

**REVISIONS TO SHELBURNE ZONING BYLAW PROPOSED BY THE PLANNING BOARD
FOR SHELBURNE ANNUAL TOWN MEETING 2018**

Article _____. To see if the Town will vote to adopt the following changes to the Town of Shelburne, Massachusetts Zoning Bylaws, Section 2 Definitions, Section 4.3 Table of Use Regulations as follows and to allow for the appropriate renumbering of that section to maintain the definitions being presented in alphabetical order, or take any action relative thereto.

(I.) Insert the following new definitions:

Commercial Junkyard or Recycling Center: Any area, lot, land, parcel, building or structure or part thereof used for the commercial storage, collection, purchase, sorting, processing, salvaging or reuse of any used or discarded items or materials for the purpose of resale, distribution for permanent disposal, recycling or any related operations other than composting facilities. Any such operation must operate in full compliance with any applicable local, state or federal regulations.

Composting Facility: Any area, lot, land, parcel, building or structure or part thereof used for the commercial storage, collection, purchase, sale, sorting, or processing, of any compostable material, (that is, any organic material, agricultural or otherwise, which is not contaminated by toxic substances, in excess of those allowed by applicable regulations, and amenable to accelerated biodegradation under controlled conditions). Any such operation must operate in full compliance with any applicable local, state, or federal regulations.

(II.) Amend Section 4.3 Table of Use Regulations as follows:

Section 4.3 - Add “*recycling center*” to the Use Table on the same line as junkyard. (Allowed only in the Industrial Zone by Special Permit).

<u>Industrial Uses</u>	<u>RA</u>	<u>VR</u>	<u>VC</u>	<u>C</u>	<u>I</u>	<u>See</u>
Junkyard, recycling center , automobile dismantling or used parts yards, dumps, and landfills	N	N	N	N	SP	

Section 4.3 – Add “*Composting Facility*” to the Use Table in the Commercial Business Uses Section requiring a “SP” in every district.

<u>Commercial/Business Uses</u>	<u>RA</u>	<u>VR</u>	<u>VC</u>	<u>C</u>	<u>I</u>	<u>See</u>
Composting facility	SP	SP	SP	SP	SP	

 Article _____. To see if the Town will vote to adopt the following changes to the Town of Shelburne, Massachusetts Zoning Bylaws, Section 2. Definitions and Section 4.3 Table of Use Regulations, as follows, or take any action relative thereto.

(I.) Substitute the following language for existing definitions:

Solar Panel Building-Mounted Systems: any system of solar panels, located on the building designed primarily to generate heat or electricity.

[Former definition: Solar Panel Systems for Premises Use: any system of solar panels, whether located on the building or the ground, designed primarily to generate heat or electricity. for the principal home or business located on the lot; such systems may generate a limited amount of excess electricity for resale to an electrical utility provided the system is designed principally to supply the electrical needs of the home or business on the lot.]

Small-Scale Ground-Mounted Solar Energy Generating Facility: a ground-mounted solar electric system designed for residential/industrial/commercial use on up to one acre.

[Former Definition: Small-Scale Industrial Solar Energy Generating Facility: a solar electric system designed for industrial/commercial use that generates up to 250kW.]

(II.) Modify existing definition to read as follows:

Commercial Electric Generating Facilities: a commercial electric generating facility but specifically excluding facilities generating from coal, nuclear power, and wind turbine systems, *Wind Turbine Systems for Premises Use, Small-Scale Ground-Mounted Solar Energy Generating Facilities, Solar Panel Building-Mounted Systems, and Large-Scale Ground-Mounted Solar Electric Generating Installations.*

[Former definition: Commercial Electric Generating Facilities: a commercial electric generating facility but specifically excluding a facility generating from coal, nuclear power, and wind turbine systems, except Wind Turbine Systems for Premises Use, as defined in Section 2.39.]

