards for review involving each resource are listed below.

**A. Surface Waters and Wetlands:** Surface waters and wetlands identified in the overlay zone shall not be drained, filled, or altered to accommodate land development or agricultural use. Proposals for the development or agricultural use of a lot involving or adjacent to an identified surface waters and wetlands shall provide for adequate setbacks of roads, buildings, structures, cropland additives and sewage systems from the surface waters and wetland. Setbacks shall be no less than 100 feet, but may be increased by the Board to protect the following surface waters and wetland values:

1. water quality control
2. groundwater supply
3. flood and erosion control
4. flora and fauna
5. education and recreation

Surface Waters (including but not limited to lakes, ponds, streams) and Wetlands are identified on the Natural Resources maps.

**B. Deer Wintering Areas (Deeryards):** Land development immediately adjacent to a deeryard identified on the overlay zone shall be designed, sited, and undertaken in a manner compatible with the continued viability of the deeryard. Land development within a deeryard boundary shall be permitted only where the Board makes the following findings:

1. The parcel on which the development is proposed includes no land that is practical for development except that which is deeryard.
2. The proposed development can be designed, sited, and undertaken in a manner that minimizes the impact of the development on the continued viability of the deeryard.

Proposals for development of a parcel involving or adjacent to an identified deeryard shall be based upon consultation with and recommendations of representatives of the Vermont Department of Fish and Wildlife, and shall provide evidence of such consultation.

Where development is approved to take place within a deeryard or includes part or all of a deeryard in the land base for the development or the determination of its density, the remainder of the deeryard owned by the applicant shall be managed in a manner compatible with the continued viability of the deeryard. Evidence of such management may be provided by the preparation and implementation of a forest management plan approved by the Vermont Department of Fish and Wildlife and compliance with that plan.

Deer Wintering Areas are identified on the Natural Resources maps.

**C. Wellhead Protection Areas:** The Board shall consider such factors as the amount and type of wastes to be generated by the proposed use and the adequacy of the proposed disposal system, and the capability of the land and water to sustain such use without degradation. The Board may consult with the Vermont Agency of Natural Resources Department of Environmental Conservation for assistance or require certification by a registered professional engineer that the project will not result in degradation of the water supply. Any development within a State designated wellhead protection area shall demonstrate compliance with applicable state regulations.

Wellhead Protection Areas are identified on the Natural Resources maps.

**D. Meadowland:** Meadowland is hereby construed to mean open fields or cropland. Land development other than agricultural uses, or outdoor recreation uses compatible with agricultural uses, may be permitted on meadowlands identified on the overlay only where the Board makes the following findings:

1. The parcel on which the development is proposed contains no land that is practical for development except that which is meadowland.
2. The placement of the use on the parcel: minimizes the disruption of the scenic quality of the site; retains the maximum possible area for present and/or future agricultural use through such means as clustering under Open Space Development provisions, reduction in allowable density, sale or donation of development rights; and maximizes the use of the least productive land and the protection of primary agricultural soils.
3. The development will minimize conflict with existing or potential agricultural uses in the area.
4. Unnecessary hardship has not been created by the applicant.
5. Structures, roadways, utilities and driveways shall be located on the periphery of the meadowlands in a manner that avoids or minimizes encroachment into the meadowland.
6. No overhead utility lines shall be constructed through meadowlands.

Meadowlands are identified on the Meadowlands (aerial) map.

**E. Steep Slopes:** Development on slopes in excess of 20% grade is prohibited. However, access roads across a slope in excess of 20% may be permitted provided the access road itself does not have a slope in excess of 15% and that adequate erosion control measures are followed.

Steep Slopes are identified on the Natural Resources maps.

**F. Ridgelines:** Buildings shall be sited to avoid ridgelines, mountain peaks, hilltops and steep slopes or in a manner that would not disrupt their scenic quality. Development in these areas shall take advantage of the natural terrain of intermediate slopes and terraces.

Ridgelines are identified on the Contours map.

**G. Wildlife Corridor:** Wildlife corridors are those areas of land that permit wildlife such as deer, bear, moose, bobcat, and other animals to move from one area of their range to another. Habitat fragmented by development, such as roads and houses, prevent wildlife from accessing their full home range. It is important that animals be able to move for food and to preserve genetic diversity of the species. These corridors also help provide contiguous habitat for plants, invertebrates that are essential pollinators, and other wildlife. Wildlife corridors are crucial for bears as they must be able to move seasonally to areas of mast production, beech and oak nuts, in order to prepare for hibernation.

Natural Resources Shrewsbury, Map 1 of 2, delineates important north-south corridors on both the Eastern and Western boundaries of

Shrewsbury. Any development in these areas shall be reviewed by the DRB to insure minimum disruption/fragmentation of the wildlife corridors.

Land development immediately adjacent to a Wildlife Corridor identified on the overlay zone shall be designed, sited, and undertaken in a manner compatible with the continued viability of the Wildlife Corridor. Land development within a Wildlife Corridor boundary shall be permitted only where the Board makes the following findings:

1. The parcel on which the development is proposed includes no land that is practical for development except that which is Wildlife Corridor.
2. The proposed development can be designed, sited, and undertaken in a manner that minimizes the impact of the development on the continued viability of the Wildlife Corridor.
3. The proposed development shall be clustered in a group arrangement rather than in a linear arrangement along the wildlife corridor travel ways.
4. Development on the parcel shall be located as far from the wildlife travel ways as possible.

Proposals for development of a lot involving or adjacent to an identified Wildlife Corridor shall be based upon consultation with representatives of and recommendations by the Vermont Department of Fish and Wildlife, and shall provided evidence of such consultation.

Where development takes place within a Wildlife Corridor or includes part or all of a Wildlife Corridor in the land base for the development or the determination of its density, the remainder of the Wildlife Corridor owned by the applicant shall be managed in a manner compatible with the continued viability of the Wildlife Corridor. This may include the preparation and implementation of a management plan approved by the Vermont Department of Fish and Wildlife.

Wildlife Corridors are identified on the Natural Resources maps.

## **SECTION 209: Zoning Map**

### **209.1 Official Zoning Map**

The location and boundaries of Zoning Districts and Overlay Zones are established as shown on the Official Zoning Maps which is hereby made a part of these zoning regulations. No changes shall be made to the Official Zoning Map except in accordance with the procedures for amending zoning regulations.

Regardless of the existence of copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map shall be that

located in the Town Clerk's office and it shall be the final authority as to the current zoning status of land and water areas.

**209.2 Interpretation of District and Zone Boundaries**

Where, due to scale, lack of detail, illegibility, or other factors, there is any uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary shown thereon, the Zoning Administrator shall make an interpretation based upon the intention and text of these regulations and by actual measurement in the field using the distances described in Subsection A below.

Boundaries of the different zoning districts are typically established as follows:

- A. Boundaries which approximately follow the center lines of roads, streams, transportation and utility rights-of-way shall be construed to follow such center lines;
- B. Boundaries which approximately follow lot lines shall be construed to follow such lot lines;
- C. Boundaries which follow shorelines shall be construed as the low mean water level.
- D. Boundaries which are parallel to, perpendicular to, or extensions of features in A1 through A3 above shall be so construed.

The description of zoning district boundaries are found in APPENDIX A - Physical Descriptions of the Zoning Districts.

## **ARTICLE III ADMINISTRATION AND ENFORCEMENT**

### **SECTION 301: Zoning Administrator**

#### **301.1 Appointment**

The Administrative Officer (hereinafter, "Zoning Administrator") shall be nominated by the Planning Commission and appointed by the Selectboard for a three year term to administer the Zoning Regulations.

The Selectboard may remove a Zoning Administrator for cause at any time after consultation with the Planning Commission.

An acting Zoning Administrator may be appointed by the Selectboard, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Zoning Administrator in the Zoning Administrator's absence. In the event an acting Zoning Administrator is appointed, the Selectboard shall establish clear policies regarding the authority of the Zoning Administrator relative to the authority of the acting Zoning Administrator.

#### **301.2 Duties**

The Zoning Administrator shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

In addition, the Zoning Administrator shall coordinate the municipality's development review programs. If other municipal permits or approvals are required, the Zoning Administrator shall, where possible, provide the applicant with necessary forms. The Zoning Administrator may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

The Zoning Administrator provides assistance to individuals and others who wish to develop their property by providing the necessary forms to obtain required municipal permits and by referring them to the state authorities who must be contacted to obtain necessary state permits.

### **SECTION 302: Development Review Board**

#### **302.1 Appointment**

The Development Review Board shall consist of not less than five (5) nor more than nine (9) members, who may also be members of the Planning Commission, appointed by the Selectboard for specified terms in accordance with the Act [§4460(b) and (c)]. The Selectboard also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Development Review Board may be removed for cause by the Selectboard upon written charges and after public hearing.

### **302.2 Duties**

The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct. The Development Review Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- A. Applications for rights-of-way or easements for development lacking frontage ,
- B. Appeals from any decision, act or failure to act by the Zoning Administrator,
- C. Requests for waivers ,
- D. Applications for site plan approval ,
- E. Applications for conditional use approval ,
- F. Applications for subdivision approval
- G. Applications for Open Space Developments (Article VIII),
- H. Applications for design or historic review , and
- I. Applications for variances ,

### **302.3 Combined Review**

Where a proposed project will require more than one type of development review, the Development Review Board may warn and hold a joint hearing or single hearing for the purpose of reviewing and acting on the proposal. The zoning administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.

Notice for a combined review hearing shall be made in accordance with 24 V.S.A. § 4464(a)(1). The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review processes that will be conducted at the hearing.

All hearing and decision requirements and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated where appropriate.



## **SECTION 303: Planning Commission**

### **303.1 Appointment**

The Planning Commission shall consist of not less than three (3) or more than seven (7) members appointed by the Selectboard in accordance with the Act [§§4321–4323]. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Selectboard.

### **303.2 Duties**

The Commission shall adopt rules of procedure deemed necessary and appropriate for the performance of its functions as required under the Act [§4323(b)] and Vermont's Open Meeting Laws. In accordance with the Act, the Commission shall have the following duties in association with these regulations:

- A. To prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition;
- B. To prepare and approve written reports on any proposed amendment to these regulations as required by the Act [§4441(c)]; and
- C. To hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Selectboard [§4441(d)].

## **SECTION 304: Public Notice**

### **304.1 Public Notice for Conditional Use, Appeals of Zoning Administrator Decision, and Variances**

A warned public hearing shall be required, with public notice given not less than 15 days prior to the date of the public hearing by all of the following:

- A. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
- B. Posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
- C. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and

- D. For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

**304.2 Public Notice for Other Types of Development Review Hearings and Site Plan Review**

Public Notice shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:

- A. Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
- B. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.

**304.3 Cost of Public Hearing**

The applicant shall be required to bear the cost of public warning and the cost of notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

**304.4 Defects**

No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Development Review Board or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

**SECTION 305: Hearings**

In accordance with the Act [§4461], all meetings and hearings of the Development Review Board, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Development Review Board.

The Development Review Board, in conjunction with any hearing under this bylaw, may:

- A. Examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
- B. Require the attendance of any person having knowledge in the premises;
- C. Take testimony and require proof material for its information; and
- D. Administer oaths or take acknowledgement in respect of those matters.

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Definitions, "Interested Persons" are met. The Development Review Board shall keep a record of the name, address, and participation of each of these persons.

Any Advisory Committee recommendations shall be submitted in writing at or before the public hearing of the Development Review Board.

The Development Review Board may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

### **SECTION 306: Decisions**

Any action or decision of a Development Review Board shall be taken by the concurrence of a majority of the members of the Development Review Board. In accordance with the Act [§4464(b)], the Development Review Board shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46<sup>th</sup> day.

All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact.

The decision shall also include a statement of the time within which appeals may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

In rendering a decision in favor of the applicant, the Development Review Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:

- A. The submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Shrewsbury Selectboard, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or

- protection of public facilities that may be affected by a project; and/or
- B. A requirement that no Certificate of Compliance be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

All decisions of the Development Review Board shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

### **SECTION 307: Appeal to the Environmental Court**

Within thirty days following the date of decision rendered by the Development Review Board, notice of the appeal shall be filed by certified mail with fees to the environmental court and mailing a copy to the Town Clerk who shall supply a list of interested persons to the appellant within five working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

### **SECTION 308: Enforcement**

Any violation of these regulations shall be subject to fines and enforcement as provided in Section 4451 of the Act.

### **SECTION 309: Violations**

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute, in the name of the Town, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

## **ARTICLE IV PERMITS AND APPROVALS**

### **SECTION 401: Zoning Permits**

#### **401.1 When Required**

A Zoning Permit shall be required prior to the commencement of any Land Development. "Land Development" is defined in Section 4303 of the Act to mean,

“the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.”

#### **401.2 When Not Required**

Except in the Federal Emergency Management Administration designated Special Flood Hazard Area the following do not require permits from the Administrative Officer:

- A. Accepted agricultural practices (AAPs), including the construction of farm structures, as those practices are defined by the Vermont Agency of Agriculture. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
- B. Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation.
- C. Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations may be defined as outdoor recreation facilities or other use.
- D. Normal maintenance and repair of an existing structure which does not result in exterior alterations or expansion or a change of use.
- E. Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
- F. Exterior alterations to structures which are not located within designated design review districts and which do not result in any change to the footprint or height of the structure or a change in use.
- G. Residential entry stairs (excluding decks and porches), handicap access

ramps, walkways, and fences or walls less than four (4) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.

- H. Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities.
- I. Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snowmobile trails) which do not require the installation of structures or parking areas.
- J. Accessory buildings without permanent foundation or pad associated with residential uses which are less than 64 square feet of floor area and less than eight (8) feet in height, and are not located within required setback areas.
- K. Signs, reviewed in accordance with Section 516.
- L. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.

#### **401.3 Purpose of Permits.**

Zoning Permits are required so that the Zoning Administrator is provided with information about Land Development within the Town of Shrewsbury, and to ensure that all such activity is in compliance with these regulations.

#### **401.4 Application for a Zoning Permit**

An application for a zoning permit shall be filed with the Zoning Administrator on form(s) provided by the municipality. Required application fees, as set by the Selectboard, shall also be submitted with each application. In addition, the following information will be required:

##### **A. Permitted Uses**

Applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following:

1. The dimensions of the lot, including existing property boundaries,
2. The location, footprint and height or existing and proposed structures or additions,
3. The location of existing and proposed accesses (curb cuts), driveways and parking areas,
4. The location of existing and proposed easements and rights-of-way,
5. Existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
6. The location of existing and proposed water and wastewater systems, and
7. Other such information as required by the Zoning Administrator to

determine conformance with these regulations.

