

**Zoning Ordinances**

**For the**

**Town of Shelburne**

***Adopted: March 12, 2002***

***Amended: March 9, 2004***

***Amended: March 8, 2005***

***Amended March 13, 2007***

***Amended March 11, 2008***

***Amended March 8, 2011***

***Amended March 13, 2012***

***Amended January 22, 2013 (Appendix E only)***

***Amended March 11, 2014***

***Amended March 16, 2017***

An ordinance to promote the health, safety, morals and general welfare of the community by regulating the use of land in the Town of Shelburne

## **PREAMBLE**

In pursuance of authority conferred by Chapter 31, sections 60-89, New Hampshire Revised Statutes annotated 1955, and for the purpose of promoting the health, safety, morals, and general welfare of the inhabitants of the incorporated Town of Shelburne, New Hampshire, and to insure the preservation of the rural charm attached to our town, through the promotion of an orderly process of its development, by providing adequate areas between buildings and various rights of way, by preventing overcrowding of land, avoiding undue concentration of population, securing safety from fire and other hazards, facilitating adequate provisions for water, sewerage and other public requirements, and by other means, now therefore the following ordinance is hereby enacted by the voters of the Town of Shelburne, New Hampshire, in official annual town meeting convened.

## **SECTION 1**

### **DISTRICTS**

In conformance with our Master Plan, with the purposes expressed in the preamble and with special concern for the preservation of our unique environmental assets, it seems desirable to divide the town of Shelburne into four districts in the following areas:

#### **1) Forest District**

A) **Purpose:** The primary purpose of the Forest District is to preserve and protect Shelburne's natural heritage of large tracts of undeveloped forest land in the more remote sections of Town and thereby serve the following additional objectives: (1) encourage continuation of large contiguous tracts of forest land in private ownership to provide forest resources; (2) encourage forestry and timber harvesting and permit other compatible uses including very low intensity development that will allow the land to appreciate in value; (3) protect natural areas and wildlife habitat; (4) protect water supplies and aquifers; (5) preserve scenic views; and (6) avoid the dangers and costs of providing municipal services to remote locations.

B) **Description of: (North of Route 2)** – To include all areas north of a line beginning at the intersection of the railroad tracks and the Gorham Town line continuing east along the railroad tracks to the North Road near the power dam. Then following north along North Road, crossing the river and then west along the river to an arc offset to the north of North Road by 2000 feet. Then following the offset arc to the Maine State Line as illustrated on the District Reference Map. **(South of Route 2)** – To include all areas south of a line beginning at the intersection of the 1100 foot contour as shown on the USGS topographic map and the

Gorham Town line and continuing east along the 1100 foot contour to the western border of the Industrial District. Then following the southern Industrial District boundary east to its intersection with Route 2 (a point approximately 300 feet west of the trail leading to the “Old Man of the Valley”) and then along a line due north to the railroad tracks and then east along the railroad tracks to the Maine State Line as illustrated on the District Reference Map.

**2) River Valley District**

- A) **Purpose:** The purpose of the River Valley District is to provide for agricultural uses and residential development while conserving the rural character of the Town, maintaining natural resources and protecting the health and safety of residents. Any uses perceived as being detrimental or incompatible with farming operations and rural lifestyles shall be forbidden in this district.
- B) **Description of:** To include the area between the railroad tracks and the North Forest District bordered by North Road on the west and the Maine State Line on the east as illustrated on the District Reference Map.

**3) Route 2 District**

- A) **Purpose:** The purpose of the Route 2 District is to provide for mixed residential and commercial uses. In this district, it is important to promote uses that are compatible with one another; preserve existing structures and encourage new developments that conform to the existing character.
- B) **Description of:** To include the area between the railroad tracks and the South Forest District bordered by Gorham town line on the west and the Industrial District on the east as illustrated on the District Reference Map.

**4) Industrial District**

- A) **Purpose:** The purpose of the Industrial District is to provide for light industrial uses and commercial uses that will have the least impact on the surrounding residential and forest districts. Permitted uses shall minimize noise, smoke, odor, lighting or other nuisance that may be detrimental to the town of Shelburne.
- B) **Description of:** Beginning at the intersection of the west transfer station boundary and the railroad tracks, and following the boundary south to Route 2, and then along a line due south to the 1100 foot contour line. Then due east to a point on the southern edge of Route 2 that is 0.45 miles from the Maine/New Hampshire State Line via Route 2 (approximately 300 feet west of the “Old Man of the Valley”). Then north to the railroad tracks and then west along the railroad tracks to the beginning point, as illustrated on the District Reference Map.

## SECTION 2 PERMITTED USES\*

	Forest District	River Valley District	Route 2 District	Industrial District
<b>AGRICULTURE</b>				
Agriculture	Permitted	Permitted	Permitted	Permitted
Forestry	Permitted	Permitted	Permitted	Permitted
<b>RESIDENTIAL</b>				
Single Family	Permitted	Permitted	Permitted	
Multi Family		Permitted	Permitted	
<b>COMMUNITY FACILITIES</b>				
Churches		Special Exception	Special Exception	
Recreational Facilities with no Structures	Permitted	Permitted	Permitted	
<b>Commercial Business</b>				
Recreational Facilities with Structures	Special Exception	Special Exception	Special Exception	
Earth excavations including gravel pits	Special Exception	Special Exception	Special Exception	Special Exception
Home Business		Special Exception	Permitted	
Home Occupations	Special Exception	Permitted	Permitted	
Bed & Breakfasts		Special Exception	Permitted	
Tourist Homes	Special Exception	Special Exception	Permitted	
Hotels / Motels		Special Exception	Permitted	
Inns / Resorts		Special Exception	Permitted	
Recreational Campground	Special Exception	Special Exception	Permitted	Special Exception
Retail Stores up to 1500 sq. ft. of display area			Permitted	
Retail Stores over 1500 sq. ft. of display area			Special Exception	
Mini-Storage Facilities			Special Exception	
Restaurants		Special Exception	Permitted	
Warehouses				Special Exception
Heavy Equipment Sales and service				Permitted
Primary Forest Product Mills up to 1.5 mm Board FT	Special Exception		Special exception	Permitted
Primary Forest Product Mills over 1.5 mm Board FT				Special Exception
Light Industry				Special Exception

\* If it is not listed, then it is not permitted.

