

## ARTICLE 6. ENVIRONMENTAL PROTECTION STANDARDS

Figure 6-01. Summary Table of Environmental Protection Standards

Section	Resource Feature	Environmental Review Required	Excluded from Development Envelopes	Land Considered Unbuildable
6003	Surface waters, wetlands and vernal pools	Yes	Yes	Yes
6008	Riparian buffers	Yes	Yes	No
6103	Steep slopes	No	Extent practicable	Yes
6104	Unstable or unsuitable soils	No	Yes	Yes
6204	Significant natural communities	Yes	Yes	Yes
6205	Uncommon, rare, threatened or endangered species	Yes	Yes	Yes
6206	Forest habitat blocks	See <a href="#">Section 6202</a>	Extent practicable	No
6303	Working lands	See <a href="#">Section 6302</a>	Extent practicable	No
6403	Scenic resources	See <a href="#">Section 6402</a>	Extent practicable	No

### Chapter 6000. Surface Waters and Wetlands

#### 6001 PURPOSE

6001.A Shelburne strictly regulates land development within or adjacent to surface waters and wetlands in order to:

- (1) Improve and protect water quality.
- (2) Filter non-point source runoff to remove pollutants and excess nutrients. This is a particularly important objective within the Munroe Brook watershed, which is urban stormwater impaired.
- (3) Establish and protect vegetated riparian buffers in the headwaters at the top of the watershed, which provide proportionally greater ecological benefits than buffers on larger streams lower in the watershed.
- (4) Stabilize shorelines and streambanks to minimize erosion and maintain natural stream morphology.
- (5) Reduce downstream flooding by absorbing and slowing the flow of runoff.

6001.B Shelburne recognizes that riparian buffers provide multiple benefits including, but not limited to:

- (1) Preventing sedimentation, which adversely impacts aquatic life.
- (2) Providing shade, which prevents elevated water temperatures that adversely impact aquatic life.
- (3) Providing food, habitat and travel corridors for wildlife.
- (4) Providing outdoor recreation opportunities.

**6002 APPLICABILITY**

6002.A The provisions of this chapter apply to:

- (1) Lake Champlain, Shelburne Pond and all other natural ponds mapped in the Vermont Hydrography Dataset (Vermont Agency of Natural Resources) as most recently updated.
- (2) Constructed ponds mapped in the Vermont Hydrography Dataset (Vermont Agency of Natural Resources) as most recently updated that do not meet the exemption criteria in [Paragraph 6006.C](#).
- (3) Monroe Brook, LaPlatte River, headwater streams and all other perennial and intermittent streams mapped in the Vermont Hydrography Dataset (Vermont Agency of Natural Resources) as most recently updated. Riparian buffer width will be measured from the bankfull water level.
- (4) Wetlands:
  - (a) Shown on the Significant Wetlands Inventory Map (Vermont Department of Environmental Conservation) as most recently updated and verified through field delineation by a qualified professional;
  - (b) Shown in the Advisory Wetland Map (Vermont Department of Environmental Conservation) as most recently updated and verified through field delineation by a qualified professional; or
  - (c) Not previously mapped but identified through field delineation by a qualified professional and reviewed by the Vermont Department of Environmental Conservation.
- (5) Vernal pools:
  - (a) Mapped as a confirmed or potential vernal pool in the Vernal Pool Atlas (Vermont Department of Environmental Conservation) as most recently updated and verified through field delineation by a qualified professional; or
  - (b) Not previously mapped but identified through field delineation by a qualified professional and reviewed by the Vermont Department of Environmental Conservation.

**6003 GENERAL**

6003.A **Allowed Development.** Development within surface waters, wetlands, vernal pools and riparian buffers is prohibited except:

- (1) As specifically authorized in [Section 6004](#) along the Lake Champlain or Shelburne Pond shoreline.
- (2) For water dependent structures permitted in accordance with [Section 6005](#).

- (3) On sites developed for principal use as a marina, yacht club, transient berthing, public boat access or public beach under \*[insert cross reference to specific use standards].
- (4) As allowed through a waiver granted under [Paragraph 6003.E](#).

6003.B **Environmental Review.** Applications proposing development in proximity to the surface waters, wetlands and vernal pools listed in [Section 6002](#) will be subject to environmental review under [Section 2305](#).

6003.C **Unbuildable Land.** For the purpose of density and lot yield calculations under [Section 3108](#) and \*:

- (1) Surface waters, wetlands and vernal pools will be considered unbuildable land.
- (2) Riparian buffers and constructed ponds that meet the exemption criteria in [Paragraph 6006.C](#) will not be considered unbuildable land.

