

## ARTICLE 1. GENERAL PROVISIONS

### Chapter 1000. Enactment

#### 1001 TITLE

1001.A These are the Town of Shelburne Unified Land Use Regulations and constitute the town's zoning, subdivision and flood hazard regulations.

#### 1002 AUTHORITY

1002.A The Town of Shelburne enacted and applies these regulations under the:

- (1) Vermont Municipal and Regional Planning and Development Act, 24 VSA Chapter 117
- (2) Flood Hazards Areas, 10 VSA Chapter 32
- (3) Town of Shelburne Charter, 24 App VSA Chapter 147

#### 1003 PURPOSE

1003.A These regulations implement the goals and policies of the *Shelburne Town Plan* and the *Vermont Municipal and Regional Planning and Development Act* as most recently amended. They are intended to:

- (1) Provide for orderly and coordinated development with most growth and development guided to land serviced or able to be serviced by municipal sewer and water;
- (2) Facilitate the adequate and efficient provision of public services and facilities;
- (3) Ensure that land use and development will not adversely impact public health, safety and welfare;
- (4) Protect environmental quality and important natural resources including surface waters, wetlands, shorelands, floodplains, riparian buffers and significant natural communities and necessary wildlife habitat;
- (5) Protect the scenic, historic, cultural and agricultural resources that define Shelburne's sense of place;
- (6) Enhance public recreational opportunities, including access to Lake Champlain;
- (7) Promote housing choice, affordability and quality in order to sustain a diverse population and conform to equal treatment and fair housing laws;
- (8) Promote creation of quality jobs and provision of needed goods and services in proximity to where people live;

- (9) Ensure that there will be safe and adequate vehicular, pedestrian, cyclist and emergency access between and within development sites, and facilitate greater use of active transportation and transit;
- (10) Ensure that development sites, structures and infrastructure are built and maintained in a safe and adequate condition; and
- (11) Establish sound development and engineering standards that result in well-constructed projects that minimize their environmental and climate impacts, contribute positively to community character, and do not burden future landowners or the municipality with unreasonable costs to maintain or repair.

**1004 EFFECTIVE DATE**

- 1004.A These regulations and any subsequent amendments will take effect 21 days after their adoption by the Town of Shelburne Selectboard in accordance with the procedures established in the *Vermont Municipal and Regional Planning and Development Act*.
- 1004.B The Town of Shelburne first adopted zoning bylaws on \*, subdivision regulations on \*, and flood hazard regulations on \*.

**1005 AMENDMENT OR REPEAL**

- 1005.A The Town of Shelburne may amend or repeal these regulations, in whole or part, at any time in accordance with the procedures established in the *Vermont Municipal and Regional Planning and Development Act*.

**1006 PRECEDENCE**

- 1006.A If any provision of these regulations is more restrictive than any other law, regulation, rule or code, the provision of these regulations will apply and take precedence.
- 1006.B If any provision of another law, or regulation, rule or code is more restrictive than these regulations, the provision of these regulations will be superseded and the more restrictive provision will apply.
- 1006.C If these regulations are required to conform with a provision of state or federal law, regulation or code, a change in such a provision will take precedence over any conflicting provision of these regulations.
- 1006.D No provision of these regulations will be interpreted to prevent the Town of Shelburne from acting to prevent or eliminate threats to public health, safety and welfare under the authority granted to the municipality by the State of Vermont.

**1007 SEVERABILITY**

1007.A If a court of competent jurisdiction invalidates any provisions of these regulations, that decision will not affect the validity, application or enforcement of the remaining provisions of these regulations.

**1008 LIABILITY**

1008.A These regulations do not create any liability on the part of the Town of Shelburne, its officials, agents, employees or representatives for alleged damages that result from reliance on these regulations or any lawful administrative action or decision taken under these regulations.

## Chapter 1100. Applicability, Exemptions and Limitations

### 1101 APPLICABILITY

1101.A Unless specifically exempted in this chapter, all land development within the Town of Shelburne requires a zoning permit or subdivision approval issued in accordance with these regulations. Land development means:

- (1) The division of a parcel into two or more parcels, or any other change in the location of lot lines;
- (2) The construction, reconstruction, demolition, structural alteration, conversion, relocation or enlargement of any structure;
- (3) Mining, excavating or filling land;
- (4) Any change in or extension of the use of land or a structure; or
- (5) If within the flood hazard overlay district as defined in [Paragraph 3504.V](#).