## SECTION 3

### CONDITIONS FOR SPECIAL EXCEPTIONS

All special exceptions shall comply with the following conditions:

1. The specific site is an appropriate location for such a use or uses in terms of overall community development.
2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area.
3. The proposed use will not cause an undue burden on the Town through the provision of basic Town services.
4. The project shall not be a nuisance to any allowable use within the district. Nuisance includes but is not limited to excessive noise, odor, smoke and lighting, or hours of operation that are generally incompatible with pre-existing uses and allowable uses within the district.-
5. The project shall visually fit in with the aesthetic character of the district.
6. The project shall provide for smooth, safe and convenient movement of vehicles both on and off site.
7. The project shall provide adequate parking facilities without creating a surplus of rarely used parking spaces. Whenever feasible parking should be located behind the buildings or berms.
8. If the project is a commercial or industrial activity, buffers may be required between the proposed project and existing uses.
9. The Zoning Board of Adjustment in granting any special exception may include such restrictions or conditions as may be necessary to ensure compliance with this section.

## SECTION 4

### DEFINITIONS

1. **Accessory Building** – means a detached building, the use of which is customarily incidental and subordinate to that of the principal building and which is located on the same lot as that occupied by the principal building and complies with all building and zoning requirements.
2. **Accessory Dwelling Unit** – a residential living unit that may be attached, detached, or within a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. (added 2017)
3. **Accessory Use** – A use subordinate to and incidental to the principal use of land and building, including signs.

4. **Agriculture** - The production, keeping, or maintenance, for sale, lease, or personal use, of plants, insects and animals useful to man, or lands devoted to a soil conservation or forestry management program. Agriculture includes all horticultural uses, including related facilities and including roadside stands for sale of farm products, greenhouses, horse stables, orchards and/or nurseries. Agriculture does not include high intensity industrial farming, which may cause serious environmental issues and be considered a nuisance to adjacent property owners. (Note that agricultural operations that market directly to the public on site such as riding stables or nurseries may have to apply as a business.).
5. **Aquifer**- A geologic formation that contains a useable supply of water.
6. **Buffer**- (Buffer strip). Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.
7. **Camp** - *see Section 5-A # 11 (amended March 9, 2004)*
8. **Church** - A Church is a building or location set apart for public worship.
9. **Cluster Development** - A form of development which allows a reduction in lot size provided there is no increase in the number of families, individuals, dwelling units, households, or housing structures per unit of land and the remaining land is dedicated open space.
10. **Commercial** - (Commercial use). Activity involving the sale of goods or services carried out for profit.
11. **Communication Tower** - (Communication use). Establishments furnishing point-to-point communication services, whether by wire or radio, either aurally or visually, including radio and television broadcasting stations and the exchange or recording of messages.
12. **Corridor** - A delineated section of land or road with specified characteristics including but not limited to a transportation corridor and a utility corridor.
12. **Development** – The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure and any mining, excavation or landfill
13. **Driveway** – An area located on a lot, tract, or parcel of land, and built for access to a garage or off-street parking space, serving not more than **two (2) dwelling units**. (amended March 9, 2004)
14. **Dwelling** - **Any** permanent building designed and used as a residence, containing one or more dwelling units. The term shall not be deemed to include tourist accommodations, travel or camping trailer.
15. **Dwelling Unit** – One or more rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities.

16. **Earth Excavations** - This includes all work covered by the Town of Shelburne, NH, Planning Board, REGULATIONS GOVERNING EARTH EXCAVATIONS, effective May 18, 1998, and any revisions thereto.
17. **Farm** - Agricultural, forestry and all horticultural uses, including related facilities and including roadside stands for sale of farm products, greenhouses, horse stables, orchards and/or nurseries.
18. **Forestry**- The science of silvaculture and the practice and art of managing and using for human benefit forestlands and the natural resources that occur in association with forestlands, including trees, other plants, animals, soil, water, and related air and climate. Forestry includes timber-harvesting operations when conducted in accordance with best management practices so as to prevent soil erosion and damage to surface waters.
19. **Frontage** - The distance that a front yard borders on a public street or a street that has been approved by the Planning Board in a subdivision.
20. **Front Yard** - The distance between the nearest portion of a building on a lot and the front property line of the lot.
21. **Heavy Equipment Sales** - A location where goods such as trucks, skidders, bulldozers, excavators and the like are displayed for sale. This includes the maintenance and servicing of this type of equipment, and the warehousing of an inventory of spare parts.
22. **Height, Building or Structure** - The height of a building or structure and all alteration and/or enlargements of buildings or structures shall be measured from the highest point of the building or structure, exclusive of chimneys, to a plane parallel to the average of the natural ground surface at the location of the building or structure. (amended March 9, 2004)
23. **Home Business – is defined as follows:**
  - A. The business is carried on by the residents of the premises and by no more than two on premise employees
  - B. It shall be operated entirely within the dwelling unit or accessory building and shall be clearly secondary to the use of the premises as a dwelling unit. It shall not alter the general character of the neighborhood or reduce the value of surrounding property
24. **Home Occupation** – is defined as follows:
  - A. It shall be carried out only by the residents of the premises and involve only a service provided or a product produced by those residents
  - B. It shall be operated entirely within the dwelling unit or accessory building and shall be clearly secondary to the use of the premises as a dwelling unit. It shall not alter the general character of the neighborhood or reduce the value of surrounding property.
24. **Industry** - Any activity or establishment used for the fabrication assembly, processing, storage, or research relating to the production of industrial and/or manufactured goods.

25. **Junk Yard** - Any place of storage or deposit, whether in connection with another business or not, of old metal, bottles, paper, plastic, cotton or woolen wastes, two or more unregistered motor vehicles, which are unfit for use on the highways, used parts and materials of any kind the accumulation of which is detrimental, injurious, or unsightly to the neighborhood.
26. **Leased Lots** - Parcels of land with contractually agreed upon uses, structures, buildings or parts thereof for a fixed time
27. **Light Industry** - A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products; but excluding basic industrial processing.
28. **Lot** - A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.
29. **Manufactured Housing** - Any structure transportable in one or more sections, which in the travel mode is 8 body feet or more in width and 40 body feet or more in length, or when erected on site is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein.
30. **Mini-storage Facility(s)** – A structure or structures, divided or undivided into separate rooms or units, areas of which are individually rented for the storage of non-hazardous goods with structures and permanent improved areas occupying less than 50% of the lot.  
A mini-storage facility shall:
1. Use existing access into the buildings interior if constructed within an existing building.
  2. Have a sloped roof(s) with a pitch of at least 4” in 12” and have a siding /color scheme that is consistent with the neighborhood in which it is located if a newly constructed building.
  3. Not include any outside storage.
31. **Mining** - The extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; gases, such as natural gases; and gravel
32. **Mobile Home** - (see manufactured housing).
33. **Multi Family Dwelling** - A Dwelling with a maximum of two (2) units.
34. **Natural Limitations of the Land** - Any physical limitations that may restrict where and how development can occur including but not limited to steep slope, wet areas and floodplain.
35. **Natural Resources** - A material source of wealth such as timber, water, or a mineral deposit, occurring in a natural state.