6003.D **Development Envelopes.** Surface waters, wetlands, vernal pools and riparian buffers must be excluded from development envelopes designated under [Section 2307](#) and \*. This provision will not apply to constructed ponds that meet the exemption criteria in [Paragraph 6006.C](#).

6003.E **Waivers**

- (1) Applicants may seek a waiver from the standards of this chapter for:
  - (a) Water-dependent structures not specifically authorized under [Section 6005](#).
  - (b) Flood control, erosion control, shoreline or bank stabilization, stream restoration, riparian planting or similar projects primarily intended to provide environmental or hazard mitigation benefits.
  - (c) Recreational or educational paths, trails or boardwalks for non-motorized use built in conformance with [USDA Forest Service Standard Trail Plans and Specifications](#) as most recently updated.
  - (d) Public facilities and infrastructure to be owned and operated by the town, state or other unit of government.
  - (e) Utility or access crossings necessary to allow reasonable use of adjoining land.
  - (f) Modification of pre-existing development within surface waters, wetlands, vernal pools and riparian buffers not regulated under [Section 6004](#).
- (2) Waiver applications will be subject to environmental review under [Section 2305](#).
- (3) Applicants must submit a copy of the Agency of Natural Resources (ANR) Permit Navigator Results Summary or a Project Review Sheet completed by an ANR Community Assistance Specialist.

- (4) The Zoning Administrator must send a copy of all complete waiver applications to the appropriate department at the Vermont Agency of Natural Resources. The Zoning Administrator or Development Review Board must not act on the application until the agency comments or the 30-day comment period elapses, whichever occurs first.
- (5) In addition to all other applicable review criteria under these regulations, the applicant must demonstrate that the proposed development:
  - (a) Will not reduce water quality or the ecological function of the feature, including any buffer, below its existing level in accordance with the purposes set forth in Section 6001;
  - (b) Provides public benefits or is necessary for reasonable use of the property; and
  - (c) Avoids, minimizes and mitigates adverse impacts to surface water and riparian resources to the greatest extent practicable.
- (6) All zoning permits for land development with an approved waiver will be conditioned on the applicant providing the Zoning Administrator with a copy of any required state and federal permits prior to the start of construction.

**6004 LAKE CHAMPLAIN AND SHELBURNE POND**

6004.A **Lakeshore Setback.** A lakeshore setback is established between Lake Champlain and 100 feet landward from the 102-foot elevation contour.

- (1) No new structures will be permitted within the lakeshore setback except as follows:
  - (a) Structures listed below may be permitted subject to all applicable provisions of these regulations:
    - (i) Water-dependent structures including but not limited to inlets, outfalls, retaining walls, docks, ramps, stairs, decks and boathouses in accordance with Section 6005.
    - (ii) Flood control, erosion control, shoreline stabilization, riparian planting or similar projects primarily intended to provide environmental or hazard mitigation benefits
    - (iii) Recreational or educational paths, trails or boardwalks for non-motorized use built in conformance with USDA Forest Service Standard Trail Plans and Specifications as most recently updated.
    - (iv) Public facilities and infrastructure to be owned and operated by the town, state or other unit of government.
- (2) Structures existing within the lakeshore setback as of March 6, 2013 may be expanded, relocated or replaced as follows:

- (a) The provisions of [\*insert cross-reference] regulating nonconforming structures will apply. In the case of a conflict between a provision of [\*cross-reference] and a provision of this section, the provision of this section will take precedence.
- (b) The total building footprint within the lakeshore setback must not increase except:
  - (i) If a structure is located entirely within the lakeshore setback, the footprint may be expanded to the landward side. Only one such expansion will be approved per building after March 6, 2013.
- (c) Total building height (lowest finished grade elevation to highest roof elevation) within the lakeshore setback must not exceed the greater of the pre-existing building height within the setback or:
  - (i) 26 feet for buildings with a roof pitch of 6:12 or less; or
  - (ii) 32 feet for buildings with a roof pitch greater than 6:12.
- (3) The flood hazard regulations in [Section 3504](#) may also apply to land within the lakeshore setback.
- (4) Environmental review under [Section 2305](#) is required for any proposed development within the lakeshore setback.
- (5) Determination of the 102-foot elevation contour will be based upon the grade existing prior to the proposed development. Construction of a retaining wall after March 6, 2013 that changes the location of the 102-foot contour on a lot will not subsequently change the location of the lakeshore setback.