8. Additional or Alternate requirements per Open Space Development zoning , Article VIII.

**B. Uses Subject to Development Review**

For development requiring one or more approvals from the Development Review Board prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit.

**C. Application Complete**

The Zoning Administrator shall consider an application for a Zoning Permit to be complete only when all of the following requirements are met:

1. The Zoning Permit Application form has been properly completed and submitted to the Zoning Administrator.
2. The Zoning Administrator has received copies of State of Vermont permit including plans and documents used to obtain the state permit for potable water supplies and wastewaters systems (State of Vermont Agency of Natural Resources Department of Environmental Conservation Wastewater Management Division).
3. Any additional information requested by the Zoning Administrator has been provided.
4. All required fees have been paid.
5. If authorized by the Selectboard, pursuant to Section 4440 (d) of the Act, the Development Review Board may require an applicant to pay for reasonable costs of an independent technical review of an application. The applicant and Board shall enter into a written agreement specifying the scope, cost, and payment schedule of the technical review in accordance with procedures and standards authorized by the Selectboard.

**401.5 Issuance of a Zoning Permit**

A zoning permit shall be issued by the Zoning Administrator only in accordance with the Act [§4449] and the following provisions:

- A. Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Zoning Administrator shall either issue or deny a zoning permit in writing, or refer the application to the Development Review Board and/or state for consideration.
- B. If the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31<sup>st</sup> day.
- C. No zoning permit issued by the Zoning Administrator shall take effect until 15 days have passed or, if an appeal is filed, until final adjudication of the appeal
- D. No zoning permit shall be issued by the Zoning Administrator for any use

or structure which requires the approval of the Development Review Board or Selectboard until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.

- E. If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Zoning Administrator shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw. In such case, the Applicant will not be required to pay additional fees.
- F. A zoning permit shall include a statement of the 15 day period within which appeals may be taken under Section 4465 of the Act.

#### **401.6 Notification of Listers, Posting of Permit**

The Zoning Administrator, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance. A notice of permit, on a form prescribed by the municipality, shall be posted within view of the nearest public right-of-way until the time for appeal has expired.

#### **401.7 Delivery to Clerk**

Within 30 days after a zoning permit has been issued, the Zoning Administrator shall deliver the original or a legible copy to the town clerk for recording (as provided in 24 VSA 1154) and file a copy in the offices of the town in a location where all municipal land use permits shall be kept.

#### **401.8 Time for Completion**

All activities authorized by a Zoning Permit shall be completed within 3 years or the zoning permit shall become null and void and reapplication to complete any activities shall be required. Any activities not completed within 3 years may be subject to any ordinances in effect at the time of reapplication. The Development Review Board may grant a one year extension to this three-year period.

#### **401.9 Posting of Zoning Permit.**

Upon the issuance of a Zoning Permit and the commencement of Land Development as defined by these Regulations, the permittee shall post a copy of



the Zoning Permit in a conspicuous place on the land or structure involved until the project has been completed. Failure to post such a notice shall be deemed a violation of this Regulation.

### **SECTION 402: Residential Development Phasing**

Pursuant to Section 4422 of the Act, a system of phasing will be employed to govern the number of housing starts in the Town of Shrewsbury on an annual basis. The purpose of this phasing system is to ensure the appropriate timing or sequence of land development activities in relation to the provisions of necessary community facilities and services.

No more than ten (10) permits for single family dwelling units, or any combination of single-family and duplex units such that the total number of living units is ten, shall be authorized to commence construction in any calendar year.

Application for permits, under the provisions of Article VIII Open Space Development, may be made for construction up to a maximum of 5 dwelling units per Open Space Development authorization in a calendar year. No more than 3 building permits may be issued pursuant to this provision, under a single Open Space Development authorization, per calendar year.

No limit shall be established regarding the issuance of zoning permits for residential dwelling units. Each permit shall indicate the year in which construction of a residential dwelling unit may commence. The provisions of Section 401.8 of this Article, Time for Completion, shall not apply until January of the year in which the construction has been authorized.

Phasing for residential construction shall be assigned by the Zoning Administrator upon issuance of the zoning permit, based on the date submission. No individual may commence construction of more than two (2) units within a five year period unless specifically authorized elsewhere in these regulations. The Development Review Board may authorize the commencement of construction of a residential dwelling unit out of turn/or order in excess of the ten (10) units allowed annually, if a hardship is determined. For the purposes of this Section, housing need due to destruction of an existing residential dwelling unit, the severe illness, infirmity or death of a family member shall constitute hardship.

The Zoning Administrator shall maintain a record of all zoning permits issued for residential dwelling units and a commencement of construction schedule for permitted residential dwelling units.

The provisions of this Section shall not apply to any permit duly issued for a residential dwelling unit prior to the date of these Zoning Regulations are

adopted provided that such permit complies with the other provisions of this Article.

### **SECTION 402: Certificate of Compliance**

A Certificate of Compliance must be issued by the Zoning Administrator prior to the use or occupancy of land development which required Development Review Board approval before a Zoning Permit could be issued.

A Certificate of Compliance shall not be required for Land Development which solely required a Variance or Subdivision Approval.

Prior to issuance of a Certificate of Compliance, the Zoning Administrator shall determine that the Land Development conforms to the requirements of these Zoning Regulations as well as the Findings of Fact, Conclusions of Law, and Decisions (including any conditions of approval) of any Development Review Board Development Review Board approvals issued for the Land Development. (4449(a)(2) of the Act)

Prior to issuance of a Certificate of Compliance, the applicant shall submit a copy of the approved permit application and the final (approved) inspection report of the potable water supply and wastewater system as required by the state.

In the case of Land Development that has been approved by the Development Review Board Development Review Board for phased construction, a Certificate of Compliance shall be required for each phase of the development.

Subject to appropriate conditions, the Zoning Administrator may grant a Temporary Certificate of Compliance for Land Development which does not yet comply with all the requirements listed above due to circumstances beyond the lot owner's control.<sup>1</sup> The Zoning Administrator may require a letter of credit or other financial security instrument adequate to ensure that the development shall be completed in a timely manner as required.

### **SECTION 403: Waivers**

- A. Waivers may be granted for a permitted use by the Zoning Administrator to reduce dimensional requirements as needed to allow for disability accessibility, fire safety, and other requirements of law.
- B. Certain limited waivers may be considered by the Development Review Board for Conditional Uses to reduce dimensional requirements, but not density requirements, if the proposed development meets any of the following criteria:

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<sup>1</sup> For example, the onset of Winter has delayed the planting of landscaping until Spring, or temporary exterior light fixtures have been installed while the correct lighting fixtures have been back ordered.

1. The proposed development conforms to the existing development patterns of the immediate neighborhood.
2. The proposed development will more effectively preserve open land or scenic vistas.
3. The proposed development will provide for energy conservation and renewable energy structures.
4. Meeting the dimensional requirements will create an undue hardship on the applicant and the hardship was not created by the applicant.

Additionally, the Development Review Board may grant such waivers only if the Board finds that the proposed development meets ALL the following standards:

1. The proposed development shall not reduce the dimensional requirements by more than the minimum amount necessary.
  2. The proposed development does not alter the essential character of the neighborhood or district in which the property is located.
  3. The proposed development does not substantially or permanently impair the appropriate use or development of adjacent property.
  4. The proposed development does not reduce access to renewable energy resources.
  5. The proposed development shall not be detrimental to the public welfare including the safety and maintenance of the Town's highways.
- C. Any variance or waiver approval granted under this Bylaw shall expire two (2) years from the date of the written decision granting such approval unless a zoning permit has been issued by the Zoning Administrator for the approved project.
- D. The approval or denial of a variance or waiver by the DRB may be appealed to the Environmental Court in a manner as specified in section 4471 of the Act. The approval or denial of a waiver by the Zoning Administrator may be appealed to the DRB

## **SECTION 404: Appeals**

### **404.1 Notice of Appeal**

A notice of appeal filed under this section shall be in writing and include the following information:

- A. The name and address of the appellant,
- B. A brief description of the property with respect to which the appeal is taken,
- C. A reference to applicable provisions of these regulations,

- D. The relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
- E. The alleged grounds why such relief is believed proper under the circumstances.

#### **404.2 Variance**

When the appeal is for a variance from the provisions of a zoning regulation is requested for a structure that is not primarily a renewable energy resource structure, the variance may be granted if all of the following facts are found and the findings are specified in the written decision:

- A. That there are unique physical circumstances or conditions including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances and conditions generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located.
- B. 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 Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- C. That the unnecessary hardship has not been created by the appellant.
- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Zoning Regulations and the Town Plan.

#### **404.3 Variance – Renewable Energy Structure**

When the appeal is for a variance from the provisions of a zoning regulation is requested for a structure that is primarily a renewable energy resource structure, the variance may be granted pursuant to Section 4469(b) of the Act only if *all* of the following facts are found in the affirmative and specified in its written decision:

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

regulations;

2. The hardship was not created by the appellant;
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, nor be detrimental to the public welfare; and
4. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

#### **404.4 Action of the Zoning Administrator**

An interested person as defined [see definitions] may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal with the secretary of the Development Review Board, or with the Town Clerk if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the Zoning Administrator.

#### **404.5 Decisions**

- A. The Development Review Board shall act to approve or disapprove any request for a variance within forty-five days from the final public hearing, or it shall be deemed approved.
- B. In rendering a decision in favor of an appellant, the Development Review Board may attach such conditions as may be necessary and appropriate under the circumstances to implement the purposes of the Act and the current Shrewsbury Town Plan.
- C. The burden of proof to satisfy all standards shall be on the applicant.
- D. Copies of the decision will be promptly mailed to the applicant and appellant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Zoning Administrator and the Town Clerk.

## **SECTION 405: Site Plan Approval from the DRB**

### **405.1 General Information**

- A. Site Plan Approval from the DRB is required before the issuance of a zoning permit for all proposed land development except for the following:
1. Agriculture uses and structures;
  2. Forestry and conservation uses
  3. Structures of less than 500 square feet;
  4. Single-family and two-family dwellings and accessory structures thereto;
  5. Home occupations;
  6. State registered or licensed day care facilities, group homes and residential care homes serving not more than six (6) people;
  7. Changes to uses and structures which, in the opinion of the Zoning Administrator, are minor and have no adverse effect in terms of the Site Plan review criteria stated below.
- B. Sketch Plan Review. An applicant is encouraged to attend a Development Review Board meeting to discuss a proposed development and the application procedure before submitting an application. This procedure is called "Sketch Plan Review."
- C. The Development Review Board may approve a site plan, disapprove a site plan, or approve a site Plan with conditions.
- D. The burden of proof to satisfy all standards shall be on the applicant.

### **405.2 Site Plan Application**

- A. The applicant shall submit a minimum of two (2) sets of detailed site plan documents and supporting data to the Zoning Administrator which shall include the following information presented in drawn form and written text:
1. Name and address of owner of property and of applicant, if different than owner, and of owners of record of adjoining lands; name and address of person or firm preparing map.
  2. Site plans drawn to an appropriate scale showing property lines, acreage figures, clearly showing parcel numbers, scale of map, north arrow, last version date and name of preparer.
  3. Existing features, including structures, utility easements and rights-of-way.
  4. Existing and proposed grading and location of existing and proposed structures and land use areas.
  5. Existing and proposed layout of roads, driveways, walkways, sewage disposal areas, stormwater treatment and drainage facilities, fire

protection facilities, traffic circulation, parking and loading areas, and points of access including access for emergency vehicles.

6. Clearing limits.
  7. Existing trees, shrubs and other vegetation to be preserved on the site.
  8. Proposed landscaping, walls, site lighting, sign locations, and fencing. Whenever possible, in discussing landscaping, screening, and lighting plans, applicants should give accurate examples based on existing sites in the Town.
- B. The Development Review Board may waive or modify the application submission requirements when deemed appropriate.
  - C. The Development Review Board may require submission of additional site plan information including, but not limited to: property surveys, surveyed topography, construction sequence and description and time schedule for project completion, site excavation and grading plan, a storm water management and erosion control plan, building elevations, floor plans, and estimate of daily and peak hour traffic generation and/or a qualified traffic study.
  - D. The Development Review Board may require that for uses with significant potential traffic, environmental or visual impact the site plan submission must be prepared by a licensed professional engineer and/or professional architect.

#### **405.3 Site Plan Review Criteria.**

The Development Review Board shall consider and may impose appropriate conditions and safeguards regarding the following criteria in its review and approval of the proposed site plans:

- A. Safety of vehicular circulation between the site and the road network and integration with the overall traffic pattern. Included in the evaluation shall be the location, number and width of access points, curve radii at access points, sight distances, lighting, walkways and the overall relationship of the proposed development with existing traffic conditions in the area. All modes of transportation shall be taken into account, including pedestrian, bicycle, handicapped, delivery and emergency vehicles.
- B. Adequacy of on-site circulation, parking and loading facilities with particular attention to safety, adequacy of parking areas, and provision for lighting, drainage, snow removal and access for emergency vehicles.
- C. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of adjacent properties. Landscaping and screening should include measures to screen adjacent properties from glare produced by interior or exterior lights and from potentially unsightly areas such as storage areas, dumpsters, and parking lots. Landscape materials shall be of a type that is hardy to the location and shall be maintained as proposed.

1. Landscaping, where required under these regulations, may take the form of shade trees, deciduous vegetation, shrubs, evergreens, flower gardens, and well-kept grassed areas or ground cover. Plant materials shall, to the extent practical, be of species indigenous to the region. The choice and placement of plantings and screening in parking areas shall take into account the special hazards of salt, vehicles, and maintenance equipment and the need to provide adequate snow removal and storage.
  2. Where feasible, commercial and industrial uses shall provide a buffer strip of land which shall be maintained as a landscaped area or a natural wooded area in all setback areas.
- D. Protection of the utilization of renewable energy resources including a finding that the proposed development does not adversely affect the ability of adjacent properties to use this form of energy.
- E. Adequacy of provision for safety and convenience of pedestrians, bicyclists, and handicapped persons. Included in this evaluation shall be lighting of walks and entrances, design and placement of walks, crosswalks, and pick-up points.

