

**Appendix C:**

**SUBDIVISION REGULATIONS**

**TOWN OF**

**SHAFTSBURY, VERMONT**

**Approved for adoption by the Planning Commission**

**October 26, 1999**

**Approved for adoption by the Select Board**

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## **1.0 GENERAL PROVISIONS**

### **1.1 ENACTMENT**

These regulations are established under the authority of 24 V.S.A. Chapter 117, herein referred to as the Act.

### **1.2 PURPOSE**

The purpose of these regulations is to provide for orderly growth and coordinated development in the Town of Shaftsbury with respect to the comfort, convenience, safety, health, welfare of the people; to implement the Town Plan, to assure conformance with the municipal zoning regulations, and to regulate the approval and filing of subdivision plats.

## **2.0 GENERAL PLANNING STANDARDS**

### **2.1 PURPOSE**

No subdivision of land shall be made and no land in any subdivision shall be sold, transferred in ownership, or contracted to be sold or leased, and no street construction shall be started until a subdivision permit has been granted by the DRB and other required local and state permits have been issued. The subdivider shall familiarize himself with all state and town regulations relative to health, buildings, roads and other pertinent issues so that he is aware of the obligations and standards expected. The subdivider may avail himself of the assistance of the DRB before preparation of the application or plans. Standards for the design and layout of necessary public improvements not otherwise provided for in this bylaw shall conform to the standards set by the agencies having jurisdiction over the improvements.

### **2.2 CHARACTER OF LAND FOR SUBDIVISION**

Land considered for subdivision shall be of such character that it can be used for building purposes without danger to public health, or safety, or to the environment.

### **2.3 NATURAL RESOURCES**

The DRB is charged with ensuring the conservation of natural, rural, and scenic resources of Shaftsbury, while allowing uses permitted by the Zoning Bylaws. Particular attention will be given to the following:

1. The development or subdivision of lands containing significant agricultural, or forest, lands, public water supplies, wildlife habitat, and/or mineral and earth resources shall be planned to minimize impacts on these resources.
2. Vital and valuable resources and other assets of a community nature shall be identified and

protected by the DRB. These include:

- A) Streams: year-round watercourses shall be preserved in a free-flowing state with a buffer of at least 50 feet maintained between the stream bank and development.
- B) Hillsides, Mountains, and Ridgelines: Development shall be carefully planned through proper siting of structures and protection of natural vegetation to minimize environmental damage and visual impacts, particularly in areas where natural slopes exceed 20% and on sites prominently exposed to public views. During construction, builders shall utilize conservation practices which minimize erosion, lessen impact on roads, streams, wildlife habitats, and prevent other environmental hazards.
- C) Wetlands: Any development that would significantly impact any of the wetland benefits noted in the Town Plan (Section 5.2.3) shall not be permitted.
- D) Aquifers and Recharge Areas: Shall be protected from activities or development that would adversely affect the quantity or quality of available groundwater.

## **2.4 AGRICULTURAL LAND**

Agricultural land is an important component of the working landscape of the Town. To promote agricultural uses and the retention of productive farms and agricultural land, development of open lands containing primary or secondary agricultural soils should be configured to minimize the encroachment of residential uses on agricultural land. The following guidelines should be used in subdivision design:

1. The right to use land for agricultural purposes adjacent to any subdivision should be guaranteed through the imposition of right-to-farm covenants.
2. Building sites should be designated to minimize impact on prime agricultural fields. The DRB may require designation of building envelopes and/or adherence to appropriate provisions of Section 6 of these regulations in order to achieve proper siting of houses in developments containing prime agricultural soils.
3. Boundaries of subdivision lots should follow existing natural divisions such as fence lines, streams, etc. to minimize the fragmentation of tillable fields or pastures.

## **2.5 LOT LAYOUT**

The layout of lots shall be appropriate for the intended construction and shall conform to the requirements of the municipal zoning regulations. Consideration in lot layout shall be given to topographic conditions, aesthetics, surface and ground water resources, fragile (natural resource and natural hazard) lands as identified in the Town Plan, important agricultural land and soil conditions. Lot layout shall not result in an undue modification of the natural conditions of the land. Lots should be configured as regular shapes; unusual or unusable extensions from regular shapes shall be avoided. Lot length shall not exceed four times lot width.

## **2.6 DENSITY OF DEVELOPMENT AND SUITABILITY OF LAND**

Residential density should maintain a level of density compatible with land capability. While the intensity of use is established in the municipal zoning regulations, the actual density permitted on any site may be further limited by the DRB if significant portions of the site have severe limitations for development. Factors that may limit development include: remoteness, access by narrow or seasonal roads or inadequate infrastructure, topographic limitations, soils rated severe for percolation or erodability, or important agricultural soils. Land subject to periodic flooding, poor drainage, or other hazardous conditions should not contain any portion of land designated for a building site.

## **2.7 EROSION CONTROL**

An erosion-control plan shall be prepared as part of the approval process which details procedures that will be used to: (1) minimize the potential for increased runoff to surface waters, (2) minimize the potential for erosion and siltation of drainageways, and (3) stabilize exposed soils.

## **2.8 GROWTH MANAGEMENT**

A subdivision shall not cause an undue impact with respect to the ability of the community to provide municipal or educational services. If, after consulting with the school board, the superintendent of schools, and municipal officials, the DRB determines that the subdivision will result in a rate of growth whereby the Town cannot adjust financially or provide necessary services, the DRB may impose conditions to limit the impact of the project and/or require the time phasing of project to mitigate undue impact.

## **3.0 STREET STANDARDS**

### **3.1 STREET LAYOUT**

Streets shall be logically related to the topography so as to produce usable lots, reasonable grades, good drainage, and safe intersections in relation to the proposed use of the land to be served by such streets.

### **3.2 NEW STREETS**

Any new street within a subdivision shall meet the following minimum requirements whether intended for acceptance by the Town or not:

1. Gradient: All roads shall have a maximum grade of 8% and a minimum grade of 2%, as provided for in the Town's policies and specifications for highways. A grade of over eight (8%) percent may be accepted under certain conditions only, if the Select Board finds it would be in the best interest of the Town, but nothing over twelve (12%) percent will be accepted.
2. Access:
  - A) All lots within a subdivision shall have at least 50 feet of frontage on a public street or be served by a permanent easement or right-of-way of at least 50 feet in width. Such access

shall be legally recorded, improved to standards set forth herein, free from mortgage and with all drainage rights provided. The DRB may approve a permanent easement or right-of-way not less than 20 feet wide serving one lot only, and legally recorded along with the provision that the single lot will not be further subdivided.