6004.B **State Permits.** All zoning permits for land development within 250 feet of the mean water level of Lake Champlain (95.5') and Shelburne Pond will be conditioned on the applicant providing the Zoning Administrator with a copy of any Shoreland or other permit required from the Vermont Department of Environmental Conservation prior to the start of construction.

6004.C **Federal Permits.** All zoning permits for land development below the ordinary high water mark of Lake Champlain (98') will be conditioned upon the applicant providing the Zoning Administrator with a copy of any Section 10 or other permit required from the U.S. Army Corps of Engineers prior to the start of construction.

## 6005 WATER-DEPENDENT STRUCTURES

6005.A **Water Frontage.** For the purpose of this section, water frontage will be measured along a straight line drawn between the two points where the side lot lines intersect:

- (1) The 102-foot contour for Lake Champlain.
- (2) The mean water level for all other lakes and ponds.
- (3) The bankfull water elevation for rivers and streams.

- 6005.B **Engineered Plans.** Applicants must submit engineered plans if proposing to construct permanent structures:
- (1) Along Lake Champlain below the 102-foot contour (see [Section 6004](#)).
  - (2) Within the inner zone of a riparian buffer (see [Figure 6-02](#)).
- 6005.C **Access Stairs.** A waterfront lot may be developed with one stairway to provide recreational access to the water per 400 feet of water frontage as follows:
- (1) Stairs must not be more than 4 feet wide.
  - (2) Landings must not exceed the width of the stairs they connect.
  - (3) Stairways must be constructed not more than 1 foot above the existing grade to the maximum extent practicable.
- 6005.D **Decks.** A waterfront lot may be developed with one free-standing deck within the lakeshore setback or inner zone of the riparian buffer as follows:
- (1) The deck must not exceed 200 square feet in area.
  - (2) The deck must be constructed not more than 2 feet above the existing grade.
- 6005.E **Docks.** A waterfront lot may be developed with one permanent or seasonal dock per 400 feet of water frontage as follows:
- (1) Docks must not be more than 8 feet wide.
  - (2) Docks must not be more than 50 feet in length except as necessary to provide reasonable access to water at least 3 feet deep.
- 6005.F **Boathouses.** No new boathouses may be constructed within the lakeshore setback or inner zone of the riparian buffer. An existing boathouse:
- (1) May be maintained and reconstructed within the existing footprint and with no increase in height.
  - (2) May not be improved with sanitary or kitchen facilities.
  - (3) May not be used as a dwelling unit or guesthouse.
- 6005.G **Other Structures.** All other water-dependent structures will require conditional use approval.
- 6005.H **Water-Based Principal Uses.** The standards for water-dependent structures established above will not apply on sites developed for principal use as a marina, yacht club, transient berthing, public boat access or public beach.

## 6006 CONSTRUCTED PONDS

6006.A **Zoning Permit Required.** A zoning permit is required to construct a pond as follows:

- (1) Ponds must conform to district setback requirements.
- (2) In the serviced zoning districts, ponds must be located within a fenced yard.
- (3) Ponds must be designed, installed and maintained in accordance with the [Pond Construction Guidelines](#) as most recently amended (Vermont Department of Environmental Conservation).
- (4) A constructed pond that impounds runoff or stream flow must be designed with an emergency spillway designed to safely convey overflow without causing erosion or damage to downslope property or infrastructure.
- (5) Applicants proposing to construct a pond capable of holding 100,000 cubic feet of water or more must submit engineered plans.
- (6) A separate zoning permit is not required for ponds intended to function as a stormwater management practice under Chapter 4500 that are part of an approved site plan. All other provisions of this section will apply to stormwater ponds.

6006.B **State Permits.** All zoning permits for a constructed pond designed to hold 500,000 cubic feet or more of water will be conditioned on the applicant providing the Zoning Administrator with a copy of any permit required from the Vermont Department of Environmental Conservation prior to the start of construction.

6006.C **Riparian Buffers.** A riparian buffer will not be required around a constructed pond that is:

- (1) Private (located entirely within the boundaries of a single lot);
- (2) Not created by impounding a stream; and
- (3) Designed to hold less than 500,000 cubic feet of water.