#### **405.4 Decisions**

- A. The Development Review Board shall act on a Site Plan application within 45 days from the date of receipt of a complete application by the Zoning Administrator. Failure to act within such period shall be deemed approval of such Site Plan.
- B. Decisions shall be issued in writing and shall include a statement of the factual bases on which the Development Review Board has made its conclusions and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided in conformance with this subsection.

### **SECTION 406: Performance Standards in Designated Historic Districts**

#### **406.1 General Considerations.**

The Board in its review of plans submitted shall consider the following:

1. The historic and architectural significance of the structure, its distinctive characteristics and its relationship to the historic significance of the surrounding area.



2. The relationship of the proposed changes in the exterior architectural features of the structure to the remainder of the structure and to the surrounding area.
3. The general compatibility of the proposed exterior design, arrangement, texture and materials proposed to be used.
4. Any other factors, including the environmental setting and aesthetic factors that the Board deems to be pertinent.

#### **406.2 Review of Applications in Historic Districts.**

The Board, in reviewing applications for structures in the Historic Districts:

1. Shall be strict in its judgment of plans for those structures deemed to be valuable under Section 203 of the Regulations, but is not required necessarily to limit new construction, alteration or repairs to or limit the building style to any one period, but may encourage compatible new design.
2. If an application is submitted for alteration of the exterior appearance of a structure or for the moving or demolition of a structure deemed to be significant under Section 203 of the Regulations, the Development Review Board shall meet with the owner of the structure to devise an economically feasible plan for the preservation of the structure.
3. The Development Review Board shall approve an application only when it is satisfied that the proposed plan will not materially impair the historic or architectural significance of the structure or surrounding area.
4. In the case of a structure deemed to be significant under Section 203 of the Regulations, the Board may approve the proposed alteration despite Section 401(1)(c) of this section if the panel finds either or both of the following:
  - a. The structure is a deterrent to a major improvement program that will be a clear and substantial benefit to the municipality
  - b. Retention of the structure would cause undue financial hardship to the owner.

### **SECTION 407: Conditional Use Approval**

#### **407.1 General Information**

- A. Pursuant to Section 4414(3) of the Act, no Zoning Permit shall be issued for any use or structure which requires Conditional Use Approval under these Regulations until the Development Review Board has granted its approval. A Conditional Use shall be approved only if the Development Review Board determines, after public notice and hearing, that the proposed use conforms to the general and specific standards contained in these Regulations.
- B. Conditional Use Approval shall remain in effect regardless of transfer of ownership or interest in the Lot.
- C. Any alteration or expansion of an existing Conditional Use shall require Conditional Use Approval.
- D. No clearing of land or construction of access roads shall occur in preparation for a Conditional Use until approval for this use has been granted by the Development Review Board and a zoning permit has been issued.

#### **407.2 General Standards for Conditional Use Approval**

Before granting Conditional Use Approval, the Development Review Board shall determine that the proposed use shall not have an undue, adverse effect on:

- A. The capacity of existing or planned community facilities, including, but not limited to, emergency services, public community water systems, stormwater drainage facilities, recreational facilities, the school system, municipal highways and parking areas, and solid waste disposal facilities.
- B. The character of the area affected, including but not limited to, areas of scenic or natural beauty, historic sites, or rare and irreplaceable natural areas. The Development Review Board shall consider the purposes and objectives of the zoning district in which the proposed use is to be located and specifically stated policies and standards of the municipal plan.
- C. Traffic on roads and highways in the vicinity. In making this determination, the Development Review Board may require submission of a traffic impact study prepared by a professional traffic engineer the cost of which may be borne by the applicant.

#### **407.3 Other Provisions of This Regulation**

Conditional uses shall also be subject to all other provisions of this Regulation.

#### **407.4 Specific Standards for Conditional Use Approval**

The Development Review Board may impose reasonable conditions in addition to those expressly specified in these Regulations in order to safeguard the

interest of abutting properties or the Town as a whole. Such conditions may include, but are not limited to, the following:

- A. Increasing the required lot size or setback requirements;
- B. Limiting the lot coverage or height of buildings;
- C. Controlling the number, size, and location of vehicular access points;
- D. Modifying the number of required off-street parking and loading spaces;
- E. Controlling the number, location, and size of signs;
- F. Requiring suitable landscaping, screening and erosion control;
- G. Requiring the use of devices or methods to prevent or control fumes, gas, smoke, dust, odor, excess light, noise, or vibration;
- H. Limiting the days and hours of operation;
- I. Requiring the installation of acceleration or deceleration lanes on the street or highway adjacent to any driveway serving the development;
- J. Requiring the improvement of any intersections adversely affected by the development.

#### **SECTION 408: Performance Standards for Commercial Outdoor Recreation**

Commercial Outdoor Recreation is a logical accessory or supplement to a bed and breakfast facility, tourist home, inn, farm, or other similar commercial activity in rural Shrewsbury and is, therefore, only permitted in conjunction with these land uses and meets the following conditions:

- A. Avoids significant alteration of land
- B. Avoids demand on Town roads or other facilities
- C. Is compatible with the Town's character
- D. Avoids excessive or obnoxious noise or glare.

#### **SECTION 409: Performance Standards for Home Industry**

A Home Industry may be allowed as a Conditional Use in the Districts specified in the Table of Uses if the Board determines that the following criteria are met:

- A. The Home Industry is carried on within the dwelling or within an accessory structure or structures or outside on a lot.
- B. The principal operator of the business or activity shall be a full-time resident of the dwelling.
- C. No more than two full time employees (or the equivalent) who are not full-time residents of the dwelling are allowed.
- D. Exterior displays and exterior storage of materials shall be permitted only as allowed by the Development Review Board.
- E. Subject to the limitations set by the Development Review Board, products of the Home Industry may be displayed and sold from the dwelling, from an accessory structure, or from an outdoor stand.
- F. The Home Industry will not generate noise, odor, fumes, vibration, excessive lighting, electrical interference, or smoke which would adversely affect the residential character of the neighborhood in which it is located.
- G. Materials and processes used in the Home Industry shall not create any undue fire, safety, explosive or other hazards which significantly endanger any property, including the applicant's.
- H. Sufficient parking is provided off-street to accommodate both the residential use and Home Industry use of the lot.
- I. Traffic will not be generated in consistently greater volumes than would normally be expected in the neighborhood.
- J. Frequent delivery to or from the Home Industry shall not be made by tractor trailer. Infrequent tractor-trailer deliveries shall not park on town roads.
- K. Year-round off street parking must be provided for all delivery vehicles.

**SECTION 410: Performance Standards for Windmills  
(Wind Energy Conversion Systems)**

The Development Review Board shall consider the following when reviewing applications for windmills / Wind Energy Conversion Systems (WECS)

- A. Natural Screening using existing landscape features is encouraged.
- B. To the greatest extent possible, structures and facilities shall be sited to avoid open fields.
- C. The maximum design output for a facility shall be 30kw.
- D. The Maximum height for any windmill facility shall be 130 feet.
- E. Towers shall not extend more than 50 feet above the average height of trees in a 100-yard radius from the proposed sight.
- F. Towers shall have a minimum setback from all property lines, power lines, and public rights of way of either 100 feet or 1 ½ times the height of the tower, whichever is greater.
- G. Wind energy systems shall not exceed sound levels of 60dBA as measured at the nearest neighboring property boundary.

- H. No wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer -owned generator. Off-grid systems shall be exempt from this requirement.

**SECTION 411: Performance Standards for Commercial and Light Industrial Development**

The purpose of this regulation is to allow commercial and light industrial development to be created in a manner that will not detract from the rural character of the Town. Any permit issued under this section shall be considered a principal use and shall meet all other requirements of the zone in which it is located.

- A. Obnoxious or excessive noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot shall not be generated.
- B. There shall be no outside displays except those that are brought in at the end of the business hours and are the actual product of the business.
- C. Storage of goods, parts, supplies, vehicles or machinery being worked on or finished or partially finished shall be inside a building or behind a site plan approved screen.
- D. Business operations shall not produce more noise, light, or traffic than would normally be produced in neighborhoods.
- E. Nothing in this section should be construed as limiting a purely agricultural enterprise.
- F. Any future extension, enlargement or changes in the use of a commercial or light industrial use shall be considered an amendment to the original conditional use permit, and shall be evaluated in light of any conditional attached to that permit.
- G. If in the judgment of the Board an increase in the capacity of the business were to generate additional impact, then the Board may condition its approval to require amendment to the permit prior to the addition of such capacity.

**SECTION 412: Conditions Regarding Development of Facilities for Extraction of Soil, Sand or Gravel**

The extraction of soil, sand, gravel, or the extension of such operations now existing, except where incidental to the construction or landscaping of a building on the same premises, or incidental to the construction of a road or driveway and in the right of way of such project, or for the modification of a field for agricultural purposes, or for the construction of a pond of less than one acre, shall be subject to the following conditions. These conditions are intended to insure that the site will be left in a safe, attractive, useful condition, and that the safety and general welfare of the public will be

protected during the extraction, processing, and transportation of such materials.

- A. The Development Review Board shall require a detailed topographic plan prepared by a professional engineer, drawn to scale including all pertinent information in order to effectively review the existing conditions and the proposed project. At a minimum, the information should include a description of the proposed operation and plans for rehabilitation of the affected area.
- B. All operations, regardless of their size, shall be subject to the following standards:
  - 1. Limitations on the hours of operation,
  - 2. Blasting will not be allowed unless it can be done in conformance with any State and Federal regulations and in any case be done in such a manner so that it doesn't degrade the character of the district in which it is located,
  - 3. All surface or groundwater drainage affected by excavation operations shall be controlled by the operator to prevent erosion, and keep any debris or loose materials from filling or polluting any water body or drainage course.
  - 4. No operations shall occur in any natural pond, stream, river, or any other standing or flowing body of water,
  - 5. If the operation poses a danger to the public, fencing or other protective measures shall be installed.
  - 6. An undisturbed vegetative buffer strip of up to 200 feet may be required to mitigate adverse effects of the operation on neighboring properties.
  - 7. Rehabilitation plans shall provide that the land will have no steep banks, exposed boulders, or uprooted stumps, and that the site will be covered with an appropriate, permanent, healthy vegetative cover.
- C. If a power-activated crushing and/or sorting operations is allowed, it shall be operated in such manner that it will not unduly affect the normal character of the District in which it is located.
- D. Traffic generated by the project may be subject to the requirements of Section 517 of these regulations.
- E. Technologically current and effective dust suppression methods shall be employed in all excavation, crushing, hauling and drilling operations.
- F. If night time lighting is allowed, it shall be installed in such a manner as to control the escape of both direct and indirect light to surrounding properties.
- G. To insure the rehabilitation of the site, one or both of the following shall be required:
  - a. A bond must be posted to insure that the plans for rehabilitation shall be complied with; or
  - b. No more than four acres of land may be left un-rehabilitated at any one time.

- H. A permit may be revoked, or withheld for extensions or renewals and/or new applications denied until all rehabilitation plans have been complied with.
- I. These regulations apply to 1) gravel operations in existence at the time of enactment of these Regulations provided they comprise an existing extraction area in excess of two acres, and 2) any new gravel operation initiated after enactment of these Regulations regardless of size.
- J. If the operation involves the stripping of topsoil for sale or use in other locations, sufficient topsoil must be left to re-establish natural ground cover.
- K. The Development Review Board may attach any additional conditions as it may find necessary for the safety and general welfare of the public.

## **ARTICLE V GENERAL REGULATIONS**

### **SECTION 501: Required Frontage On, or Access To, Public Roads or Waters**

#### **501.1 Minimum Frontage**

In accordance with Section 4412(3) of the Act (and except as provided below) no land development may be allowed on lots which do not either have adequate frontage on a State or Class 3 Town-maintained road, State Highway (only if the VT Agency of Transportation has issued an access permit to a lot from this highway), or safe and adequate access to such a road or waters by a permanent easement or right-of-way of record at least 20 feet in width. The permanent easement or right-of-way shall have been approved pursuant to the Town of Shrewsbury's subdivision bylaws.

#### **501.2 Development on a Class 4 Road**

Land development on a lot which lot requires access via a Class 4 Town highway or trail (as defined in 19 VSA 301 & 302) right-of-way shall be allowed only as follows:

- A. Prior to the issuance of any permit, the proposed use of a Class 4 Town highway or trail right-of-way for access must be approved by the Shrewsbury Selectboard.
- B. Prior to the issuance of any permit and pursuant to 19 VSA 708 and 711, the Shrewsbury Selectboard may condition their approval, if granted, by requiring that the lot owner upgrade the Class 4 Town highway or trail to Class 3 Town-highway standards at the lot owner's expense. Nothing in this section shall be construed to require the Town to maintain the Class 4 Town highway or trail, once upgraded.

### **SECTION 502: Home Occupations**

#### **502.1 Home Occupations as a Permitted Use**

Any resident has the right to use a portion of a dwelling or to use an accessory structure or structures for an occupation which is customary in residential areas and which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

A commercial activity shall be considered a Home Occupation protected under Section 4412(4) of the Act only if it meets the following criteria:

1. Only full time residents of the dwelling may be employed in the Home Occupation. There shall be no outside employees.



2. The commercial activity shall be carried on entirely within the dwelling or within accessory structures.
3. There shall be no exterior display of products, unscreened exterior storage of equipment or materials, or other variation from the residential character of the lot.
4. Traffic shall not be generated in consistently greater volumes than would normally be expected in the neighborhood.
5. Delivery to or from the Home Occupation shall not be made frequently by tractor trailer.
6. Sufficient parking is provided off-street to accommodate both the residential use and Home Occupation use of the lot.
7. The Home Occupation shall not generate noise, odor, fumes, vibration, excessive lighting, electrical interference, or smoke which would adversely affect the residential character of the neighborhood in which it is located.
8. Materials and processes used in the Home Occupation shall not create any undue fire, safety, explosive or other hazards which significantly endanger any property, including the applicant's.

### **SECTION 503: Equal Treatment of Housing**

Pursuant to Section 4412 of the Act, the following regulations are provided to assure equal treatment of housing:

- A. Except in Historic Districts, as provided in Section 4414(1)(F) of the Act, these zoning regulations shall not have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing are excluded.
- B. No provision of this chapter shall be construed to prevent the establishment of mobile home parks pursuant to this regulation and state law.
- C. No provision of this regulation shall have the effect of excluding housing that meets the needs of the population as determined by the Shrewsbury Town Plan.
- D. No provision of this Regulation shall have the effect of excluding multiunit or multifamily dwellings from the municipality.