36. **Natural Vistas** - A unique view of natural beauty to or from a particular point.
37. **Noise** - Any audible sound.
38. **Non-Conforming Use** - A use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.
39. **Open Space** - Any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.
40. **Overlay District** - A zoned district that is superimposed over another previously existing district.
41. **Pollution** - The presence of matter or energy whose nature, location, or quantity produces undesired environmental effects.
42. **Portable Storage Structure** - any container or storage unit (other than an accessory building) that can be used for storage of personal property of any kind and which is located for such purposes outside an enclosed building. A temporary, movable set of poles with a horizontal covering of an area less than 200 square feet, designed to shelter personal property (such as a car, lawnmower, stove wood, etc.) from exposure to the elements shall not be considered a portable storage structure.
43. **Pre-site built housing** - Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed, or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development (HUD) minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this Ordinance pre-site built housing shall be treated as a conventional constructed dwelling and shall not include manufactured housing as defined in this Ordinance.
44. **Primary Forest Product (Processing) Mill** – Any permanent or portable mill, wherever located, sawing or otherwise processing logs, bolts, pulpwood, other primary forest products into secondary forest products such as wood chips, lumber, furniture stock or other wooden specialty items.
45. **Rear Yard** - The distance between the nearest portion of a building on a lot and the rear property line of the lot.
46. **Recreational Uses** - Leisure-time activities, sometimes requiring equipment and taking place at prescribed places, sites, or fields. A Recreational Facility may or may not have structures. An example of a facility without structures would be a nature trail without any shelters, blinds etc. An example of a facility with structures would be a ski area with lifts, lodges, maintenance buildings etc.

47. **Restaurant** – An establishment at which meals are purchased, served and eaten on the premises.
48. **Retail Store** - A building used for the display and sale of goods to the general public.  
(Examples include facilities for the sale of appliances, groceries, clothing, plants, lawn ornaments, and similar items)
49. **Right of Way** - 1. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses; 2. Generally, the right granted to one to pass over the property of another.
50. **Setback** – The distance between the nearest portion of the building or structure and the property line
51. **Shoreland Protection** - All land located within 250 feet of the reference line of public waters. See RSA 483-B:3 for full details.
52. **Side Yard** - The distance between the nearest portion of a building on a lot and a side property line of the lot.
53. **Sign** – Any device, fixture, placard or structure that uses color, graphic, illumination, symbol, or writing to advertise, communicate information of any kind, or announce or identify the purpose of a person or entity.(add March 11, 2014)
54. **Single Family Dwelling** - One or more rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities.
55. **Special Exception** - An exception is a use that would not be appropriate, generally or without restriction, throughout a particular district, but which, if controlled as to number, area, location or relation to neighborhood, would be in concert with the purposes of the district. Such uses may be permitted in a particular district as an exception only if specific provision for such exception is made in this Ordinance, after review by the Board of Adjustment.
56. **Structure** - Anything constructed or erected with a fixed location on the ground. Structures include but are not limited to buildings, swimming pools, manufactured housing, garages, barns, signs, etc. It shall not include minor installations such as fences less than four feet high, agricultural and safety fences, mailboxes, and flagpoles.
57. **Subdivision** - The division of a lot, tract, or parcel of land into two or more lots, plats, sites or other division of land for the purpose, whether immediate or future, of sale or building development. It includes re-subdivision and when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.
58. **Surface Water Body** - (Surface water). Both perennial and seasonal water on the earth's surface exposed to the atmosphere as rivers, lakes, streams etc

59. **Trailer** - A structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying of materials, goods, or objects, or as a temporary office.
60. **Tourist Accommodation** - An establishment that supplies temporary stay to overnight guests for a fee. Tourist Accommodation includes the following:
- A. **Bed and Breakfast** – A building of a residential nature, other than a hotel or motel, in which rooms are rented with breakfast included with accommodations for between four (4) and twenty (20) guests.
  - B. **Hotel** – A facility open to the general public offering transient lodging accommodations for more than twenty (20) persons and providing additional services, such as restaurants, meeting rooms and entertainment
  - C. **Inn** – See Resort.
  - D. **Motel** – A building or group of detached or connected buildings designed or intended to be used primarily for the providing of sleeping accommodations for transient automobile travelers, with the majority of rooms having direct access to each lodging unit from the outside, or from a common corridor, and with on-site parking for each lodging unit. A tourist court with more than one unit or a motor lodge shall be deemed to be a motel.
  - E. **Resort** – A building or group of detached or connected buildings designed or intended to be used primarily for the providing of accommodations for transient travelers, and supplying a list of amenities which include meals and facilities such as golf, boating, skiing, hiking, dancing, etc. Generally these would be for more than twenty (20) guests.
  - F. **Tourist Home** – A building of a residential nature, other than a hotel or motel, in which rooms are rented with or without meals with no more than three (3) bedrooms for rent
  - G. **Recreational Campground** – A parcel of land with a state-approved sewage disposal system on which campsites are occupied or are intended for temporary occupancy for recreational dwelling purposes only.  
  
**Camping Cabin** – a structure in a campground that is less than 400 square feet in area, calculated by taking the measurements of the exterior of the cabin, but not the roof or porch (if unenclosed) overhang. It shall be designed as a temporary dwelling for recreational camping and vacation use. It may not be used as, nor converted to, a permanent dwelling. (added March 9, 2004)
61. **Utility Corridor** - (Utility easement). The right-of-way acquired by a utility or governmental agency to locate utilities, including but not limited to all types of pipelines, telephone and electric cables, and towers.
62. **Variance** - A permit authorizing a use of property that is contrary to this Zoning Ordinance. Variances may be granted by the Zoning Board of Adjustment in accordance with RSA

674:33 in cases where, owing to specific conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship and so that the spirit of this Ordinance shall be observed and substantial justice done.

- 63. **Warehouse** - A building where wares or goods are stored, as before being distributed to retailers.
- 64. **Yard Sale** - The temporary sale of used and new items, of personal property to the general public, in an indoor or outdoor display, conducted upon a lot as an accessory use and shall not exceed a period of two (2) days and shall not occur more than three (3) times a year at one particular location. This term shall also include lawn sales, barn sales, garage sales, porch sales and flea markets.

## **SECTION 5**

### **A. STANDARDS FOR ALL DEVELOPMENT**

**All development must comply with the following physical land restrictions:**

- 1. The development must conform to applicable local, state and federal water quality standards, including but not limited to erosion and sedimentation, runoff control, solid wastes and hazardous substances.
- 2. Wet areas may be subdivided. Further development may require a NHDES wetlands permit.
- 3. All development within a floodplain must meet the regulations set forth in the Town of Shelburne Floodplain Overlay District - Appendix E.
- 4. Development above an elevation of 1400 feet shall be by Special Exception.
- 5. There shall be no development on slopes greater than 20%.
- 6. Major utility construction should be located within the utility corridor shown on the Town's District Reference Map.
- 7. All development shall be located on a minimum of a one (1) acre lot except within the Forest District where the minimum lot size is (15) acres.
- 8. For all new residences, construction or removal of an old house to a new lot, building lots shall have a frontage of at least 200 feet on a public or private right of way, unless approved as a back lot; the second lot being served by a combined driveway, in which case the frontage requirement is not applicable.