## 6007 WETLANDS AND VERNAL POOLS

6007.A **Field Delineation.** Applicants may submit a field delineation that is not more than 5 years old to verify the location of wetlands and vernal pools on a development site. Field delineations must be prepared by a qualified professional in accordance with the methodology established under the [Vermont Wetland Rules](#). Shelburne may require an applicant to provide a field delineation when:

- (1) Development is proposed in proximity to wetlands shown on the Significant Wetlands Inventory or Wetland Advisory Maps as most recently updated (Vermont Department of Environmental Conservation);
- (2) Development is proposed in proximity to potential or confirmed vernal pools shown on the Vernal Pool Atlas as most recently updated (Vermont Department of Environmental Conservation); or

- (3) A major subdivision proposing development on hydric soils shown on the Soil Survey for Chittenden County as most recently amended (USDA Natural Resources Conservation Service).

6007.B **State Permits.** All zoning permits for land development within Class 1 or Class 2 wetlands will be conditioned on the applicant providing the Zoning Administrator with a copy of any Wetland or other permit required from the Vermont Department of Environmental Conservation prior to the start of construction.

6007.C **Federal Permits.** All zoning permits for land development within federally regulated wetlands will be conditioned upon the applicant providing the Zoning Administrator with a copy of any Section 404 or other permit required from the U.S. Army Corps of Engineers prior to the start of construction.

## **6008 RIPARIAN BUFFERS**

6008.A **Applicability.** Proposed land development within the riparian buffer zones (inner and outer) established in [Figure 6-02](#) must conform to the provisions of this section.

6008.B **Measurement.** Riparian buffers will be measured as a horizontal distance on a line perpendicular to:

- (1) Mean water level for lakes or ponds.
- (2) The bankfull water elevation for rivers and streams.
- (3) The delineated edge of wetlands or vernal pools.

### **6008.C Inner Zone**

- (1) Land disturbance, clearing of woody vegetation and mowing is prohibited within the inner zone except:
  - (a) For the minimum necessary to facilitate development approved under the provisions of this chapter.
  - (b) This provision will not be interpreted to require property owners to cease maintenance of existing lawns or other cleared areas except as a condition of approval for a major subdivision.
- (2) Where a slope in excess of 15% starts within the inner zone and continues beyond the inner zone distance specified in [Figure 6-02](#), the boundary of the inner zone will be shifted to the edge of the sloped area up to the total width established in [Figure 6-02](#). If the width of the inner zone is shifted to less than the total width established in [Figure 6-02](#), the width of the outer zone will be reduced so that the inner and outer zones combine to equal the total width.
- (3) Where the special flood hazard area is located within the inner zone and extends beyond it, the inner zone must extend to the edge of the floodplain irrespective of the total width established in [Figure 6-02](#).



- 6008.D **Outer Zone.** Land development requiring a zoning permit under these regulations is prohibited within the outer zone except as specifically approved under this chapter. Mowing and removal of woody vegetation within the outer zone is not regulated under these regulations.
- 6008.E **Landscaping and Maintenance.** Property owners may landscape and maintain vegetation within riparian buffers as follows:
- (1) Maintenance of shorelands on Lake Champlain or Shelburne Pond must conform with the state Shoreland Protection Act.
  - (2) Maintenance of buffers around wetlands and vernal pools must conform with state Wetland Rules.
  - (3) No provision of these regulations will be interpreted to prevent property owners from removing:
    - (a) Vegetation that poses a hazard to persons or property.
    - (b) Dead, dying or diseased vegetation.
    - (c) Invasive or noxious vegetation.

Figure 6-02. **Riparian Buffer Zones and Width**

<b>RIPARIAN FEATURE</b>	<b>INNER ZONE</b>	<b>OUTER ZONE</b>	<b>TOTAL WIDTH</b>
Monroe Brook and LaPlatte River	25 ft	75 ft	100 ft
Lake Champlain and Shelburne Pond	Development or clearing within 250 feet of the mean water level is subject to state registration or permitting under the Vermont Shoreland Protection Act. The mean water level of Lake Champlain is 95.5 feet.		
Headwater streams	50 ft	50 ft	100 ft
Other surface waters in serviced zoning districts	25 ft	0 ft	25 ft
Other surface waters in rural zoning districts	25 ft	25 ft	50 ft
Class 1 wetlands	50 ft	50 ft	100 ft
Class 2 wetlands	25 ft	25 ft	50 ft
Other wetlands	25 ft	0 ft	25 ft
Vernal pools	100 ft	0 ft	100 ft

Figure 6-03. **Riparian Buffer Illustrations**

## Chapter 6100. Slopes and Soils

### 6101 PURPOSE

6101.A The provisions of this chapter are intended to:

- (1) Prevent erosion and sedimentation of downstream water bodies.
- (2) Ensure that proposed development sites are suitable for their planned use.
- (3) Promote construction practices that limit soil disturbance and compaction.
- (4) Protect and enhance soil quality and health.