(III.) Modify the Energy Generation Uses section of the Table of Use Regulations as follows – changes are in bold typeface:

<u>Energy Generation Uses</u>	<u>RA</u>	<u>VR</u>	<u>VC</u>	<u>C</u>	<u>I</u>	<u>See</u>
Premises-Use Wind Energy Systems	SP	SP	SP	SP	SP	Sec. 17
Solar panel building-mounted systems for premises-use	Y	Y	Y	Y	Y	
Commercial electric generating facilities	SP	SP	SP	SP	SP	
Coal fired electric generating facilities	N	N	N	N	N	
Nuclear powered electric generating facilities	N	N	N	N	N	
Wind powered electric generating systems not covered in Section 17	N	N	N	N	N	
Large-Scale Ground-Mounted Solar-Electric Generating Installation (<i>LSSI</i>)	SP	N	N	SP	SP	Sec. 18
Small-scale industrial ground-mounted solar energy generating facility	SP	SP	SP	SP	Y	

Article _____. To see if the Town will **vote to adopt the following change to the Town of Shelburne, Massachusetts Zoning Bylaws, Section 18.3 Definitions and Section 18.4.3** , or take any action relative thereto:

Modify existing definition to read as follows:

Large-Scale Ground-Mounted Solar-Electric Generating Installation -- A solar electric system that is structurally mounted on the ground and covers at least one acre but not more than **twenty (20)** acres of land.

*[Former Definition: Large-Scale Ground-Mounted Solar-Electric Generating Installation -- A solar electric system that is structurally mounted on the ground, is not roof-mounted, and covers at least one acre but not more than **ten (10)** acres of land.]*

18.4.3 Special Permit ... The Special Permit may provide for a waiver from the prescribed bylaw requirements subject to Subsection ~~18.14~~ **18.15**. [Note: this is to correct a reference to another part of the bylaw.]

Article _____. To see if the Town will **vote to adopt the following changes to the Town of Shelburne, Massachusetts, Zoning Bylaw, Section 6 Special Permit**, or take any action relative thereto:

(I.) Modify Section 6.3 to read as follows:

6.3 Lapse of Special Permit: If substantial use or construction under a Special Permit, in the sole judgment of the SPGA, has not commenced within ~~two (2)~~ **three (3)** years of the date of issuance of the Special Permit, that permit shall be considered to have lapsed. If an existing use requiring a Special Permit is discontinued or abandoned for a period of more than two (2) years in the sole judgment of the SPGA, then the Special Permit shall lapse.

(II.) Insert a new Section 6.6.6 to read as follows:

6.6.6. Signage in compliance with Section 9 Sign Regulations.

Article _____. To see if the Town will **vote to adopt the following changes to the Town of Shelburne, Massachusetts, Zoning Bylaw, Section 9 Sign Regulations,** or take any action relative thereto:

(I.) Insert the following new sections:

9.1.3.9 Commercial signs are allowed by right in the Commercial, Industrial and VC districts as well as signs for commercial activity in the RA if they meet the other requirements of this bylaw.”

9.4.18 Commercial signs, for permitted uses on the premises, in the RA district must meet all of the following conditions: (a) no more than twelve (12) square feet in area on a side, (b) located at least five (5) feet from the front property line, (c) no more than eight (8) feet above ground level, (d) not-illuminated, and (e) the only such *Sign* on the lot.

Article _____. To see if the Town will **vote to adopt the following changes to the Town of Shelburne, Massachusetts, Zoning Bylaw, Section 4.3 Table of Use Regulations,** or take any action relative thereto:

(I.) Modify the following uses in the Table to read as follows:

Residential Uses

Apartment on Upper Floors ~~off of~~ Commercial....