- B) Rights-of-way serving lots which do not front on an existing public or private street shall not intersect said existing street at intervals less than 300 feet, unless the DRB determines that a smaller or greater interval is appropriate based upon the resulting character of the lot(s) through which the rights-of-way pass. Proposed roads within a development shall, where possible, be designed to provide an open (non-closed) system with at least two entrances onto existing public roads in order to promote safety and efficient road maintenance.
  - C) When a parcel to be created has no available access, but is adjacent to other holdings of the applicant, the access requirements preceding may be waived, provided that, as a condition of the waiver, the following language is made a term of any contract of sale or lease of the parcel and is recited in any deed and contained upon the final plat for filing purposes:  
"The parcel may not be developed or conveyed: (1) without first receiving approval by the Shaftsbury DRB pursuant to section 3.2 (2) of the Shaftsbury Subdivision Regulations; or (2) unless the parcel is conveyed to the owner of an adjacent parcel, the two parcels are legally and effectively merged, and the resulting combined parcel complies with all applicable regulations.
  - D) The DRB may require that the development of three or more abutting lots be designed to reduce direct access to a highway from the lots individually, with a maximum of one direct access for every two lots.
  - E) Any time access to a parcel is by means other than a public road, a maintenance agreement in a form acceptable to the DRB shall be required.
3. Culverts: Adequate drainage culverts, not less than eighteen (18) inches in diameter, must be installed at all necessary points. Culverts may be of the corrugated or spiral type used for roadwork and all sections joined with bands recommended by the companies which manufacture the culvert. If concrete culverts are used, they must be of an approved make with joints well cemented and meet the State specifications on concrete pipe. All culverts must be installed well below the surface of the road with not less than sixteen (16) inches of gravel over the top. An elliptical culvert of equivalent size to an eighteen (18) inch culvert may be used where necessary to obtain the necessary sixteen (16) inch covering of gravel. All culverts must be installed with adequate pitch and proper ditches to carry run-off away from the road.
4. Drainage: An adequate storm water drainage system for the entire subdivision area shall be provided, unless, in the judgment of the DRB, the natural topography and easy access to natural watercourses makes a storm drainage system unnecessary. Storm drainage shall be carried to existing watercourses, or connect to existing storm drains. If the storm water drainage system creates a discharge over any adjacent property, the subdivider shall obtain an easement therefor from the adjacent owner and shall hold the Town harmless from any claims for damage

resulting therefrom.

5. **Width of Traveled Portion and Shoulders:** The width of the traveled portion shall be at least 20 feet, with a two-foot shoulder on each side of the traveled portion. Guard rails will be required as advised by the Road Foreman and/or DRB.
6. **Road Composition:** Sub-grade is to be firm and free of excess moisture, and stabilized with 2” (or less in size) crushed gravel in any soft spots known to exist. The road shall be constructed to one of the following standards:

Paved Road Base – well drained subsoil: Sub-base of not less than 12” (after compaction) of 2” (or less in size) crushed gravel, and a top of 6” (after compaction) of workable, fine crushed gravel for the full shoulder-to-shoulder width – a total of 18 inches of gravel.

Paved Road Base – poorly or moderately drained subsoil: Sub-base of not less than 12” (after compaction) of 6” (or less in size) bank run gravel placed on a full width stabilization mat, and a top of 6” (after compaction) of workable, fine crushed gravel for the full shoulder-to-shoulder width – a total of 18 inches of gravel.

There shall be a ditch along the outside of the toe of the shoulder which shall be lower than the bottom of the gravel.

7. **Dead-End Roads:** Any road which is a dead-end road shall be provided with a place at the end for turning around equipment, school buses, and emergency vehicles. A cul-de-sac may be used with a sixty (60) foot radius, minimum fifty (50) foot radius traveled area. A “T” or a fish tail, minimum fifty (50) feet each arm may also be used. Type of turnaround shall be reviewed by the Road Foreman. Where dead end roads are a possibility in the development of adjoining land, road and utility r.o.w. must be extended to the outer property line of the parcel to accommodate potential future development.
8. **Paved Road Entrance:** Any new road entering a paved highway or a paved town road must have a blacktop apron 24 feet in length from the edge of the highway it is entering. The design of said apron is to be approved by the Road Foreman.
9. **Unpaved Road Entrance:** Where paved access roads or driveways enter an unpaved town road, written approval by the Road Foreman is required for the distance the paving may extend into the right-of-way. (Generally, this will be along the edge that receives routine road maintenance.) Where culvert repair or other road maintenance requires cutting and replacement of paving, that expense will be borne by the owners of the lots accessing that road.
- 10.** The petitioner is also responsible for any road signs necessary. All signs must be purchased from the Town of Shaftsbury and must conform to E-911 and the Manual of Uniform Traffic Control Devices (M.U.T.C.D.). The name of a road shall be approved by the Select Board and the E-911 commission.

The DRB may impose other road design standards in order to ensure that slopes and horizontal and

vertical curvature, embankments, and soil erosion precautions are adequate to meet the needs of the subdivision and protect the environment. The DRB may seek the advice of a qualified engineer, the Road Foreman or the Board of Selectmen in making a determination under this subsection.

### **3.3 EXISTING PRIVATE STREETS**

That portion of any existing private street serving three or more lots to be created shall be improved to meet the standards cited in Section 3.2.

### **3.4 EXISTING PUBLIC STREETS**

If the access road to the subdivision is less than the standard for the class of road so designated, the DRB may require the subdivider to improve the access road to the standards cited in Section 3.2. The DRB may also require the subdivider to make arrangements for maintenance of the access road satisfactory to the DRB until such a time as the Board of Selectmen may reclassify the road. In the case of subdivisions requiring construction of new streets, any existing street which provides either frontage to new lots or access to new streets shall meet the minimum standards established by the Town of Shaftsbury for such street. Where a subdivision requires undue expenditures to improve existing town streets to conform to minimum requirements, the DRB may disapprove such subdivision until the Selectmen shall certify that funds for the improvements have been assured.