1101.B Unless specifically stated otherwise, the provisions of these regulations do not apply to land development exempted in this chapter.

### 1102 STATUTORY EXEMPTIONS

 24 V.S.A. § 4413(d)

1102.A **Farming and Forestry Practices.** Landowners do not need to obtain a zoning permit to conduct required agricultural practices or accepted silvicultural practices as defined by the State of Vermont Agency of Agriculture or Department of Forests, Parks and Recreation, respectively. The Zoning Administrator may require a landowner to provide a written determination from the applicable state agency as to whether the subject activity is a required agricultural or accepted silvicultural practice.

 24 V.S.A. § 4413(d)

1102.B **Farm Structures.** Landowners do not need to obtain a zoning permit to build a farm structure in accordance with state regulations and the following:

- (1) Landowners must submit a zoning permit application demonstrating that proposed development qualifies as an exempt farm structure, but they do not have to pay the associated application fee.
- (2) The Zoning Administrator may require landowners to provide a written determination from the Vermont Agency of Agriculture, Food and Markets as to whether proposed development qualifies as an exempt farm structure.
- (3) Farm structures, other than walls or fences used for farming purposes must meet the setback requirements for the district unless the landowner provides the Zoning Administrator with a written waiver from the Vermont Agency of Agriculture, Food and Markets.

- (4) Farm structures are not required to meet bulk or height requirements for the zoning district.
- (5) Walls or fences used for farming purposes must form a continuous barrier intended to keep livestock in and/or keep wildlife out.
- (6) Upon finding that the proposed development qualifies as an exempt farm structure, the Zoning Administrator will issue a letter stating that the landowner may build and use the structure for agricultural purposes in accordance with the state's required agricultural practices without a zoning permit, but that a zoning permit is required before the structure may be used for any other purpose.

[24 V.S.A. § 2295 and 24 V.S.A. § 4413\(e\)](#)

1102.C **Hunting, Fishing, Trapping or Shooting.** Landowners do not need to obtain a zoning permit to engage in hunting, fishing, trapping or shooting activities for non-commercial purposes. Landowners must obtain a zoning permit for any permanent structures associated with such activities not exempted under \*.

[24 V.S.A. § 4412\(1\)\(G\)](#)

1102.D **Residential Care Homes.** Landowners do not need to obtain a zoning permit to use a lawful single-unit dwelling as a residential care home as follows:

- (1) The dwelling must not house more than 8 people. Either:
  - (a) The residents must have a disability and the home will be operated under state licensing or registration; or
  - (b) The residents must be recovering from a substance abuse disorder and the home will be operated as a recovery residence certified by a state-approved organization.
- (2) Landowners must obtain a zoning permit for home construction or other improvements to the same extent as required for single-unit dwellings in the zoning district.

[24 V.S.A. § 4414\(13\)](#)

1102.E **Wells and Septic Systems.** Landowners do not need to obtain a zoning permit to install, maintain, repair or replace a well or septic system subject to a state Wastewater System and Potable Water Supply Permit. The Zoning Administrator may require a landowner to provide evidence that a state permit has been obtained before issuing a zoning permit or certificate of compliance.

[24 V.S.A. § 4413\(b\) and 24 V.S.A. § 4413\(g\)](#)

1102.F **Utilities, Energy and Telecommunications.** Landowners do not need to obtain a zoning permit for:

- (1) Development associated with utility, energy or telecommunications facilities or infrastructure that is subject to a Certificate of Public Good from the Public Utilities Commission.