Agricultural & Recreational Uses

Commercial Greenhouse on a lot 5 acres or greater

<u>RA</u>	<u>VR</u>	<u>VC</u>	<u>C</u>	<u>I</u>	<u>See</u>
Y	Y -SP	Y SP	Y	Y	

Community Services

Public Service Corporation Facility not exempted from zoning regulation

<u>RA</u>	<u>VR</u>	<u>VC</u>	<u>C</u>	<u>I</u>	<u>See</u>
N	SP N	SP	SP	SP	

~~Hospital,~~ Medical Clinic

SP	SP	SP	SP	SP	
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Hospital

SP	N	SP	SP	N	
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Commercial/Business Uses

Business, Professional with more than 3,000 sq. ft. enclosed floor space

<u>RA</u>	<u>VR</u>	<u>VC</u>	<u>C</u>	<u>I</u>	<u>See</u>
N	SP -N	SP	SP	SP	

Veterinarians

SP	SP -N	SP	Y	Y	
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Industrial Uses

Quarrying, Gravel, Mining & Earth Removal

<u>RA</u>	<u>VR</u>	<u>VC</u>	<u>C</u>	<u>I</u>	<u>See</u>
SP	SP N	SP N	SP	SP	Sect. 13.1

.....change “SP” to “N” in the VR and VC districts.

(II.) Add an asterisk to the following listings in the Use Table that refers to a footnote that reads as follows:

**These uses may also be subject to Board of Health Regulations and Building Code Requirements.

- Bed and Breakfast**
- Motels, Hotels, Lodging House**
- Inns**
- Short-term Vacation Rental, Tourist Home**

Article _____. To see if the Town will **vote to adopt the following changes to the Town of Shelburne, Massachusetts Zoning Bylaws, Section 16: Telecommunications Regulations, and the related line of Section 4.3 Table of Use Regulations**, or take any action relative thereto:

(I.) Modify the existing definitions to read as follows:

Commercial Radio Service (CRS) facility: a facility consisting of ~~a~~***one or more of the following:*** a radio frequency configuration, *wireless antenna (regardless of size)*, support structures (*including telephone/electricity/cable poles as well as Commercial Radio Service (CRS) towers*), equipment storage shelters, and accessory equipment required for the reception, switching, and/or transmission of wireless telecommunications including, but not limited to, paging, enhanced specialized mobile radio, personal communications services, cellular telephones and similar technologies, ***but excluding personal and/or small business cell phone systems.***

Wireless Antenna: a device for transmitting and receiving electromagnetic waves, ~~This includes~~ ***including but not limited to***, antennas, whip antennas, microwave dishes, ***and antennas designed to be located on a widely-distributed basis as opposed to on a central tower.***

(II.) Modify the existing sections as follows:

16.3.10. All new *CRS facilities* shall be at least a distance of ~~500~~ **1500** feet from any residential structure.

16.3.11. All new *CRS Facilities* shall be at least a distance of ~~1500~~ **3000** feet from the property line of any school.

(III.) Insert a new section to read as follows:

Section 16.3.24. No new Commercial Radio Service (CRS) facility of any kind or size shall be located in the Village Residential and Village Commercial zones.

(IV.) Modify the Table of Use Regulations as follows:

<u>Community Services</u>	<u>RA</u>	<u>VR</u>	<u>VC</u>	<u>C</u>	<u>I</u>	<u>See</u>
Wireless Communication Facility	SP	SP-N	SP-N	SP	SP	Sect. 16

Article _____. To see if the Town will **vote to adopt the following changes to the Town of Shelburne, Massachusetts Zoning Bylaws, Section 21. Siting large-Scale Industrial & Commercial Facilities** as follows, or take any action relative thereto—changes are in bold typeface:

21.4.2 The application for a LSCIF and ASEF shall be accompanied by a fee established **in accordance with a fee policy which has been adopted by the ZBA which policy is consistent with state law.**

21.6.4 A certification or evidence satisfactory to the municipality that, prior to the commencement of any activity related to the LSICF or ASEFs, the Applicant (Owner/Operator) shall have accepted and complied with any applicable bonding or permitting requirements. Bonding shall be required to ensure repair by the applicant of any damage to municipal property including but not limited to roads, culverts, bridges, water or sewer facilities, cemeteries, buildings ~~and to any private property including damage to residential or business structures, private roads, private water wells, septic systems,~~ and landscaping caused by the construction, operation or maintenance of the LSICF and ASEFs. **Such bonds shall be handled by the Town in accordance with MGL Chapter 44, Section 53G½.”**