### **3.5 DEDICATION TO THE TOWN**

Any street intended for dedication to the Town shall be constructed to meet the requirements in the Town's policies and specifications for town highways, established by the Road Foreman and Board of Selectmen. Acceptance of such streets shall be at the discretion of the Board of Selectmen.

### **3.6 DEFERRAL OF STREET REQUIREMENTS**

1. The DRB may waive the requirements of Sections 3.2 - 3.4, except the requirement for right-of-way width. Waivers may be granted only to subdivision streets serving no more than three lots.
2. Any waiver of the street standards granted by the DRB shall be recited in any deed for any lot served by such street in the form as follows:

"The access road serving this lot does not meet the established minimum requirements of the Town of Shaftsbury Subdivision Regulations in regard to gradient, width, sub-base materials, or other design criteria, and therefore the use of this road for residential purposes is not recommended."

## **4.0 WATER SUPPLY & WASTEWATER DISPOSAL**

### **4.1 GENERAL**

Wherever feasible, it is recommended that projects subject to the jurisdiction of these rules connect to approved municipal water and sewer facilities. For projects proposing on-site water supply and sewage disposal, these rules are intended to: prevent the creation of health hazards; prevent surfacing sewage or

the pollution or contamination of drinking water supplies, groundwater and surface water; ensure the availability of an adequate supply of potable water; insure the provision of adequate drainage as related to the proper functioning of sewage disposal or water supply systems; and insure that facilities are designed and constructed in a manner which will promote sanitary & healthful conditions during operation and maintenance. Granting of a permit or certification of compliance under these rules does not relieve the project owner of the responsibility for satisfactory functioning of the systems approved, nor limit his/her responsibility or liability under other statutes or rules.

## **4.2 REQUIREMENTS**

The following requirements shall have been met before final approval is granted by the DRB:

1. If applicable, a State subdivision, water supply & wastewater disposal, exemption, and/or deferral of permit shall have been granted by the Department of Environmental Conservation, Agency of Natural Resources.
2. For each lot within a subdivision, and/or the creation or extension of a commercial enterprise, a site specific sewage treatment & disposal system design by a professional engineer or certified site technician shall have been submitted to and approved by the Administrative Officer. The design shall meet the requirements of subchapter 10 of chapter 5 of the Vermont Health Regulations. Such design and accompanying information shall be made available for the use of subsequent purchasers of each property. Inspection of the system installation shall occur in accordance with SC10,C5,VHR, and construction shall be supervised by the Administrative Officer and by a professional engineer or certified site technician, who shall report, in writing to the DRB, that construction was completed in conformance with the approved plans, specifications, and permit conditions. This certification shall be the responsibility of the property owner at the time of installation.
3. Water supplies intended to utilize the North Bennington Public Community System will meet the requirements as to ability to service, design, and construction established by the Town of Shaftsbury Water Board, and shall be approved by the Water Board Supervisor. Proposed on-site systems will adhere to the standards of the water supply rule, Chapter 21 of the Environmental Protection Rules, Agency of Natural Resources, and will ordinarily utilize those provisions of Appendix A, Part 11, Small Scale Water Systems, of said rules, regarding design and construction of potable water supplies, storage, and distribution systems. Such designs and accompanying information shall be made available for the use of subsequent purchasers of each property. Inspection of the system installation shall occur in accordance with said rules, and construction and development of on-site supplies shall be by a licensed well contractor, who, upon completion, shall supply a copy of the well log to the DRB. Complying with installation requirements shall be the responsibility of the property owner of record.
4. Any property development requiring the DRB's approval which is located on a lot containing an existing structure may be exempted from the requirements of Sections 4.2 and 4.3 provided:
  - ~ an adequate potable water supply is present;
  - ~ a functioning on-site sewage disposal system is present which is not causing pollution or a health hazard (to be certified by a professional engineer or certified site technician);



- ~ there will be no increased water usage; and
- ~ all portions of the existing wastewater treatment and disposal system are located at least 100 feet from any newly created lot line.

### **4.3 DEFERRAL OF WATER SUPPLY AND WASTEWATER DISPOSAL REQUIREMENTS**

1. The owner of an unimproved lot of land may waive his/her development rights thereto involving the construction, placement or erection of any building or structure, the useful occupancy of which would require the installation of water supply and wastewater disposal facilities. The DRB may grant approval of permit with deferral provided that the owner waives his/her right to develop, as noted above, or to convey, by sale or by lease, the parcel of land without first meeting the requirements of subsection 4.2 of these regulations. The terms and conditions of the deferral shall be binding upon all successors in title. A parcel created under the provisions of this section shall not be resold unless a subdivision permit is obtained or the waiver of development rights is included in the deed or lease and notice of the purchaser's name and address is filed with the DRB prior to conveyance.
2. Any waiver of development rights shall be made a term of any contract of sale or lease of the parcel, and shall be recited in any deed and be contained upon the final plat for filing purposes in the form as follows:

"In order to comply with the Town of Shaftsbury Subdivision Regulations, the grantee shall not construct, place, or erect a structure or building on the parcel of land created and/or conveyed herein, the useful occupancy of which will require the installation of water supply and wastewater disposal facilities, without first complying with section 4.2 of said regulations. By acceptance of this, the owner or grantee acknowledges that this lot may not qualify for approval for development under the appropriate regulations, and that the Town of Shaftsbury DRB may deny an application to develop the lot."

3. To remove the deferral encumbrance so imposed, the owner or purchaser of a parcel created under the provisions of this section who subsequently seeks to develop said parcel, must comply with the following:
  - A) New application must be made to the DRB, indicating compliance with subsection 4.2 of these regulations;
  - B) The DRB will review the proposal at a public hearing following public notice;
  - C) Should the subdivision permit be granted, a new plat, with the deferral language of subsection 4.3(B) removed, must be filed as provided for in these regulations.

Upon successful completion of these conditions, the waiver of development rights clause shall be dispensed with in any subsequent deed.