### **SECTION 504: Accessory Dwellings**

An accessory dwelling unit shall be considered a permitted use under the following conditions:

- A. The accessory dwelling unit is located within or appurtenant to the owner-occupied single family dwelling and is clearly subordinate to that single family dwelling.

- B. The accessory dwelling is an efficiency or one-bedroom apartment with facilities and provisions for independent living (sleeping, food preparation and sanitation).
- C. The property has sufficient wastewater disposal capacity for the anticipated occupancy of the parcel in accordance with state regulations.
- D. The size of the accessory unit does not exceed 30% of the total habitable floor area of the single family dwelling.
- E. Applicable setback, coverage and parking requirements as specified in this Regulation are met.

## **SECTION 505: Residential Care/Group Home and Day Care Facilities**

### **505.1 Residential Care/Group Homes**

- A. A state licensed or registered residential care home or group home, serving not more than eight persons who are developmentally disabled or physically handicapped shall be considered by right to constitute a permitted single family residential use of property .
- B. A state licensed or registered residential care home or group home serving more than eight, but no more than fifty persons, who are developmentally disabled or physically handicapped is allowed as a Conditional Use.

### **505.2 Day Care Facilities**

- A. A state registered or licensed day care facility serving six or fewer children or adults shall be considered by right to constitute a permitted single family residential use of property.
- B. A state licensed or registered day care facility serving no more than six full-time children or adults and four part-time children or adults is allowed after Site Plan Review.
- C. A state licensed or registered day care facility serving more than six children or adults but no more than twenty children or adults is allowed as a Conditional Use.

## **SECTION 506: Accepted Agricultural and Silvicultural Practices**

### **506.1 Limitations**

Nothing in these Zoning Regulations shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures.

### **506.2 Farm Structure – Notifications or Intent to Build**

A person shall notify the Zoning Administrator of the intent to build a farm structure, and shall abide by setbacks approved by the State of Vermont Secretary of Agriculture, Food, and Markets. No zoning permit for a farm structure shall be required.

For purposes of this section, “farm structure” means a building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, including a silo, as “farming” is defined in Section 6001(22) of Title 10, but excludes a dwelling for human habitation.

### **506.3 Silvicultural**

Nothing in these Zoning Regulations shall restrict accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation under 1021(f) and 1259(f) of Title 10 and Section 48110 of Title 6.

## **SECTION 507: Height of Structures**

### **507.1 Requirements**

Except as provided below, structures shall not exceed 35 feet in height. Building height shall be measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat or mansard roofs, or to the midpoint between the eaves and ridgeline for other roofs, or to the highest point of a structure without a roof such as an antenna or a tower. Rooftop apparatus such as chimneys, vents, air conditioning units, antennae, telecommunications repeaters, and solar collectors shall not be included in the measurement.

### **507.2 Exceptions**

The Development Review Board may grant Conditional Use Approval for Wireless Telecommunications Facilities Towers and Wind Turbine Towers which exceed 35 feet in height, provided the development meets the requirements of the Town of Shrewsbury Ordinance for Towers & Telecommunications Facilities and Section 410 – Performance Standards for Windmills.

## **SECTION 508: Demolition, Burning, and Abandonment of Structures**

Except as provided below, within 6 months after any temporary or permanent building or structure has been damaged, demolished, abandoned, left structurally unsound, or destroyed, all scrap, damaged, or unsalvageable material shall be removed from the site, and the excavation thus remaining shall be filled to the normal grade or fenced.

- A. The cost of removal and fill shall be borne by the lot owner.
- B. Development Review Board may grant an extension of time not to exceed six months for specific hardship reasons.

## **SECTION 509: General Performance Standards**

### **509.1 General**

The following Performance Standards together with all applicable State standards shall be met by all uses in all districts on a continuing basis.

### **509.2 Standards**

No proposed use, under normal conditions, shall cause, create, or result in:

- A. Persistent, repetitive, or reoccurring noise which represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the reasonable use of the surrounding lots. Noise created by a proposed or existing use shall be compliant with Attachment B: Noise Standards.
- B. Noticeable, clearly apparent vibration beyond the property on which the use is located during normal operations of a use so as to be incompatible with the reasonable use of the surrounding area.
- C. Persistent smoke, dust, odors, noxious gases or other forms of air pollution, which constitute a nuisance or recognized health hazard beyond the property on which the use is located so as to be incompatible with the reasonable use of the surrounding area. However, customary agriculture practices shall not be restricted under this subsection.
- D. Releases of heat, cold, moisture, mist, fog, precipitation, or condensation likely to be detrimental to public safety, health or welfare beyond the property on which the use is located so as to be incompatible with the reasonable use of the surrounding area.
- E. Electronic emissions or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals beyond the lines of the property on which the use is located.
- F. Glare, lights or reflections which are a nuisance to traffic or neighboring properties or which are detrimental to the public safety, health or welfare.
- G. Liquid or solid wastes or refuse which place an unreasonable burden on municipal facilities, or which if buried or allowed to seep into the ground will in any way endanger the health, comfort, safety, or welfare of any person, or which have a tendency to cause injury or damage to property, plants, or animals.
- H. Undue fire, safety, explosive or other hazards which significantly endanger any property, including the applicant's or lot owner's, or which result in a significantly increased burden on municipal facilities, such as the Fire Department.
- I. Soil erosion and/or the discharge of sediment into a brook, stream, river, culvert, or catch basin. The smallest practical area of land should be exposed at any one time during development. Lands should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required to protect areas exposed during development. Sediment basins shall be

installed and maintained during development to remove sediment from exiting the site. Development shall be accomplished so as to minimize adverse affects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. Grading and storm drainage plans shall be in accordance with state and federal requirement and shall maximize the amount of natural drainage which can infiltrate into the soil and minimize direct run-off onto adjoining streets, properties, and watercourses or water bodies. Areas of grading, cut or fill and ditches shall be designed, constructed, and kept in good repair to minimize erosion and sedimentation. All changes in grade shall be controlled so as not to cause a nuisance or damage to other properties or erosion of soil.

- J. An increase in any stormwater flow levels beyond the property on which the development is located. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters. The Development Review Board may require that the drainage system be designed and installed under the direction of a professional engineer. Any changes in grading shall be made so that runoff is directed to established drainage courses and will not cause ponding or flooding of other properties, or exceed the capacity of downstream drainage facilities.
- K. No clearing of land or construction of access roads shall occur in preparation for a Conditional Use until approval for this use has been granted by the Development Review Board and a zoning permit has been issued.

### **SECTION 510: Storage**

Storage of goods, parts, supplies, vehicles or machinery which are part of a business operation shall be inside of a building or behind a site plan approved screen. Storage of unregistered vehicles, or of machinery shall be inside of a building or behind a site plan approved screen.

### **SECTION 511: Exterior Lighting**

- A. The light from any luminaries shall be shaded, shielded or directed downward to prevent glare and illumination trespass to adjacent properties and/or surrounding areas.
- B. Unshielded lamps, bulbs and tubes are not permitted, except for temporary holiday lighting.
- C. Flood/spot type lights shall be aimed no higher than 45 degrees above straight down.
- D. All exterior light sources (lamps/bulbs) which are not fully shielded by the design of the light fixture or location of the light fixture, shall be controlled by motion sensors so as to remain on only when in use. Exceptions: Incandescent lamps - 40Watts or less and fluorescent lamps - 18Watts or less.

- E. Lighting shall be designed and installed so that the illumination does not exceed one tenth (0.10) foot-candles beyond the property line on which the lighting originates.

**SECTION 512: Off-Street Parking Space Requirements**

Off-street parking spaces shall be provided as set forth below whenever any new use is established or existing use is modified.

**512.1 General Standards**

- A. A typical parking space shall be at least 9 feet by 18 feet.
- B. Where feasible, parking spaces should not be located within setback areas.
- C. Parking spaces shall not interfere with emergency vehicle access.
- D. Parking shall be designed to provide maximum safety and ease of traffic and pedestrian flow, while minimizing visual impact on the property and surrounding area.
- E. Where feasible, parking shall be to the side or rear of structures.
- F. Shared parking and shared curb cuts with neighboring land uses are encouraged.

**512.2 Number of Parking Spaces Required**

For all uses listed below, there shall be provided adequate off street parking spaces according to the following minimum standards:

<b>Description</b>	<b>Number of Parking Spaces</b>
For each residential dwelling unit:	One Space
For each dwelling unit in excess of 2, for visitor parking:	One space plus half a space
Hotels, motels, boarding houses and tourist homes:	One space for each room of accommodation; one additional space for every 4 rooms of accommodation; plus one for any residential dwelling unit.
Places of assembly, such as theaters, auditoriums, churches, and clubs:	One parking space for each five seats in the main auditorium.
Educational Institutions:	One parking space for each 4 seats in the largest available assembly space or as determined by the Development Review Board.
Retail and service establishments, business and professional offices:	One space for each 250 square feet of floor area, excluding storage areas.
Wholesale, warehouse and light industry establishments:	One space for each employee on the largest shift, plus one space for each company-owned and operated vehicle, plus adequate space for customer vehicles.
Restaurant, bar, and tavern:	Two spaces for each 4 seats, plus one space per employee on the largest work shift.
Off-street parking for other uses shall be determined by the Development Review Board based on the number of spaces needed to accommodate the vehicles of those commonly using the premises.	

**SECTION 513: Off-Street Loading Space Requirements**

For every building hereafter erected or extended, or whenever any new use is established or existing use enlarged for the purpose of business, trade, or industry, there shall be provided off-street space for loading and unloading of vehicles scaled to the size of delivery vehicles expected and configured to maximize convenience for pick-up and delivery of bulk items.

## **SECTION 514: Scenic Roads**

Scenic roads shall be maintained as follows:

- A. Scenic roads shall be maintained as nearly as possible in the condition which existed at the time of designation.; that is, the essential components such as width, alignment and surface grade will not be changed materially; elevations and locations of ditch lines shall remain constant except for minimal adjustment required for normal cleaning operations.
- B. Tree-lined scenic roads shall be maintained with existing trees and replanting of fallen trees of same species. No other changes shall be made to the vegetation other than the cleaning of underbrush and maintenance of same plant species.
- C. Stone walls along scenic roads shall be maintained.
- D. Where artificial lighting is visible from scenic road it shall be incandescent or fluorescent type and shall be controlled by motion detection.

## **SECTION 515: Wastewater System and Potable Water Supply**

No Certificate of Compliance will be issued until the Zoning Administrator is provided with evidence of approval from the State of Vermont Agency of Natural Resources Department of Environmental Conservation Wastewater Management Division of a wastewater disposal system for the proposed use or documentation that no waste will be generated in connection with the proposed use.

## **SECTION 516: Signs and Fences**

**Signs** shall be congruous with their surroundings, not over 16 square feet/side (32 square feet total), and, if illuminated, a constant white light from an exterior source shall be used that is directed at the sign, and avoids, as much as is possible, any escape of light, either direct or indirect, to neighboring properties or streets.

**Fences** shall be considered accessory structures if 6' 4" high or less. Fences above that shall be conditional uses in all districts and shall be designed and built in a manner consistent with considerations of public safety and the character of the neighborhood. or all fences located along or within 5 ft of property boundaries, structural supports shall face the interior of the lot. No fences shall be located within the Town road right-of-way.



## **SECTION 517: Traffic Management**

### **517.1 Impact Study**

If, in the judgment of the Development Review Board, a proposed land development presents the potential for significant traffic impact on Town or State roads, Village centers, or historic areas, a traffic impact study may be required. The purpose of such study shall be to identify the traffic impact potential of a proposed land development, and to identify necessary and appropriate mitigating measures. When warranted, such studies shall be funded by the applicant, prepared by a qualified registered professional engineer, who shall be selected jointly by the applicant and the Development Review Board. Such studies shall include:

- A. A description of the general location of the project;
- B. A statement of existing traffic conditions and projected traffic conditions in five (5) years;
- C. A statement comparing the operating Level of Service of the roadway(s) and/or intersection(s) in the Town with and without the proposed project(s) at the opening date of the project and in five (5) years;
- D. A statement of recommendations outlining any adverse traffic impact of a proposed project and the necessary improvements to provide an acceptable operating Level of Service.

### **517.2 Mitigation of Impacts**

Based upon a review of the study, the Development Review Board may set appropriate conditions to avoid or mitigate any traffic congestion or safety problems associated with the proposed land development.

## **SECTION 518: Temporary Uses and Structures**

Permits may be issued by the Zoning Administrator for a period not exceeding one year, for temporary structures, including those incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

## **SECTION 519: Nonconformities**

### **519.1 Non-Conforming Structures**

Any legal structure or part thereof, which is not in compliance with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as parking, lighting, buffers, and lowest floor elevation in floodplain zoning) shall be deemed a nonconforming structure. Legal nonconforming structures exist as a result of construction prior to adoption of bylaws, or construction under an earlier set of less restrictive bylaws. Any

nonconforming structure may be allowed to exist indefinitely, but shall be subject to the following provisions:

- A. Subject to conditional use approval the Development Review Board, a nonconforming structure may be restored or reconstructed after unintentional loss provided the reconstruction is commenced within two years and does not increase the degree of non-compliance that existed prior to the damage.
- B. A nonconforming structure which has been demolished shall not be reconstructed except in conformance with these bylaws. The Development Review Board may grant a waiver from this provision if a hardship would be created by rebuilding in strict conformance with the requirements of these bylaws. In considering a waiver from these provisions, the Development Review Board shall take into consideration the ability of the applicant to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.
- C. A nonconforming structure shall not be moved, altered, extended, or enlarged in a manner which will increase the existing degree of non-conformance.
- D. The phrase 'shall not increase the degree of non-conformance' shall be interpreted to mean that the portion of the structure which is nonconforming shall not increase in size (or decrease in the event of failing to meet minimum standards such as parking and lighting). Therefore, portions of a structure within a setback area cannot be enlarged, portions above the maximum height cannot be expanded, a nonconforming deck or porch cannot be enclosed, where parking is deficient the number or size of spaces cannot be reduced, etc. This phrase is not intended to prevent existing unfinished space from being finished or other similar scenarios provided there is no increase in size.
- E. Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of non-conformance.
- F. The Development Review Board shall permit the alteration or expansion of a nonconforming structure for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

### **519.2 Non-Conforming Uses**

Any use, which does not conform to uses allowed in the district in which it is located or is otherwise not in compliance with the provisions of these bylaws, shall be deemed a nonconforming use. Nonconforming uses are those that exist legally as a result of existing prior to adoption of bylaws, or permitted under an

earlier set of less restrictive bylaws. Any nonconforming use may be continued indefinitely, but shall be subject to the following provisions:

- A. The nonconforming use shall not be changed to another nonconforming use without approval by the Development Review Board, and then only to a use that, in the opinion of the Development Review Board, is of the same or of a more conforming nature.
- B. The nonconforming use shall not be re-established if such use has been discontinued for a period of at least two-years or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
- C. The nonconforming use shall not be expanded, extended, moved or enlarged unless the Development Review Board finds that such expansion, extension, movement, or enlargement does not increase the degree of non-conformance. Examples of enlarged or expanded uses can include increased hours of operation, increased numbers of tables, number of employees or an increase in the size of the operation through the expansion of a complying structure.
- D. The Development Review Board shall permit the alteration or expansion of a nonconforming use for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

#### **SECTION 520: Use of Lots in More Than One Zoning District**

When a lot falls within more than one zoning district, the provisions of the district in which the land development is to be principally located shall apply.