~~**21.6.7** Assurance that, at least 30 days prior to the commencement of any construction activities, the applicant (Owner/Operator) shall provide an appropriate site orientation and training course of the Operation's Preparedness, Prevention and Contingency Plan for all emergency responders. The cost and expense of the orientation and training shall be the sole responsibility of the applicant. The Applicant or Owner/Operator shall be required to hold at least one site orientation and training course every six months under this section unless such requirement is waived by the ZBA in their sole discretion.~~

~~**21.6.13** Certification that private freshwater well testing will be completed in compliance with §21.11.0 of this article.~~

21.7.7 Odor, vapors or particulate matter produced by construction or operation of the LSICF or ASEF's shall not exceed federal or state air quality standards. Applicant shall identify all hazardous pollutants that will be emitted that affect air quality that are regulated by MassDEP or the EPA. Applicant shall provide assurance that air quality testing will be conducted on a daily, weekly or more frequent basis at any LSICF or ASEF emission location including Compressor Stations, Metering Stations or Venting Stations located in the Town during the construction or operation of the facility to protect public health and safety. An ambient air quality monitoring station(s) shall be installed at least a year prior to the construction and operation of the LSICF or SEF's in order to establish baseline conditions. Such monitoring stations shall be installed on site and within one-half mile down wind of the site in the direction of the prevailing wind. Air quality reports should be provided to Town ~~and State~~ officials at minimum on a monthly basis during construction and operation.

21.8.2 **In compliance with the law**, during the construction, operation, maintenance, decommissioning or reclamation activities associated with the LSICF and ASEFs, the ZBA shall require, at the expense of the applicant (Owner/Operator), the services of an independent on-site inspector chosen by the ZBA with proven background and experience in the type of LSICF and ASEFs proposed to be constructed, whose role will include but not be limited to the following:

~~**21.10.5** Use of street serving exclusively residential neighborhoods is prohibited. — a. The use of roads designated by the Town as “scenic” roads shall be prohibited. — If the ZBA wishes to prohibit the use of specific streets or roads with respect to an application, it shall do so in accordance with MGL Chapter 85, Section 2.~~

~~**21.10.7** The ZBA **also reserves the right** may request that the Select Board ~~to~~ reduce speed limits, in accordance with MGL Chapter 90, Section 17C, on areas of roads that may present safety hazards for trucks hauling construction materials.~~

21.10.15 The applicant owner/ operator shall take all necessary precautions to ensure the safety of persons in areas established for road crossing and/or adjacent to roadways (for example, persons waiting for public or school transportation). Where necessary and permitted, during periods of anticipated heavy or frequent truck traffic associated with the development, the operator will provide flagmen to ensure the public safety and shall include adequate signs and/or other warning measures for truck traffic and vehicular traffic. **All such flagging operations shall be conducted in accordance with the 701 CMR Section 700, et. seq. and in consultation with the Massachusetts State Police and MassDOT.**

21.11.0 The Applicant and Owner/Operator of a LSICF and/or ASEFs shall provide the ZBA and Board of Health with the results of a pre-construction and post-construction water analysis and flow rate for each existing freshwater well within 750 feet of the LSICF and/or ASEFs **provided that written permission has been given by the property owner.** (MADEP Interim Wellhead Protection Area default radius for non-community sources for non-transient wells (NTNC).) If surficial geology warrants a greater testing area, the Board of Health can direct the Applicant and Owner/Operator to conduct testing for additional wells within the larger **area provided that written permission has been given by the property owner.** The tests shall conform to the following requirements:

21.11.3 If written permission has been granted by the property owner, a post-construction sample analysis shall be submitted for water quality testing by the applicant, owner/operator within three months after construction is completed for wells within 750 feet. Wells within 300 feet of the facility or associated structures shall be tested on an annual basis throughout the life of the facility with the results provided to the property owner with a copy to the local Board of Health. If surficial geology warrants a greater testing area, the Board of Health can direct the Applicant and Operator to conduct testing for additional wells within the larger area on an annual basis, **provided that written permission has been given by the property owner.**