9. On all new construction or relocated buildings, the minimum depth of setback from the nearest existing edge of all public or private right-of-ways shall be 25 feet. The setback from all other lot lines shall be a minimum of 25 feet, **except for lots less than 2 acres, in which case it shall be a minimum of 15 feet.** The only exception shall be temporary (less than six months) roadside stands erected for the purpose of selling home produce which may be located a minimum of 15 feet from the nearest existing edge of the public or private right-of-way. (Amended March 9, 2004)

10. A An attached accessory dwelling unit (ADU) shall be permitted in all zoning districts that permit single-family dwellings, subject to the following:(section amended 2017)

- a. Only one (1) ADU shall be permitted for each single-family dwelling.
- b. The ADU must provide independent living facilities for one or more persons containing the four elements of sleeping, eating, cooking and sanitation.
- c. The ADU shall have an independent means of ingress and egress, or shall have ingress and egress through a common space such as a shared hallway to an exterior door.
- d. If the ADU is attached to the principal dwelling, there must be a common wall between the principal dwelling unit and the ADU and there must be a connecting door between the units.
- e. Either the ADU or the principal dwelling unit shall be the primary residence and legal domicile of the owner of the property.
- f. The ADU shall not exceed 1000 square feet except by special exception.
- g. The ADU cannot be larger than the primary dwelling unit.
- h. The ADU shall have no more than two bedrooms except by special exception. Bedroom maximum occupancy must be consistent U.S. Dept. of Housing & Urban Development guidelines.
- i. The ADU must be of similar structural design as the original dwelling unit.
- j. An ADU must be provided adequate off street parking space.
- k. An ADU shall make provision for adequate water supply and sewage disposal service in compliance with RSA-A 485:38 and regulations adopted by the NH Department of Environmental services.
- l. Must comply with all other applicable state regulations.

B Minimum Lot Dimension Requirements: An attached accessory dwelling unit shall not be required to meet additional area requirement other than already provided for the principal dwelling unit. An accessory dwelling unit shall comply with all setback requirements.

C A detached accessory dwelling unit may be allowed by special exception, taking into account lot size, in all zoning districts that permit single family dwellings and shall meet all of the requirements listed above with the exception of item d.

11. Camps designed and built for occupancy during a portion of the year are permitted subject to the same restrictions as those applying to permanent residences.

12. An individual manufactured home may be used by a homeowner as their place of residence subject to all the restrictions of this ordinance that pertain to dwelling units.

13. Trailers or manufactured housing shall not be used as permanent residences on leased land. Trailers or manufactured housing are allowed at licensed campgrounds, but if the length of occupancy is such to indicate year-round residence, they come under the prohibition pertaining to manufactured housing parks (Year-round is greater than six-months in a twelve month period.)
14. Limitations of the number of manufactured homes: There shall not be more than one manufactured home to every six (6) dwellings.
15. Structures, including any changes or additions to existing structures, may not be greater than thirty-five feet (35) in height unless approved as a special exception by the Board of Adjustment excepting telecommunications facilities as covered in Appendix B.
16. All commercial development must go through Site Plan Review. Site Plan Review may be waived by the Board upon written request by the applicant for a Home Occupation, depending upon the size of the operation, parking requirements and other factors.
17. There shall be no Primary Buildings within one hundred and fifty (150) feet of protected waters as defined by the New Hampshire Shoreland Protection Act. A special exception may be granted by the ZBA.
18. No owner or occupant in the town shall permit fire or other ruins to be left, but shall remove the same to ground level or rebuild the structure within one year.
19. No cesspool, septic tank, or sewerage disposal area shall be constructed or maintained in such a way as to affect a public body of water, a spring, a well or a dwelling from the point of view of health or as an offensive nuisance. No wastewaters or sewerage shall be permitted to run free into a public body of water or be offensive or detrimental to health.
20. All utility service entrance lines shall be installed underground from the near edge of the nearest road or utility corridor to the structure.
21. Camping on Residential lots (added 2011)

Recognizing the lure of New Hampshire for vacationers, the intent of this section is to provide the opportunity for temporary, non-commercial recreational use of any residential property, provided that such use is otherwise consistent with state law (for example sewer disposal, gray water disposal camp fire permits, etc.) and the goals of the Master Plan

- a) Temporary camping (i.e. tents, camping trailers and motor homes) is allowed without a permit for up to a cumulative total of fourteen (14) days (consecutive or non consecutive) in any calendar year.
- b) Camping for fifteen (15) days up to ten weeks requires an annually updated permit from the Town of Shelburne. Camping for longer than 10 weeks is not allowed.
- c) Storage of a camping trailer or motor home as an accessory use to a residential property, otherwise in compliance with all local regulations, is allowed without a permit, however, any overnight use of a camping trailer or motor home shall be considered camping, and

the provisions of this section shall apply.

- d) Placement of tents, camping trailers and motor homes must conform to all setbacks.
- e) No commercial camping is allowed except in an authorized recreational campground.

22. Use of Portable Storage Structures (added 2011)

- A. Portable storage structures are not permitted on any property for non-commercial use.
- B. When used for temporary construction, a portable storage structure is allowed at the construction site for the duration of the building permit. Any extension of this time period is only by permit of the Selectpersons.
- C. When used for temporary commercial purposes that are consistent with the primary business function, portable storage structures shall require a special exception from the Zoning Board of Adjustment that meets the criteria in Section 3 and does not exceed 18 months of permissible use.

23. Noise standard - see Appendix A

24. Telecommunications Facilities Ordinance— see Appendix B

24. Outdoor Lighting standards – see Appendix C

25. Sign standards – see Appendix D

26. Floodplain Overlay District – see Appendix E

## **B. LANDS FALLING IN TWO OR MORE DISTRICTS**

- 1. The owner of a parcel that falls into two Districts may elect to combine the portions and have them regulated in the more restrictive District.
- 2. If a parcel falls into the Forest District and another District at the time of adoption, and the portion(s) within the Forest District is (are) less than the fifteen (15) acre minimum, than the portion(s) in the Forest District may be recognized as a building lot(s). The remainder of the parcel that is in another District shall be regulated according to the standards for that District.
- 3. If a parcel in the Forest District is subdivided into fifteen (15) acre lots and the remainder of the acreage in the parcel is greater than ten (10) acres, it may be recognized as a building lot in the Forest District.