#### **SECTION 521: Reduction in Lot Area**

No lot shall be so reduced in size that the area, lot width and depth, setbacks, or other requirements of these regulations shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when part of a lot is being acquired for a public or utility purpose or to provide driveway or road access to a lot in the rear.

#### **SECTION 522: Principal Buildings and Uses**

In all zoning districts, there shall be only one Principal Building and one Principal Use on a lot.

- A. In all districts, if there is a dwelling unit on a lot, the structure in which the dwelling unit is located shall be considered the principal building.
- B. This regulation shall not apply to agricultural structures.

#### **SECTION 523: Building Setbacks**

Setback areas shall be as prescribed in Article VII, or existing building setbacks may be maintained for replacement structures.

- A. There shall be no structures erected within required setback areas. Every part of a required setback area shall be open from grade level to the sky, unobstructed, except for:
  - 1. Sills, cornices, pilasters, chimneys and eaves, which may project from a structure a maximum distance of two feet into the setback.
  - 2. Covered or open steps, which may project from a structure into the setback a maximum of half the setback width.
  - 3. Fire escapes, wheelchair access ramps, and similar structures required for a structure to comply with access and/or safety requirements (such as the Americans with Disability Act) may project fully into the setback.
- B. The building setback minimum from a town- or state-owned highway right-of-way shall be either:
  - 1. That prescribed in the zoning district in which the structure is located, or
  - 2. With the approval of the Development Review Board as a Waiver, the actual distance that buildings on adjacent lots are setback from the street, provided that this setback maintains the character of the neighborhood and will not adversely affect public safety, traffic, parking, landscaping or utilities.
- C. All sides of a lot adjoining a Town- or State-owned highway right-of-way shall be considered a front yard for the purposes of setback regulations.
- D. For the purpose of determining setbacks, a lot which gains access to a Town- or State-owned highway right-of-way by means of a private right-of-way shall be considered to front on the lot line where the right-of-way gives access to the lot.
- E. For a lot adjoining a Town-or State-owned highway right-of-way, the front yard setback shall be measured from the edge of the known public right-of-way. [All Town roads' public right-of-ways are deemed to be 3 rods or 49.5 feet wide]. On public rights-of-way of unknown width, the front setback shall be measured from a line 25 feet from the centerline of the traveled portion of the roadway.
- F. Single-family dwellings and two-family dwellings and their accessory structures which pre-exist these bylaws and are located within the setback area for a lot may be expanded without the necessity for a waiver providing the expansion comes no closer to the lot line than the existing structure and the height of the addition does not exceed the maximum height normally allowed.

#### **SECTION 524: Accessory Uses**

Accessory Uses are allowed in all zoning districts.

- A. Accessory uses shall be incidental and subordinate to the Principal Use or Principal Structure on a lot.
- B. Accessory uses shall not significantly alter:
  - 1. The character of the area affected.
  - 2. Traffic on roads and highways in the vicinity.

3. The Principal Use of the property.
- C. If the Principal Use on the lot is a Permitted Use, the Accessory Use shall also be a Permitted Use. If the Principal Use on the lot is a Conditional Use, any Accessory Use shall be a Conditional Use and therefore require Conditional Use Approval.
- D. An Accessory Use may be permitted on a lot adjoining, or across the street from, the Principal Use provided the Accessory Use receives Conditional Use Approval from the Development Review Board

#### **SECTION 525: Existing Small Lots**

If a lot, not conforming to the minimum lot size requirements in the district in which it is located, subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged, and may be separately conveyed, if all the following apply:

1. The lots are conveyed in their preexisting, nonconforming configuration.
2. On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
3. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner with no sign of failure or evidence of potential failure or contamination.
4. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.

#### **SECTION 526: Private or Town Roads Bisecting a Lot**

If a single lot is bisected by a town or private road, the lot shall not be presumed to be divided into more than one lot by the road. Any lot which is bisected by a private or public road shall be considered as a single lot.

## ARTICLE VI TABLE OF USES

Any uses not specifically permitted or conditional are prohibited.

Note that all uses are Conditional and some may be Prohibited in Special Features Overlays and Flood Hazard Areas.

P = permitted uses

C = conditional uses

\* = requires site plan approval

USE	ZONING DISTRICT							
	HISTORIC				RESIDENTIAL			OTHER
	Historic Village A  Shrewsbury Center	Historic Village B  Northam	Historic Village C  Cuttingsville	Historic Village D  Brown Covered Bridge	Village Residential  N. Shrewsbury	Rural Residential	Limited Residential	High Elevation Residential / Preservation
ACCESSORY DWELLING	P	P	P		P	P	P	C /
ACCESSORY USES & BUILDINGS	P	P	P		P	P	P	C /
AGRICULTURE	P	P	P	P	P	P	P	P / P
ASSOCIATIONS, CLUBS & LODGES	C	C	C		C			
AUTOMOBILES:								
Auto Body			C		C	C	C	
Parts & Supplies			C					
Repair			C					
Sales—New & Used			C					
Service Stations			C					
Storage			C					
ASSEMBLY, Indoor—Public/Private	C	C	C					
ATM BANKING			C					
BED & BREAKFAST	C	C	C		C	C	C	
BUILDING MATERIALS Sales/Storage			C		C			
BUSINESS OFFICE	C	C	C		C			
CAMPGROUNDS					C	C	C	
CEMETERY	C	C	C		C	C	C	
USE	ZONING DISTRICT							

	HISTORIC				RESIDENTIAL			OTHER
	Historic Village A Shrewsbury Center	Historic Village B Northam	Historic Village C Cuttingsville	Historic Village D Brown Covered Bridge	Village Residential N. Shrewsbury	Rural Residential	Limited Residential	High Elevation Residential / Preservation
CHURCH, TEMPLES, etc.	C	C	C		C	C	C	
CLINICS, Medical			C					
COMPUTER Sales/rentals/service	C		C					
CONVENIENCE STORE/small grocery	C	C	C		C			
DAY CARE (children or adults):								
6 or fewer	P	P	P		P	P	P	
6 or fewer full-time	P*	P*	P*		P*	P*	P*	
4 or fewer part-time	P*	P*	P*		P*	P*	P*	
More than 6, less than 20	C	C	C		C	C	C	
DWELLINGS:								
Multiple family	C	C	C			C		
Single family	P	P	P		P	P	P	C /
Two-family (duplex)	C	C	C		P	C	C	
EARTH RESOURCES EXTRACTION & PROCESSING					C	C	C	
FIRE STATION	P	P	P		P	P	P	
FORESTRY	P	P	P		P	P	P	P / P
GARDEN CENTER--retail	C	C	C		P	C	C	
GAS STATION			C					
GIFT SHOPS, ANTIQUE STORES, CRAFTS, ART GALLERIES	C	C	C		C	C	C	
HOME INDUSTRY	C	C	C		C	C	C	
HOME OCCUPATION	P	P	P		P	P	P	C /
INDUSTRIAL, LIGHT			C					
KENNELS					C	C	C	
LUMBER YARD/SAW MILL							C	
MUNICIPAL OFFICES/FACILITIES	C	C	C					
NATURE PRESERVES	C	C	C	C	C	C	C	P / P
<b>USE</b>	<b>ZONING DISTRICT</b>							
	HISTORIC				RESIDENTIAL			OTHER
	Historic Village A	Historic Village B	Historic Village C	Historic Village D	Village Residential	Rural Residential	Limited Residential	High Elevation

	Shrewsbury Center	Northam	Cuttingsville	Brown Covered Bridge	N. Shrewsbury			Residential / Preservation
NURSING HOME			C		C			
Assisted Living			C		C			
OFFICE BUILDING			C					
PARKS, Municipally owned	P	P	P	P	P	P	P	P / P
POST OFFICE			P					
PROFESSIONAL OFFICE	C	C	C		C	C	C	
PROFESSIONAL RESIDENTIAL OFFICE	C	C	C		C	C	C	
RECREATION (Non motorized)	C	C			C	C	C	C/C
Commercial—outdoors	C	C			C	C	C	C/C
RECREATION AREAS, Private	C	C			C	C	C	
RECYCLING/TRANSFER STATION					C			
RESIDENTIAL CARE/GROUP HOME (adults):								
8 or fewer	P	P	P		P	P	P	
More than 8, less than 50	C	C	C		C	C	C	
RESTAURANT	C	C	C					
RETAIL STORE	C	C	C					
SCHOOLS	C	C	C		C	C	C	
SUMMER CAMPS							C	
TELECOMMUNICATIONS:								
Tower Facility						C	C	
Switch/Equipment	C	C	C		C	C	C	
THERAPEUTIC COMMUNITY FACILITY							C	
UTILITIES, PUBLIC	C	C	C		C	C	C	
WAREHOUSE								
WINDMILLS/HYDRO ELECTRIC (personal use)	C	C	C		C	C	C	



**ARTICLE VII DIMENSIONAL REQUIREMENTS**

\* = Same as Underlying Zoning District

**Dimensional Requirements which are Exempt for Open Space Development (OSD) Zoning are Noted.**

District Or Overlay	Min Lot Size	Setbacks Per Section 523				Min Lot Frontage	Min Lot Depth	Notes
	<b>Not Applicable for OSD</b>	<b>See Section VIII for OSD Setback Requirements</b>				<b>Not Applicable for OSD</b>	<b>Not Applicable for OSD</b>	
		Front	Side	Rear	Shore			
<b>Village</b>	1 acre	30'	30'	30'	30'	120'	120'	½ Acre Lot with community water supply
<b>Rural Residential</b>	4 acres	30'	30'	30'	100'	300'	300'	
<b>Limited Residential</b>	10 acres	30'	100'	100'	100'	400'	500'	
<b>Historic Northam</b>	1 acre	30'	30'	30'	100'	120'	120'	
<b>Historic Shrewsbury Center</b>	1 acre	30'	30'	30'	30'	120'	120'	
<b>Historic Cuttingsville</b>	1 acre	30'	30'	30'	30'	120'	120'	½ Acre Lot with community water supply
<b>Historic Brown Bridge</b>	5 acres	60'			100'	400'	400'	
<b>Special Features Overlay</b>	*	*	*	*	*	*	*	
<b>Flood Hazard Area</b>	*	*	*	*	*	*	*	

## **ARTICLE VIII OPEN SPACE DEVELOPMENT**

Open Space Development (OSD) zoning is designed to be an alternative to Minimum Parcel Size Zoning. Open Space Development regulations are **optional but encouraged** for all development in Shrewsbury.

### **SECTION 801: Open Space Development Goal, Purpose and Definition**

The goal of Open Space Development (OSD) is to preserve and protect tracts of undeveloped land to help maintain the character of our community and to provide land for current or future agriculture, forestry, and recreational use.

The purpose of Open Space Development (OSD) zoning in Shrewsbury is to implement the Shrewsbury Town Plan objectives by providing flexible approaches to guide rural and residential development while preserving and protecting the scenic, rural and natural resources of Shrewsbury.

The term, “Open Space” is defined as “undeveloped land,” meaning land which is not built upon. An Open Space Development is a residential (or non-residential) subdivision in which a specified area of open space is protected as a condition of approval.

The concept of OSD is that a parcel shall be recognized for the value of its open space – be that for agricultural, wildlife habitat, recreational, scenic or another value; and that open space be intentionally reserved free from development in perpetuity. The developed land adjoining the open space may be developed without restriction as to lot size (other than for septic concerns).

### **SECTION 802: Open Space Development Zoning Regulation**

Open space developments shall comply with all of the standards and applicable requirements established herein by the Section VIII regulations.

Open space developments shall also adhere to the requirements of all other Sections of the Shrewsbury Zoning Regulations except as noted.

Open space developments are exempted from several Minimum Lot Size Zoning Regulations restrictions. In Open Space Development Zoning:

- There are No Minimum Lot Size restrictions, other than that required for a septic system.
- Road/Lot Frontage requirements are reduced to 40 foot minimum.

- There are no Minimum Lot Depths, nor Side or Rear setback requirements between the lots developed in the OSD. Note that “front” setbacks from Town roads and setbacks to property adjacent to the OSD shall meet the same Dimensional requirements as stated in Article VII.
- An existing residence may be sited in the designated open space area therefore allowing higher density (number of residences) than that of ‘Minimum Lot Size’ zoning.

### **802.1 Applicability**

Open Space Development regulations are optional but encouraged for all development in Shrewsbury and strongly encouraged for large parcels (ie., equal to or greater than 50 acres) and for parcels in Special Features Overlay Zones in individual ownership or on any contiguous parcels under the same ownership or control.

### **802.2 Planning for Open Space Development**

The Development Review Board and Planning Commission shall be available to assist in describing the application of open space development to a planned parcel development (and/or subdivision) prior to and during the pre-application process.

### **802.3 Open Space Ratio Established**

Open space developments must protect at least 75% of their total area as open space. The proposed delineated open space may be revised in the future provided that the percentage of open space area meets the 75% requirement. The proposed protected open space must be clearly delineated on the concept plan and meet the following requirements, as applicable.

### **802.4 Lot Size and Dwelling Unit Density**

The minimum lot size is replaced with an average density of one dwelling unit for each minimum lot size of the district in which the development is located and the requirements for Minimum Lot Size, Section 804.1 For instance, this means that a landowner in the Rural Residential District (minimum lot size 4 acres) with 20 acres of land may create five lots, one for every four acres. The lots may only be located on 25% of the 20 acres in order to retain the open space ratio.