### 6102 APPLICABILITY

6102.A The provisions of this chapter apply to applications for:

- (1) Minor or major subdivision or planned unit development.
- (2) Creation or modification of a development envelope.
- (3) Construction of a structure, an addition to an existing structure or other site modifications that are subject to site plan approval.

6102.B The standards for erosion prevention and sediment control in [Section 6105](#) apply to all land development requiring a permit under these regulations that will disturb soil.

### 6103 STEEP SLOPES

#### 6103.A Definition and Measurement

- (1) For the purposes of these regulations, steep slopes will be defined as a contiguous land area with a slope of 15% or greater that is:
  - (a) 20,000 square feet or more in area (inclusive of any land on adjoining lots); and
  - (b) 30 feet or more in all horizontal dimensions.
- (2) The general location and extent of steep slopes as defined above is mapped in \*[steep slope advisory map].
- (3) Where proposed development is in proximity to steep slopes mapped in \*[steep slope advisory map], applicants will be required to show the precise location and extent of steep slopes on a grading plan based on either the most recent lidar data available from the Vermont Center for Geographic Information or a topographic survey stamped by a licensed Vermont surveyor.

6103.B **Conditional Use Approval.** Applicants proposing to clear or disturb steep slopes must obtain a conditional use approval. In addition to all other applicable criteria, the applicant must demonstrate that the proposed land development:

- (1) Requires clearing or disturbance on steep slopes to facilitate reasonable, efficient and orderly development of portions of the lot not characterized by steep slopes.
- (2) Has avoided, minimized and mitigated the impacts on steep slopes to the greatest extent practicable;
- (3) Will be designed and engineered with appropriate erosion control measures and stormwater management practices; and
- (4) Will be designed and engineered to provide safe and adequate vehicular access, including for emergency and service vehicles.

6103.C **Unbuildable Land.** Steep slopes will be considered unbuildable land for the purpose of density and lot yield calculations under [Section 3108](#) and \*.

6103.D **Development Envelopes.** Steep slopes must be excluded from development envelopes designated under [Section 2307](#) and \* to the greatest extent practicable. Conditions of approval may include requirements to:

- (1) Minimize the size of designated development envelopes.
- (2) Utilize building footprints and forms that follow the slope.
- (3) Site buildings below hilltops and ridgelines.
- (4) Limit building height.

## **6104 UNSTABLE AND UNSUITABLE SOILS**

6104.A **Stability.** For the purposes of these regulations, soils will be considered unstable when there is reasonable evidence or likelihood of erosion, slope instability, ground subsidence or liquefaction.

6104.B **Suitability.** For the purposes of these regulations, soils will be considered unsuitable for development if they:

- (1) Are not capable of adequately supporting building foundations without settling or cracking;
- (2) Drain poorly constraining construction of basements or installation of septic systems (where proposed);
- (3) Lack adequate depth for excavation of basements, sewers or other utilities; and/or
- (4) Lack adequate fertility to support healthy vegetation.

6104.C **Assessment.** To determine soil stability and suitability, applicants may:

- (1) Rely on soil suitability ratings from the Soil Survey for Chittenden County as most recently updated (USDA Natural Resources Conservation Service); or
- (2) Submit a site evaluation prepared by a qualified soil scientist.

- 6104.D **Unbuildable Land.** Soils that are unstable or unsuitable for development will be considered unbuildable land for the purpose of density and lot yield calculations under [Section 3108](#) and \*.
- 6104.E **Development Envelopes.** Soils that are unstable or unsuitable for development must be excluded from development envelopes designated under [Section 2307](#) and \*.