## **SECTION 6**

## **NON-CONFORMING USES**

1. If, at the time of the adoption of the ordinance, any land, building or structure is being used in a lawful manner, except that such as is not in conformity with the provisions of this ordinance, such non-conforming use of said land, building, or structure may be continued. No interruption of such non-conforming use shall prevent its continuance except as hereinafter provided in paragraph 2 of this Section 6.
2. Any and all non-conforming property which is partially (50% or more) or totally destroyed by reason of obsolescence, fire or other destructive force may be restored, remodeled and operated if done within one (1) year; providing, however, that the restored or remodeled property shall not be more non-conforming than before the destruction.
3. A non-conforming use may not be extended or enlarged or changed to another non-conforming use.
4. A lot with less frontage and depth than required by this ordinance, which is recorded and taxed as a lot of record at the time of the passage of this ordinance, may be used for building a residence conforming to frontage and depth requirements as closely as possible (March 1964)
5. A non-conforming temporary building may be permitted by the Board of Adjustment for use incidental to construction and building operations for an initial period of not more than two years, upon application accompanied by a bond and bill of sale to the town, effective in case such a building is not removed at the expiration of the permit. A permit may be renewed by the Board of Adjustment for a period of one year, provided that hardship or other good cause can be shown.
6. Any lot with acreage of less than **(15)** acres but at least one (1) acre in size which exists as a lot of record in the Forest District as of the passage of this ordinance (March, 2002) may be developed in accordance with all of the other standards of development of this ordinance.

## **SECTION 7**

### **ENFORCEMENT AND ADMINISTRATION**

1. It shall be the duty of the Board of Selectmen, and the Board is hereby given power and authority, to enforce the provisions of this ordinance.
2. There shall be a Building Inspector and the administration of this ordinance is hereby confirmed upon him. The Building Inspector shall be appointed by the Board of Selectmen.
3. A building permit shall be required before any of the following activities occurs:
  - a. The erection, construction, change in ground plan , or structural additions, or reconstruction of a building
  - b. The demolition of a building



- c. The change in the number of dwelling units
- d. The conversion of seasonal dwelling to year round dwelling
- e. The placement of a pre-site built house or a manufactured house on a lot
- f. The placement of any sign per Appendix D.

A building permit application shall be filed with the Building Inspector. The application must have a plot plan showing the outline of the building and its position on the lot and all WSPCC permits and other necessary federal, state and local permits shall be attached. The permit shall be issued within 15 days of receipt, **provided** such proposed use is in conformity with the provisions of this ordinance, the subdivision regulations, and any other local or state regulation.

- 4. A record of all building permits and of plot plans shall be kept on file in the office of the Building Inspector and the Selectpersons office. A copy shall be furnished on request to any person having proprietary or tenancy interest in this building or land affected.
- 5. A building permit must be renewed after eighteen (18) months.
- 6. A fee based on a schedule set up by the Selectmen shall be charged for issuing a building permit, and the Building Inspector shall collect this at the time the permit is issued. All such fees shall be transmitted to the Town Treasury.
- 7. Upon any violation of this ordinance, the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other proper legal action.

## **SECTION 8**

### **BOARD OF ADJUSTMENT**

A five member Board of Adjustment shall be appointed by the Board of Selectmen as provided in RSA 673, as amended. The Board of Selectmen shall also appoint up to a maximum of five alternate members as provided for by RSA 673, as amended.

## **SECTION 9**

### **AMENDMENTS**

This ordinance may be amended by a majority vote of any legal town meeting when such amendment is published in the warrant calling for the meeting and when such amendment has received public hearings, as specified in Chapter 31:63a of the Community Zoning Enabling Act.

## **SECTION 10**

## **PENALTY**

Any person, firm or corporation violating any of the provisions of this ordinance shall be fined not more than the maximum penalty permitted by the state law upon conviction, for each day such violation may exist.

## **SECTION 11**

### **SEPARABILITY CLAUSE**

The invalidity of any provisions of this ordinance shall not affect the validity of any other provision.

## **SECTION 12**

### **WHEN EFFECTIVE**

This ordinance was passed at Town Meeting March 12, 2002.

Amended March 9, 2004  
Amended March 8, 2005  
Amended March 13, 2007  
Amended March 11, 2008  
Amended March 8, 2011  
Amended March 11, 2014  
Amended March 16, 2017

**APPENDIX A.**  
**NOISE STANDARDS**

It shall be unlawful to project a sound or noise, from a public or private place into another public or private place within the Town of Shelburne, which exceeds the limited noise spectra set forth in Table I at the point of perception.

**I. NOISE SHALL BE PERMITTED UP TO THE LIMITS SET FORTH IN THIS SECTION**

**A. Sound Levels/Comparisons.**

1. Sound levels are in decibels re: twenty (20) micro Pascal's measured on the A-weighting network of a sound-level meter meeting the standards referenced in the section entitled "Measurement of Noise".
2. A sound level of sixty (60) compares to normal conversational speech heard from a distance of three (3) feet. Sound levels of sixty-five (65) to seventy (70) approximate the sound of a passing freight train heard from a distance of one hundred (100) feet.

**TABLE 1**

**Maximum Permissible A-weighted Sound Level**

**7 AM - 7 PM      7 PM - 7 AM**

**65 dB**

**55 dB**

**II. MEASUREMENT OF NOISE.**

- A. The measurement of sound or noise shall be made with a sound-level meter meeting the standards prescribed by ANSI S1.4-1971, Type 1 or Type 2, and IEC 179 or the most recent version of these standards. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system both before and after the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone, during measurement, shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements, except where such background noise interferes with the primary noise being measured.
- B. The slow meter response of the sound-level meter shall be used in order to best determine that the amplitude has not exceeded the limiting noise levels set forth in Table I.
- C. The measurement shall be made at the location the noise is perceived by the complainant, or upon a public way; at a level of five (5) feet above the floor or ground.

**III. EXEMPTIONS:**

- A. Noise resulting from emergency vehicles, from emergency public maintenance or from other special short-term activities permitted by the Selectmen shall be exempt from these limits.
- B. Sound generated by Motor Vehicles, Trucks, and Buses operated on streets, highways, and private roads (and while entering from or exiting to a parking place or garage), Aircraft, Trains and other Public Transport. (All Motor Vehicles, Trucks, and Buses must have mufflers in good operating condition to be eligible for this exemption)

## APPENDIX B

### TELECOMMUNICATION FACILITIES ORDINANCE

#### I. Purpose and Goals

In recognition of the requirements of the federal Telecommunications Act of 1996, this ordinance is designed and intended to balance the interests of the residents of Shelburne, telecommunications providers, and telecommunications customers in the requirements and siting of telecommunications facilities within the town of Shelburne so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its residents as well as the town's rural character. This Ordinance establishes general guidelines for the siting of telecommunications facilities to enhance and fulfill the following goals:

- A. Preserve the authority of Shelburne to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities;
- B. Reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;
- C. Provide for co-location and minimal impact siting options through assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town.
- D. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
- E. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town.
- F. Provide routine maintenance and safety inspections for any and all facilities;
- G. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building code compliance. Provide a mechanism for the Town to remove these abandoned towers to protect the citizens from imminent harm and danger; and provide for the removal or upgrade of facilities that are technologically outdated.