### **802.5 Existing Residence on Open Space**

An existing residence located on the protected open space is not counted toward the dwelling unit density for the parcel .

## **SECTION 803: Permit Procedures**

### **803.1 Pre-Application Conference and Site Visit**

A pre-application conference and site visit is required for all development of parcels using Open Space Development Zoning. The pre-application conference and site visit with the Development Review Board must be scheduled before submitting an application to divide or develop land. This meeting should be scheduled before making any significant investment in site planning, including preparation of a concept plan.

### **803.2 Additional Permit Requirements**

These regulations are in addition to what is required for a site plan application. Additional requirements include, but are not limited to: delineation of open space to be protected on the concept plan; runoff and erosion control or restoration plans for disturbed areas; identifying the method by which open space will be protected and, if necessary, delineating building envelopes; demonstrating the effectiveness of visual screening or absorption; and showing how a homeowners' association will be established, where one is required.

### **803.3 Review by Conservation Commission**

The Conservation Commission will review and provide comments to the Development Review Board on all applications for open space developments.

## **SECTION 804: Dimensional Requirements**

Lot sizes shall vary with the terrain. Uniform lot sizing that contributes to a suburban character may not be approved.

### **804.1 Minimum Lot Size**

The minimum lot size is defined as the area that is required for a lot to contain a well and an on-site septic system as required by the State of Vermont Agency of Natural Resources Waste Water Systems and Potable Water Supply Rules and that maintains the density/open space ratio as defined in Section 801. Smaller lots maybe approved if the open space development has a community septic and/or water supply.

## **804.2 Minimum Lot Size**

- A. Front – Same as Article VII Dimensional Requirements
- B. Side and Rear – No Setback requirements between lots within the open space development. Same setback requirements from adjacent properties to the open space development.
- C. Shore - Same as Article VII Dimensional Requirements

## **804.3 Minimum Lot Frontage**

All lots in open space developments shall have a minimum frontage of 40 feet on a public or private road.

## **804.4 Minimum Lot Depth**

There are no minimum lot depth requirements for lots in open space development.

## **SECTION 805: Open Space Lot Development**

### **805.1 Groupings of Lots**

The concept plan shall show how groupings of lots are effectively separated from neighboring properties, public ways, and other groupings by open space or buffers. The following criteria will be used in determining compliance with this standard.

- A. Terrain features, including existing woods, fields that remain in agricultural use, ridgelines, steep slopes, streams, wetlands, and the stream and wetland buffers required by the Special Features Overlay District should be used to separate clusters, and to buffer groups of home sites from adjoining properties and public ways.
- B. The width of the buffers between the home site groupings shall vary with the terrain and the presence of screening vegetation. The Development Review Board may require that the minimum buffer be anywhere from 100 to 500 feet. In making its determination of the minimum required buffer between groupings, the Development Review Board shall consider the following factors:
  - 1. The presence of vegetation and its effectiveness in providing visual screening between clusters, and between groupings and public ways;

2. The presence of terrain features, including slopes, ridges, and valleys, and their effectiveness in visually separating groupings and separating groupings and public ways; and
3. The orientation of the proposed grouping to public ways.

### **805.2 Building Sites on Lots**

Each lot shall contain a home building site that meets the criteria of these regulations.

The concept plan shall show how building sites are individually placed so as to best maintain environmental quality, accessibility, and compatibility with neighboring uses. The following criteria will be used in determining compliance with this standard.

- A. Except where a community sewerage system is proposed, each lot shall include a site suitable for an individual sewage disposal system.
- B. The developer shall demonstrate that each home can reasonably expect to obtain an adequate domestic water supply, either through connection to an approved community or public water system, or from a well. Where use of a well is proposed, the developer shall demonstrate the likely presence of an adequate ground water supply by submitting a report prepared by a professional hydro geologist or by submitting well logs and pumping data from nearby wells in the same geologic formation as the proposed well. Approval may be conditioned on an on-site well yield test.
- C. Each building site shall have safe, legal access to a public road. "Safe" access shall be defined as access via access drives and roads that meet Town standards, or that are maintained by the Town. The Town shall not be required to maintain or take ownership of any access roads.
- D. Building sites and the access drives and roads serving them shall be placed along the contours of the land in a way that minimizes grading, earth removal, and the visual impact of the development.
- E. Where possible, homes and accessory buildings should be effectively screened from view from public ways by existing vegetation or the terrain. This does not mean that the development has to be completely invisible: partial, brief views of a structure, screening vegetation or a break in screening terrain are acceptable.

- F. Where homes and accessory buildings cannot be effectively screened by existing vegetation or the terrain, they should be sited where they will be visually absorbed by a slope and or woods. This means that the structure, or structures, are sited and designed so that they blend into the background created by a slope or a stand of trees. No part of a structure that is “absorbed” is ever outlined against the sky, as seen from any public way. Further, there is low contrast, as measured by color and reflectivity, between the structure and the background provided by the vegetation and terrain.
- G. Applicants may be required to demonstrate that a typical home and outbuildings would be absorbed by the vegetation or terrain, or that the installation of plantings, and architectural techniques would result in visual absorption of the home.
- H. Homes and accessory buildings may be allowed by the DRB to be in full view of a public way if the design and siting is compatible with its historical district, an agricultural homestead, and/or the working landscape. Buildings shall be required to be of same design style, materials as other historic districts and/or working farmsteads in town.

### **805.3 Clearing and Grading for Lot Development**

Only the minimum clearing and grading required for development shall be permitted. Areas disturbed by construction shall be promptly re-vegetated or otherwise stabilized.

- A. A professionally-prepared runoff and erosion control plan meeting State and federal stormwater management and erosion control requirements for the roads and, where one is approved, community sewerage system shall be submitted with the preliminary (or for minor subdivisions, final) plan for the proposed subdivision.
- B. For the purposes of these regulations, ‘minimum clearing and grading’ means that clear cutting and mass grading of lots, building envelopes, or building sites is prohibited; that disturbance limits must be established, marked on the site, and inspected by the Town before clearing or grading begins; that the disturbance limits must be respected during construction; and that trees that are to remain must be protected during construction.
- C. Development of homes or accessory buildings within the proposed subdivision shall be conditioned upon the submission of an

application for a zoning/building permit that shows site disturbance limits, shows how those limits will be marked during construction, shows how runoff and erosion will be controlled during construction, and shows how the site will be re-vegetated or otherwise stabilized after construction.

## **SECTION 806: Public Road and Trail Connections**

Where the terrain allows, the Development Review Board may require public road or trail connections to other properties through protected open space where necessary to provide emergency access, minimize the number of points of access to a public road, or improve neighborhood circulation. All crossings of protected open space must comply with the standards of Section 806.2.

### **806.1 Minimization of Access Points**

Open space developments that include more than one grouping of lots shall minimize the number of points of access to public roads by relying on internal roads that link the clusters. Where the terrain will not allow a road connecting clusters, a connecting trail may be provided.

### **806.2 Connections to Future Lots**

The concept plan shall show how roads and connecting trails will be provided to any future lots the property could accommodate.

### **806.3 Trails in Protected Open Space**

Trails may run through protected open space. All areas disturbed during trail construction shall be restored to their natural function. A proposed restoration plan for the areas disturbed by trail construction must be submitted for approval with the preliminary (or for minor subdivisions, final) plan.

## **SECTION 807: Open Space Requirements and Permitted Uses**

### **807.1 Open Space Must Be Contiguous**

The protected open space must be contiguous, except as provided below. It must also be contiguous with any open space on adjoining lots or parcels that is currently protected, or is identified for protection in the comprehensive plan.

The Development Review Board may allow exceptions to this standard where:

- A. A small area that is isolated from the rest of the open space on the site is within the Special Features Overlay Zone, or



- B. The only home sites that comply with these regulations are adjacent to protected open space on an adjoining lot or parcel.

### **807.2 Uses of Protected Open Space**

Protected open space may be used for agriculture, forestry, community gardens, and other plantings. Fences are permitted for agricultural purposes, but where a fence crosses a greenway or a connecting trail, a gate or stile shall be provided. No hedge or planting shall block greenways or connecting trails.

### **807.3 Permitted Crossings of Open Space**

Crossings of protected open space are permitted only where:

- A. Road, underground utility line, and trail crossings are consolidated wherever practical;
- B. The width and length of the crossing/s are minimized; and
- C. All areas disturbed during construction of the crossing are restored to their natural functions.
- D. A proposed runoff and erosion control or restoration plan must be submitted for approval with the preliminary (or for minor subdivisions, final) plan. Runoff and erosion control plans are required for road and underground utility line crossings. A restoration plan is required for trails.
- E. The crossing does not have an undue adverse impact on a Special Features Overlay Resource.

### **807.4 Waste Water Facilities in Protected Open Space**

Any component of a community sewerage system that is entirely underground may be placed in protected open space that is not dedicated to the Town or another agency per the following restrictions or requirements:

- A. It does not negatively impact the Special Feature resource for which it has been placed on the Special Feature Overlay
- B. It is not located on Prime Agricultural soils.
- C. All areas disturbed during the construction of such a system shall be restored to meadow or pasture. A proposed erosion and runoff control or plan for the area disturbed by construction must be submitted for approval with the preliminary (or for minor subdivisions, final) plan.
- D. Where the protected open space used for the underground components of an individual sewerage system is owned by a homeowner's association, the application for a permit for construction of that system must be accompanied by an easement from that homeowner's association.

## **SECTION 808: Open Space Protection Methods**

Open space may be protected using any of the three methods listed here. The methods to be used must be clearly established at the time a concept plan is filed for review.

### **808.1 Dedication for Public Use**

The open space created by an open space development may be dedicated to the Town, or to another public agency designated by the Town, but only where it would constitute a part of a greenway, park, or conservation lands identified in the comprehensive plan.

### **808.2 Private Land Conservation**

The open space created by an open space development may be retained by a single owner for agricultural or other purposes, or it may be deeded to a homeowner's association. Where protected open space is deeded to a homeowner's association, the homeowners shall be responsible for the maintenance of that open space, as required by Section 807.8.

### **808.3 Homeowners' Associations**

Every preliminary (or for minor subdivisions, final) plan for an open space development that includes open space or improvements that will be owned and maintained by the lot owners shall be accompanied by proposed articles of incorporation and covenants for a homeowners' association in which all lot owners shall be members, and which is responsible for the maintenance of open space and improvements required by these regulations. These documents shall be recorded with the final plan, upon their approval. This requirement does not apply to subdivisions in which there is no open space or improvements that will be owned and maintained by individual lot owners.

## **SECTION 809: Community Sewerage Systems**

Community sewerage systems serving multiple lots may be used to help protect open space where the use of individual on-site systems is limited by terrain conditions.

- A. Where a community sewerage system is proposed, the developer shall:
- B. Provide a warranty of the community sewerage system for two years from the date of its inspection and acceptance, and
  - 1. Create either a homeowners' association or a special assessment district that is responsible for the maintenance of that system in perpetuity. Whether a homeowners' association or a special assessment district is to be created shall be determined by the Town, at its sole discretion.
  - 2. Where a homeowners' association is created, the articles of incorporation and covenants shall require it to provide an annual report on the maintenance of the system to the Town; and to be filed with the open space development permit.
  - 3. Should the developer or homeowners association fail to maintain the community sewerage system, the Town shall be allowed to hire contractors and/or consultants of its choice to perform the necessary maintenance. The cost of all work including professional fees and Town costs shall be paid by the developer and/or all lot owners served by the sewerage system.
  - 4. Where a special assessment district is required, the developer shall pay all costs incurred by the Town in the formation of that district, as provided by 24 V.S.A. § 3251, et seq. All costs incurred in the administration of a special assessment district shall be covered by the assessments charged.
- C. Approval of the final plan of a subdivision served by a community sewerage system shall be conditioned upon:
  - 1. The recording of all instruments necessary to create a homeowners' association or special assessment district;
  - 2. Final inspection and acceptance of the community sewerage system by the Wastewater Management Division of the Vermont Department of Environmental Conservation Waste; and
  - 3. Where a homeowners' association is responsible for the system, submission of a signed maintenance contract for the community sewerage system for at least two years beginning from the date of the first connection.

## **ARTICLE IX DEFINITIONS**

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural. The word "lot" includes "plot" and "parcel"; the word "building" includes "structure"; the word "shall" is mandatory; the words "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be used or occupied"; the word "person" includes "individual, partnership, association, corporation, company or organization".

**Accessory Use or Building.** A use or building customarily incidental and subordinate to the principal use or building and located on the same parcel of property with such principal use.

**Accessory Use/Structure:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, such as a porch, deck, above-grade landing, garage, tool shed, carport, satellite-dish antennas, swimming pool with an area less than 100 square feet, and the like . Accessory structures attached to the principal building shall be considered an integral part of the principal building and, as such, shall be subject to front, side, and rear-yard requirements applicable to the principal building . A building used for dwelling purposes shall not be considered an accessory structure but shall be considered an Accessory Dwelling.

**Accessory Dwelling.** A secondary dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. The accessory dwelling may be an efficiency or one-bedroom apartment that has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

**Adverse Effect and Undue Adverse Effect (as defined by the Quechee Standard and Analysis).** The Quechee Standard was established by the Vermont Environmental Board under the Findings of Fact and Conclusions of Law in the Quechee Lakes case (Re: Quechee Lakes Corp. #3WO411-EB and #3WO439-EB) decided in 1985.

The Quechee Analysis requires a two step process which begins with the key question: Will the proposed project be in harmony with its surroundings, that is, will it fit with the context within which it is located? To ascertain this, the applicant has to address 1) the nature of the project's surroundings, 2) the compatibility of the project's design with those surroundings, 3) the suitability of the colors and materials used for the project, 4) the visibility of the project, where it can be seen from, the duration of the view and whether the view will be a foreground, mid-ground or background view and 5) the impact of the

project on open space. If, upon weighing these factors together it is determined that the project does not fit successfully with its surroundings, the project can be considered to have an adverse impact if constructed. This determination then requires the second step of the analysis to ascertain whether or not it will have an undue, adverse impact on aesthetics or the scenic or natural beauty of the area. This is accomplished answering the following three questions: 1) Does the project violate a clear written community standard intended to preserve the aesthetics or scenic, natural beauty of the area? 2) Does the project offend the sensibilities of the average person? 3) Has the applicant failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the proposed project with its surroundings? If a positive conclusion is reached with regard to any of these criteria, then the project will have an undue adverse effect on aesthetics.