## 6105 EROSION PREVENTION AND SEDIMENT CONTROL

- 6105.A **General Standards.** Proposed development that will disturb soil must be undertaken in accordance with the practices below (for further guidance see the Vermont Agency of Natural Resource's [Low Risk Site Handbook for Erosion Prevention and Sediment Control](#)).
- (1) Limit the size of the disturbance area to the minimum necessary to accommodate the proposed construction or demolition.
  - (2) Preserve existing mature trees within the disturbance area where feasible. Trees to be preserved within the disturbance area should be protected by fencing that at a minimum encloses the area around their drip line.
  - (3) Limit the amount of soil exposed at one time to reduce the potential for erosion by phasing construction.
  - (4) Stabilize and maintain the construction entrance to prevent mud from being tracked onto roads.
  - (5) Install silt fences to intercept runoff and allow suspended sediment to settle out on the downslope side of construction/demolition activities and between disturbed soil and any drainage feature, stormwater inlet or water body.
  - (6) Divert any stormwater from upslope areas around the disturbed area with appropriately stabilized berms and/or ditches to prevent the runoff from picking up sediment. Untreated stormwater and sediment must not be diverted to neighboring properties, public rights-of-way or surface waters.
  - (7) Treat and filter any water pumped out of the disturbance area before allowing it to flow off the site or to be discharged to a storm drain or surface water.
  - (8) Slow any concentrated flows of runoff by installing stone check dams in drainage channels.
  - (9) Stabilize exposed soil with seed and mulch or erosion control matting promptly when work in an area is complete.
  - (10) Monitor the site to ensure that all sediment and erosion control measures are functioning properly. It is particularly important to check erosion control measures just before and after any significant rainfall.
  - (11) Periodically clean, replace and maintain all sediment and erosion control measures until vegetation is permanently established on all disturbed areas.

6105.B **Erosion Control Plan.** A professionally prepared erosion control plan in accordance with the Vermont Standards and Specifications for Erosion Prevention and Sediment Control must be submitted with any application for development activities that will disturb soil:

- (1) Over an area of 10,000 square feet or more;
- (2) Within features identified in Section 6002 and riparian buffers established in Section 6008;
- (3) On steep slopes; or
- (4) Between November 15 and April 15.

## **6106 SOIL PRESERVATION AND QUALITY**

6106.A Topsoil must be:

- (1) Retained on the development site.
- (2) Removed and stockpiled from areas to be disturbed at the start of construction.
- (3) Redistributed over the disturbed areas, which then must be seeded or landscaped to establish groundcover.

6106.B Soil compacted during construction must be remediated so it is capable of infiltrating water and supporting healthy vegetation.

6106.C See Paragraph 4503.B regarding soil requirements for stormwater treatment practices.

6106.D See Paragraph 4603.D regarding soil requirements for landscaped areas.

## **6107 FILL, DEBRIS AND WASTE**

6107.A Fill used on a development site must consist of clean earth materials. Use of solid waste, hazardous waste, construction waste and organic materials as fill is prohibited.

6107.B Placement of fill within surface waters, wetlands, vernal pools and riparian buffers is prohibited unless specifically approved under Chapter 6000.

6107.C Areas of fill to be vegetated must include a layer of topsoil that meets the requirements of Paragraph 4603.D for landscaped areas.

6107.D Stumps, natural woody debris, stones and rocky debris generated by site preparation work may be buried on-site in accordance with state law and the siting standards below. On-site burial of all other construction and demolition waste is prohibited. Burial locations must:

- (1) Be on land to be otherwise disturbed during construction of the project.
- (2) Not be within a designated building envelope.
- (3) Not be within a required buffer or resource area protected under these regulations.

## Chapter 6200. Ecosystems and Habitats

### 6201 PURPOSE

6201.A The provisions of this chapter are intended to:

- (1) Protect significant natural areas and critical wildlife habitat from adverse impacts resulting from land use and development approved under these regulations.
- (2) Maintain and enhance the quality of Shelburne's significant natural areas and critical wildlife habitat so they continue to provide ecological value and services.
- (3) Promote interconnected open space and greenway corridors that facilitate species movement.
- (4) Support biological diversity and ecosystem health.

### 6202 APPLICABILITY

6202.A The provisions of this chapter apply to applications for:

- (1) Major subdivision or planned unit development.
- (2) Creation or modification of a development envelope when the envelope will include land within a mapped feature listed in this chapter.

6202.B Within the serviced zoning districts, the provisions of this chapter will not apply to:

- (1) Lots less than 10 acres in size.
- (2) Parcels previously developed at a density of one dwelling unit per acre or higher.
- (3) Proposed development that will exceed the inclusionary housing unit requirements of [\*insert cross-reference] by 200% or more.