#### II. Definitions

- 1.) **Alternative tower structure** - Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
- 2.) **Antenna** - Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- 3.) **Co-location** - The use of an existing tower or an existing telecommunications facility, for multiple purposes or users.
- 4.) **Elevation** - The measurement of height above sea level.
- 5.) **Equipment Shelter** - An enclosed structure, cabinet, shed, vault, or box near the base of the telecommunication facility within which are housed equipment for those facilities such as battery and electrical equipment.

- 6.) **Fall Zone** - The area on the ground within a prescribed radius from the base of a telecommunication facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice), collapsing material or the collapse of the tower itself.
- 7.) **Guy wires** - A cable used to secure and steady a tower.
- 8.) **Guyed tower** - A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- 9.) **Height** - The vertical distance measured from the average elevation of the finished grade surrounding the tower or other structure to the highest point on the tower or other structure, including antennas.
- 10.) **Lattice tower** - A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- 11.) **Monopole** - A type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top, constructed without guy wires.
- 12.) **Pre-existing towers and antennas** - Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Also, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Town.
- 13.) **Secondary use** - A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.
- 14.) **Telecommunications facilities** - Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCS), and common carrier wireless exchange access services.
- 15.) **Tower** - A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice or monopole towers and including guyed towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

### III. Regulations

All telecommunication facilities shall comply with the following requirements. These requirements shall supersede any and all other applicable standards found elsewhere in the Shelburne Zoning Ordinances and Regulations that are less strict.

- A. **Height.** New telecommunication facilities located on any existing structures shall not increase the height of the existing structure more than 20 feet. No telecommunication facility shall project higher than 20 feet above the average surrounding tree canopy height nor may a telecommunication facility be visible above the ridgeline from any public right of way.
- B. **Fall Zone.** In order to ensure public safety, the minimum distance from the ground mount of a telecommunication facility to any property line, road, habitable dwelling, business or institutional use or recreational facility shall be 125% of the height of the facility, including any antennas or other appurtenances. This setback is considered the "fall zone".
- C. **Visual Impact and Lighting.** In order to preserve the character of the existing developed and natural environments within the Town of Shelburne, and to minimize any detrimental visual impact that telecommunication facilities might have, all telecommunication facilities will adhere to the following requirements:

- 1) The design of the towers, ground mounts, antennas, buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.
  - 2) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - 3) Telecommunication facilities shall not be artificially lighted, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
  - 4) Towers shall be located on sites where the grade/slope and tree cover of the site and surrounding land can be used to decrease any adverse visual impacts.
  - 5) Towers or ground-mounted facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the facilities from adjacent properties and public roads. Natural vegetation is preferred.
  - 6) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
  - 7) Towers shall not contain any permanent or temporary signs, writing, symbols or other graphic representation of any kind, except as may be allowed or required by the Planning Board in the interests of public safety.
- A. Fencing. - Towers shall be enclosed by security fencing located inside the landscaped buffer. The fencing shall be at least 6 feet in height and equipped with appropriate anti-climbing devices.
- B. Federal Requirements - All telecommunication facilities must meet or exceed current standards and regulations of the FAA, the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the facilities governed by this ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the facilities at the owner's expense.
- C. Towers and/or antennas that are no longer useable due to changes in technology are to be removed within one year of being taken out of service.

#### **IV. Application Procedure**

- A. Application to erect telecommunication facilities in Shelburne shall be made to the Planning Board through site plan review.
- B. The application shall contain a scaled plan including a scaled elevation view, surrounding topography, surrounding tree cover and natural vegetation, radio frequency coverage, setbacks, fall zone, design of the facility and construction materials, design characteristics that will avoid visual obtrusiveness, landscaping, fencing, parking, access roads, adjacent uses, and any other information deemed necessary by the Planning Board to assess compliance with this ordinance.

- 1) The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
  - 2) The applicant shall submit written proof of legal authority to use the proposed site.
  - 3) The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirement of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Planning Board prior to the beginning of the federal 30 day comment period and the Town process, shall become part of the application requirements.
  - 4) Each applicant for a facility shall provide to the Planning Board an inventory of its existing facilities that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of each facility, as well as economic and technological feasibility for co-location on the inventoried facilities. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided however that Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
  - 5) Each applicant for a facility shall provide a list of any additional towers which may be required in Shelburne for completion of their planned wireless coverage.
- A. If the applicant is proposing to build a new tower or other ground-mounted structure, the applicant shall submit written evidence demonstrating why no existing structure can accommodate the applicant's proposed facility. This evidence must be substantial and can address such issues as location within required geographic area, required height, electromagnetic interference, unreasonable financial requirements, etc.
  - B. The applicant proposing to build a tower or ground mounted structure shall submit an agreement with the Town that allows for the co-location of additional facilities upon the new structure by a future applicant to the extent such co-location can exist while minimizing adverse impacts.
  - C. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have any submitted information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations, or any other matter required by the application. Cost for this review shall be borne by the applicant.

## **V. Applicability**

All towers must apply to the regulations set forth in this ordinance except as follows:

- A. Amateur Radio, Receive-Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna that is under 40 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- B. Essential Services and Public Utilities. Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land, and is subject to the Town's zoning ordinance and all other applicable ordinances and regulations.



## **VI. Siting Standards**

### **General Provisions**

The uses listed in this section are deemed to be permitted uses in the designated district in accordance with all other applicable ordinances and regulations of the Town including Non residential Site Plan Review and approval by the Planning Board.

- A. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- B. For purposes of determining whether the installation of a tower or antenna complies with zone development standards, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased parcels within such lots.
- C. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance, shall not be deemed to constitute the expansion of a nonconforming use or structure.
- D. Applicants receiving approval to construct new telecommunication facilities must execute a written agreement with the Town specifying that the applicant agrees to provide for maximum shared use of the tower with other telecommunication providers and with governmental agencies at industry standard lease rates. This agreement shall include use by the Town for municipal communication purposes. The applicant shall also provide notice to all commercial carriers in the region that a new facility is to be erected and that an opportunity for co-location exists.
- E. Access Roads and Cable Paths shall have minimum visual impact on the Town of Shelburne.
- F. The applicant must submit a removal plan and cost estimate, both certified by a licensed engineer, to the Planning Board.
- G. Subject to all applicable local, state and federal regulations and Non-Residential Site Plan review and approval by the Planning Board, new tower construction and co-location of telecommunication facilities shall be permitted in all areas of Town,

## **VII. Bonding, Security, and Insurance**

Recognizing the hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that such a facility is abandoned and the facility owner is incapable and/or unwilling to remove the tower. The amount of security shall be based upon the removal cost plus fifteen percent (15%). The removal cost estimate shall be provided by the applicant and certified by a professional civil engineer licensed in New Hampshire. Every five (5) years from the date of the Planning Board approval of the site plan, the owner of the facility shall provide the Planning Board with a structural evaluation and a revised removal cost estimate prepared by a professional civil engineer licensed in New Hampshire. The Planning Board shall revise the amount of the security to be provided by the applicant to be the removal cost plus fifteen percent (15%). Furthermore, the Planning Board shall require submission of proof of insurance at a minimum of one (1) million dollars covering accident, damage and liability.