**Agricultural Use.** Land which is used for raising livestock, crops or forest products, including general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming and forestry, dairying, apiary, truck gardening, keeping of poultry, farm structures and the storage of agricultural equipment.

**Agriculture and Agricultural Activity.** The growing, raising and production of horticultural and silvicultural crops, grapes, berries, trees, fruit, poultry, livestock, grain, hay and dairy products, maple sugar harvesting; the sale of farm produce on the premises where produced; the use of farm structures and the storage of equipment incidental to the above.

**Alteration.** Structural changes, rearrangement, change of location, or addition to a building, other than repairs and modification in building equipment.

**Auto Body Shop.** A premises where automobile painting, and auto body and fender work are conducted. No gasoline or other petroleum products are sold, nor are heavy automobile maintenance activities such as engine overhauling conducted at an auto body repair station/shop.

**Auto Service Station.** Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tuneups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

**Assembly Use:** A Structure used for 100 or more persons.

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

**Bed & Breakfast.** A dwelling in which rooms are rented on a daily or weekly basis to transients. Distinguished from an hotel/motel in that the owner lives on the property or on an adjacent property, the use does not change the residential character of the neighborhood, and the food service is for guests only.

**Building.** Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel.

**Building Area.** Total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

**Building Coverage.** See lot coverage.

**Building Frontage.** The horizontal length of the principal structure as projected onto a plane parallel to the street right of way. For corner lots, building frontage shall be the sum of the frontage on each street.

**Building Height.** Vertical distance measured from the average elevation of the proposed finished grade at the front of the building or structure to the highest point of the roof for flat and mansard roofs, or to the midpoint between the eaves and ridgeline for other roofs, or to the highest point of a structure without a roof such as an antenna or a tower. Rooftop apparatus such as chimneys, vents, air conditioning units, antennas, Type B Wireless Telecommunications Facilities, and solar collectors shall not be included in the measurement.

**Business Office.** A business or professional office which may be a separate structure.

**Camp.** A building suitable for seasonal or temporary living purposes and never occupied for more than three (3) months in any twelve (12) month period and without indoor plumbing facilities.

**Campground.** A parcel of land upon which three or more campsites are located for occupancy by a tent, lean-to, camper, recreational vehicle, or similar structure as temporary living quarters.

**Camping Trailer.** See Trailer.

**Change in Use / Change Of Use .** The change from one use listed in the Table of Uses, to another use listed in the Table of Uses. To alter or vary the

function, service or purpose of a building, structure or lot or a portion thereof from one use to another use.

**Clinic, Medical.** An office building used by members of the medical and dental profession for the diagnosis and out-patient treatment of human ailments.

**Commencement of Construction.** The construction of the first improvement on the land or to any structure or facility located on the land including work preparatory to construction such as clearing, the staking out or use of a right-of-way or in any way incidental to altering the land according to a plan or intention to improve or to divide the land by sale, lease, partition, or otherwise transfer an interest in the land.

**Commercial Outdoor Recreation.** See “**Recreation, Commercial Outdoor**”

**Community Care Facilities.** A dwelling shared by seven or more persons who are developmentally disabled or physically handicapped who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as feasible in order to reach their maximum potential.

**Conditional Use.** A use allowed in a particular zoning district only upon a finding by the ZBA that such use in a specified location will comply with the conditions and standards for the location or operation of such use as specified in these Regulations.

**Conservation.** The non-intensive use of undeveloped land.

**Contractor's Yard.** Property used for storage of heavy equipment and construction materials for use in off-site construction.

**Coverage.** See lot coverage.

**Crop Land.** An area of land that is substantially free of structures or other man-made improvements and is used to grow crops.

**Day Care Facility.** Any place operated under a state day care facility license as a business or service on a regular or continuous basis, whether for compensation or not. Its primary function is the protection, care and supervision of persons outside their homes for periods of less than 24 hours a day.

**Development.** The division of a parcel into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or

enlargement of any building(s) or other structure(s), or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

(The term "Development" includes the improvement of land with utilities and services, making the land more suitable for resale as developable plots for housing or other purposes.)

**Development Review Board.** A body appointed by the Selectboard to decide cases involving variances, conditional uses, appeals, and other matters as set forth in these regulations.

**Dwelling (Unit).** Building or part thereof used as a living quarters for one family which is designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities. The terms "dwelling", "one-family dwelling", "two-family dwelling", "multi-family dwelling", or "dwelling group" shall not include a motel, hotel, boarding house, bed and breakfast lodging, or similar structure but shall include mobile home.

**Dwelling, One-Family.** Detached building used as living quarters by one family.

**Dwelling, Multi-family.** Building used as living quarters by three or more families, living independently of each other.

**Dwelling, Two-family.** Building used as living quarters by two families, living independently of each other.

**Extraction Of Earth Resources/Quarrying.** The extraction and/or quarrying and/or processing and/or removal from a lot of soil, sand, rock, gravel or minerals for sale or trade, except when incidental to construction of a parking area or building on the same lot.

**Family.** One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, provided that unless all members are related by blood, marriage, civil union or adoption, no such single housekeeping unit shall contain more than five members.

**Floor Area.** Sum of the gross horizontal area of the floors of a building, excluding unfinished basement floor areas. All dimensions shall be measured between interior wall faces.

**Forestry:** The growing and harvesting of forest products.

**Front Line, Building.** The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.



**Gasoline Station.** See Auto Service station.

**Grade, Finished.** Completed surfaces of ground, lawns, walks, paved areas, and roads brought to grades as shown on plans relating thereto.

**High Elevation:** All lands 2000 feet above sea level.

**Historic Site.** An area deemed worthy of preservation for historical reasons. The area may be so classified by either federal, state or local authority.

**Historic Structure.** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of 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;
  1. By an approved state program as determined by the Secretary of the Interior or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Home Industry.** A use conducted in the residence or accessory structures or outside on a lot where the resident is the principal proprietor and no more than two non-residents are employed. A conditional use permit is required.

**Home Occupation.** Any use conducted entirely within a primary dwelling and carried on only by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for living purposes and does not change the residential character thereof nor presents any change to the neighboring properties such as increases in traffic, noise, odors, lighting.

**Industrial, Light.** An industrial use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

**Interested Persons.** An interested person under these regulations includes:

- A. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- B. The Town of Shrewsbury or any adjoining municipality;
- C. A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
- D. Any ten (10) voters or property owners within the municipality who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
- E. Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

**Junk Yard.** Any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping three (3) or more unlicensed motor vehicles which are visible from any portion of a public highway.

**Kennels.** An establishment housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

**Land Development.** See development.

**Loading Space.** Space logically and conveniently located for pickups and deliveries, scaled to the delivery vehicles expected to be used. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

**Lot (Parcel).** Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having not less than the

minimum area, width, and depth required for a lot in the district in which such land is situated, and having frontage on the street, or other means of access.

**Lot Area.** Total area within the property line as shown on the property boundary maps.

**Lot, Corner.** A lot abutting on and at the intersection of two or more streets.

**Lot Coverage.** The percentage of the lot area covered by the building area determined by dividing that area which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

**Lot Depth.** Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line.

**Lot Frontage.** Distance measured across the width of the lot at the building front line, or the proposed building front line.

**Lot Line.** Property lines bounding a lot.

**Lot Width.** Width measured at right angles to its lot depth, at the required building front line.

**Low Income Housing.** Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy for households with a gross household income that does not exceed 50 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

**Manufactured Home.** A factory built, single-family 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 connected to the required utilities as a place of human habitation but which is not constructed for transport other than to permit delivery to a permanent site.

**Meadowland.** Open field or crop land.

**Mobile Home.** See Manufactured home.

**Mobile Home Park.** A parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate two or more mobile homes.

**Moderate Income Housing:** Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

**Motel.** Building containing rooms which are rented as a series of sleeping units for automobile transients, each sleeping unit consisting of at least a bedroom and bathroom.

**Necessary Wildlife Habitat:** Concentrated habitat which is identifiable and is demonstrated as being decisive to the survival of a species of wildlife at any period in its life including breeding and migratory periods.

**Non-Complying.** In these Regulations, the word “non-complying” shall mean the word “non-conforming”

**Nonconforming Lots or Parcels (Statutory Definition):** Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303(13).

**Nonconforming Structure (Statutory Definition):** 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 administrative officer. 24 V.S.A. § 4303(14).

**Nonconforming Use (Statutory Definition):** Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303(15).

**Nonresidential Structure or Use.** All uses of buildings, structures, or land except one, two, and multi-family dwellings.

**Nursing Home.** A place, other than a hospital which maintains and operates facilities, for profit or otherwise, accommodating two or more persons unrelated to the home operator, who are suffering from illness, disease, injury or deformity and require nursing care. Nursing Home shall include Intensive

Care, Skilled Care, Intermediate Care, Minimum Nursing Care, and Pediatric Convalescent facilities.

**Official Zoning Map.** The one true copy of the Town Zoning Map located in the office of the Town Clerk.

**Open Field:** An area of land that is substantially free of structures or other man-made improvements and is dominated by vegetation that primarily consists of grasses and low growing shrubs.

**Open Space.** Undeveloped land.

**Open Space Development.** An open space development is a residential subdivision in which a specified area of open space is protected as a condition of approval.

### **Open Space Development – Definitions**

*Absorption.* These regulations sometimes require visual “absorption.” This means that a structure, or structures, are sited and designed so that they blend into the background created by a slope or a stand of trees. No part of a structure that is “absorbed” is ever outlined against the sky, as seen from any public way. Further, there is low contrast, as measured by color and reflectivity, between the structure and the background provided by the vegetation and terrain.

*Average Density.* For the purposes of these interim regulations, the average density is applied to the entire contiguous lot or parcel, but home sites may occupy up to 25% of that lot or parcel. For example, a parcel of 20 acre contains 871,200 square feet. Divided by 80,000, this yields 10.89. The owner would be permitted to create 10 lots. If the open space is protected by dedication or a conservation easement, as permitted by Section 808.1 or 808.2, this means that the 10 lots can be created on a maximum of five acres, with the smallest lot being 15,000 square feet in size. If the open space is protected using building envelopes, as permitted by Section 808.3, the entire lot or parcel can be divided into lots larger than 15,000 square feet, but the building envelopes on those lots may occupy no more than 5 acres, total.

*Building Envelope.* A building envelope is the space on a lot within which development may occur. The only exceptions are driveways and underground utility lines that serve development within the building envelope. Building envelopes are shown on the subdivision plat and marked on the lot by permanent survey monuments.

*Building Height.* The vertical distance measured from the average elevation of the finished grade to the highest point of the roof for flat and mansard roofs, and to the average height between eave and ridge for other types of roofs.

*Building Mass.* Building mass is the perceived scale of a building or group of buildings, as viewed from a given perspective. It cannot be readily quantified, but has an important visual impact that can be mitigated.

*Cluster.* A cluster is a group of up to seven lots in an open space development. Given sufficient acreage and compliance with these interim regulations, an open space development may include more than one cluster.

*Community Sewerage.* A community sewerage system is a wastewater system installed by the developer and, after the required warranty period, is owned and operated by a homeowners' association. Community sewerage systems must be sited, designed, constructed, and maintained in compliance with a permit issued by the Vermont Department of Environmental Conservation, as well as in compliance with these interim regulations.

*Developer.* The applicant for a permit. The developer and the landowner need not be the same person or entity, but where the developer is not the landowner, the developer must show written permission to legally represent the owner in all matters related to the application to a permit under these regulations.

*Greenway.* A greenway is any one of the trail corridors identified in the open space plan.

*Homeowners' Association.* A homeowners' association is a nonprofit organization established by a developer to fulfill certain functions that are specified in its articles of incorporation and a set of covenants, including functions required of such associations by the Town. Where one is required, continuing membership in the homeowners' association is mandatory upon purchase of a lot in the subdivision.

*Lot Frontage.* The portion of a lot that is contiguous to a public or private road.

*Public Way.* Any public road or trail.

*Restoration Plan.* Restoration plans where roads, underground utility lines, and trails cross protected open space. The restoration plan should be part of the runoff and erosion control plan, where one is required. Where only a restoration plan is required, it should show the extent of the proposed land disturbance, how disturbance limits will be marked and observed during construction, how disturbed areas will be stabilized during construction, and how disturbed areas will be re-vegetated or otherwise stabilized when construction is complete.

*Runoff and Erosion Control Plan.* A runoff and erosion control plan consists of engineering drawings and specifications, a grading plan, and the accompanying calculations and notes, showing how runoff and erosion will be managed during and after construction.

*Soils.* Soil Types as mapped in the *Soil Survey of Rutland County, Vermont* published by the United States Department of Agriculture, Natural Resource Conservation Service in cooperation with the Vermont Agricultural Experiment Station and the Vermont Department of Forests and Parks in 1998..

*Unsuitable Soils* refers to soils that have been designated as unsuitable for on-site wastewater disposal by the Natural Resources Conservation Service in the *2003 Ancillary Ratings for Residential On-Site Waste Disposal in Vermont*.

*Marginally Suitable Soils.* Refers to soils that have been designated as marginally suitable for on-site wastewater disposal by the Natural Resources Conservation Service in the *2003 Ancillary Ratings for Residential On-Site Waste Disposal in Vermont*.

**Open Storage.** The keeping in an unroofed area, of any goods, materials, merchandise, or vehicles in the same place for more than 24 hours. All open storage must be effectively screened from view.

**Parcel.** See “Lot.”

**Park, Municipal.** Any park or recreation area or facility owned by the town of Shrewsbury.

**Parking Space.** Off-street space which is used for the temporary location of one licensed motor vehicle not including access drive-way and having direct access to a street or other right-of-way.

**Permitted Use.** Use specifically allowed in a district (see Article III) excluding illegal uses, conditional uses and nonconforming uses; permits are required for each permitted use.

**Personal Services.** Includes barber, hairdresser, beauty parlor, shoe repair, photographic studio, and businesses providing similar services of a personal nature.

**Principal Building.** A building in which is conducted the main or principal use of the lot on which said building is located.

**Principal Use.** The chief activity carried out on a lot.

**Professional Residence-Office.** Residence in which the occupant has a professional office of an architect, accountant, chiropractor, landscape architect, land surveyor, lawyer, osteopath, physiotherapist, consultant, engineer, psychologist, or similar profession which does not change the residential character thereof.

**Public Wastewater System.** Wastewater and sewage disposal system approved by the Selectboard for municipal operation and defined, designed, operated and permitted by the State of Vermont Agency of Natural Resources Department of Environmental Conservation Wastewater Management Division serving a building or buildings or more than 25 persons.

