

MEMORANDUM

TO: RECIPIENTS
FR: DEAN PIERCE, ON BEHALF OF PLANNING COMMISSION
RE: HEARING ON PROPOSAL TO MITIGATE ADVERSE IMPACTS OF ADULT ENTERTAINMENT FACILITIES
DA: NOVEMBER 21, 2016

At its November 17 meeting the Shelburne Planning Commission discussed possible zoning bylaw amendments. The amendments would modify the Town's land use regulations by adding language intended to mitigate the adverse secondary impacts associated with adult entertainment facilities while not unduly limiting freedom of speech and expression. At the conclusion of its discussion, the Planning Commission voted to warn a formal Public Hearing on the proposed changes and to conduct that hearing on Thursday, December 15, 2016. In addition, Staff was directed to distribute the proposed amendment and a "zoning change report" as required by statute.

PROPOSED MODIFICATIONS

The proposal would add Adult Entertainment to the list of conditional uses authorized in the Mixed Use district and by operation of Section 2010.7 ("All uses not specifically authorized by this bylaw are prohibited") exclude the use in all other districts. The proposal would also add a series of Conditional Use review criteria applicable to Adult Entertainment uses. These criteria would establish requirements relating to a) comparability to other uses allowed in the Mixed Use district; b) separation from sensitive land uses such as schools, libraries, daycares, religious land uses, public parks, and residential zoning districts; c) separation from other instances of the same use; d) visibility of displays from any public vantage point; e) visibility of merchandise from any public vantage point; f) restrictions on signage; and g) entry by adults only. The proposal would preclude review of the use under the Form Based Zoning overlay district.

A list of the sections contained in the proposal is presented below.

Article II Table 1

Article X Section 1020.43 *Adult Entertainment authorized as Conditional Use [sections following renumbered]*

Article XVII.A Section 1.1.2.D *Adult Entertainment Uses governed by Section 1910.8.*

Article XIX Section 1910.8 *Adult Entertainment as a Conditional Use [sections following renumbered]*

Article XXI *[sections renumbered as required with insertion of new definitions]*

Section 2110.5 *Adult Entertainment*

Section 2110.6 *Adult media*

Section 2110.7 *Adult oriented merchandise*

Section 2110.144 *Sexually oriented toys or novelties*

Section 2110.148 *Specified anatomical areas*

Section 2110.148 *Specified sexual activities*

The text of the language to be the subject of the hearing is presented in the documents attached. Language to be added to the bylaw is shown in color with underscore. Language to be deleted is shown in color with ~~strikethrough~~ (strikethrough).

ZONING CHANGE REPORT

A report prepared in accordance with 24 V.S.A. §4441(c) is also attached. This report describes how the proposal "Conforms with or furthers the goals and policies contained in the municipal plan..." and "Is compatible with the proposed future land uses and densities of the municipal plan."

ARTICLE II: ZONING DISTRICTS

200 Classes of Districts.

200.1 For the purposes of these regulations, the Town of Shelburne is divided into the following zoning districts and overlay districts as shown on the official zoning maps which are filed in the Town office and incorporated herein by reference. Reduced copies of the official maps are attached to these Bylaws.

ZONING DISTRICTS	ABBREVIATION
RURAL	RUR
RESIDENTIAL	RES
VILLAGE RESIDENTIAL	VRES
MUSEUM	MUS
VILLAGE CENTER MIXED USE	V-CENT
SHELBURNE FALLS MIXED USE	SF-MIX
MIXED USE DISTRICT	MIX
COMMERCE & INDUSTRY	COMM
COMMERCE & INDUSTRY - SOUTH	COMM-S
CONSERVATION	CONS
OVERLAY DISTRICTS	ABBREVIATION
NEIGHBORHOOD OVERLAY	N-O/L
VILLAGE DESIGN REVIEW OVERLAY	VDES-O/L
VILLAGE CORE OVERLAY	VCORE-O/L
LAKESHORE OVERLAY	LKSHR-O/L
FLOODPLAIN & WATERCOURSE OVERLAY	FLOOD-O/L
STORMWATER OVERLAY	STM-OL
SHELBURNE ROAD FORM-BASED OVERLAY	SR-FBOD

210 Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- 210.1 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- 210.2 Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- 210.3 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks or to be the centerline of the right-of-way if no tracks are present.
- 210.4 Boundaries indicated as following shorelines shall be construed to follow the mean low water mark (93') per National Geodetic Vertical Datum (NGVD) 29.

- 210.5 Boundaries indicated as parallel to or extensions of those features identified in Subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the official zoning map or described under each zone shall be determined by the scale of the map.
- 210.6 District Boundary Adjustment: Where a district boundary line divides a lot in single ownership at the time of passage of these regulations, the Development Review Board may permit, as a conditional use, the extension of the regulations beyond the boundary line into the remaining portion of the lot for a distance not to exceed fifty (50) feet.
- A. Approval of a district boundary adjustment under this provision must be obtained prior to submission of an application for approval of any development on the affected parcels.
 - B. An application for a district boundary adjustment must include a site plan showing anticipated improvements and a description of anticipated uses in the area where the district boundary adjustment will take place. If the district boundary adjustment will allow a totally different type of project than could occur without the adjustment, the Conditional Use review shall consider then entire project.
 - C. Any district boundary adjustment granted under this section shall expire within two years unless all final local approvals for any development requiring the adjustment have been obtained.
- 210.7 Any uncertainty as to the boundaries of a zoning district shall be determined in accordance with the above Subsections by the Zoning Administrative Officer.

220 Allowable Uses. Table 1 on the following pages is a generalized list of Permitted (P) and Conditional (C) uses allowed in each zoning district. More details on allowable uses and limitations are found in Articles III through XVIII which describe the individual zoning districts and overlay districts. In the event there is a conflict between Table 1 and text found in Articles III through XVIII, the text found in Articles III through XVIII shall control.

221 Dimensional Requirements. Table 2 below is a generalized list of dimensional requirements in each zoning district. More specifics on dimensional requirements are found in Articles III through XVIII which describe the individual zoning districts and overlay districts. In the event there is a conflict between Table 1 and text found in Articles III through XVIII, the text found in Articles III through XVIII shall control.

TABLE 1
TABLE OF PERMITTED (P) AND CONDITIONAL (C) USES

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
RESIDENTIAL										
Single-Family	P	P	P	P	P	P	P		P(1)	P(3)
Two-Family	P	P	P	P	P	P	P			
Conversion to Two-Family	C		C		C	C	C			
Multiple-Family		C			P	C	P			
Mobile Home Park	C	C			C		C			
First Farm Labor dwelling	P									
Second Farm Labor dwelling	C									
Accessory Apartments (one bedroom)	P	P	P	P	P	P	P			P
Accessory Apartments (two bedroom)	C	C	C	C	C	C	C			C
Staff Quarters/Private Guest House	C									
Group/Residential Care Homes	P	P	P	P	P	P	P			
Elder housing		C			C	C	C			
Elder Care facilities		C			C	C	C			
Elderly Supportive Service Housing (ESSH)					C		C			
Continuing Care Retirement Community	C	C					C			
Nursing Homes		C					C			
LODGING										
Hotels or Inns or Motels	C				C		C		P(2)	
Bed & Breakfasts	P	C	C		C	C	C			
Rooming Houses		C	C	C						

- (1) If existing prior to January 1, 1994.
- (2) If existing as of March 17, 2009
- (3) If existing as of March 17, 2009 or where allowed by easement.

TABLE OF PERMITTED AND CONDITIONAL USES (cont'd)

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
COMMERCIAL/INDUSTRIAL										
Retail				C	P		P(1)			
Pharmacies without drive through facilities					P		P			
Drive through pharmacies					C		C			
Restaurants (except fast food)				C	P		C			
Restaurants (fast food)										
Community Farmers Market					P					
Personal Service Shops					P		P(1)			
Post office stores			C		P					
Existing gasoline station					C					
Indoor Movie Theaters							C			
Business/Professional Offices		C	C	C	P	C	P	P	P	
Medical/Dental Offices		C	C	C	P		P			
Banks/Financial Institutions					P		P			
Public Utility Facilities					C		C			
Artist's Studios	C	C	P	P	C	C	C	C	C	
Veterinary Clinics	C				C		C			
Kennels/Pet Day Care Facilities	C						C			
Wholesale Sales (enclosed)							C	C	C	
Vehicle Sales/Repair							C	C		
Building Material Sales (indoor storage)							C	C	C	
Lumber Yards	C						C	C		
Construction Services Facilities							C	C	C	
Research/Testing Laboratories							C	P	P	
Light Manufacturing (enclosed)							C	P	C	
Upholstery/Fabric Working							C	P	P	
Dry Cleaners								C		
Auto/Machinery Repair	C						C	C	C	
Warehouses (enclosed)/Storage							C	C	C	

(1) Conditional use approval required when use is proposed with drive through facility.