### 6203 GENERAL

6203.A **Habitat Assessment Report.** Applications proposing development in proximity to the mapped features listed in this chapter must include a habitat assessment report prepared by a qualified professional that:

- (1) Characterizes existing environmental conditions within the project area.
- (2) Delineates the location of any significant natural communities or habitat for uncommon, rare, threatened or endangered species based on field data collected within the past 5 years.
- (3) Identifies potential impacts to wildlife and habitats from the project.
- (4) Offers mitigation measures to address potential impacts to wildlife and habitats.
- (5) Includes a statement on the likelihood of the project to cause undue adverse impacts to wildlife and habitats.

6203.B **Environmental Review.** Applications proposing development in proximity to the mapped features listed in this chapter will be subject to environmental review under [Section 2305](#).

6203.C **Waivers**

- (1) Applicants may seek a waiver from the standards of this chapter for:
  - (a) Flood control, erosion control, shoreline or bank stabilization, stream restoration, riparian planting or similar projects primarily intended to provide environmental or hazard mitigation benefits.
  - (b) Recreational or educational paths, trails or boardwalks for non-motorized use built in conformance with [USDA Forest Service Standard Trail Plans and Specifications](#) as most recently updated.
  - (c) Public facilities and infrastructure to be owned and operated by the town, state or other unit of government.
  - (d) Utility or access crossings necessary to allow reasonable use of adjoining land.
  - (e) Modification of pre-existing development within the mapped resource area.
- (2) In addition to all other applicable review criteria under these regulations, the applicant must demonstrate that the proposed development:
  - (i) Has avoided, minimized and mitigated impacts to the mapped features listed in the chapter to the greatest extent practicable;
  - (ii) Provides public benefits or is necessary for reasonable use of the property; and
  - (iii) Will not reduce habitat functions below existing levels in accordance with the purposes set forth in [Section 6201](#).

**6204 SIGNIFICANT NATURAL COMMUNITIES**

6204.A **Applicability.** The provisions of this section apply to all land in Shelburne mapped as a significant natural community in the Vermont Fish and Wildlife Department's Natural Heritage Inventory as most recently updated and verified through field assessment by a qualified professional.

6204.B **Buffers.** A vegetated buffer must be maintained within 100 feet of significant natural communities.

6204.C **Unbuildable Land.** Significant natural communities (exclusive of the 100-foot buffer) will be considered unbuildable land for the purpose of density and lot yield calculations under [Section 3108](#) and \*.

6204.D **Development Envelopes.** Significant natural communities and their buffers must be excluded from development envelopes designated under [Section 2307](#) and \*.

**6205 UNCOMMON, RARE, THREATENED AND ENDANGERED SPECIES**

- 6205.A **Applicability.** The provisions of this section apply to all land in Shelburne mapped as habitat for uncommon, rare, threatened or endangered species in the Vermont Fish and Wildlife Department's Natural Heritage Inventory as most recently updated and verified through field assessment by a qualified professional.
- 6205.B **Buffers.** A vegetated buffer must be maintained within 100 feet of habitat for uncommon, rare, threatened or endangered species.
- 6205.C **Unbuildable Land.** Habitat for uncommon, rare, threatened or endangered species (exclusive of the 100-foot buffer) will be considered unbuildable land for the purpose of density and lot yield calculations under [Section 3108](#) and \*.
- 6205.D **Development Envelopes.** Habitat for uncommon, rare, threatened or endangered species and their buffers must be excluded from development envelopes designated under [Section 2307](#) and \*.

**6206 FOREST HABITAT BLOCKS**

- 6206.A **Applicability.** The provisions of this section apply to all land in Shelburne mapped as a forest habitat block with a score of 4.5 or greater in the [2023 Shelburne Forest Habitat Block Assessment & Ranking Report](#) as shown on \*priority forest habitat block map.
- 6206.B **Development Envelopes.** Priority forest habitat blocks must be excluded from development envelopes designated under [Section 2307](#) and \* to the greatest extent practicable as follows:
- (1) Where a total exclusion of development from priority forest habitat blocks is not practicable, applicants must locate development envelopes to minimize block fragmentation and adverse impacts on important wildlife habitat and travel corridors.
  - (2) Conditions of approval may include requirements to:
    - (a) Limit or prohibit tree clearing outside development envelopes.
    - (b) Tightly cluster development.
    - (c) Minimize the size of designated development envelopes.
    - (d) Access development from shared driveways.
    - (e) Limit driveway length and the distance proposed development may intrude into priority forest habitat blocks.
  - (3) The provisions of this section will not be interpreted to require an applicant to reduce the residential lot yield or density below what would otherwise be obtainable under these regulations.