**Public Water System.** Water supply system as defined, designed, operated and permitted by the State of Vermont Agency of Natural Resources Department of Environmental Conservation Wastewater Management Division serving a building or buildings or more than 25 persons.

**Recreation, Private.** Recreation uses privately owned and operated, including picnic grounds, archery ranges, hiking and riding trails, cross-country ski trails, hunting and fishing areas, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites, golf driving range, hunting preserves, skating rinks, swimming pools, parks, beaches, tennis courts, gymnasium, hobby workshop, archery range, riding stables.

**Recreation, Commercial Outdoor.** Any recreation activity made available to persons other than the property owner in exchange for a fee, or other considerations, including ticket or pass sales, dues, or membership fees, where such activity requires primarily the use of outdoor spaces. Any structures connected with this use shall meet all requirements of these regulations. These uses include "scout" camps, tourist attractions, and outdoor club uses, but shall exclude lots used primarily for residential purposes. All commercial forms of motorized or mechanized outdoor recreation, including alpine skiing,



all-terrain vehicles, go carts, trail bikes, speedway or other motorized activities shall be prohibited. The use of machinery or motorized equipment in the maintenance of a commercial outdoor recreation facility is permitted.

**Recycling Collection Facility.** A use incidental to the principal use that serves as a local drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi public areas such as churches and schools.

**Religious Institution.** Includes church, temple, parsonage, rectory, parish house, convent, seminary, retreat house, and associated buildings.

**Renewable Energy Resource.** Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat, and geothermal sources.

**Residence.** A building or part of a building containing one or more dwelling units.

**Residential Care/Group Home.** A facility providing shelter and/or rehabilitation for people.

**Restaurant.** An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.

**Retail Business Or Service.** A business or establishment selling or delivering goods, wares, merchandise or services directly to the customer.

**Retail Store.** Includes shop and store for the sale of retail goods, personal service shops, department stores, commercial schools, and shall exclude any drive-up services.

**Right-of-Way Widths (Town Roads).** Town roads' public right-of-ways are 3 rods or 49.5 feet wide.

**Road (Town or State).** Also referred to as **Town or State Highway.** Public way for vehicular traffic which affords the principal means of access to abutting properties.

**Road Frontage.** The length of a lot which abuts a public road, measured at the road from one lot line to the opposite lot line. Road frontage and lot frontage are not synonymous.

**Road Grade.** Officially established grade of the road upon which a lot fronts. If there is not officially established grade, the existing grade of the road shall be taken as the road grade.

**Road Line.** Right-of-way of a road as dedicated by a deed of record. Where width of the road is not established, the road line shall be considered to be twenty five (25) feet from the centerline of the road.

**Salvage Yard.** An open area where wastes or used or second-hand materials are bought, sold, or exchanged, stored, processed or handled. Materials shall include, but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard is also considered a junkyard.

**Satellite Dishes.** A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses.

**School.** Includes parochial, private, or public nursery schools, elementary schools, high schools, colleges, universities, and associated accessory uses.

**Secondary Use.** A use allowed in the district that is conducted on the same lot as a primary use, and which meets the requirements established in Section 310.4 of these Regulations. These uses are not customarily incidental or subordinate to the primary use, as are Accessory Uses or structures. [An example of a secondary use is the renting of the third floor of a primarily retail-use building for dwelling purposes.]

**Setback (Building).** The distance from a property lot line or road frontage right-of-way to the nearest part of a building or structure on a lot. For a lot adjoining a Town-or State-owned highway right-of-way, the front yard setback shall be measured from the edge of the known public right-of-way. [All Town roads' public right-of-ways are deemed to be 3 rods or 49.5 feet wide]. On public rights-of-way of unknown width, the front setback shall be measured from a line 25 feet from the centerline of the traveled portion of the roadway.

**Sign.** Sign means any structure, display, device or representation which is designed or used to advertise or call attention to or direct a person to any business, association, profession, commodity, product, institution, service, entertainment, person, place, thing, or activity of any kind whatsoever, and is

intended to be visible from a public road. Whenever dimensions or areas of signs are specified, they shall include all panels, frames, and supporting structures excluding the building to which a sign may be attached.

**Sign, Illuminated Internally.** A sign usually constructed of plastic material that is illuminated from an electrical source behind the sign face, referred to as backlighting.

**Silviculture.** The branch of forestry dealing with the development and care of forests including the establishment, growth, composition, health, and quality of forests for value to landowners, to natural habitat and to society.

**Site Plan.** A plan, to scale, showing uses and structures proposed for a parcel of land as required by these regulations. It includes lot lines, streets, building sites, open space, buildings, major landscape features, existing and proposed grading and proposed utilities, if any.

**Story.** Part of a building which is between one floor level and the next higher floor level, or if there is no floor above it, then the ceiling above it. A story shall be considered twelve feet (12') in height; to the extent a story exceeds twelve feet (12') in height, no building shall exceed thirty six feet (36') in height.

**Structure.** An assembly of materials for occupancy or use including, but not limited to, a building, a mobile home or trailer, a billboard sign, a water impoundments, an above or below ground pool, or a wall or fence.

**Subdivision.** Division of any parcel of land for the purpose of conveyance, transfer or ownership, lease, improvement, building, development or sale, whereby 2 or more lots, blocks or parcels are created. The term "subdivision" includes re-subdivision. For the purposes of these Regulations, the word "lots" shall also mean units for any project involving condominiums, cooperatives and/or the designation of Planned Development.

**Surface Waters.** Surface waters include lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes.

**Temporary Structure.** A structure (as defined in these regulations) which is not permanently affixed to a foundation or other structural support.

**Trailer.** Includes any camping trailer, travel trailer, pickup coach or motorhome and/or any other vehicle used as sleeping or camping or living quarters mounted on wheels; or a camper body usually mounted on a truck and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, or boats; or is used as a temporary office.

**Use.** Any purpose for which a building or other structure or tract of land may be designed, arranged, intended, maintained or occupied. A use is also any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

**Utility, Public.** Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations to the public, electricity, gas, communications, water, wastewater system, storm water drainage or transportation.

**Warehouse Or Storage.** Facilities for handling freight and/or goods for daily use or storage, with or without maintenance facilities.

**Wetland.** An area that is inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation, and meeting the current federal definition of “wetland.”

**Wholesale Business.** an establishment for the sale of goods and merchandise in wholesale lots including wholesale storage.

**Wireless Telecommunications Facility.** All equipment (including repeaters) and the locations of equipment with which a telecommunications provider transmits and/or receives the waves which carry their services and their support structures. This facility may be sited on one or more towers or structure(s) either owned by the provider or owned by another entity. – See WTF Ordinance.

**Yard.** Space on a lot not occupied with a building or structure. Porches and/or decks whether enclosed or not, shall be considered as part of the main building and shall not project into a required yard.

**Yard, Corner.** All yards abutting roads on any corner lot. The front yard shall face the more major road. Access shall be to the minor road.

**Yard, Front.** Yard between the front lot line and the front line of a principal or accessory building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building.

**Yard, Rear.** Yard between the rear lot line and the rear line of a principal or accessory building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

**Yard, Side.** Yard between the principal building or accessory building and a side lot line, and extending through from the front yard to the rear yard.

**Zoning Administrator.** Refers to the Town's Zoning Administrator or the person appointed to administer the zoning regulations.

**Zoning District.** A section of the Town designated in the zoning ordinance text and delineated on the Official Zoning Map, in which requirements for the use of land, and building and development standards are prescribed. See Appendix A for the physical descriptions of each of the Zoning Districts in the Town of Shrewsbury.

**Zoning Permit.** A document issued in accordance with this Regulation by the Zoning Administrator for any land development or change of use within the Town of Shrewsbury.

## **APPENDIX A - Physical Descriptions of the Zoning Districts**

**Historic District A - Shrewsbury Center:** This District shall include all land within the area bounded by a line beginning at the intersection of State Road #2 and Town Road #4 (Adams Elbow); thence southerly a distance of 572 feet; thence easterly at a distance of 500 feet from the center line of State Road #2, and 500 feet from the center line of Town Road #28 to the point where it intersects a line perpendicular to Town Road #28 and 3,555 feet east of the intersection of Roads #2 and #4; thence northeasterly along said line to a point 600 feet north of and parallel to the center line of Roads #28 and #2 until it intersects a line extending northeasterly from the intersection of Roads #2 and #4, and representing an extension of that part of the center line of Road #2, which was used as the first side; thence easterly along this line to the place of beginning.

**Historic District B - Northam:** This district shall include all land within the area bounded by a line beginning at the intersection of the Shrewsbury Center-Northam Road (Town Rd. #1) and the Shortcut Road (between the Cold River Road (Northam Road) and proceeding 500 feet southwesterly to a point in the center of the Shrewsbury Center-Northam Road, thence continuing perpendicular to said road in a southeasterly direction to the branch of the Cold River with passes through Northam and thence parallel and 100 feet from the center of said stream in a northeasterly direction to the point where said stream crosses under the Old Plymouth Road (Town Road #20); thence northeasterly parallel to and 150 feet east of the CCC Road (Town Road #3) for a distance of 600 feet. From this point the boundary line continues northwesterly perpendicular to and across the CCC Road west for a distance of 450 feet; thence proceeding first southwesterly paralleling and 300 feet from the CCC Road and then northwesterly paralleling and 300 feet from the Cold River Road to a point which is perpendicular to a point which is in the center of the Cold River Road and 200 feet west of the intersection of the Cold River Road and the Shortcut Road. The boundary line continues 300 feet southeasterly to said point on the Cold River Road, thence easterly along the center line of the Cold River Road to the point of intersection with the Shortcut Road; thence south the length of the Shortcut Road to its intersection with the Shrewsbury Center, which is the place of beginning.

**Historic District C - Cuttingsville:** This district shall include all land within the area bounded by a line beginning at a point in the centerline of State Highway 103 which is 1300 feet from the point which is the intersection of School Street and Route #103. Said line then proceeds northeasterly for 500 feet which is perpendicular to Route 103; thence

following along a line parallel to and 500 feet from the center of Route 103 in a southeasterly direction until such line intersects with the Green Mountain Railroad track, then continues south along said railroad track to a point where the track intersects with the Shrewsbury-Wallingford Town line, thence westerly following the Town Line to the Mill River. The boundary line continues northerly along the west side of the river to a point south and approximately 55 feet upstream of the Route 103 bridge over the river, thence follows a line northwesterly parallel to and 500 feet from the center of Route 103 to a point perpendicular to the point of the beginning on Route 103, thence northeasterly to said point which is the place of the beginning.

**Historic District D – Brown Covered Bridge:** This district includes all the land within 1,000 feet of the Brown Covered Bridge over Cold River and on the north side of Cold River Road.

**Village Residential – Northam:** This District shall include all land within the area bounded by the following line: commencing at a point on the cold River Road 4,675 feet from a benchmark at the intersection of the Cold River road and the Northam – Shrewsbury Center Road, 2,014 feet from the said benchmark, being at a culvert south of the parsonage, thence to a point on the road leading from Northam to Mount Holly 2,725 feet from its intersection with the Northam Shrewsbury Center road; thence to a point on the Old Plymouth Road 2,940 feet from the said benchmark; thence to a point on the Coolidge Forest road 2,300 feet northerly from the benchmark; thence to a point on the Upper cold River Road 3,875 feet from the benchmark; thence to the point and place of beginning.

**Rural Residential:** all lands not otherwise included in another section of the Zoning District Regulations

**Limited Residential:** All lands within the Town of Shrewsbury southwesterly of a point 500 feet southerly of the intersection of Vt. Rte. 103 and the Shrewsbury-Clarendon town line; thence continuing southeasterly 500 feet southeasterly of Vt. Rte. 103 to the Spring Lake Road; thence continuing southeasterly 500 feet from Vt Rte. 103 to the Shrewsbury-Wallingford town line. Commencing at a point 200 feet northerly of the intersection of the Cold River Road and the Shrewsbury-Clarendon town line; thence easterly following a line 200 feet from the north side of the Cold River Road to a point 1,500 feet west of Wilmouth Hill Road; thence northerly 1,500 feet west of Wilmouth Hill Road to a point 1,500 feet southerly of the Upper Cold River Road; thence westerly and continuing 1,500 feet from the south side of Upper Cold River Road to a point 1,500 feet southerly of the intersection the Upper Cold River Road and Moonshine Lane; thence northerly across said Upper Cold River Road to a point 1,500 feet northerly of the intersection of the Upper Cold River Road and

Moonshine Lane; thence easterly and continuing 1,500 feet from the Upper Cold River Road to the west boundary of the Village Residential District of North Shrewsbury (Section 920 above) ; thence easterly and southerly along the northerly and easterly boundary of Section 920 to a point on the easterly line of the said Section 920 1,500 feet from Eastham Road; thence southeasterly and continuing 1,500 feet from the easterly side of Eastham Road to a point also 1,500 feet and northerly of Bailey Road; thence southeasterly and continuing 1,500 feet from the northeasterly side of Bailey Road to a point 500 feet northerly from Tabor Road ; thence easterly following a line 500 feet north of Tabor Road to a point where the said line intersects the Shrewsbury-Plymouth town line; thence following the Shrewsbury town line northerly, thence westerly, thence northerly, thence westerly, thence southerly to the point of beginning. Commencing at a point 1,00 feet intersection easterly from the intersection of the power line and Shrewsbury-Clarendon Town Line; thence southerly and continuing 1,000 feet easterly of said power line to a point 500 feet northerly of Gaynor Road (Town Highway #22); thence northeasterly and continuing 500 feet northerly of Gaynor Road to a point 1,500 feet northeasterly of Lottery Road (Town Highway #21); thence southeasterly and continuing 1,500 feet northeasterly of Lottery Road to a point 750 feet westerly of Keiffer Road (Town Highway #45); thence northerly and continuing 750 feet westerly of Kieffer Road to a point 750 feet southwesterly of Cold River Road (Town Highway #1); thence northwesterly and continuing 750 feet southwesterly of Cold River Road to a point 500 feet easterly of Wilderness Road (Town Highway #39) to a point 1000 feet easterly of the Shrewsbury-Clarendon Town line; thence southerly and continuing 1,000 feet easterly of said Shrewsbury-Clarendon Town Line to the point of beginning.



**Attachment A: Flood Hazard Zoning Regulations**

**Attachment B: Ordinance for Towers & Telecommunication Facilities**