- (2) Roof-mounted solar energy devices provided that they will not project not more than 10 feet above the surface of the roof.
- (3) Antennas including television antennas, radio antennas, satellite dishes or similar devices used to provide on-site communication including business dispatch or to provide public safety dispatch that:
  - (a) Are not more than 15 square feet in area, if a dish antenna;
  - (b) Do not extend more than 12 feet above the roofline, if attached to a building;
  - (c) Do not extend more than 50 feet above the ground, if freestanding;
  - (d) Meet applicable setback requirements for the zoning district;
  - (e) Do not interfere with public safety communications; and
  - (f) Are installed in a location that minimizes visibility from public vantage points and adjoining property to the greatest extent feasible while allowing for reasonable function.
- (4) Telecommunications equipment and related site development that does not exceed a footprint of 300 square feet and a height of 10 feet.
- (5) Electrical or communications distribution poles being:
  - (a) Replaced with new poles (including an increase in pole height); and
  - (b) Repaired or upgraded with new or replacement cable or wire.

33 U.S.C. § 1

1102.G **Lake Champlain.** A zoning permit will not be required for work or activity below the ordinary high water mark of Lake Champlain (98') that is subject to regulation by the U.S. Army Corps of Engineers.

19 V.S.A. § 1111

1102.H **Highways.** A zoning permit will not be required for work or activity within public road rights-of-way that is subject to regulation by the town or state as applicable under public highway ordinances or statute.

49 U.S.C. § 10501(b)

1102.I **Rail Transport.** A zoning permit will not be required for work or activity by a rail carrier that is subject to regulation by the Interstate Commerce Commission.

49 U.S.C. §§ 40103, 44502, 44715 and 44721

1102.J **Air Transport.** A zoning permit will not be required for air transportation activities that are subject to regulation by the Federal Aviation Administration. A landowner must obtain a zoning permit and related approvals to establish an aircraft landing area in accordance with these regulations.

U.S. Const. Art. VI, cl. 2

1102.K **Federal Government.** A zoning permit will not be required for work or activities undertaken by the federal government on federally-owned land.

**1103 GENERAL EXEMPTIONS**

1103.A **Flood Hazard Overlay District.** The exemptions listed below may not apply within the flood hazard overlay district. See [Paragraph 3504.H](#).

1103.B **Design Review Overlay District.** The exemptions listed below may not apply within the design review overlay district. See [Paragraph 3502.C](#).

1103.C **Exempt Land Use and Development Activities.** A zoning permit is not required for:

- (1) Emergency repair and stabilization of a structure damaged by any cause to the extent necessary to protect public health and safety, and to protect the damaged structure from the elements. Landowners must obtain a zoning permit for repair or reconstruction beyond the minimum necessary to stabilize and secure the structure. See \*.
- (2) Normal maintenance and repair (see definition in \*) of:
  - (a) An existing structure.
  - (b) Sidewalks and walkways, including replacement or reconstruction within the same footprint as the original.
  - (c) Essential services (see definition in \*) including replacement or reconstruction within the same footprint as the original.
- (3) Demolition of a fence or an accessory structure with a footprint of 400 square feet or less.
- (4) Interior alterations that do not increase the floor area within the structure;
- (5) Landscaping and earthwork for non-commercial and non-development purposes that does not affect existing drainage patterns on adjacent lots or public rights-of-way.
- (6) Pre-development site work consisting of the minimum amount of land clearing and improvement necessary to access undeveloped land for the purposes of completing the site design and engineering work (such as land surveying and soil testing) needed to submit an application for land development under these regulations.
- (7) Non-agricultural fences or walls that:
  - (a) Are not more than 4 feet tall in the serviced districts or 6 feet tall in the rural districts;
  - (b) Do not extend into or obstruct a public right-of-way;
  - (c) Do not interfere with sight distance for vehicular traffic;
  - (d) Do not affect existing drainage patterns on adjacent lots or public rights-of-way;
  - (e) Do not pose a safety hazard;
  - (f) Are not designed to inflict physical harm; and