## Chapter 6300. Working Lands

### 6301 PURPOSE

6301.A The provisions of this chapter are intended to:

- (1) Maintain the agricultural, aesthetic, recreational and environmental benefits provided by working lands.
- (2) Preserve a working land base to support a diverse agricultural economy and the ability of future generations to farm.
- (3) Minimize the extent to which proposed development will diminish the productive use of agricultural land.

### 6302 APPLICABILITY

6302.A The provisions of this chapter apply to applications within the Rural Heritage and Tourism district and the Rural Resource Protection district for:

- (1) Major subdivision or planned unit development.
- (2) Creation or modification of a development envelope.

### 6303 GENERAL

6303.A **Definition.** Working lands include:

- (1) Soils that are classified as primary agricultural soils in the USDA Natural Resources Conservation Service Soil Survey for Chittenden County as most recently updated.
- (2) Any field or pasture that is 20 acres or more in size and that has been used for grazing or production of hay or crops at any time within the past 10 years.

6303.B **Management Plans.** Applications for proposed development under \*[cross reference to PUDs] must include an open space management plan. When working lands are set aside to meet open space requirements, the plan must address the following management priorities:

- (1) Maintaining the function and appearance of working land and agricultural structures.
- (2) Conserving soil productivity and protecting water quality through application of Vermont's required agricultural practices and other best management practices.
- (3) Conserving wildlife habitat and protecting uncommon, rare, threatened or endangered species.
- (4) Providing opportunities for passive recreation.

- 6303.C **Development Envelopes.** Working lands must be excluded from development envelopes designated under Section 2307 and \* to the greatest extent practicable as follows:
- (1) Where a total exclusion of development from working lands is not practicable, applicants must locate development envelopes to minimize field fragmentation and conversion of agricultural soils.
  - (2) Conditions of approval may include requirements to:
    - (a) Site development envelopes at the edges of fields and pastures.
    - (b) Tightly cluster development.
    - (c) Minimize the size of designated development envelopes.
    - (d) Access development from shared driveways.
    - (e) Manage land outside development envelopes for agricultural use and habitat protection.
  - (3) The provisions of this section will not be interpreted to require an applicant to reduce the residential lot yield or density below what would otherwise be obtainable under these regulations.

## Chapter 6400. Scenic Views

### 6401 PURPOSE

6401.A The provisions of this chapter are intended to:

- (1) Protect the rural scenic resources that are integral to the overall character of Shelburne so they may be enjoyed by current and future generations.
- (2) Minimize the extent to which proposed development will diminish the quality of rural scenic resources.
- (3) Require proposed development in rural areas to demonstrate sensitivity to the scenic context through project siting and design.
- (4) Prevent contemporary non-agricultural built features from dominating rural roadscapes.

### 6402 APPLICABILITY

6402.A The provisions of this chapter apply to applications within the rural zoning districts for major subdivision or planned unit development.

### 6403 GENERAL

6403.A **Viewshed Analysis.** Applications must include an analysis prepared by a qualified professional delineating the viewshed(s) from publicly accessible vantage points within ¼ mile of the subject property boundaries including but not limited to public roads, Lake Champlain and public parks.

6403.B **Scenic Resource Areas.** Any portion of delineated viewsheds that is mapped as a significant view in the Shelburne Town Plan as most recently adopted will be considered a scenic resource area for the purposes of these regulations.

6403.C **Development Envelopes.** Delineated scenic resource areas must be excluded from development envelopes designated under [Section 2307](#) and \* to the greatest extent practicable as follows:

- (1) Where a total exclusion of development from delineated scenic resource areas is not practicable, applicants must:
  - (a) Locate development envelopes to minimize visual impact.
  - (b) Propose mitigation through design. Measures to be considered may include:
    - (i) Locating development at the greatest distance practicable from the vantage point.
    - (ii) Retaining or planting vegetation to screen development from view.
    - (iii) Reducing the actual or perceived height and bulk of structures.

- (iv) Minimizing the visibility and reflectivity of structures through exterior color, cladding material, window and lighting choices.
  - (v) Designing structures that are compatible with the architectural character of Shelburne's historic rural residential and agricultural buildings.
- (2) Conditions of approval may include requirements to:
- (a) Manage land outside development envelopes to retain scenic views.
  - (b) Tightly cluster development.
  - (c) Minimize the size of designated development envelopes.
  - (d) Access development from shared driveways.
- (3) The provisions of this section will not be interpreted to require an applicant to reduce the residential lot yield or density below what would otherwise be obtainable under these regulations.