TABLE OF PERMITTED AND CONDITIONAL USES (cont'd)

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
Indoor Storage in Ag. Structures	P									
Roadside Farm Stands	P	P					C		C	
Garden Center/Nursery	C	C					C			
Marinas	C									
Yacht Clubs	C									
<u>Adult Entertainment</u>							<u>C</u>			
Transportation Passenger stations					C					
CULTURAL/INSTITUTIONAL										
Schools (certified by State Ed. Dept.)		C		C	P		C	P	P	
Museums		C		P	P		C			
Libraries				P	P					
Churches	C	C	C	C	C		C	C	C	
CHILD CARE										
Licensed Day Care (6 or less)	P	P	P		P	P	P		P	
Licensed Day Care (more than 6)	C	C	C		C		C		C	C
Registered Family Day Care Home	P	P	P		P	P	P		P	C
Day Care Center	C	C			C		C	C	C	
GOVERNMENT										
Municipal Offices					C					
Town Highway Garage & associated uses		C								
Waste Water Treatment Plants		C					C			
Police Stations					C					
Fire/Rescue Stations		C			C		C			

TABLE OF PERMITTED AND CONDITIONAL USES (cont'd)

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
AGRICULTURAL										
Farming, as defined in Article XXI	P								P	P
Integrated Agriculture	C	C								
Keeping of Farm animals		C								
RECREATION/OPEN SPACE USES										
Outdoor Recreation (no structures)	P	P	P		P	P	P	P	P	P
Outdoor Recreation (minor structures)	C	C	C		C	C	C	C	C	P
Outdoor Recreation (major structures)	C									
Indoor Recreation							P	P	P	
Wildlife Management/Refuge Areas										P
Commercial Riding Stables	C									
Campgrounds	C						C			
Cemeteries	C	C	C	C	C	C	C			
ACCESSORY USES										
Planned Unit Developments per Article XIX	P	P	P	P	P	P	P	P(1)	P	C

(1) Uses accessory to permitted uses are permitted; uses accessory to conditional uses require conditional use approval.

TABLE 2.
TABLE OF DIMENSIONAL REQUIREMENTS

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
LOT SIZE										
Lot Area Minimum										
Single-Family Dwelling	5 acres. See Note (8)	20,000 sf	12,500 sf	15,000 sf	10,000 sf ⁽²⁾ or by formula. See Note (11).	12,500 sf	15,000 sf		2 Acres ⁽⁶⁾	10 acres
Two-Family Dwelling	10 acres See Note (8)	30,000 sf	20,000 sf	20,000 sf	15,000 sf ⁽²⁾ or by formula. See Note (11).	20,000 sf	20,000 sf			
Multi-Family Dwelling		15,000 sf/unit			7,500 sf/unit ⁽²⁾ or by formula. See Note (11).	10,000 sf/unit	15,000 sf/unit			
Elder Housing		7,500 sf/unit			3,500 sf/unit ⁽²⁾	4,375 sf /unit	3,500-7,500 sf			
Elder care facility		4,000 sf/ bed			2,000 sf/bed ⁽²⁾	2,500 sf/bed	2,000 sf/bedrm			
Elderly Supportive Service Housing (ESSH)					2,500 sf/unit ⁽²⁾					
Day Care Homes	5 acres See Note (8)	20,000 sf	12,500 sf	20,000 sf	10,000 sf	12,500 sf	20,000 sf		2 Acres ⁽⁶⁾	10 acres ⁽⁷⁾
Day Care Centers	5 Acres ⁽⁷⁾	40,000 sf			15,000 sf		30,000 sf	2 Acres ⁽⁶⁾	2 Acres ⁽⁶⁾	
Mobile home parks	10 acres ⁽¹⁰⁾	10 acres ⁽¹⁰⁾			8000sf /unit ⁽¹²⁾		10 acres ⁽¹⁰⁾			
All other permitted uses	5 Acres ⁽⁷⁾	20,000 sf	20,000 sf	20,000 sf	15,000 sf	20,000 sf	20,000 sf	2 Acres ⁽⁶⁾	2 Acres ⁽⁶⁾	
Lot Frontage Minimum								-	-	-
Single-Family Dwellings	200 ft	100 ft	75 ft	100 ft	60 ft	75 ft	100 ft		150 ft	400 ft
Two-Family Dwellings	200 ft	150 ft	150 ft	150 ft	75 ft	100 ft	150 ft			
All other permitted uses	200 ft	150 ft	150 ft	150 ft	100 ft	150 ft	150 ft	150 ft	150 ft	400 ft
Lot Width Minimum	400 ft ⁽¹⁾	None	None	None	None	None	None	None	150 ft	None

See footnotes at end of table

TABLE OF DIMENSIONAL REQUIREMENTS (cont'd)

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
YARD REQUIREMENTS										
Front Yard Minimum	75 ft	30 ft	30 ft	30 ft	30 ft ⁽³⁾	30 ft	>=30 ft ⁽³⁾	60 ft	60 ft ⁽⁵⁾	75 ft
Side and Rear Yard Minimum										
Single-Family Dwellings	See Note (8)	15 ft	15 ft	15 ft	15 ft	15 ft	>=15 ft ⁽³⁾		50 ft ⁽⁴⁾	50 ft
Two-Family Dwellings	See Note (8)	15 ft	15 ft	15 ft	15 ft	15 ft	>=15 ft ⁽³⁾			50 ft
Day Care Homes	See Note (8)	15 ft	15 ft	15 ft	15 ft	15 ft	>=15 ft ⁽³⁾		50 ft ⁽⁴⁾	50 ft
All other permitted uses	50 ft	30 ft	30 ft	30 ft	30 ft	30 ft	>=15 ft ^(3,4)	50 ft ⁽⁴⁾	50 ft ⁽⁴⁾	50 ft
Building Coverage Maximum										
All Uses		20%	20%	20%	20%	20%	30%	25%	25%	None
Lot Coverage Maximum							50%	50%	50%	None

HEIGHT RESTRICTIONS										
Farm Structures	None									
Religious Structures	None	35 ft	35 ft	35 ft	35 ft		35 ft	None	35 ft	
All Other structures	35 ft ⁽⁹⁾	35 ft								

- (1) Average Lot width as specified in District Regulations (Article III).
- (2) Net density in standard subdivisions; gross density in PUDs.
- (3) Varies depending on size, whether lot fronts on Shelburne Road, type of adjoining use (Article X).
- (4) When lot backs up to residential uses, rear yard setback shall be 100 ft.
- (5) From Route 7, 100 ft.
- (6) 2 acres = 87,120 sf
- (7) 5 acres = 217,800 sf
- (8) Lot sizes and dimensional requirements for residential uses and day care homes are specified in Article III.
- (9) Except as modified by 830.4, which could result in height of up to 45 ft
- (10) Modified parks have alternative area requirements
- (11) Lot sizes and dimensional requirements specified in Article VIII.
- (12) Per sections 1925.3 and 1926.4.

ARTICLE X: MIXED USE DISTRICT

1000 Purpose. The purpose of the Mixed Use District is to accommodate the commercial uses presently in the area and to encourage an integrated, compatible mix of new commercial and residential development (with a variety of housing types) that is pedestrian friendly, to facilitate access among the various uses without utilizing Shelburne Road, to encourage development of small visual scale and “grain”, to present an interesting and varied streetscape along Shelburne Road, to avoid the appearance of “strip” development; and to encourage low traffic generating uses so as to minimize the number of turning movements on Shelburne Road. In addition, development in this district should be designed to encourage the use of public transit.

1010 Permitted Uses.

- 1010.1 Single-family dwellings.
- 1010.2 Two-family dwellings.
- 1010.3 Multiple family dwellings.
- 1010.4 Accessory Apartments located within an existing owner occupied single family dwelling or an existing accessory structure, containing not more than one bedroom, consisting of not more than 30 percent of the total habitable floor area of the original dwelling, and not requiring a change in the dimensions of parking areas.
- 1010.5 Group/Residential Care Homes, operating under state licensing or registration, serving no more than 8 residents, and not located within 1,000 feet of another such facility.
- 1010.6 Retail uses, without drive through facilities.
- 1010.7 Pharmacies without drive through facilities
- 1010.8 Personal Service Shops, without drive through facilities.
- 1010.9 Business or Professional Offices.
- 1010.10 Medical or Dental Offices.
- 1010.11 Banks and other Financial Institutions.
- 1010.12 Licensed day care homes with 6 or fewer children.

- 1010.13 Registered family day care homes.
- 1010.14 Outdoor Recreation involving the use of no structures.
- 1010.15 Indoor Recreation facilities.
- 1010.16 Accessory uses.
- 1010.17 Multiple uses where all proposed uses are permitted uses.

1020 Conditional Uses.

- 1020.1 Conversion of a single-family dwelling existing on March 17, 2009, to a two-family dwelling.
- 1020.2 Mobile Home Park existing on (January 14, 1986).
- 1020.3 New Mobile Home Parks on 10 or more acres
- 1020.4 Accessory Apartments which:
 - A. Contain two bedrooms, or
 - B. Are located in structures that are not preexisting , or
 - C. Require an increase in the height or floor area of a preexisting structure or
 - D. Require a new parking area or an increase in the dimensions of an existing parking area.
- 1020.5 Elder Housing, in PUDs only, with a maximum of 40 dwelling units in a single development.
- 1020.6 Elder care facilities where rooms other than complete dwelling units are provided, in PUDs only, with a maximum of 100 bedrooms in a single development.
- 1020.7 Continuing Care Retirement Facilities.
- 1020.8 Nursing Homes.
- 1020.9 Retail uses, with drive through facilities.
- 1020.10 Drive-Through Pharmacies.
- 1020.11 Roadside stands for the seasonal sale of farm products.
- 1020.12 Personal Service Shops, with drive through facilities

- 1020.13 Hotels/Motels.
- 1020.14 Bed and Breakfast with no more than six rooms to rent.
- 1020.15 Restaurants, without drive through services, and where any designated outdoor dining areas are screened from any adjacent residential properties.
- 1020.16 Indoor Movie Theaters.
- 1020.17 Public Utility Facilities.
- 1020.18 Artists' Studios
- 1020.19 Veterinary Clinics.
- 1020.20 Kennels on lots of no less than 3 acres with space for no more than 25 animals, with adequate screening from adjacent properties, and with provision for effective sound attenuation.
- 1020.21 Pet Care Facilities with space for not more than 25 animals.
- 1020.22 Vehicle Sales and Repair.
- 1020.23 Auto and machinery repair.
- 1020.24 Research and Testing Laboratories.
- 1020.25 Garden Center/Nursery facilities.
- 1020.26 Lumber Yard.
- 1020.27 Building materials sales with all indoor storage.
- 1020.28 Construction Services Facilities
- 1020.29 Public and private schools certified by the Vermont Department of Education and other educational institutions certified by the Vermont Department of Education.
- 1020.30 Museums and associated facilities.
- 1020.31 Churches and other places of worship.
- 1020.32 Licensed day care homes with more than 6 children.

- 1020.33 Day Care Centers with a maximum of 75 children.
- 1020.34 Municipal Waste Water Treatment Plants.
- 1020.35 Fire/Rescue Stations.
- 1020.36 Outdoor Recreation facilities involving the use of minor structures.
- 1020.37 Campgrounds, existing on March 17, 2009.
- 1020.38 Cemeteries.
- 1020.39 Upholstery / Fabric Working.
- 1020.40 Wholesale Sales (enclosed).
- 1020.41 Enclosed light manufacturing.
- 1020.42 Warehouses where all storage is enclosed.

1020.43 Adult Entertainment

~~1020.43~~1020.44 Any use substantially, materially, and outwardly similar to those set forth above in Sections 1010 and 1020, provided that the Development Review Board finds that, in addition to other specific and general standards set forth in these regulations, the proposed use meets the following specific standards:

A. Such use is of the same functional and physical character as those permitted or allowed as conditional uses in the district. To establish whether such use has the “same functional and physical character” as a permitted or conditional use in the district, an applicant must demonstrate to the DRB that the contemplated use shares the following features with a use specified in Section 1010.1-1010.15. or 1020.1-1020.40 above:

1. Inherent character of primary activity or activities,
2. Typical predominant sound levels and qualities,
3. Typical exterior activity levels,
4. Typical exterior lighting requirements,
5. Typical predominant odor, if any,
6. Typical vehicular traffic,
7. Seasonal and diurnal patterns of sound, lighting, smells, and exterior activity levels.

B. Such use will not be detrimental to adjoining land uses as measured by compliance with the performance standards contained in Article XIX.

~~1020.44~~1020.45 Multiple uses when one or more of the uses is a conditional use.

1030 Dimensional Requirements.

1030.1 Minimum Lot size.

- A. Lot area minimum -
 - Single-family dwellings 15,000 square feet
 - Two-family dwellings 20,000 square feet
 - Multi-family dwellings 10,000 square feet
 - Housing for the elderly
 - Per dwelling unit 7,500 square feet per dwelling unit when constructed as detached housing;
 - 3,500 square feet per dwelling unit when constructed in congregate/attached housing.
 - Elder Care facilities 2,000 square feet per resident bedroom
 - Continuing Care Retirement Community 3,500 square feet per independent living unit and community care/nursing home bed.
 - Hotels/motels 3,500 square feet per room, or 20,000 square feet, whichever is greater
 - Day care homes 20,000 square feet
 - Day Care Centers 30,000 square feet
 - Other permitted and conditional uses 20,000 square feet
- B. Lot frontage minimum:
 - Single-family dwellings 100 feet
 - Two-family dwellings 150 feet

- Other permitted and conditional uses 150 feet

C. Multiple uses involving non-residential use(s) plus 2 or more residential units - The area required for other permitted and conditional uses plus the applicable lot area minimum for each dwelling unit.

1030.2 Setback Requirements.

A. All uses on lots with frontage on Shelburne Road

1. Minimum structure and parking setback from Shelburne Road ROW on lots 1.5 acres or less: 30 feet
2. Minimum structure and parking setback from Shelburne Road ROW on lots of more than 1.5 Acres: 50 feet
3. Minimum side yard structure and parking setback: 20 feet
4. Minimum rear yard structure and parking setback when abutting a Residential use: 50 feet
5. Minimum rear yard structure and parking setback when abutting a Non-Residential use: 20 feet
6. If a lot has frontage on Shelburne Road and on another road, the minimum structure and parking setback from the other road ROW shall be: 30 feet

B. Uses on lots not having frontage on Shelburne Road

1. Minimum front yard structure and parking setback (all uses): 30 feet
2. Minimum side/rear yard structure and parking setbacks:
 - Single family dwellings and day care homes 15 feet
 - Other allowed uses: 25 feet, except that when residential use of an adjacent property existed as of June 1, 2011 or predates a proposal to initiate an "other allowed use", the setback shall be 100

		feet.
1030.3	<u>Building coverage maximum</u>	30 percent
1030.4	<u>Lot coverage maximum</u>	50 percent
1030.5	<u>Maximum individual building footprint</u>	30,000 square feet
1030.6	<u>Consolidation of existing buildings</u>	
	A.	Notwithstanding Section 1030.5, a lot that contains multiple buildings on March 17, 2009 or a lot or lots approved by the Development Review Board as a commercial or mixed use Planned Unit Development (PUD-MU, PUC-C), where such lot or lots contained multiple buildings existing as of May 1, 2012 may be redeveloped to consolidate the existing floor area into a single building with a total footprint not to exceed 130% of the total footprint of all existing buildings having a footprint of more than 200 square feet, provided that the Development Review Board determines that doing so is an integral part of the overall design for the redevelopment, that the architectural design of the front façade of the proposed building is consistent with the provisions of Section 1930.7-B-7 of these Regulations, and that the requirements of paragraphs B and C below are met.
	B.	The land uses conducted in any buildings approved under 1030.6.A. shall be the same as the land uses conducted in the existing buildings on which the footprint area is based.
	C.	The floor area of any structure considered by the Development Review Board when authorizing the construction of buildings over 30,000 square feet may be applied in such manner only once and shall be deemed ineligible for any future calculations of the same manner.
1030.7	<u>Height restrictions.</u>	35 feet

1040 Planned Unit Development—Residential. Any residential development project on a lot in excess of five acres, except for a single family dwelling or a Mobile Home Park, shall be reviewed as a Planned Unit Development-Residential in accordance with Section 1930.3 of these

regulations, unless eligible and submitted for review as a Redevelopment Planned Unit Development in the Mixed Use District in accordance with the provisions of Subsection 1930.9

1050 Planned Unit Development—Commercial. Any commercial development project on a lot in excess of two acres shall be reviewed as a Planned Unit Development—Commercial in accordance with the provisions of Subsection 1930.5 and 1930.7 of these Regulation, unless eligible and submitted for review as a Redevelopment Planned Unit Development in the Mixed Use District in accordance with the provisions of Subsection 1930.10.*

1060 Planned Unit Development—Mixed Use. Any mixed use development project combining residential and non-residential uses on a lot in excess of two acres shall be reviewed as a Planned Unit Development—Mixed Use in accordance with the provisions of Subsection 1930.4 and 1930.7 of these Regulations, unless eligible and submitted for review as a Redevelopment Planned Unit Development in the Mixed Use District in accordance with the provisions of Subsection 1930.9.

1070 Site Plan Approval. Site plan approval by the Development Review Board is required for all uses including any multiple use of a property in accordance with applicable portions of Section 1900 of these bylaws except one and two family dwellings on single lots, including accessory uses to such residences.

* [NB: The text previously incorrectly referenced 1930.9]

ARTICLE XVII.A SHELBURNE ROAD FORM-BASED OVERLAY DISTRICT (SR-FBOD)

1.1 Purpose and Applicability

1.1.1 Purpose and Intent. The purpose of the Shelburne Road Form-Based Overlay District (SR-FBOD)s to provide a set of zoning regulations that place greater emphasis on the building design and site layout, and less emphasis on the types of land uses within those buildings with the goal of facilitating sustainable development in selected areas of Shelburne. These qualities will be achieved through implementation of context-based building forms, active open spaces and streetscapes, and complete streets collectively designed to be integrated, connected and complementary. The intent is to meet the goals of the 2014 Town of Shelburne Comprehensive Plan and other strategic area plans endorsed by the Town. The SR-FBOD, which extends along the corridor from the boundary shared with South Burlington to the LaPlatte River, is illustrated on the Regulating Plan in Figure 1.1.2.

1.1.2 Applicability.

- A. Territorial Applications. This Article applies to all property in the SR-FBOD as shown on the Regulating Plan and the Zoning Overlay Districts Map.
- B. Overlay Status. At the election of an applicant, a request for development in the SR-FBOD shall be reviewed under the provisions of this Article, which shall modify the requirements of the underlying zoning districts and applicable sections of Article XIX (General Regulations). When such a request is made, the terms of this Article shall control and further shall supersede any conflicting provisions contained in other Articles.
- C. Ongoing Adherence With Overlay District Requirements. Upon the effective date of this Article, a property owner may apply for approval of land development under the SR-FBOD. Upon the approval of such application, the property shall thereafter be subject to this Article and, if this Article is discontinued or replaced, any successive Zoning Districts to which Form-Based Zoning requirements are transferred and in which the subject property is located.
- ~~C.D.~~ Adult Entertainment Uses. The provisions and requirements of the SR-FBOD shall be superseded by the provisions and requirements of the Section 1910.8 (“Adult Entertainment as a Conditional Use”). No applications for Adult Entertainment Uses shall be allowed under the SR-FBOD.

ARTICLE XIX: GENERAL REGULATIONS

... [preceding sections of article not affected by proposal]

1910.8 Adult Entertainment as a Conditional Use.

- A. Purpose. The purpose of this subsection is to mitigate the adverse secondary impacts associated with adult entertainment facilities while not unduly limiting freedom of speech and expression. Restrictions on the location and operation of such facilities are necessary to protect residential neighborhoods, civic institutions and public gathering places from the adverse secondary impacts associated with adult entertainment facilities including, but not limited to, crime, nuisance, disturbance of public order and indecency, and to protect public health, safety and welfare.
- B. Review of Adult Entertainment Facilities. In districts where Adult Entertainment Facilities are authorized as Conditional Uses, any proposal for such use must demonstrate the use will satisfy the following standards and requirements, in addition to all other applicable standards and requirements:
1. The adult entertainment use must be comparable to a non-adult entertainment use allowed (permitted or conditional) in the applicable zoning district.
 2. Adult entertainment uses must not be located within 600 feet of an existing grade school, library, daycare facility, religious facility, public park, or residential zoning district or within 150 feet of a public right-of-way. This distance will be measured from the property line of the subject lot to the nearest property line of the lot housing one of the listed uses. If a grade school, library, daycare facility, religious facility or public park subsequently locates within 600 feet of a lawfully existing adult entertainment use, this provision will not be used to eliminate or restrict that adult entertainment use.
 3. Adult entertainment uses not located within the same building must be separated from one another by at least 1,000 feet. This distance will be measured from the property line of the subject lot to the nearest property line of another lot housing an adult entertainment use.
 4. An adult entertainment use must not have any storefront window, marquee, sign or other display visible from a public vantage point depicting or portraying specified anatomical areas or specified sexual activities.
 5. Adult oriented merchandise must not be displayed in a location that would be visible from a public vantage point.
 6. Adult entertainment uses may be identified with signage in accordance with Section 1970. All text, symbols, logos or other

graphics advertising an adult entertainment use must use only terms and imagery that would be typical and expected for a comparable non-adult entertainment use and appropriate for a general audience.

7. A person under the age of 18 must not be permitted to enter or remain on the premises of an adult entertainment use. All public entrances must have warning sign indicating that only those age 18 or older may enter.

C. Definitions. As used in this subsection,

1. Adult entertainment use means a store, theater, club, restaurant or other establishment that as a substantial component of the use offers: (i) adult oriented merchandise for sale, rental, exchange, loan or trade; (ii) live or recorded performances by entertainers who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities; and/or (iii) services by attendants who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities .
2. Adult media means any magazines, books, movies, photographs, recordings or other forms of communication that are distinguished or characterized by an emphasis on matter depicting, describing or related to specified anatomical areas or specified sexual activities.
3. Adult oriented merchandise means any goods, products, commodities or other wares that depict, describe or simulate specified anatomical areas or specified sexual activities including but not limited to sexually oriented toys or novelties and adult media.
4. Sexually oriented toys or novelties means any instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.
5. Specified anatomical areas means: (i) less than completely and opaquely covered human genitals, anus, pubic region, buttock, or female breast below a point immediately above the top of the areola; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
6. Specified sexual activities means: (i) human genitals in a state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse, sodomy, oral copulation, or bestiality; (iii) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts, whether clothed, of oneself, or of one person by another; or (iv) excretory functions as part of or in connection with any of the

activities set forth in this subsection.

7. Residential zoning district means Residential Zoning District, Village Residential Zoning District, or Agricultural Zoning District.

~~1910.8~~1910.9 Conditions. The Development Review Board may attach appropriate conditions to any approval, including but not limited to stipulations implementing standards or criteria contained in 24 V.S.A. 4414(3) and Section 1910.4, as well as all specific dimensional and other standards applicable to it as set forth in these regulations. The application for Conditional Use, including any site plans, shall be deemed incorporated as conditions into the final Conditional Use Permit, except to the extent that the conditions in the Conditional Use permit shall prevail in case of a conflict.

~~1910.9~~1910.10 Denial. If the Development Review Board determines that any of the standards and criteria set forth above have not been met, and that there are no reasonable conditions that would result in compliance, the board shall deny the application.

~~1910.10~~1910.11 Continuation of Hearings. A public hearing for a conditional use may be continued (recessed to a specified date and place) in order to provide time for a site visit or to obtain additional information needed to render a decision.

1910.11 Decisions. The Board may decide to approve, approve with conditions, or deny the application. The Board shall render its decision within forty five days of the close of the public hearing, and failure to act within such time shall constitute approval.

ARTICLE XXI: DEFINITIONS

2100 General. Definitions contained in the Vermont Planning and Development Act shall be applicable throughout these regulations unless otherwise specifically defined in this Section.

2110 Specific Definitions.

2110.1 Accessory Apartment - A dwelling unit located within or appurtenant to and clearly subordinate to a principal single-family dwelling. The property owner of record shall occupy either the accessory apartment or the principal single-family dwelling.

2110.2 Accessory Structure – A structure on the same lot with and of a nature which is incidental and subordinate to the principal structure on the lot and which is typically associated with that principal structure. Accessory structures shall meet the same dimensional and yard requirements as the principal structure.

2110.3 Accessory Use – A use of land or of a building or portion thereof incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

2110.4 Adjacent -- Contiguous parcels and parcels separated only by a public road, private road or right-of-way, railroad right-of-way, or riparian feature (river, stream, or brook).

2110.5 1 Adult entertainment use means a store, theater, club, restaurant or other establishment that as a substantial component of the use offers: (i) adult oriented merchandise for sale, rental, exchange, loan or trade; (ii) live or recorded performances by entertainers who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities; and/or (iii) services by attendants who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities .

2110.56 Adult media means any magazines, books, movies, photographs, recordings or other forms of communication that are distinguished or characterized by an emphasis on matter depicting, describing or related to specified anatomical areas or specified sexual activities.

2110.7 Adult oriented merchandise means any goods, products, commodities or other wares that depict, describe or simulate specified anatomical areas or specified sexual activities including but not limited to sexually oriented toys or novelties and adult media.

- 2110.8 Agriculture or Farming – Commercial production of crops (including, but not limited to horticultural, viticultural, floricultural, vegetable, berries, grain, hay and straw), dairy, maple, apiary, animal products, seed, Christmas trees and livestock, or any combination thereof, when not exempt from zoning review by 24 VSA 4413(d) or 10 VSA 6001 (22).
- 2110.69 Affordable Housing -- Housing that is occupied by inhabitants whose gross annual household income does not exceed 80 percent of the county median income (or income of the standard metropolitan statistical area), and for which the total cost of the housing (as defined below) does not exceed 30 percent of the household's gross annual income. The long-term affordability of such units must be preserved through appropriate legal mechanisms.
- a. For owner occupied housing, total housing costs include mortgage principal, interest, taxes, insurance, and association fees.
 - b. For renter occupied housing, total housing costs include rent, utilities, and association fees.
- 2110.710 Alteration - As applied to a building or structure, any change to the exterior or structural elements of a building or structure. For the purposes of this definition, minor changes to elements such as painting, minor repairs, awnings, shutters or similar components shall not be considered an alteration. In the Village Design Review Overlay District, definitions set forth in Article XV shall apply.
- 2110.11 Art Gallery – A structure or portion thereof used for the display and/or sale of works of art such as photographs, paintings, sculptures, woodworking, pottery, weavings, or jewelry.
- 2110.12 Artists' Studios – Spaces used by artists such as photographers, painters, sculptors, woodworkers, potters, weavers, or jewelers, for the creation of their products or the teaching of their skills. Artists' studios may also contain a small area devoted to the display and sale of the products produced.
- 2110.13 Assisted Living Facility – An Elder Care Facility or facility providing Elderly Supportive Service Housing.
- 2110.14 Automobile/Machinery Repair – The servicing, maintenance, or repair of automobiles or small machinery, not including automobile body repair and painting.
- 2110.15 Banks or Other Financial Institutions – A business performing such services as maintaining checking and savings accounts, making and administering loans, renting safe deposit boxes, cashing checks, and other similar services. Banks may include both drive-through and walk-in services, as well as automatic teller machines (ATMs).
- 2110.16 Bed and Breakfast - An owner occupied residential structure which contains sleeping

rooms for rent for transient occupancy. (See Articles describing individual zoning districts for specific regulations.)

- 2110.17 Buffer – An area of land generally kept in a natural state, used to visually separate one use from another, to shield or block noise, lights, or other nuisances, or to protect a natural resource.
- 2110.18 Building or Structure - These terms are used interchangeably and mean any construction, erection, assemblage or other combination of materials upon the land for occupancy or use, including without limitation, buildings, mobile homes, walls, fences, signs, antennas, swimming pools, tennis courts, driveways and utility sheds.
- 2110.19 Building Envelope - A defined three-dimensional (length, width, and height) space, precisely located on a parcel of land and depicted on a relevant plan or plans, within which all structures on that parcel must be located.
- 2110.20 Building Material Sales – An establishment where one or more of a wide range of building materials is provided and displayed for sale to both builders and the general public. Building materials may include such goods as lumber, nails and fasteners, tools, plumbing supplies, electrical supplies, doors, windows, floor coverings, paints, concrete block, stone, and the like.
- 2110.21 Business or Professional Office – A room or suite of rooms used for the conduct of business, including administrative, executive, and support personnel, and/or space for working and meetings of professional people, their support staff, and their clients. Such office uses have limited contact with the general public and involve only limited on-site sales of goods directly to consumers.
- 2110.22 Campground - Land on which are located designated sites for recreational vehicles, tents or other movable accommodations suitable for seasonal or temporary living purposes.
- 2110.23 Cutoff - A lighting fixture light distribution, specified by the IESNA, where the intensity in candela per 1000 LAMP lumens does not numerically exceed 25 (2.5%) at a vertical angle of 90 degrees above nadir, and 100 (10 %) at a vertical angle of 80 degrees above nadir. Nadir is the point vertically below the lighting fixture.
- 2110.24 Cemeteries – A property used for the interment of the dead.
- 2110.25 Certificate of Occupancy - A document issued by the Zoning Administrative Officer in accordance with 24 V.S.A., Section 4449 and the provisions of Article XX of these regulations, certifying that a structure or portion thereof has been developed in accord with all applicable local regulations, approvals, and permits, and authorizing the same to be used.
- 2110.26 Churches and Other Places of Worship – One or more structures or a portion of a

structure, used for the conduct of organized religious services, and associated accessory uses.

- 2110.27 Commercial Riding Stable - A stable for the for-profit boarding of equines and/or associated accessory uses, including riding lessons, trail rides, or horse training.
- 2110.28 Community Farmers Market. - An occasional or periodic market, with goods offered for sale to the general public by individual sellers from open-air or semi-enclosed facilities or temporary structures. The market is composed of five or more vendors with outside stalls, stands or spaces used for the purpose of display and sale, exchange, or barter of merchandise, which is limited to home produced or locally grown farm produce, and the incidental sale of artisan produced handiwork, artwork and food. Second-hand goods are not offered for sale.
- 2110.29 Construction Services Facilities - A facility serving as the headquarters or central facility for a construction firm, which may include the parking of vehicles and/or the storage of equipment or materials.
- 2110.30 Continuing Care Retirement Community (CCRC) - A residential community providing housing for the elderly (one resident in each unit being 60 or older) consisting of not more than 250 independent living units (in the form of either multi-family or single-family dwellings), associated common facilities primarily for the use of the CCRC residents, and a health center which may include facilities of the type offered in a community care home or nursing home for a maximum of 120 residents.
- 2110.31 Coverage, Building - The percentage of a lot's area which is occupied or covered by buildings and other structures extending more than 12 inches above the existing grade at any point.
- 2110.32 Coverage, Lot - The percentage of a lot's area which is covered by buildings, structures, parking areas, loading areas, paved or graveled driveways or other impervious surfaces.
- 2110.33 Day Care Center - A day care facility which provides care and protection to more than 12 children
- 2110.34 Day Care Home (Licensed) - A day care facility that complies with licensing standards. It may utilize two or more staff members and provide care and protection for not more than 12 children.
- 2110.35 Day Care Home (Registered Family) - A home which is described on the Family Day Care Home Registration. The person issued the Family Day Care Home Registration is the primary provider of child care services. The Home allows for up to 6 pre-school children to attend for the day and up to 4 school age children to attend for 4 hours or less a day.
- 2110.36 Developable Land – Land that is suitable for development and which is not

characterized by any of the following:

- a. Slopes of 15 percent or more.
- b. Wetlands classified as class 2 or higher in the Vermont Significant Wetlands Inventory.
- c. Flood Plain identified in the most recent National Flood Insurance Program Maps.

Undevelopable land shall not be considered when computing the maximum allowable dwelling units for any development.

- 2110.37 Development – See Land Development.
- 2110.38 Direct Light— Light emitted directly from the lamp, from the reflector or reflector diffuser, or through the refractor or diffuser lens of a lighting fixture.
- 2110.39 Dock — A structure over or on water that may be used for the moorage of watercraft. Wood or metal structures mounted on piles or floats, piers, overhanging boat-house decks whose upper surfaces are within three feet of the water's surface and are accessible from the lake, and similar structures shall be considered docks for the purposes of these regulations.
- 2110.40 Drive-Through Pharmacy – A retail sales establishment which provides medicine and other items, such as toiletries, various sundries and packaged foods for sale, and offers drop-off and pick-up service exclusively for prescriptions and associated medical items to persons within a motor vehicle.
- 2110.41 Dwelling Unit – A structure or self contained portion thereof, containing complete housekeeping facilities for one family or household, and having no enclosed space in common with any other dwelling unit.
- 2110.42 Dwelling, Single-Family - A detached structure that contains a single dwelling unit.
- 2110.43 Dwelling, Two-Family - A structure containing two dwelling units, designed for occupancy by not more than two families.
- 2110.44 Dwelling, Multi-Family - A residential building designed for and occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.
- 2110.45 Dwelling, Seasonal – A dwelling unit that is used or approved for use for no more than six months of any twelve month period.
- 2110.46 Dwelling, Year Round – A dwelling unit that is used or approved for use on a year round basis.
- 2110.47 Elder Care Facility – An establishment that provides housing and care for persons of

55 years of age or older who cannot or choose to not live independently. Housing units, which must be less than 800 square feet in size, are not complete dwelling units in that they lack facilities adequate to prepare meals on a regular basis, and communal dining and living spaces are provided. Care can range from periodic assistance with medication to skilled nursing care.

2110.48 Elder Housing - Housing that is:

(1) intended for, and solely occupied by, persons 62 years of age or older; or
(2) intended and operated for occupancy by at least one person 55 years of age or older per unit, provided all of the following conditions are met:

- (A) The housing complex has significant facilities and services specifically designed to meet the physical or social needs of older persons, or if it is not practicable to provide those facilities and services, that the housing complex is necessary to provide important housing opportunities for older persons;
- (B) By no later than the date on which the occupancy level first reaches 25 percent of units, at least 80 percent of occupied units must be occupied by at least one person 55 years of age or older per unit; and
- (C) There are written and enforced policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

2110.49 Elderly Supportive Service Housing - Housing that is occupied by inhabitants over the age of 55 in individual housing units containing less than 1,000 square feet within one structure which also includes common areas for living, dining and activities. The individual housing units may contain kitchen, bathroom, living area and bedroom(s). Optional independent living services such as meals, social activities and health and wellness services may be offered on-site.

2110.50 Erosion - Erosion means when land is diminished or worn due to wind or water. Often the eroded debris (silt or sediment) becomes a pollutant via stormwater runoff. Erosion occurs naturally but can be intensified by land clearing activities such as farming, development, road building, and timber harvesting.

2110.51 Erosion and sediment control plan - A plan that indicates the specific measures and their sequencing for use to control sediment and erosion on a development site during and after construction. and approved by an authorized enforcement agency

2110.52 Family - An individual, or two or more persons related by blood, marriage, civil union, legal adoption, or those placed in a home for adoption, and foster children, or a group of not more than five persons who need not be related by civil union, blood, or marriage, living together as a single housekeeping unit.

2110.53 Farm Labor Dwelling - A dwelling unit, located on an active farm operation, used as housing for a farm employee working on the farm, and members of the employee's

immediate family.

- 2110.54 Fire/Rescue Station – A building housing municipally operated or supported fire protection or rescue operations, including but not limited to storage of vehicles and equipment, training space and facilities, eating and sitting areas, locker rooms, sleeping rooms, radio/communications systems, and the like.
- 2110.55 Fire Protected Structure - A building that incorporates the following features: Compliant with the requirements of NFPA 13 including an attic sprinkler system, a Stand Pipe system, a Stortz connection and a fully enunciated fire alarm system with dial-out capabilities. The building construction shall be designed such that: 1-hr rated envelopes are created around each residential unit; no roof top mechanicals are located above 35'; no fireplaces shall be installed in residential units (gas fireplaces shall be allowed in common areas); electric ranges shall be used in residential units; and an elevator of such size suitable for handling a patient on a stretcher in the supine (flat) position shall be installed. Outside the building, 20' wide stabilized surfaces shall be provided for fire truck access to locations as approved by the Fire Chief.
- 2110.56 Foot Candle — Unit of illuminance; One lumen per square foot.
- 2110.57 Full Cutoff — A lighting fixture light distribution, specified by the Illuminating Engineering Society of North America, where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10 percent) at a vertical angle of 80 degrees above nadir. Nadir is the point vertically below the light fixture. A full cutoff lighting fixture is fully shielded.
- 2110.58 Fully Shielded — Constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the lighting fixture, is projected above a horizontal plane passing through the lowest direct-light-emitting part of the fixture.
- 2110.59 Gasoline Station – A building or land containing at least one fuel pump, used for the commercial sale of vehicular fuel (gasoline, diesel, etc.) to private vehicle owners, and which may include facilities for installation of lubricants, tires, batteries, etc., and routine maintenance of vehicles.
- 2110.60 Gasoline Station Canopy – An attached or detached structure providing cover and under which vehicles park while fueling.
- 2110.61 Garden Center/Nursery – A building and lands used for the storage, display and sales of garden supplies such as soils, fertilizers, garden tools, landscaping materials, etc., and/or the growing and sale of plant materials.
- 2110.62 Glare — The sensation of visual discomfort or loss in visual performance and

visibility produced by luminance within the visual field that is sufficiently greater the luminance to which the eyes are adapted.

- 2110.63 Grain – A term describing a visual quality of development, referring to the size and frequency of building masses and open areas, and to the degree of detail in the architectural treatment of the facades. A fine grain is typical of more urban settings and reflects smaller visual building units, small spaces between them, and a high degree of detail in the façade treatment. A large grain is typical of exurban and suburban settings with large buildings, large spaces between buildings, and relatively little architectural detail on the facades. A fine grained setting exhibits more human or pedestrian scale.
- 2110.64 Group/Residential Care Home - A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to not more than 8 residents.
- 2110.65 Height – The vertical distance of a structure as measured from the average (of the lowest and highest elevation points) of the finished grade where it meets any wall of the proposed building, to the midpoint of the eave and ridge of the structure. Chimneys (except chimneys on residential structures) and similar structures shall be subject to the height limitations contained in these regulations.
- 2110.66 Home Occupation – An occupation, carried on within a minor portion of a dwelling by a resident of the dwelling unit, that is customary in residential areas and that does not have an undue adverse effect on the character of the residential area in which the dwelling is located.
- 2110.67 Hotel or Motel – A facility, other than a bed and breakfast or inn or campground or rooming house, that offers transient lodging accommodations on a daily or weekly rate, to the general public, and which may also provide additional services such as restaurants, meeting rooms, or recreation facilities. As motel, at least half of all lodging rooms shall have direct access to the outside without passing through a lobby or common corridor. A Hotel/Motel may include a single accessory residential unit for use by a facility manager.
- 2110.68 Household – See family.
- 2110.69 Housing for the Elderly – See Elder Housing.
- 2110.70 Human Scale – A building and its details, as they relate to human scale proportions; also, a building’s mass and bulk and the building’s details proportionately compared with other buildings in the surrounding area or neighborhood.
- 2110.71 Illuminance — The luminous flux incident per unit area, expressed in foot candles. Horizontal or vertical illuminance is that measured with a photometer cell mounted horizontally or vertically.

- 2110.72 Impervious Surface – Any surface through which water does not readily pass. Impervious surfaces shall include (but are not limited to) concrete or asphalt paving, compressed gravel, brick or stone pavers, cobble stones, or other hard surfaces.
- 2110.73 Incidental – Being of nature that is both minor in relationship to and in consequence of some other object, action, or state; and where, in the absence of the other object, action, or state, that thing which is incidental would not occur independently.
- 2110.74 Indirect Light — Direct light that has been reflected off the surface of any permanently constructed object other than the source lighting fixture.
- 2110.75 Indoor Movie Theater – A building or portion thereof used for showing motion pictures to the general public.
- 2110.76 Indoor Storage in Agricultural Structures – The use of an agricultural structure existing on March 17, 2009, for leased storage of property, vehicles, equipment, and similar items.
- 2110.77 Inn – A facility other than a Bed and Breakfast, hotel, or motel, or rooming house and having no more than 8 guest rooms, that provides rental lodging accommodations to the general public on a daily or weekly basis, and which may provide meals to lodging guests.
- 2110.78 Integrated Agriculture – Hybrid land use and development incidental and directly related to the principal farming activity being conducted on-site excluding the slaughter of livestock or poultry and consisting of the following “Primary Integrated Agricultural Activities”:
- The on-site preparation and processing of crops or produce not principally produced on the farm;
 - The storage and sale of crops or produce not principally produced on the farm or the resulting products from such crops or produce;
 - The sampling and tasting of crops and produce not principally produced on the farm or the resulting products from such crops or produce; and/or
 - Tours of growing areas and storage and processing facilities.
- 2110.79 Kennels – A building, or portion thereof, and grounds used for the commercial boarding of dogs, cats, or other small domestic animals. Kennels board such animals over night. The use may include accessory activities such as grooming and training.
- 2110.80 Lakeshore Erosion Control Structure- Structure, device, or material assembled or installed to prevent or limit erosion along Lake Champlain shoreline.
- 2110.81 Lakeside Deck- A roofless outdoor space built as an above-ground platform, used for sitting or passive recreational purposes associated with proximity to a lake or pond, and

which is separated from any residential primary structure by a distance of at least ten feet.

2110.82 Lakeside Wall- Any wall of a primary structure located within 100 feet of the 102 foot elevation contour along Lake Champlain, where said wall is parallel with or generally parallel with the Lake and reflects the overall orientation of the structure to the Lake. See Figures D and E.

2110.83 Lamp - The light source component of a lighting fixture that produces the actual light.

2110.84 Land Development - Consistent with 24 V.S.A., 4303(10), land development shall 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. Land development shall include the construction or establishment of any exterior lighting installation totaling more than 100 watts, except as may be authorized by any specific lighting regulations adopted by the Town.

2110.85 Landscaping – The improvement of a lot, parcel or tract of land with grass and shrubs and/or trees. Landscaping may include flower beds, pedestrian walks, retaining walls under 24 inches in height, statues and other similar ornamental objects.

2110.86 Libraries – A building, or portion thereof, used for the storage, display, and lending of books and other audio/visual media. A library may include, among other spaces, reading space, meeting space, study rooms, shelving areas, work areas, and administrative areas.

2110.87 Light Manufacturing – A building, or portion thereof, used for the fabrication and assembly of products, either for direct consumption or for use in other assembly processes. Light manufacturing uses may include metal fabrication, welding, dry cleaning and other processes, precision machine fabrication, and similar fabrication activities, and manufacturing of food products, excluding slaughterhouses.

2110.88 Lighting Fixture – A complete outdoor lighting unit including a lamp or lamps, together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply, but not including a pole on which the lighting fixture may be mounted.

2110.89 Light Trespass— Direct or indirect light produced by an artificial light source and which shines outside the boundaries of the lot containing the lighting fixture.

2110.90 Lot - A parcel of land (other than a pre-existing small lot) of at least sufficient size to meet the minimum zoning requirements for use, coverage and area, and to provide such

yards and other open spaces as required by these regulations.

- 2110.91 Lot, Corner – A lot located at the intersection of two streets or roads. A corner lot shall be deemed to have front yards facing both streets or roads.
- 2110.92 Lot, Through – A lot that extends the full distance between two parallel or roughly parallel streets or roads and has frontage on both. The developer/owner of a through lot may choose which frontage will be treated as the front yard.
- 2110.93 Lot Frontage – The length of the boundary of a lot which fronts a public street, waterway, or (when approved by the Development Review Board) a private road or right-of-way, from which primary access to the principal structure on the lot is obtained. When access to a lot is provided by a road or right of way oriented perpendicular to rather than parallel with the lot boundary, the lot shall be considered to have no frontage and thus the lot shall be exempt from lot frontage dimensional requirements.
- 2110.94 Lot Width - The minimum distance between any points on the side boundaries of a lot as measured parallel to the lot frontage line. For irregularly shaped lots in the Rural District, lot width shall be as defined in Article III.
- 2110.95 Lumber Yard – A type of building material sales establishments specializing in dimensional lumber and other construction lumber, but may include a limited number of associated items such as wood fasteners, ladders, and light hardware.
- 2110.96 Marinas – The use of land and/or buildings for the manufacture or construction, sale, or repair of boats, along with associated derricks, docks, wharfs, marine railways, boat storage areas and marina facilities for the commercial servicing, maintenance, storage, docking of vessels or the furnishing of general marine services. A marina may include sales of food or other items to marina patrons, provided that such sales activities are clearly incidental to the operation of the other marine base activities.
- 2110.97 Medical or dental offices - A room or suite of rooms used for the provision of medical, dental or other health care services, including waiting rooms, records rooms, reception areas, examination rooms, laboratories, and equipment customarily associated with the provision of health care.
- 2110.98 Mobile Home – A single story structure that is transportable in one or more sections and designed for single family residential use with or without a permanent foundation when attached to the required utilities. A mobile home may be built on a permanent chassis. A mobile home does not include a “recreational vehicle.”
- 2110.99 Mobile Home Park - Any parcel of land under a single or common ownership or control, which contains, or is designed, laid out or adapted to accommodate, two or more mobile homes, but not including premises for the display or storage of mobile homes.

- 2110.100 Multiple-Family Dwelling- See Dwelling, Multi-Family.
- 2110.101 Multiple Uses - Any combination of permitted or conditional uses allowed under the designated zoning district.
- 2110.102 Municipal Offices – A building, or portion thereof, used for administrative functions of the Town government or School District.
- 2110.103 Museums – One or more buildings and associated grounds used for the display, exhibition, storage, interpretation, and preservation of objects illustrating human endeavor and/or natural history, and associated activities such as administration, education, and visitor amenities (including gift and food sales to visitors).
- 2110.104 National Geodetic Vertical Datum (NGVD) – The vertical control datum established for vertical control surveying in the United States of America.
- 2110.105 No-Cut Zone - A delineated portion of a lot or parcel of land, designated in an approved permit, subdivision or site plan, within which no living vegetation may be cut, pruned, removed or destroyed.
- 2110.106 Nonconformities – In accordance with 24 V.S.A., Section 4303, Nonconformities shall mean nonconforming lots, structures, or uses.

- 2110.107 Nonconforming Lot – A lot that does not conform to the present bylaws covering dimensional requirements but which was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot improperly authorized as a result of error by the administrative officer.
- 2110.108 Nonconforming Structure – A structure or part of a structure that does not conform to the present bylaws but which 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.
- 2110.109 Nonconforming Use – A 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
- 2110.110 Nursing Home - A place, other than a hospital, which maintains and operates facilities and provides skilled nursing care, for profit or otherwise, and is licensed to provide such care by the State of Vermont. The forgoing shall not be construed to prevent the care of a person(s) related to the occupant of a dwelling.
- 2110.111 Open space - Land which, in connection with a development proposal, is set aside from development by conveyance to the Town or some qualified holder, or by some legal mechanism such as covenants or easements, and designated to remain in its natural state (woodland, meadow land, wetland, etc.), agricultural use, or for active or passive outdoor recreation uses.
- 2110.112 Outdoor Pet Exercise Area – A portion of a parcel approved for use as a Pet Care Facility or Kennel, and which is used on a daily or weekly basis by dogs, cats, or other small domestic animals for recreation, socialization, evacuation, or excretion.
- 2110.113 Parcel – An area of land in one ownership, completely surrounded by boundary lines. An area of land in one ownership that is traversed by a public road shall be considered as two parcels.
- 2110.114 Parking Space – An area of land , not less than 9 feet wide and 18 feet in length, suitable and available for the temporary parking of one motor vehicle.
- 2110.115 Personal Service Shop – A building, or portion thereof, used for the provision of services of a personal nature to individuals, including but not limited to barber shops, beauty shops, clothing repair shops, shoe repair shops, dry cleaning drop-offs (where actual cleaning is done elsewhere), and the like.
- 2110.116 Pet Care Facilities – A building, or portion thereof, used for the commercial boarding, recreation, and socialization of dogs, cats, or other small domestic animals. Pet

Care Facilities may board such animals overnight but must do so indoors. Animals may be walked out of doors when under the direct supervision of a staff member or the animal's owner.

- 2110.117 Planned Unit Development – One or more lots to be developed as a single entity according to a plan approved in accordance with Article XIX of these Regulations. If authorized in Article XIX, a Planned Unit Development Plan may contain a mix of uses, and may deviate from bylaw requirements otherwise applicable regarding lot size, bulk, type of dwelling or building, use density, intensity, lot coverage, parking, required open space, or other standards.
- 2110.118 Post Office Sorting Facility, U.S. – A building or portion thereof used primarily for the sorting of large volumes of mail by the U. S. Postal Service, but which may include associated space for direct service of customers such as sales of stamps and/or receipt of objects for mailing.
- 2110.119 Post Office Store – A building or portion thereof used primarily for the direct sale of postal services to customers, including receipt of objects to be mailed, sale of stamps, sale of packaging, provision of rental post office boxes. The facility may include some space devoted to sorting mail dropped off at the store or to be delivered to post office boxes at the store, or to be delivered to nearby neighborhoods.
- 2110.120 Police Station - A building or portion thereof housing municipally operated police operations, including but not limited to storage of vehicles and equipment, training space and facilities, eating and sitting areas, locker/shower rooms, interrogation rooms, detention facilities, associated work spaces, radio/communications systems, and other activities associated with police services.
- 2110.121 Private Guest House - A detached structure located on the same lot as a single family dwelling, used intermittently to provide temporary lodging, on a not-for-hire basis, to invitees of the residents or owners of the single family dwelling.
- 2110.122 Public and General Aviation Use Airport – A facility intended and used as a place where one or more fixed wing or rotary wing aircraft are regularly stored, maintained or repaired while not in flight, including the areas that the aircraft may use to take off and land. Subject to availability, airport uses may be available to the public.
- 2110.123 Public and General Aviation Airport Uses – A use or uses customarily conducted at Public and General Aviation Use Airports, including operations related to public, private and general aviation, including aircraft sales, fueling, repair, storage, shipping, rental, flight instruction, and other uses designed to serve aviation passengers and pilots.
- 2110.124 Public Utility Facilities – A building or portion thereof housing administrative offices or equipment associated with the provision of utilities such as energy or communications.

2110.125 Re-build – The re-establishment of a structure following whole or partial demolition by fire or other natural disaster. Except as may be authorized under “non-conformities” (Section 1920 of these Regulations), a re-build will be subject to all applicable dimensional requirements set forth in these Regulations.

2110.126 Reconstruction -- The planned demolition of an existing structure or part thereof and construction of one or more new structures on the site. Unless expressly authorized elsewhere, reconstruction shall be subject to all requirements of these regulations.

2110.127 Recreation, Indoor – A building or portion thereof containing recreation facilities including but not limited to swimming pools, skating rinks, gymnasias, bowling alleys, fitness centers, training rooms, playing fields, tennis courts, handball/racquet ball/squash courts, volley ball courts, and associated locker rooms, dressing areas, shower/steam bath/sauna spaces and administrative spaces.

2110.128 Recreation, Outdoor – One or more parcels used for outdoor recreation activities. Outdoor recreation activities may range from passive (Those requiring no substantial alteration or maintenance of the land such as primitive hiking trails) to active (those requiring substantial alteration or maintenance of the land such as developed parks, organized athletic facilities, VAST trails, ski runs, etc.).

- Outdoor recreation facilities with no structures may include minimal structures such as occasional benches and bridges taking trails over streams.
- Outdoor recreation facilities with minor structures may include such associated structures as backstops, dugouts, fences, storage buildings, portable ice rinks, warming huts and the like.
- Outdoor recreation facilities with major structures may include such structures as clubhouses/lodges, or locker/dressing rooms.

See Articles describing individual zoning districts for detailed restrictions.

2110.129 Recreational Vehicle – A vehicle without permanent foundation, which can be towed, hauled or driven, which is designed to be used as temporary living accommodations for camping and travel, including but not limited to travel trailers, truck campers, camping trailers and self propelled motor homes.

2110.130 Redevelopment -- The adaptation of an existing structure for contemporary uses, including the gutting and reorganization of internal spaces and the replacement of exterior elements.

2110.131 Research and Testing laboratories – A building or portion thereof used for conducting and reporting scientific tests, including offices, laboratories, storage, computer facilities, libraries, and associated activities.

- 2110.132 Restaurant - An establishment where food and drink are prepared to order, served and consumed primarily within the principal building or in designated outdoor eating areas, and excluding fast food restaurants. A restaurant may also serve customers on a “phone in/pick up” basis.
- 2110.133 Restaurant, fast food - An establishment whose principal business is the sale of food or beverages, for consumption either on or off the premises, and whose operation demonstrates at least three of the following four characteristics: (1) service of food or beverage predominantly in paper, plastic or other disposable containers, (2) availability of food or beverages for immediate consumption upon short waiting time, (3) insufficient seating facilities within the building for the volume of food sold, or (4) a drive through service window.
- 2110.134 Retail Sales – The sale of goods or merchandise to the general public for personal or household consumption (including services incidental to such sales).
- 2110.135 Roadside Farm Stand - A small building or open air stand used for the seasonal sale of locally grown farm produce.
- 2110.136 Rooming House – An owner occupied structure containing rooms for lease to short or long term guests, and in which meals may be provided to the guests.
- 2110.137 School - An establishment or facility which provides education or training to students in an organized way. A school may be public or private. A school may include support facilities such as gymnasias, play fields, laboratories, kitchens, cafeteria, libraries, auditoria, offices, etc.
- 2110.138 Screening – A method of visually shielding or obscuring one abutting or nearby structure or parcel from another. Screening may be achieved by the use of one or a combination of fencing, walls, berms/mounds, or densely planted vegetation.
- 2110.139 Seasonal Dwelling – See Dwelling, Seasonal.
- 2110.140 Seawall - A type of lakeshore erosion control structure located at waters edge built to protect the shoreline from erosion due to wave action or prevent flooding.
- 2110.141 Sediment - Soil, sand, and minerals washed from land into water, usually after rain. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud water so that sunlight does not reach aquatic plants.
- 2110.142 Sediment control - Measures that prevent eroded sediment from leaving a site.
- 2110.143 Setback – The distance from any property line or street right-of-way line to the nearest point of a building on the lot bounded by that property line or street line, including

decks but excluding: (A) eaves, sills, pilasters, gutters, leaders, cornices, chimneys, and roof overhangs provided such features do not extend more than three (3) feet from the remainder of the structure; (B) uncovered steps to first floor entries provided such features do not extend more than five (5) feet from the remainder of the structure; (C) retrofit modifications to a structure made for energy efficiency purposes, provided that such features do not extend more than eight (8) inches from the remainder of the structure ; and (D) handicapped access ramps.

~~2110.143~~2110.144 Sexually oriented toys or novelties means any instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

~~2110.144~~2110.145 Signs - Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured, or colored material on any building, structure or surface, or produced by projecting an image upon the exterior of any building or structure.

~~2110.145~~2110.146 Sign, Facade - A sign attached to, painted on, or erected against the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of said wall, which is placed in view of the general public from outside the building or structure.

~~2110.147~~ Sign, Projection - A sign attached to a building or other structure and extending in whole or in part more than 9 inches beyond the building wall.

~~2110.148~~ Specified anatomical areas means: (i) less than completely and opaquely covered human genitals, anus, pubic region, buttock, or female breast below a point immediately above the top of the areola; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

~~2110.146~~2110.149 Specified sexual activities means: (i) human genitals in a state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse, sodomy, oral copulation, or bestiality; (iii) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts, whether clothed, of oneself, or of one person by another; or (iv) excretory functions as part of or in connection with any of the activities set forth in this subsection

~~2110.147~~2110.150 Staff Quarters – An accessory single family dwelling, located on the same parcel as a primary single family dwelling, used to provide permanent housing for full time staff employed on the premises and their families.

~~2110.148~~2110.151 Stormwater- Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

- ~~2110.149~~2110.152 Stormwater Management - The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
- ~~2110.150~~2110.153 Stormwater Treatment Practices - Measures, either structural or non-structural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.
- ~~2110.151~~2110.154 Stormwater Impaired Waters- A water body currently identified by the Vermont Department of Environmental Conservation following the requirements of the Clean Water Act Section 303(d)
- ~~2110.152~~2110.155 Structure – See Building.
- ~~2110.153~~2110.156 Subordinate – Being of markedly less or of secondary importance relative to another object, action, or state.
- ~~2110.154~~2110.157 Town Garage – Land and/or buildings used by a municipality for the storage, care, and maintenance of equipment, vehicles, and supplies associated with the use and maintenance of public buildings, roadways, or facilities.
- ~~2110.155~~2110.158 Transit Passenger Station – A facility designed to accommodate people boarding and de-boarding public transit vehicles, including an enclosed waiting space, facilities for the sale of tickets or tokens, and parking. A street-side bus stop with a shelter shall not be construed as a transit passenger station.
- ~~2110.156~~2110.159 Truck Gardening – Small scale form of farming in which fruits and /or vegetables are grown for market, distinguishable from other types of farming by the diversity of crops grown on a small area of land.
- ~~2110.157~~2110.160 Upholstery/Fabric Working – The use of a building or portion thereof for the creation of such fabric based products as upholstery, awnings, tents, canopies, vehicle covers, and the like.
- ~~2110.158~~2110.161 Use - The specific purpose for which land or a building or a portion thereof is designated, arranged, or intended, or for which it is or may be occupied or maintained.
- ~~2110.159~~2110.162 Vehicle sales and repair - A facility for the sale and repair of motorized vehicles or equipment or mobile homes. Typical uses include new and used automobile and recreational vehicle sales and repair, and trailered boat sales and repair. Small engine vehicles and machinery which are typically displayed in enclosed structures and boat sales which are accessory to a marina are not included in this definition.

- ~~2110.160~~2110.163 Veterinary Clinic – A building or portion thereof used for the provision of veterinary care to domestic animals. A veterinary clinic may include waiting areas, record storage areas, examination rooms, surgeries, spaces for animals in cages, and associated uses.
- ~~2110.161~~2110.164 Warehouse – A building or portion thereof used on a commercial basis for the short or long term storage of goods.
- ~~2110.162~~2110.165 Waste Water Treatment Plant – One or more structures, operating under a state permit or license, used to treat wastewater prior to discharging it into receiving waters.
- ~~2110.163~~2110.166 Watershed - That geographical area that drains to a specified point on a watercourse, usually a confluence of streams or rivers
- ~~2110.164~~2110.167 Wholesale Sales – The use of a building or portion thereof for the sale of goods to other entities that then use them as part of a fabrication process or resell them to the direct consumers.
- ~~2110.165~~2110.168 Wildlife Management/Refuge Areas – Areas which have been protected against future development and which are being managed and used for wildlife habitat and/or as refuge areas for wildlife.
- ~~2110.166~~2110.169 Windmills - Devices, including their towers, which convert wind energy to electrical or mechanical energy.
- ~~2110.167~~2110.170 Yacht Club – Land and buildings used to provide boating related services to club members. A yacht club may include docks, mooring areas, launch services, seasonal small boat storage, parking areas, clubhouses, small play fields, etc., but may not include winter storage of boats or commercial repair activities.
- ~~2110.168~~2110.171 Yard - An open space on a lot, unoccupied and unobstructed from the ground upward by any building or structure, except as otherwise provided in these regulations.
- ~~2110.169~~2110.172 Yard, front - a yard on the same lot with a principal building, extending the full width of the lot and situated between the right-of-way line of the public road, private road, or Right-of-way, from which primary access to the principal structure on the lot is obtained and the front line of the building extended to the sidelines of the lot.
- ~~2110.170~~2110.173 Yard, rear - A yard on the same lot with a principal building between the rear line of the building and the rear line of the lot extending the full length of the lot.

~~2110.171~~2110.174 Yard, side - A yard situated between the principal building and a sideline and extending from the front yard to the rear yard. The distance between the principal building and the sideline shall be measured from the building to the nearest point on the sideline along a line parallel to the front lot line.

~~2110.172~~2110.175 Zoning/Building Permit – In accordance with 24 V.S.A., Section 4449, a permit issued by the Zoning Administrative Officer in accordance with the provisions of Article XX of these regulations, which authorizes specified land development and which may contain conditions which must be met in order for the land development to comply with the provisions of these regulations and any applicable approvals.