- (g) Are installed so that any support posts are to the inside and the “finished” or “good” side faces out (fences may be built to and along the edge of the property line).
- (8) Fuel tanks (above or below ground) that:
  - (a) Hold not more than 1,000 gallons of fuel for on-site use;
  - (b) Are located in the side or rear yard if above ground in a serviced zoning district;
  - (c) Meet applicable setback requirements for the zoning district; and
  - (d) Are sited, installed and secured in accordance with state and federal regulations.
- (9) Mechanical equipment (such as ground-mounted HVAC systems or back-up generators) that:
  - (a) Have a footprint or are placed on a pad that does not exceed 200 square feet;
  - (b) Are located in the side or rear yard if in a serviced zoning district;
  - (c) Meet applicable setback requirements for the zoning district; and
  - (d) Are sited, installed and secured in accordance with state and federal requirements.
- (10) Swimming pools (above or below ground) that:
  - (a) Do not exceed a horizontal width of 20 feet in any dimension;
  - (b) Are located in the side or rear yard if in a serviced zoning district;
  - (c) Meet applicable setback requirements for the zoning district; and
  - (d) Are installed and secured to prevent unauthorized access.
- (11) Unroofed patios or decks that:
  - (a) Have a footprint that does not exceed 200 square feet; and
  - (b) Meet applicable setback requirements for the zoning district.
- (12) Accessibility structures such as ramps, entry stairs or walkways that do not:
  - (a) Exceed 6 feet in width;
  - (b) Extend into or obstruct a public right-of-way;
  - (c) Interfere with corner visibility or sight distance for vehicular traffic; or
  - (d) Affect existing drainage patterns on adjacent lots or public rights-of-way.
- (13) Accessory structures that:
  - (a) Have a footprint that does not exceed 10 square feet; and
  - (b) Are not more than 4 feet tall.
- (14) One accessory structure on a single- or two-unit residential lot that:



- (a) Has a footprint that does not exceed 200 square feet;
  - (b) Is not more than 12 feet tall;
  - (c) Is not closer than 5 feet to any lot line;
  - (d) Is located in the side or rear yard behind the frontline of the principal building if in a serviced zoning district; and
  - (e) Is not used as a dwelling or lodging unit.
- (15) Outdoor light fixtures on single- or two-unit residential properties that:
- (a) Are used to illuminate entry doors, outdoor living areas, walkways or driveways;
  - (b) Have an initial output that does not exceed 2,000 lumens; and
  - (c) Are downward directed and shielded as necessary to prevent glare or light trespass beyond the property line.
- (16) Holiday or seasonal light displays.
- (17) One seasonal dock that is not attached to the shore by means of a permanent structure and that is removed from the water between November 15 and April 15.
- (18) Transit shelters that have a footprint of not more than 200 square feet and that are not more than 12 feet tall.
- (19) Public art that does not:
- (a) Function as a commercial sign;
  - (b) Extend into or obstruct a public right-of-way unless otherwise approved by the town or state, as applicable;
  - (c) Interfere with corner visibility or sight distance for vehicular traffic;
  - (d) Affect existing drainage patterns on adjacent lots or public rights-of-way; and
  - (e) Pose a safety hazard.
- (20) Work from home space that is used by one or more residents of the dwelling for a business use or activity that does not:
- (a) Occupy not more than 25% of the habitable floor area of the dwelling;
  - (b) Have non-resident employees working on-site;
  - (c) Generate regular customer or client traffic; and
  - (d) Have a sign.
- (21) Special events and sales of personal goods that do not occur on a lot for longer than 3 consecutive days and for more than 6 days in any calendar year.

**1104 STATUTORY LIMITATIONS**

24 V.S.A. § 4413(a)

**1104.A Government and Community Facilities**

- (1) The provisions of this section apply to:
  - (a) Institutions or facilities owned and operated by the municipality, county or state;
  - (b) Public and private schools or other educational institutions certified by the state;
  - (c) Places of worship or religious institutions owned and operated by a 501(c)(3) (tax-exempt) organization;
  - (d) Public and private hospitals certified by the state;
  - (e) Waste management facilities certified by the state; and
  - (f) Emergency shelters without any limitation on daily or seasonal hours of operation.
- (2) Landowners must obtain a zoning permit and site plan approval as applicable for development associated with a listed facility unless otherwise exempted under these regulations.
- (3) Development associated with a listed facility must meet all applicable standards of these regulations unless the applicant demonstrates that meeting the standard(s) will interfere with the intended function or use of the facility.

24 V.S.A. § 4412(1)(E)

**1104.B Accessory Dwelling Units.** The Zoning Administrator must issue a zoning permit and site plan review is not required for an accessory dwelling unit (ADU) that:

- (1) Is located within or appurtenant to a primary, one-unit dwelling (only one ADU is permitted on a lot);
- (2) Is located on an owner-occupied lot (owner may live in the primary dwelling or the ADU);
- (3) Is clearly subordinate to the primary dwelling;
- (4) Shares a driveway with the primary dwelling;
- (5) Has a provisions for independent living, including sleeping, food preparation and sanitation;
- (6) Does not exceed 900 square feet or 30% of the habitable floor area of the primary dwelling (prior to the creation of the ADU), whichever is greater;
- (7) Has at least one off-street parking space;

- (8) Meets the applicable dimensional standards of the zoning district, notwithstanding interior space within a pre-existing nonconforming structure may be converted to an ADU; and
- (9) Meets state water supply and wastewater disposal standards.

● 24 V.S.A. § 4412(1)(D)

#### 1104.C Duplexes

- (1) The Zoning Administrator must issue a zoning permit and site plan review is not required to:
  - (a) Convert an existing single-unit dwelling to a two-unit dwelling; or
  - (b) Construct a two-unit dwelling on any lot that could lawfully be developed with a one-unit dwelling in accordance with all applicable standards of these zoning regulations for one- or two-unit dwellings.
- (2) The duplex units must:
  - (a) Each have at least one off-street parking space;
  - (b) Have at least one common wall that is not less than 20 feet in length or be located one above each other; and
  - (c) Meet state water supply and wastewater disposal standards.
- (3) The Zoning Administrator may approve a footprint lot for each unit under Section 2312.
- (4) The Zoning Administrator may approve a minor subdivision under Section 2313 splitting the lot through the centerline of the party wall between the units. The minimum lot size requirement of the zoning district will be applied based on the total area of both duplex lots. The side setback requirement of the zoning district will not apply to the common lot line.
- (5) An applicant will not be able to obtain a permit for an accessory dwelling unit on the same lot as a duplex unit.

● 24 V.S.A. § 4412(1)(B)

#### 1104.D Manufactured Homes

- (1) A manufactured home on its own lot will be considered a one-unit dwelling subject to the same zoning requirements applicable to any other one-unit dwelling except:
  - (a) The Zoning Administrator may waive or modify the dimensional standards of the applicable district to allow replacement of an existing manufactured home upon the applicant demonstrating that:
    - (i) A new manufactured home equivalent in footprint and dimension to the original home is not a standard product available for purchase in the area; and
    - (ii) Any encroachment into required setbacks or increase in lot coverage has been minimized.

- (2) A manufactured home being placed on its own lot or within a manufactured home park must meet the HUD Standards for Manufactured Home Installation.
  - (a) For new homes (not previously occupied), the applicant must submit a copy of the HUD Manufactured Home Installation Certification and Verification Form (Form HUD 309) to the Zoning Administrator prior to occupancy of the home.
  - (b) For previously occupied homes, the homeowner must self-certify that the installation meets HUD standards prior to occupancy of the home. If the home is installed within a manufactured home park, the park owner must also sign-off on the certification.

24 V.S.A. § 4412(1)(B)

1104.E **Manufactured Home Parks**

- (1) In any zoning district where single-unit dwellings are permitted, a manufactured home park may be approved as a planned unit development under [Chapter 7600](#) as follows:
  - (a) The maximum number of homes will be determined by:
    - (i) Dividing the buildable area of the development site by the minimum lot size for the applicable district;
    - (ii) Multiplying the result by two; and
    - (iii) Rounding down to the nearest whole number.
  - (b) Individual home sites must be delineated on the site plan and must be not less than 50 ft wide by 100 ft deep. Steel rods or other similar corner markers must be installed within the park to demarcate each home site.
  - (c) A minimum of 20 feet separation is required between homes.
  - (d) All homes must be accessed from an internal street.
  - (e) Homes must be set back at least 30 feet from the edge of the street.
  - (f) The inclusionary housing standards of [Chapter 7400](#) will not apply.
  - (g) All other standards applicable to residential PUDs under [Chapter 7600](#) apply.
  - (h) Any modification to the approved layout or increase in the number of homes within the park will require an amendment to the approved plan under [Section 2315](#).
  - (i) A residential development comprised of tiny homes or cottages with a footprint of 1,200 square feet or less may be approved using the provisions for manufactured home parks.
- (2) The expansion of an existing manufactured home park may be approved as a planned unit development under [Chapter 7600](#) as follows:
  - (a) The maximum number of additional homes will be determined by:

- (i) Dividing the buildable area of the undeveloped portion of the site by the minimum lot size for the applicable district;
  - (ii) Multiplying the result by two; and
  - (iii) Rounding down to the nearest whole number.
- (b) No modification will be required to the layout of the existing park.
  - (c) The internal street(s) providing access to the new homes may need to be upgraded to meet the requirements of these regulations.
  - (d) All other provisions of Paragraph (1) above will apply to the new portion of the park.