## **VIII. Removal of Abandoned Antennas and Towers**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly

inspections to the Planning Board. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed according to RSA 676:4, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within ninety (90) days, the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

## **IX. Waivers**

### **General**

The Planning Board may approve waivers to the requirements of these standards where it finds that extraordinary hardships or practical difficulties would result from strict compliance with the foregoing terms, or the purposes of these regulations may be served to a greater extent by an alternative proposal. The purpose of granting waivers under the provisions of this ordinance shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by the terms of the ordinance. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

- A. The granting of the waiver will not be detrimental to the public safety, health, or welfare or be injurious to other property and will promote the public interest.
- B. The waiver will not, in any manner, vary the provisions of the Town's Zoning Ordinance or Master Plan.
- C. The waiver will substantially secure the objectives, standards, and requirements of these standards.
- D. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
  - 1) Topography and other site features.
  - 2) Availability of alternative site locations.
  - 3) Geographic location of the property.
  - 4) Size/magnitude of the project being evaluated and availability of co-location.

### **Conditions**

In approving waivers, the Board may impose such conditions, as it deems appropriate to substantially secure the objectives of the standards or requirements of this ordinance.

### **Procedures**

A petition for any such waiver shall be submitted in writing by the applicant with the application for Planning Board Review. The petition shall state fully the grounds for the waiver and all of the facts relied on by the applicant. Failure to submit a petition in writing shall require an automatic denial of the waiver request.

Revised and adopted by the Planning Board on 6/5/01. Voted by town 3/12/02

## **APPENDIX C**

### **OUTDOOR LIGHTING STANDARDS**

#### **I. Purpose**

The purposes of the outdoor lighting regulations are to protect dark skies, to protect the general welfare by controlling the spillover of light onto adjacent properties, and to protect the public safety by preventing glare from outdoor light sources.

#### **II. Requirements - These requirements pertain to all new outdoor lighting applications.**

- A. All outdoor lighting shall be controlled to minimize the spillover of light onto adjacent properties. All outdoor area (non-decorative) lighting shall be aimed below the horizontal plane except for non-directional residential lighting such as porch, driveway and walkway lights.

#### **III. Exemptions**

- A. All outdoor lighting lawfully in place prior to the date of this Ordinance shall be grandfathered.

**Note: The lighting requirements for outdoor signs are covered in Appendix D - Sign Standards**

## APPENDIX D.

### SIGN STANDARDS

#### I. Purpose

The purpose of the sign standards is to keep all types of signs whether commercial or otherwise to a minimum and as unobtrusive as possible while still fulfilling the needs of Shelburne and its residents.

#### II. Definitions

**Flashing Sign** – Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever.

**Height** - The height of a sign shall be measured from the highest or lowest point (as appropriate) of the sign to a plane parallel to the average of the natural ground surface at the location of the sign.

**Illuminated Sign** – Any sign which emanates light either by means of electrical bulbs, fluorescent lights, or lamps on its surface, or by means of illumination transmitted through the sign face. Any decorative lighting that is used expressly for the purpose of advertisement shall be constructed as a sign.

**Free-Standing Signs** - A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer type signs.

**Off-Premise Sign** – Any sign visible from a public right-of-way identifying or advertising a business, person, activity, goods, products or services not located on the premises where the sign is installed and maintained.

**On-Premise Sign** – Any sign visible from a public right-of-way identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign is installed and maintained.

**Permanent Sign** – Any sign that is not a temporary sign which is permanently affixed or attached to the ground, wall or other support.

**Projecting Sign** - A sign which is affixed to a building, tree or other support and which extends more than six inches beyond the surface to which it is affixed.

**Temporary Sign** – A sign constructed of cloth, canvas, fabric, wood, paper or other similar material with or without a structural frame and intended for a limited display.

**Sign** – A sign includes the informational area, the support and the framing.

### **III. Signs Allowed without a Permit**

The following signs may be erected without a permit and are not included in the maximum sign area allowed unless otherwise indicated, but must comply with all other requirements of this chapter as stated herein:

- A. Historic plaques or markers no greater than two (2) square feet in area.
- B. Trail Signs no greater than three (3) square feet in area.
- C. National, state flags [not to exceed forty (40) square feet in area].
- D. Political signs shall not exceed four (4) square feet and shall be located, erected and removed in accordance with State Statutes.
- E. Signs affixed to or placed within twelve (12) inches of a window so as to be visible from the exterior, which advertise products or services available within the building, prices, payment methods or sales, provided that the signs do not exceed thirty percent (30%) of the total area of the window.
- F. Temporary signs can be no larger than 6 sq ft and can be in place for no more than five (5) days. It is the responsibility of the person who erected the sign to remove the sign.
- G. Signs installed by governmental bodies.
- H. Customary signs which give warnings or are used to identify property that are no larger than two (2) square feet in area, examples being "Beware of Dog", "No Trespassing" signs or signs showing the name of the resident.
- I. Real Estate Signs
  - ◆ One (1) unlit sign, no greater than six (6) square feet in area, is permitted to be installed on each parcel being offered for sale.
  - ◆ One (1) unlit sign, no greater than four (4) square feet in area, is permitted to be installed at a highway junction outside of the public right-of-way as a directional sign per lot or cluster of lots.
  - ◆ All signs must be removed within ten (10) days of the sale of the property.
- J. Directional Signs - one unlit non-advertising sign, no greater than three (3) square feet in area is permitted to be installed at each highway intersection leading to a business, as a directional sign to that business. Location of the sign(s) to be approved by the Town Road Agent if within the ROW of a Town Road or approved per State Statute if in a State ROW.
- K. All signs shall be properly maintained to the satisfaction of the Building Inspector. Any sign which is damaged in excess of twenty-five percent (25%) of its value must be repaired or removed in 90 days or it shall be removed at the owners expense.