## **5. BOUNDARY LINE ADJUSTMENT**

Purpose: This Bylaw grants the Zoning Administrator the authority to administratively review requests for Boundary Line Adjustments involving abutting legal lots within town boundaries. A Boundary Line Adjustment is an adjustment of boundary lines between contiguous lots without creating a new or additional lot and without creating a nonconformity with existing town regulations in the resulting lots. This Bylaw is in addition to any requirement for a permit or exemption under the State of Vermont Wastewater System and Potable Water Supply Rules.

### **5.1 APPLICATION AND REQUIRED INFORMATION**

Any person desiring approval of a Boundary Line Adjustment shall submit an application to the Zoning Administrator. The application shall include a mylar survey plat completed by a Vermont licensed surveyor containing the following information:

- a) A legal description of properties subject to the boundary line adjustment application;
- b) The date of preparation of the maps, an identified north arrow, and the scale of the map;
- c) The total area of each lot before and after the proposed boundary line adjustment;
- d) The location and dimensions of all structures, driveways, sewage disposal systems, wells, utilities and other improvements on each lot subject to the proposed boundary line adjustment; and
- e) A description of the meets and bounds of the lots that will result from the boundary line adjustment by identifying a beginning point and a description of the length and direction of each course in the tract in sequence and which returns to the beginning point.

Additionally, the application shall contain:

- f) The names, addresses and telephone numbers of all property owners involved in the proposed boundary line adjustment; and
- g) Signed and notarized authorization from all property owners.

### **5.2 CRITERIA FOR APPROVAL**

All Boundary Line Adjustments shall be consistent with the following standards:

- a) Boundary Line Adjustment does not create a new lot or lots.
- b) The parcels resulting from the Boundary Line Adjustment shall meet all dimension, area and land use regulations of the Zoning Bylaws.
- c) If one or both lots, or the structures located thereon, at the time of the application for a Boundary Line Adjustment do not conform to the Zoning Bylaws, the adjustment shall not increase or worsen the nonconformity of the nonconforming lot(s) or structure(s).
- d) The Boundary Line Adjustment does not realign lot lines that create directional changes in the orientation of lot(s), such as changing front yards into side yards or rear yards [and] which result in nonconforming setbacks.

### **5.3 ZONING ADMINISTRATOR REVIEW AND ACTION**

Based on review of the proposed Boundary Line Adjustment, the Zoning Administrator shall determine if the proposed boundary line adjustment meets the criteria for approval stated above. If the Zoning Administrator finds that the proposed boundary line adjustment complies with all the above requirements, the application shall be approved. If the Zoning Administrator finds that the proposed boundary line adjustment does not comply with the above requirements or there is any doubt about the application meeting the above criteria, the application shall be denied. The decision by the Zoning Administrator may be appealed to the DRB.

### **5.4 FINAL APPROVAL AND AUTHORIZATION FOR PROPERTY OWNERS: APPROVAL OF THE BOUNDARY LINE**

Adjustment shall constitute authorization for the applicant to prepare appropriate documents to transfer the property being adjusted or record the boundary line adjustment agreement, as indicated. A Boundary Line Adjustment shall be completed according to the following:

The owner(s) shall have prepared the appropriate deeds for the transfer of ownership or an appropriate boundary line adjustment agreement, and in each case the necessary transfer tax returns, and a survey map that meets all of the requirements set out in Section 5.01.1 above including the mylar required for recording in the land records. The deed and map shall contain the following language: "This conveyance (or survey) is for the purpose of accomplishing a boundary line adjustment. It shall not create any additional lots, tracts, parcels, or divisions." The map shall contain a signed statement of approval by the Zoning Administrator. The map shall contain a note which references the recording information for the deeds for the actual property transfer.

### **5.5 FINAL APPROVAL AND RECORDING**

Upon securing signed approval by the Zoning Administrator, the applicant shall submit a Boundary Line Adjustment survey and mylar map to the Town Clerk for recording in the Land Records within 180 days, together with the deeds or boundary line adjustment agreement and transfer tax forms. Boundary Line Adjustments granted under this provision shall expire if approved surveys are not filed and recorded within this 180-day period.

## **6.0 APPLICATION & APPROVAL PROCEDURE**

### **6.1 APPLICABILITY**

Application and approval is required for the division of a parcel of land into two or more lots. Whenever any subdivision of land is proposed to be made, before any contract for sale of such subdivision or any part thereof is made, before any grading, clearing, logging, permit for erection of a structure in such proposed subdivision is granted, the subdivider shall apply in writing to the DRB for

and secure approval of the proposed subdivision.

The sale, exchange, or other transfer of parcels between adjoining lot owners, where such transaction does not create additional building sites or cause any existing lot to be made noncomplying regarding density and dimensional requirements, shall not be considered a subdivision. The DRB requires review and approval of such transaction and shall consider the proposal, presented in accordance with Section 5.4 of these regulations at a regularly scheduled meeting following a fifteen day period after public notice. The resulting parcel configuration shall be required to illustrate that no additional lot was created, but rather, that the description of the adjacent parcels are rewritten with the adjustment reflected. Proposed deed descriptions showing merged parcels are required to accompany the plans. Compliance with Section 5.10 is also required.

## **6.2 SKETCH PLAN SUBMISSION**

Prior to submitting an application for subdivision, the applicant shall submit to the Administrative officer three copies of a sketch plan of the proposed subdivision which shall include: existing and proposed property lines; type, location, and size of existing and proposed streets, utilities, and existing structures; name and address of owner of record and applicant; and name of owners of record of adjacent properties. The sketch plan shall be presented at a scale which adequately depicts natural features, proposed improvements and general site conditions.

The applicant or his authorized representative shall attend a meeting of the DRB to discuss the requirements of these regulations, and to receive the DRB's decision as to classification of minor or major subdivision category, as defined in Section 8 of these regulations. The DRB shall study the sketch plan to determine its conformance to or conflict with the town plan and zoning bylaws; evaluate its compatibility with existing or proposed private or public developments; assess potential impacts to public facilities and services; and consider any special problems that may be encountered. The DRB shall determine whether the sketch plan meets the purposes of these regulations and may make specific recommendations for changes; such recommendations to be made no later than the time of the next regular meeting of the DRB.

## **6.3 GENERAL APPLICATION PROCEDURES**

The Administrative Officer shall provide to any applicant the necessary forms for any municipal permit, and will coordinate the municipal effort in administering its development review programs. The Administrative Officer shall also inform applicants that they should contact the Agency of Natural Resources Permit Specialist for possible requisite state permits.

The applicant shall, within six months of the sketch plan approval and classification, proceed to file application on forms provided by the Administrative officer and prepared/approved by the DRB. Upon submission of the application, the applicant shall pay a fee in accordance with the schedule established by the DRB and approved by the Board of Selectmen for the administration of subdivision review. Included in said fee shall be the anticipated costs of any public hearing and/or warning expenses not otherwise provided for herein. In addition, the applicant shall notify all adjacent landowners to the proposed subdivision, in writing, of the intent of application, including the date, time, and location of the first public hearing to be held by the DRB; such notification to be mailed or delivered not less than ten days prior to the first public hearing.

Major subdivisions are required to meet procedures for submission and review of preliminary and final phases. The preliminary stage is waived for minor subdivisions, which shall require only the submission of a final plat.

#### **6.4 PRELIMINARY PLAT SUBMISSION REQUIREMENTS**

Four copies of the preliminary plat shall be submitted at least ten days prior to the warned public hearing, conforming to the layout shown on the sketch plan plus any recommendations made by the DRB, and shall contain, or be accompanied by, the following information:

1. Proposed subdivision name or identifying title;
2. Name and address of owner of record, with deed identification, subdivider, and designer of the plat, said designer to be qualified to perform such design under applicable regulations of the State of Vermont.
3. Location and dimensions of all boundaries and area of entire parcel and/or contiguous parcels in single ownership, whether or not all land therein is to be subdivided, along with location and dimensions of proposed lot lines and areas of proposed lots;
4. Location of existing and proposed easements, structures, watercourses and wetlands, wooded areas, and other essential existing physical features;
5. Names of adjacent landowners of record and evidence of notification, such as a certificate of mailing;
6. Location and details of existing or proposed water mains, sewer lines, drainage ways, drainage structures;
7. Applicable zoning designation and district boundaries;
8. Existing street(s) names, rights-of-way boundaries and present widths, private ways, curb cuts and intersections;
9. Proposed street(s) limits, profiles, cross sections and construction specifications/details;
10. Contours in sufficient detail to clearly indicate existing and proposed grades where proposed change in elevation will be five feet or more, and/or in order for the DRB to properly evaluate specific aspects of the project, such as storm water drainage, landscaping, etc.;
11. Proposed connection with existing municipal water supply or proposed location of on-site water supplies;
12. Proposed locations of any wastewater disposal systems, including location and results of test pits and percolation tests;

13. Drainage plan, indicating provisions for collection and discharge of storm drainage;
14. Soil classification, if required by the DRB, taken from U.S.S.C.S. delineation/designation;
15. Landscaping plan, satisfying the requirements of Section 2.7 of these regulations at a minimum, and indicating proposed erosion control procedures;
16. Vicinity map at a scale not greater than 1" = 1500' , locating the outline of the entire parcel in relation to surrounding area, and including the nearest street intersection, if possible;
17. Numerical and graphic scale with plan not to exceed a scale of 1" = 100' , unless a smaller scale is approved by the DRB, original and revision dates, magnetic and true north arrows;

In the case where a subdivision creates only one new lot and said lot comprises not more than 10% of the gross land area of the original parcel, the requirements of Section 5.5 shall apply only to the new lot and a sketch plan of the subdivision with original parcel boundaries shall be required.

## **6.5 REVIEW AND APPROVAL OF PRELIMINARY PLAT**

The DRB shall consider the preliminary plat at a public hearing following a fifteen day public notice period, advertised and warned.

The DRB shall review the impact of each major subdivision and determine that such subdivision:

1. Will not result in undue water or air pollution. In making this determination, consideration shall be given to elevation of land in relation to flood plains, nature of soils and their ability to adequately support waste disposal, slope of the land and its effect on effluents, potential effects of construction and continued activity on air quality, applicable state and local health and resource regulations.
2. Does have sufficient water available for reasonably foreseeable needs of the development, and will not burden existing water supplies.
3. Will not cause unreasonable soil erosion or undue reduction in the capacity of the land to hold water.
4. Will not cause unreasonable highway congestion or unsafe conditions with respect to use of highways existing or proposed.
5. Will not have undue adverse impact on the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas.
6. Maintains efficiency of allocation and distribution of street, facility, and utility installation, construction, and maintenance.

7. Will not cause unreasonable burden on the ability of the municipality to provide services, including education, fire, rescue and police protection, solid waste disposal, water supply and wastewater disposal, and road maintenance.

In light of findings made on these standards, the DRB may require reasonable modifications, impose conditions, and/or mandate appropriate phasing of the proposed subdivision.

Within forty-five days after the meeting on the preliminary plat, the DRB shall take action to approve, with or without modifications, or disapprove said preliminary plat. The DRB shall state in its records any modifications which it will require, or the grounds for disapproval. The records and preliminary plat shall also reflect the amount, surety, and conditions of any bonds which will be required before final approval.

Approval of a preliminary plat shall not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the DRB may require additional modifications as a result of further review of the subdivision or as a result of new information obtained at any public hearing held pursuant to these regulations.

## **6.6 FINAL PLAT SUBMISSION REQUIREMENTS**

Within six months of the preliminary approval for a major subdivision, or sketch plan approval for a minor subdivision, the applicant shall submit four copies of the final plat at least ten days prior to the public hearing, conforming to the layout shown on the preliminary plat and/or sketch plan plus any recommendations made by the DRB, and shall contain, or be accompanied by, the following information:

1. All requirements for a preliminary plat as delineated in section 5.5;
2. Evidence of acceptance of location, design, and specifications of proposed driveways, private streets and drainage plans by the Town Road Foreman, together with existing and proposed road profiles and cross sections, construction plans, and specifications; also, acceptance by Board of Selectmen of streets intended for dedication to the Town;
3. Evidence of approval by the Administrative Officer of the design of those improvements required pursuant to section 4 (Water Supply and Wastewater Disposal), of these regulations and if applicable, copies of Vermont Agency of Natural Resources permits regarding same;
4. Copies of such covenants or deed restrictions as are intended to cover all or part of the parcel, and methods of dedication of proposed easements, rights-of way, and open spaces, which may be required by these regulations. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him/her of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has legally been accepted by the town;
5. If the subdivision abuts a state highway, or if a proposed street intersects a state highway, a

statement from the Vermont Agency of Transportation approving such;

6. If a subdivision is to be served by a public water supply or by public sewers, a statement from the municipal department or company involved, attesting to availability of such service and approval of design and connection;
7. The plat shall contain the following statement: "The subdivision regulations of the Town of Shaftsbury are a part of this plat, and approval of this plat is contingent upon completion of all the requirements of said regulations, excepting only any variances or modifications made in writing by the DRB, and attached hereto.";
8. The identifying number and date of approval of all applicable state and local permits, including the town subdivision permit number;
9. Space shall be reserved on the plat for endorsement by all appropriate parties;

## **6.7 REVIEW AND APPROVAL OF FINAL PLAT**

A public hearing on the final plat shall be held by the DRB within thirty days after the time of its submission to the Administrative Officer. Said hearing shall be advertised and warned in accordance with the 24 V.S.A. S4447. In addition, notice of such hearing shall be forwarded to the Bennington County Regional Commission, and to the clerk of an adjacent municipality, in the case of a project located within five hundred feet of a municipal boundary, at least fifteen days prior to the hearing.

Within forty-five days following the public hearing, the DRB shall take action to approve, with or without modifications and/or conditions, or disapprove, the final plat. The DRB shall state in its records any modifications and/or conditions which it will require, or the grounds for disapproval.

## **6.8 PERFORMANCE GUARANTEE REQUIREMENTS**

To ensure that all required improvements are undertaken and completed in conformance with the final plat, the DRB may require that no building permit be issued for any structure on any lot within the subdivision until a licensed professional engineer certifies that all such improvements have been completed. For a subdivision that is to be developed in phases, all required improvements for a phase must be certified complete prior to the issuance of a building permit for any structure on any lot within that phase of the subdivision. Alternatively, the DRB may require that the subdivider follow the procedures set forth in subparagraph (1) and (2) below.

1. In an amount set by the DRB, the subdivider shall file with the Board of Selectmen a certified check, irrevocable letter of credit, performance bond, or other performance guarantee approved by the Board of Selectmen, to cover the full cost of required improvements. Any such performance guarantee shall be satisfactory to the Board of Selectmen and municipal attorney as to form, sufficiency, manner of execution, and surety. The DRB shall fix the term of any bond up to three years. The term of such bond may, with the consent of the owner, be extended for a period of time which may extend to the date of completion of the improvements covered



by the bond. For projects to be completed in phases, the provisions of this section may be applied separately to each phase of the project. As improvements are completed, the developer shall be released from all liability except for the portion of the improvements not yet completed. The DRB shall require the subdivider to submit construction cost estimates to establish an appropriate figure for said performance guarantee.

2. In addition to surety guaranteeing completion of improvements, surety covering maintenance of roads and improvements for a period of two years from completion shall be furnished in an amount not to exceed ten (10) percent of the cost of the improvement.

## **6.9 FILING OF APPROVED PLAT**

Four copies of the approved final plat shall be submitted and distributed as follows: one each to the DRB files, Building Inspector, Road Foreman, Board of Listers. No changes, erasures, modifications, or revisions shall be made in any subdivision plat after approval has been given by the DRB and endorsed in writing on the plat, unless the plat is first resubmitted to the DRB and the DRB approves any modifications.

The express approval or assent by omission of the subdivision plat shall expire in ninety days unless within that period the plat shall have been duly filed and recorded in the office of the Town Clerk in accordance with 27 V.S.A. S 1403.

## **7.0 OPEN SPACE SUBDIVISION PLANNING (Approved by voters March 3, 2015)**

### **7.1 PURPOSE**

The purpose of an open space subdivision is to promote compact development within those areas most suitable for residential use while preserving surrounding or adjacent open space. Open space subdivisions enable and encourage flexibility in the development of tracts of land, promote the most appropriate use of land, facilitate the economical provision of streets and utilities, and enhance the environmental quality of the area through maximum preservation of open land, as provided for in Section 6.1.2 of the Town Plan.

### **7.2 OBJECTIVES OF OPEN SPACE DESIGN**

The following objectives shall be used to guide the design of open space subdivisions and location of conserved open lands:

1. Conservation and improvement of natural features and green areas, including areas along roads, the banks of rivers, streams and lakes, hillsides, ridgelines, and fields.
2. Retention of important fish and wildlife habitat, and nature observation areas; protection of the quality of water resources.

3. Protection of natural drainage ways and flood water retention areas, and groundwater recharge areas.
4. Provision, in appropriate areas of population concentration, of areas of land for recreational use.
5. The provision of adequate controls to assure the permanence of open space use in areas so designated, through public acquisition of easement or other suitable type of agreement.
6. Open space plans shall be designed to take the greatest possible advantage of all existing natural features noted above, and to make such open land easily available, if not adjacent to all of the lots in the subdivision.
7. Locate wastewater disposal systems on most suitable soils.
8. Ensure site development on least fertile soils and maximize the usable area remaining for agriculture.
9. Locate building sites within wooded areas or along the edges of open fields.
10. Avoid loss or degradation of scenic vistas.
11. Protect important historic sites.
12. Configure lots so as not to preclude access to recreational resources.
13. Minimize potential for environmental pollution.

### **7.3 OPEN SPACE SUBDIVISION**

The DRB may require consideration of an open space subdivision when failure to do so would result in one or more of the following:

1. A significant reduction in the agricultural use potential of the land;
2. Degradation of the natural visual appeal of a hillside, ridgeline, or open field;
3. Encroachment upon a natural or historic area, wildlife habitat, or a stream, wetland, or other water resource;
4. Elimination of access to an important recreational resource;
5. Cause excessive erosion, ground or surface water contamination, or otherwise endanger environmental quality.

## 7.4 PERMISSIBLE SITES

Open space subdivision shall be permitted in Rural Residential or Village Residential Districts, in accordance with the provisions of this subsection, provided that the wastewater disposal and water supply system shall comply with the applicable regulations of the Vermont Agency of Natural Resources.

7.4.1 At least 20% of the "usable" land area of the subdivision shall be designated as open space as defined in Section 7.6.5. or 7.6.6. Usable land shall include land lying outside of easements or rights of way; lying outside of a wetland and/or wetland buffer; lying beyond the limits of a pond, lake or stream; with slopes of less than 25%; free of surface ledge and lying outside a flood plain.

7.4.2 Permitted Permissible Uses in Open Space Subdivisions:

7.4.2.1 One family dwelling and two family dwellings; multifamily dwellings if allowed in the underlying zoning district.

Any other uses permitted in the District in which the open space subdivision is located. The lot occupied by such use shall be separately shown on the Site Plan and the area shall not be included as any part of the Open Space Subdivision for purposes of determining the number of dwelling units in such subdivision.

7.4.2.2 Any conditional use permitted in the District in which the Open Space Subdivision is located may also be permitted as a conditional use in the Open Space Subdivision. The lot occupied by such conditional use shall be separately shown on the Site Plan and the area shall not be included as any part of the Open Space Subdivision for purposes of determining the number of dwelling units in such subdivision.

7.4.2.3 Accessory uses and signs, in compliance with the requirements of the District in which the subdivision is located.

7.4.3 Density Bonuses: A plan for development which incorporates open space design and includes at least 20% of the usable land area of the subdivision as dedicated open land shall be eligible for a density bonus. The permitted number of units shall be calculated by dividing developable lot area (i.e. total lot area minus area in wetlands or flood plain, area of land exhibiting slopes in excess of 25%, area of land located in zoning districts where open space subdivision is not permitted, and/or areas of land encumbered by rights-of-way, access easements, or buffer zones) by the required area per dwelling unit for that district, and then increasing that number by 20%.

If a density bonus is awarded, the resulting parcels from the subdivision may not

be further subdivided.

#### 7.4.4 Lot Dimensional Requirements for entire subdivision parcel.

The requirements in this section shall apply to the entire lot being submitted for subdivision. There is no minimum requirement for individual lots within the subdivision and it is conceivable that the developed land could be held in common.

District in which Located	VR	RR 40	RR 80	RR 200
Minimum Lot Width		75 feet	100 feet	150 feet
Minimum Front Yard	15 feet	20 feet	25 feet	30 feet
Minimum Side Yard	10 feet	10 feet	15 feet	20 feet
Minimum Rear Yard	10 feet	10 feet	20 feet	30 feet
Minimum Road Frontage	50 feet	75 feet	100 feet	150 feet

### **7.5 DESIGNATED OPEN LAND -COMMONLY OWNED OR PUBLICLY OWNED**

7.5.1 The DRB may require that the plat show one or more designated areas of character, size, shape, and location suitable to be used as conservation land or park; such land shall be at least 20 percent of the total area of the subdivision.

7.5.2 Such land shall be offered for dedication to the Town for park or conservation purposes or shall be dedicated to a community association or other entity, as herein provided. As a condition of approval of a plan of development which includes community open land, the applicant shall provide for a non-profit community association or cooperative, organized under the laws of the State of Vermont, composed of all present and future owners of lots in such subdivision or project. Each lot shall be entitled to one vote, to be cast by the owner thereof, and membership shall be mandatory for all owners. Each owner shall be liable for his proportionate share of assessments for maintenance, upkeep, and other cost of operations. The open land and other properties and facilities of such association or cooperative shall be held for the benefit of the owners of all lots therein. The charter of such association or cooperative shall be subject to the approval of the DRB.

7.5.3 Open land dedicated to the Town shall abut a public street or have direct access to a public street through a right-of-way dedicated to public use. Open land owned by a community association shall be freely accessible to all lot owners within the subdivision. Required rights-of-way shall not be included in any

playground area, shall be at least 20 feet wide, and shall be constructed and maintained in a manner suitable for pedestrian or vehicular traffic, with maximum grade of 10 percent. When a property line of a subdivision abuts existing open land, the DRB may require the new public open land to form a continuation of the existing area to provide a single unified area.

**7.5.4** Land to be used as public open land shall be maintained in a condition for the purpose intended. Undesirable growth and debris shall be removed from all such areas. Wooded areas and those in proximity to watercourses shall be left in a natural state. There shall be no depositing, dumping, or storage of waste, or other natural or man-made material, supplies, or equipment, on any subdivision area designated as open land. No work, removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from its original condition, until a site plan, prepared in accordance with final plat procedures, shall have been approved by the DRB.

## **7.6 DESIGNATED OPEN LAND PRIVATELY OWNED**

7.6.1 Instead of requiring that designated open land be dedicated to the Town or a community association, the DRB may approve an open space design that includes designated open land located on one or more individual privately owned lots. Such open land must be clearly depicted on the plat, include at least 20 percent of the total area of the subdivision, be of a character, size, and location consistent with the objectives of this section, and be approved by the DRB.

7.6.2 To ensure that designated open land remains undeveloped, each lot shown on the plat as containing any portion of the designated open land shall include a building envelope. All primary and accessory structures shall be located within the building envelope and no portion of the building envelope shall lie within the designated open land.

7.6.3 An easement, deed restriction, or other appropriate legal vehicle shall be applied to the designated open land on each lot containing said open land. Such easement or restriction shall provide for land conservation, agricultural use, recreational access, or other purpose deemed appropriate by the DRB.

7.6.4 The DRB may require that provision be made to ensure that designated open land be accessible to all lot owners within the subdivision. The DRB also may require, when a property line of the subdivision abuts existing open land, that the newly designated open land be contiguous to the existing open land.

## **8.0 ADMINISTRATION & ENFORCEMENT**

## **8.1 AUTHORITY**

The DRB is hereby authorized and empowered to do all acts and things set forth and provided for in 24 V.S.A. Sections 4401 (b)(2) and 4413 – 4421.

## **8.2 ENFORCEMENT, VIOLATIONS & PENALTIES**

These regulations shall be enforced in accordance with 24 V.S.A. Sections 4444 and 4445.

## **8.3 APPEALS**

Any person, aggrieved by an official action of the DRB, may appeal therefrom to the Bennington County Superior Court, as provided for in 24 V.S.A. Section 4475.

## **8.4 OTHER REGULATIONS**

These regulations are not intended to interfere with or abrogate any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these Regulations imposes restrictions different from those imposed by any other provision of these Regulations or any other ordinance, rule, regulation, or other provision of law, those provisions which are more restrictive or impose higher standards shall control.

## **8.5 CONDITIONS**

The DRB may impose reasonable conditions on the subdivision of land for the design, dedication and improvement of land so as to conform to the physical development of Shaftsbury and for the safety and general welfare of the future land owners in the subdivision and of the community at large.

## **8.6 MODIFICATIONS**

Where the DRB finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations or where there are special circumstances of a particular plat, it may vary these regulations so that substantial justice may be done and the public interest secured.

Where the DRB finds that, due to the special circumstances of a particular plat, the provisions of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision it may modify such requirements, subject to appropriate conditions.

In granting waivers and modifications, the DRB shall require such conditions as will secure substantially the objectives of the requirements so waived or modified.

No such waiver or modification may be granted if it would have the effect of nullifying the intent and purpose of the Plan, the Zoning Regulations, the Capital Budget and Program, or these Subdivision Regulations.

## **8.7 ACCEPTANCE OF STREETS**

Nothing herein is intended to modify the requirements of law with reference to the acceptance of streets

by the Town, or to modify or control the construction, reconstruction, or extension of roads by the Town or State.

## **8.8 SEVERABILITY**

If any provision of these regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not invalidate any other portion.

## **8.9 EFFECTIVE DATE**

The effective date of these regulations is shown on the front cover.

## **9.0 DEFINITIONS**

**ACT:** Title, 24 V.S.A. Chapter 117, the Vermont Municipal and Regional Planning and Development Act.

**ADMINISTRATIVE OFFICER:** An individual appointed by the Planning Commission with the approval of the Board of Selectmen, as provided for in 24 V.S.A. 4442, who is responsible for the administration of the municipal subdivision and zoning regulations.

**ADJACENT LANDOWNER:** An owner of contiguous land including land immediately across road or highway.

**AGRICULTURAL LAND:** Land with primary or secondary agricultural soils that is used, or has been used, with potential viability for reclamation, for any row crop, hay, vegetables, small fruits, nursery, Christmas trees, or orchard.

**APPLICANT:** Shall mean the owner of record or his agent duly authorized in writing.

**AUTHORIZED AGENT OR REPRESENTATIVE:** A person or group of persons, who have been duly authorized in writing filed with the DRB by the subdivider to act in his or her behalf.

**BUILDING ENVELOPE:** That portion of a lot which shall contain all principal buildings to be constructed on the lot.

**CERTIFIED SITE TECHNICIAN:** An individual certified by the Vermont Department of Environmental Conservation for design of single-lot creation subdivisions.

**DEVELOPMENTAL RIGHTS:** The right of an owner or lessee of a parcel of land to construct, erect, or place any building or structure the useful occupancy of which will require the installation of plumbing or sewage disposal facilities.

**DRB:** The Development Review Board.

**EASEMENT:** The authorization of a property owner for the use by another, and for a specialized purpose, of any designated part of his or her property.

**FINAL SUBDIVISION PLAT:** The final drawings on which the subdivider's plan of subdivision is presented to the DRB for approval and which, if approved, may be filed for record with the Municipal Clerk, as per the requirements of sections 5.6, 5.7 and 5.9 of these regulations.

**FOREST LAND:** Land with prime forest soils that is used, or has been used with potential viability for reclamation, for commercial forestry.

**MULTIFAMILY DWELLING:** A structure including three or more dwelling units.

**OPEN LAND:** Land unoccupied by structures, buildings, streets, rights-of-ways, or parking lots; especially meadow land and agricultural land.

**OPEN SPACE DEVELOPMENT/SUBDIVISION PLANNING:** The subdivision or development of land whereby the buildings or lots are sited in such a way that they may not conform with minimum lot size or yard requirements, but do conform with the overall density for the district, considering only developable land on the site. An open space subdivision allows for communal open space, environmental protection, economies of development, and economical provision of services.

**PLAT:** A map or representation of the project on paper of a piece of land or mylar (reproducible material) subdivided into lots and streets, drawn to scale.

**PRELIMINARY PLAT:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the DRB for its consideration, as per the requirements of sections 5.4 and 5.5 of these regulations.

**PROFESSIONAL ENGINEER:** An engineer, registered in the State of Vermont, who has been trained in, and engages primarily in, civil or sanitary engineering.

**PUBLIC HIGHWAY:** Any class 1, 2, or 3 town road or state highway shown on the official highway map of the Town of Shaftsbury on the effective date of this ordinance.

**REGISTERED SURVEYOR:** A land surveyor, licensed and registered in the State of Vermont.

**RESUBDIVISION:** A change of recorded subdivision plat if such change affects any street layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any such change if it affects any map or plan legally recorded.

**SKETCH PLAN:** A sketch of a proposed subdivision as per the requirements of section 5.2 of these regulations.

**STREET:** Any road, highway, avenue, street, land, or other way between right-of-way lines, whether publicly or privately owned, used or to be used for vehicular traffic.



**SUBDIVIDER:** Any person, firm, cooperation, partnership, or association having an interest in land who shall lay out for the purpose of sale, lease, or development any interest, lot, unit, or plat in a subdivision.

**SUBDIVISION:** The division of a parcel of land into two or more lots, or other divisions for the purpose of sale, lease, or development. The word subdivision shall refer to the land to be subdivided or to the process of subdivision, as appropriate to the context, and shall include resubdivision.

**SUBDIVISION, MAJOR:** Any subdivision which is not a minor subdivision.

**SUBDIVISION, MINOR:** A subdivision containing not more than four (4) lots which have frontage on an existing public street, and which does not require any new street, street extension or extension of municipal facilities.

**SUBDIVISION PLAT:** See PLAT.

**WASTEWATER DISPOSAL SYSTEM:** A system, designed by a professional engineer or certified site technician, that is used to treat and dispose of domestic, commercial, or industrial wastewater. The design and construction of such a system shall meet all of the requirements of Chapter 5/Subchapter 10 of the Vermont Health Regulations.

**WATER BOARD SUPERVISOR:** Official hired by the Water Board (the five members of the Shaftsbury Selectboard) to administer the Shaftsbury Water Department.