 24 V.S.A. § 4412(4)

1104.F **Home Occupations**

- (1) The Zoning Administrator must issue a zoning permit and site plan review is not required for a home occupation that:
  - (a) Is operated by a resident of the associated dwelling;
  - (b) Does not generate regular traffic in excess of what is typical of other uses in the area;
  - (c) Meets the performance standards of \*;
  - (d) Operates only between the hours of 7 a.m. to 7 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday;
  - (e) Is not primarily retail in nature, except that retail sales of goods manufactured on the premises, ancillary sales of products directly related to the provision of a service (e.g. sales of hair care products by a hair stylist) and internet / mail-order businesses that do not generate customer traffic will be allowed;
  - (f) Does not provide repair services for vehicles, equipment or other large goods that cannot be serviced or stored within a dwelling;
  - (g) Does not occupy more than 25% of the habitable floor area of the dwelling (it may occupy space in an accessory building);
  - (h) Does have more than 2 people who do not live in the associated dwelling employed on-site;
  - (i) Does not have any outdoor storage or use areas, including product display or parking of heavy vehicles/equipment outside an enclosed structure; and
  - (j) Provides employee and/or customer parking when necessary (in addition to the parking required for the dwelling unit) as follows:
    - (i) If there will not be regular customer traffic, 1 parking space for each non-resident employee; or

- (ii) If there will be regular customer traffic, the number of spaces required under Figure 4-05 based on the floor area devoted to the home occupation.
- (2) A family childcare home that meets all of the following will be considered a home occupation under these regulations:
    - (a) Is operated by a resident of the dwelling;
    - (b) Is registered by the state and conforms to all applicable state health and safety codes; and
    - (c) Does not care for more than 6 children on a full-time basis (more than 4 hours per day) and 4 children on a part-time basis (not more than 4 hours per day), not including any children who live in the home.
  - (3) A bed and breakfast that meets all of the following will be considered a home occupation under these regulations:
    - (a) Is located within a dwelling and/or an accessory building;
    - (b) Is operated by a resident of the dwelling, who must be on the premises when guests are present;
    - (c) Is licensed by the state and conforms to all applicable state health and safety codes;
    - (d) Does not have a lodging capacity of more than 10 guests;
    - (e) Does not house any guest for a continuous period of 30 days or more;
    - (f) Does not offer meals to the general public; and
    - (g) Has a minimum of one off-street parking space for the residents of the dwelling and one off-street parking space for each bedroom offered for lodging.
  - (4) A short-term rental that meets all of the following will be considered a home occupation under these regulations:
    - (a) Offers accommodations within a dwelling unit or an accessory dwelling unit that qualifies as the primary residence for an owner who is a tax resident in Vermont;
    - (b) Has an operator who must be on the premises when guests are present, or contracts with a local property manager who must be contactable by guests and/or the town;
    - (c) Conforms to all applicable state health and safety codes as demonstrated by submitting a completed copy of the Vermont Short Term Rental Safety, Health and Financial Obligations form as part of a complete application;
    - (d) Does not have a lodging capacity of more than 10 guests;
    - (e) Does not house any guest for a continuous period of 30 days or more; and
    - (f) Has a minimum of one off-street parking space for the residents of the dwelling and one off-street parking space for each bedroom offered for lodging.

## Chapter 1200. Vested Rights

### 1201 PRIOR APPLICATIONS

1201.A The Zoning Administrator and Development Review Board will review applications based on the regulations in effect at the time the Zoning Administrator determined that the filed application was complete.

### 1202 PRIOR PERMITS AND APPROVALS

1202.A **Zoning Permits Issued Prior to Amendment or Adoption of these Regulations.** A lawfully issued zoning permit will remain valid irrespective of any subsequent change to these regulations. If a zoning permit issued prior to the amendment or adoption of these regulations expires and the development is not substantially completed, the landowner will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations in effect at the time of the new application.

1202.B **Prior Zoning Permits for Phased Projects.** If an applicant received approval for a phased project before the Town of Shelburne adopted or amended these regulations, the Zoning Administrator will issue permits for the development as approved irrespective of any change in the regulations. However, if such an applicant does not substantially complete the phased project as a whole within the timeframe specified in the approval, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations in effect at the time of the new application.

1202.C **Prior Development Approvals.** If an applicant does not obtain a zoning permit for proposed development within 12 months of receiving a development approval, the approval will expire and the applicant will need to apply for a new approval under the regulations in effect at the time of the new application. See [Paragraph 2203.B](#), which allows the applicant to request a delay in effect for a zoning permit and/or development approval. This provision does not apply to subdivisions approval (see [Paragraph D](#) below).

1202.D **Lawfully Recorded Subdivision Plats.** If an applicant lawfully recorded an approved subdivision plat in the Town of Shelburne Land Records, that plat will remain valid and will not expire irrespective of any change in these regulations. For the purposes of administering these regulations, the boundaries of lot shown on a lawfully recorded subdivision plat will be as established on the plat and will supersede any property description included in a deed or other document filed in the Town of Shelburne Land Records, or the lot boundaries shown on the Town of Shelburne Property Tax Maps.

**1203 CHANGE IN OWNERSHIP OR TENANCY**

1203.A Zoning permits, development approvals and lawfully filed subdivision plats ‘run with the land’ and remain valid irrespective of any change in ownership or tenancy of the property.

**1204 ABANDONED DEVELOPMENT**

1204.A If the development authorized by a zoning permit is abandoned without being completed, a landowner must demolish or secure any partially completed structures, remove all construction materials and debris from the site, restore the site to the pre-existing grade, and re-establish groundcover to prevent erosion prior to the expiration of the zoning permit.

**1205 DAMAGED OR DESTROYED STRUCTURES**

1205.A **Stabilize and Secure.** A landowner must act promptly to stabilize and secure a structure damaged or destroyed by any cause as necessary to protect public health and safety, and to maintain it in a stabilized and secure condition until such time as it is reconstructed or demolished.

1205.B **Reconstruction or Demolition.** Within 12 months of a structure being damaged or destroyed by any cause, a landowner must obtain a zoning permit for either reconstruction or demolition of the structure. The landowner will not have to pay the associated application fee if a complete application is filed within 12 months of the structure being damaged or destroyed.

1205.C **Extension of Period to Act.** The Zoning Administrator may extend the deadline to obtain a zoning permit to not more than 24 months in the case of a declared disaster or upon the landowner demonstrating that the deadline cannot be met due to factors beyond their control (e.g., legal or insurance processes).

1205.D **Failure to Act.** The failure to obtain a zoning permit for reconstruction or demolition, or to stabilize or secure a damaged or destroyed structure as required under this section will be considered a violation of these regulations subject to enforcement under \*.

1205.E **Nonconforming Structures.** If a nonconforming structure is damaged or destroyed, a landowner may rebuild and use the structure in accordance with \* provided that:

- (1) The structure as reconstructed is not more nonconforming than the original structure; and
- (2) The landowner submits a complete application for a zoning permit for reconstruction within 12 months of the structure being damaged or destroyed.

1205.F **Flood Hazard Area.** For structures within the flood hazard area also see [Section 3504](#).



## Chapter 1300. Nonconformities

### 1301 NONCONFORMING STRUCTURES

- 1301.A **General.** A nonconforming structure that lawfully existed when the Town of Shelburne adopted or amended these regulations may continue to exist unchanged indefinitely.
- 1301.B **Use.** A landowner may obtain a zoning permit, and any applicable development approvals, to use a nonconforming structure for any land use allowed in the zoning district.
- 1301.C **Maintenance and Repair.** A landowner may undertake normal maintenance and repair of a nonconforming structure without a zoning permit in accordance with [Section 1103](#).
- 1301.D **Additions.** The Zoning Administrator may issue a zoning permit for development that would authorize changes to the exterior dimensions of a nonconforming structure provided that the proposed development:
- (1) Will not result in any nonconforming expansion of the building footprint or an increase in height of any nonconforming portion of the building;
  - (2) Will not convert a nonconforming porch, deck, entryway or similar unenclosed feature to enclosed and/or conditioned building space;
  - (3) Is not subject to conditions from prior approvals or permits that would otherwise restrict the proposed development; and
  - (4) Would not otherwise require a development approval from the Development Review Board.
- 1301.E **Code or Accessibility Improvements.** The Zoning Administrator may issue a zoning permit for development that would authorize changes to the exterior dimensions of a nonconforming structure, including further encroachments beyond the existing nonconforming building line or height, to the minimum extent necessary to comply with state or federal building code, energy code or accessibility requirements.
- 1301.F **Damaged or Destroyed Structures.** A landowner may obtain a zoning permit to reconstruct a nonconforming structure that has been damaged or destroyed by any cause in accordance with [Section 1205](#) and provided that the reconstruction does not change the exterior dimensions of the structure in a manner that would result in the reconstructed structure or portion of the structure encroaching further beyond the previous nonconforming building line or height.
- 1301.G **Waiver or Variance.** A landowner may obtain a waiver or variance in accordance with [Section 2404](#) or [Section 2405](#) that would authorize further encroachments beyond the existing nonconforming building line or height.

### 1302 NONCONFORMING USES

- 1302.A **General.** A nonconforming use that lawfully existed when the Town of Shelburne adopted or amended these regulations may continue to exist in its current location, configuration and intensity indefinitely.
- 1302.B **Relocation.** A landowner must not move a nonconforming use from one lot to another lot where it would also be a nonconforming use.
- 1302.C **Resumption.** A landowner must not resume a nonconforming use that was abandoned, discontinued or replaced with another use for more than 12 months. If a nonconforming use is located in a structure that is damaged or destroyed by any cause, the landowner may resume the use once the structure is reconstructed in accordance with with [Section 1205](#).
- 1302.D **Minor Expansion.** The Zoning Administrator may issue a zoning permit to allow a landowner to extend or expand a nonconforming use to:
- (1) Fully occupy space within the associated structure as that structure existed as of \*effective date; or
  - (2) Occupy up to 25% more floor area than when the use became nonconforming in another structure or in a lawful addition to the existing structure.
- 1302.E **Major Expansion.** The Development Review Board may approve a greater extension or expansion of a nonconforming use as a conditional use upon the applicant demonstrating the proposed extension or expansion will not result in greater adverse impacts on the character of the area.
- 1302.F **Change of Use.** The Development Review Board may approve the change of one nonconforming use to another nonconforming use as a conditional use upon the applicant demonstrating that the proposed nonconforming use will be less intensive in nature, have fewer off-site impacts and will be more compatible with the character of the area than the existing nonconforming use.

### 1303 NONCONFORMING LOTS

- 1303.A **General.** A nonconforming lot may continue to exist unchanged indefinitely.
- 1303.B **Merger.** If a nonconforming lot comes into common ownership with one or more contiguous lots, the Town of Shelburne will not deem the lot merged with the contiguous lot(s) for the purposes of these regulations (a landowner may choose to merge contiguous lots in accordance with [Section 2311](#)).
- 1303.C **Lot Size.** In accordance with statute, a landowner may develop a lot that does not meet the minimum lot size for the zoning district in accordance with all other applicable provisions of these provided that the lot:

- (1) Is legally subdivided and able to be conveyed separate from any other lot;
- (2) Existed as of the effective date of these regulations;
- (3) Is either:
  - (a) Served by municipal water and sewer; or
  - (b) Is at least 1/8 acre (5,445 square feet) in area and not less than 40 feet wide or deep.

**1304 CREATION OF A NONCONFORMITY**

1304.A The Town of Shelburne prohibits any development that would create a nonconformity except for:

- (1) A public project that requires the transfer or taking of land (e.g., street widening); or
- (2) Development that receives a waiver or variance under [Section 2404](#) or [Section 2405](#).