#### **IV. Signs Requiring a Permit**

No sign (other than those listed in section III) shall be erected or affixed to any building exterior or placed freestanding on any premises or altered or moved without a permit issued by the Town Building Inspector.. The following are the General Requirements which apply to all Signs Requiring a Permit:

- A. All Signs must relate to a business in Shelburne. All signs must be On-Premise.
- B. No Sign may be erected within a public right-of-way and shall be set back from any public right-of-way a distance not less than five (5) feet, except where allowed by State Statute.
- C. All Signs shall be set back a distance not less than fifteen (15) feet from the points intersecting rights-of-way
- D. No Sign may exceed eight (8) feet in height in the River Valley and Forest District or twenty (20) feet in height in the Route 2 and Industrial Districts.
- E. Only one freestanding Sign is permitted on a lot except by Special Exception.
- F. No portion of any projecting Sign shall be less than eight (8) feet above grade level.
- G. One (1) free standing Sign not to exceed thirty-two square feet (32 sq. ft.) and one (1) Sign painted on or attached to one (1) wall of a building not to exceed ten percent (10%) of the square footage of the wall on which it is displayed, up to thirty-two square feet (32 sq. ft.) which ever is less, shall be allowed.
- H. In the case of a shopping center or professional park, there shall be allowed one (1) lot Sign identifying the shopping center or professional park sharing a common group name which shall not exceed thirty-two square feet (32 sq. ft.). For each individual tenant, one Sign painted on or attached to one wall of the building not to exceed ten percent (10%) of the square footage of the wall on which it is displayed, up to thirty-two square feet (32 sq. ft.) which ever is less, shall be allowed. A Sign pertaining to the lease or sale of a lot or building on which it is placed shall be allowed so long as such sign does not exceed eighteen square feet (18 sq. ft.).
- I. All signs shall be properly maintained to the satisfaction of the Building Inspector. Any Sign which is damaged in excess of twenty-five percent (25%) of its value must be repaired or removed in 90 days or it shall be removed at the owners expense.
- J. Non-conforming Signs may be removed for painting or repair. The repaired Sign can not be larger or more non-conforming than the original and must be placed in the original location.

- K. Should the current location of a non-conforming sign become unavailable the owner must request a special exception to relocate the sign.

## ***V. Illumination Standards***

This section is intended to allow for the illumination of signs for public visibility during non-daylight hours, and applies to all signs, permitted or otherwise.

- A. A sign shall be illuminated only by a steady or continuous white light.
- B. A sign must not flash either from interior or exterior light sources.
- C. A sign shall not contain any “neon” lighting.
- D. Signs shall be illuminated so that no hazard is created to pedestrian or vehicular traffic due to intensity or direction of illumination.
- E. Signs shall be illuminated such that they do not cast light, glare or reflected light on adjacent buildings or create a nuisance for abutters.
- F. The minimum amount of lighting required to allow the sign to be readable shall be used and it shall be appropriate to the character of the sign and surroundings.
- G. Signs lit by external means shall be lighted from above.
- H. Signs that are lighted internally shall have a dark background with only the lettering being of a light color. The lettering shall not comprise more than thirty-five percent (35%) of the area of the sign.
- I. Light sources which cast light on any sign shall be shielded by opaque material so that the bulbs, floodlights or tubes are not visible off the property on which the sign is located
- J. The use of reflective tape or paint to illuminate a sign is permitted.
- K. No sign shall be illuminated between 11 PM and dusk of the following day unless the business is open during such hours.

## Appendix E - Flood Overlay District

Meets the Minimum Requirements of Section 60.3(b) of the National Flood Insurance Program Regulations

***Certain areas of the Town of Shelburne, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Shelburne, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.***

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Shelburne Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Shelburne Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its **“Flood Insurance Study for the County of Coos, N.H.” dated February 20, 2013, together with the associated Flood Insurance Rate Maps dated February 20, 2013,** which are declared to be a part of this ordinance and are hereby incorporated by reference.

### Item I. Definition of Terms

The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by, the provisions of any other ordinance of the Town of Shelburne.

1. Area of Special Flood Hazard - The land in the floodplain within the Town of Shelburne subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE.
2. Base Flood - The flood having a one-percent possibility of being equaled or exceeded in any given year.
3. Basement - Any area of a building having its floor subgrade on all sides.
4. Building - See "Structure".
5. Development - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation or storage of equipment or materials.
6. FEMA - The Federal Emergency Management Agency.
7. Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. the overflow of inland or tidal waters.
  - b. the unusual and rapid accumulation or runoff of surface waters from any source. (OK)
8. Flood Insurance Rate Map (FIRM) - An official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Shelburne.



**9. "Flood Insurance Study" (FIS) - An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.**

10. Floodplain or Flood-prone Area - Any land area susceptible to being inundated by water from any source (see definition of "Flooding")

11. Flood proofing - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

12. Floodway - See "Regulatory Floodway".

13. Highest adjacent grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

14. Historic Structure - Any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

15. Lowest Floor – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

16. Manufactured Home - Any structure transportable in one or more sections, which in the travel mode is 8 body feet or more in width and 40 body feet or more in length, or when erected on site is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. This includes manufactured homes located in a manufactured home park or subdivision.

**17. Manufactured Home Park or Subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.**

18. Mean sea level - The National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**19. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after**

***December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.***

20. 100-year flood - See "base flood"

21. Recreational vehicle – A vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. designed to be self propelled or permanently towable by a light duty truck; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

22. Regulatory floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation more than a designated height.

23. Special flood hazard area (See - "Area of Special Flood Hazard")

24. Structure - For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

25. Start of Construction - Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

26. Substantial damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

27. Substantial Improvement - Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

28. Violation - The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Item V or Item VIII(2)(b) of this ordinance is presumed to be in violation until such time as that documentation is provided.

29. Water surface elevation - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

Item II.

All proposed development in any special flood hazard areas shall require a building permit.

Item III.

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

1. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
2. be constructed with materials resistant to flood damage,
3. be constructed by methods and practices that minimize flood damages,
4. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Item IV.

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Item V.

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector:

1. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
2. If the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed
3. Any certification of flood proofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

Item VI.

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Item VII.

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A:3. Further, the applicant

shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Bureau.

2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, 'assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

***4. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.***

5. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

#### Item VIII.

1. In special flood hazard areas the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available:

a. In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.

b. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

2. The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in zones A and AE that:

a. all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation;

b. that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or, together with attendant utility and sanitary facilities, shall:

(1) be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(2) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;

3. Recreational vehicles placed on sites within Zones AI-30, AH, and AE shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all Standards of Section Item II of this ordinance and the elevation and anchoring requirements for "manufactured homes" in Item VIII (2) (4) of this ordinance.

***A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.***

4. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100 year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the top or frame ties to ground anchors.

5. For all new Construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

#### Item IX Variances and Appeals

1. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, 1(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

A. that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

B. that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

C. that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. The zoning Board of Adjustment shall notify the applicant in writing that:

(i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions

4. The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEM