









# MEMO

To: Shelburne Planning Commission  
 From: PlaceSense  
 Date: 13 July 2023  
 Re: Article 2. Administrative Procedures









This memo is intended to assist in your review of the first draft of Article 2. Administrative Procedures. Many procedures are stipulated by statute and Shelburne has no ability to change that language. The existing bylaw is out-of-date in several areas and uses a ‘catch-all’ clause in § 2000 to ensure that Shelburne’s practice will follow the language of statute where applicable.

We identify sections that: require PC guidance to set policy; propose a substantive change from adopted regulations; or will need to be finalized once other sections of the regulations have been drafted. Those sections are marked with a  symbol in the table below. Sections that are new language not found in the adopted regulations are marked with a  symbol. We recommend PC members pay particular attention to the new and modified sections as we will be focusing meeting discussion time on those sections.

The  symbol denotes bylaw sections with no substantive revisions made. Some of the draft sections provide more detail of the administrative practices that are established by statute than the adopted regulations. Any section largely dictated by statute has a gray shaded background. We want you to be aware of sections that were not or cannot be revised and invite your feedback on how we have drafted them, but we do not plan to talk through them unless there are commissioner questions or comments.

DRAFT	ADOPTED	NOTES
 Chapter 2000	§ 2000, page XX-1	
 Chapter 2100	§ 1900.12, page XIX-17 § 2070, page XX-12 plus other references	Combines sections and individual references from multiple locations in adopted regulations into a single chapter.
Chapter 2200		
 § 2201	§ 2010, page XX-1	
 § 2202	§ 2010, page XX-1	
 § 2203	§ 2040, page XX-11	The town can set the length of time before a zoning permit expires. Shelburne currently requires that a project be substantially <u>commenced</u> within 2 years of the permit being issued. Recommending a change to substantially <u>completed</u> within 2 years. Also recommending related changes to authorize a delay in effect, which should allow applicants to wait and obtain their zoning permit when they are ready to begin construction.

DRAFT	ADOPTED	NOTES
§ 2204	§ 1900.11, page XIX-17	Recommending changes to administrative authority to approve changes in previously approved development prior to project completion. Clarifies that the ZA can modify approved plans for any application, not just site plans.
§ 2205		
§ 2206	§ 2030, page XX-10	Recommending changing to a certificate of 'compliance' rather than 'occupancy' to avoid confusion with building code and perception that construction is being inspected for code conformance. Adds provisions for temporary certificates and certificates for phased projects.
§ 2207		
§ 2208	§ 2060.1, page XX-12	
Chapter 2300		
§ 2301 § 2302	§ 1900.1, page XIX-2 § 1900.2, page XIX-2 § 1910.2, page XIX-19 multiple sections in subdivision regulations	Consolidates the application process and requirements language for all development approvals (site plan, conditional use, PUDs, subdivisions). These sections will need to be finalized once other parts of the regulations are drafted. As we draft and discuss other parts of the regulations consider what information the ZA or DRB will need to review applications and determine compliance with regulatory standards. The town can decide whether some, all or none of the application requirements are in the regulations and what will be in administrative materials (application forms and checklists).
§ 2303	§ 2070.2, page XIX-12	
§ 2304	§ 1530, page XV-2 § 1535, page XV-2 § 1550, page XV-5	Recommending a change in the timeline for HPDRC review so that it occurs within the 30-day period for the ZA to act on a complete application.  Recommending that applications subject to design review only get reviewed by the DRB when the proposed development would require such review regardless of whether it is within the design review overlay district. Statutorily the HPDRC does not have the authority to refer applications to the DRB as the adopted regulations allow for.  Recommending a more specific set of review criteria to be applied within the design review overlay district.

DRAFT	ADOPTED	NOTES
 § 2305		<p>This section is a more formal advisory review process whereby SNRCC would undertake an environmental review for specified development activities within a new overlay district (that district remains undefined at this time). The advisory environmental review process is effectively the same as the process for design review.</p> <p>This is a starting point for discussion with the PC and SNRCC about their role in the development review process. It is anticipated that if an advisory environmental review process is to be incorporated into the regulations, this language would be further refined as the overlay district is crafted.</p>
 § 2306	§ 1970.13	
 § 2307		<p>We will be recommending a replacement and expansion of the building envelope language that appears in several of the PUD sections in the adopted regulations. This section is needed to administer an expanded application of development envelopes on larger lots in the rural areas of town.</p>
 § 2308	§ 1900, page XIX-1	<p>Recommending administrative review for minor site plan applications without a hearing. Major site plan applications would go the DRB for a hearing. Figure 2-10 establishes the thresholds between minor and major review. This classification will have significant implications for other parts of the regulations. We would anticipate returning to reconsider these thresholds once other elements have been crafted.</p> <p>The process and timeline for site plan review is statutory, while allowing for administrative site plan approval and the thresholds between minor/major projects are not.</p>
 § 2309	§ 1910, page XIX-19	<p>This section is statutory with the exception of defining the threshold for what constitutes a major change to a conditional use (Paragraph C).</p>
 § 2310	§ 1930.1, page XIX-35	
 § 2311	Article IIIA in the subdivision regulations	
 § 2312		<p>Adopted regulations do not address footprint lots. Changes with mortgage financing and state law regarding plat filing have increased the need for an approval process when the footprint lot will be shown on a plat. If Act 47 does increase development of duplexes, there may be increased demand for footprint lots to facilitate condo ownership of those units.</p>

DRAFT	ADOPTED	NOTES
🚩 § 2313	multiple sections of the subdivision regulations	Recommending changes to the subdivision review process. Sketch plan review and final plan review for minor subdivisions proposed to be administrative. Major subdivisions would require a preliminary and final hearing before the DRB. Lots created through minor subdivision could not be further subdivided within 10 years unless without major subdivision approval. Figure 2-15 establishes the thresholds for minor and major subdivision.
🚫 § 2314		
🚫 § 2315		
Chapter 2400		
🚫 § 2401	§ 2060, page XX-12	
🚫 § 2402	§ 2060, page XX-12	
🚫 § 2403	§ 2060, page XX-12	
⊕ § 2404		Recommending adding waiver language to allow for adjustments to dimensional standards when request is reasonable but does not qualify for a variance. There are no statutory criteria for waivers as there are for variances.
🚫 § 2405	§ 1840, page XVIII-9	
Chapter 2500		
🚫 § 2501	§ 2080, page XX-13	
🚫 § 2502		
🚫 § 2503		
🚫 § 2504	§ 1900.15, page XIX-18 § 1910.11, page XIX-26	
🚩 § 2505	§ 1900.16, page XIX-19 § 1910.11, page XIX-26	Most of this section is statutory. Act 47 limited the scope of conditions of approval for residential development (Paragraph E). A development approval cannot expire in less than 2 years (Paragraph H).  Statute allows for DRB to deliberate in closed session, an option the Shelburne DRB has rarely used. Recommending that the 'default setting' for deliberation be changed to closed session.
⊕ Chapter 2600	§ 2000, page XX-1	Most of this chapter is statutory. Statute allows for use of civil complaint tickets for zoning violations. Shelburne has not used them in the past. Recommending authorizing the ZA to issue tickets.