21.11.6 If the results of the pre-construction and post-construction sample analyses indicate that well water contamination has occurred or flow rates have been reduced, the owner of the well ~~shall have the right to~~ *should* file a complaint against the Applicant, Owner/Operator with the regional MassDEP office with a copy to the Town Board of Health. The Applicant, Owner and Operator shall be required to conduct clean-up activities or repair or replace the well affected. If clean-up activities are conducted, the well shall be tested monthly for the contaminants listed in §21.11.4 for a 24-month period to ensure that the clean-up has been properly completed. The well(s) shall be tested annually thereafter, **provided that written permission has been given by the property owner.**

21.13.1 Performance Bond or Escrow Account. Prior to the ZBA issuance of a “Certificate of Compliance for Construction,” the Applicant, Owner/Operator shall submit to the Town a Performance Bond from a surety authorized to do business in the state to cover any damage to public ~~or private~~ property that occurs as a result of the construction of the LSICF and any SEF’s in an amount and for a term (e.g. construction period plus 2-3 years) determined by a professional engineer and acceptable to the Town. In addition, the Applicant, Owner/Operator shall provide a bond or establish an escrow account that will ensure that all testing and maintenance provisions required during the life of the LSCIF or ASEF facility are completed in accordance with this bylaw and any agreement with the ZBA related to the LSCIF and/or ASEF.

21.14.1.d. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the LSICF or ASEF shall be considered abandoned when it fails to operate for more than one year without the written consent of the ZBA. If the owner or operator of the LSICF or ASEF fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned LSICF or ASEF. The Applicant and Owner/Operator shall agree to allow entry to remove an abandoned or decommissioned installation. The Town’s cost for the removal may be charged to the property owner in accordance with the provisions of M.G.L. 139 **and/or MGL Chapter 40, Section 58 as the ZBA and the Select Board may determine.**

21.15.2 Any applicant, owner/ operator or other person who violates or permits a violation of this Bylaw shall pay to the Town a fine of \$300 per violation per day. ~~plus all court costs, including, but not limited to, reasonable attorney's fees, incurred by the Town on account of such violation.~~ Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Town are hereby authorized to issue a cease and desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith.

Article ____. To see if the Town will vote to adopt the following changes **to the Town of Shelburne, Massachusetts Zoning Bylaws**, relative to Adult Use Marijuana, or take any actions relative thereto:

(I.) Add the following definitions to Section 2, as follows:

Craft marijuana cultivator cooperative: a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments but not to consumers.

Independent Testing Laboratory: a laboratory that is licensed by the commission and is:

- a) accredited to the most current International Organization for Standardization 17025 (ISO/IEC 17025:2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the commission;
- b) independent financially from any Medical Marijuana Treatment Center (RMD) or Marijuana Establishment or licensee or marijuana establishment for which it conducts a test; and
- c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c.94C, § 34.

Marijuana Cultivator: an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment: a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

Marijuana Product Manufacturer: an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments but not to consumers.

Marijuana Retailer: an entity licensed to purchase and transfer cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): a not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Microbusiness: a colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana

Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Research Facility: an entity licensed to engage in research projects by the Commission.

Social Consumption Operation: an entity licensed to purchase or otherwise acquire marijuana from licensed marijuana establishments and sell single servings of marijuana to consumers for consumption or use on the premises, except as otherwise authorized herein.

(II.) Insert a new section into 4.3 Table of Use Regulations, as follows:

<u>Marijuana Establishments</u>	RA	VR	VC	C	I
Craft Marijuana cultivator cooperative	SP	N	SP	SP	SP
Independent Testing Laboratory	N	N	SP	SP	SP
Marijuana Cultivator	SP	N	N	SP	SP
Marijuana Product Manufacturer	SP	N	N	SP	SP
Marijuana Retailer	N	N	SP	SP	N
Medical Marijuana Treatment Center	N	N	SP	SP	N
Micro-Business	SP	N	SP	SP	SP
Research Facility	N	N	SP	SP	SP
Social Consumption Operation	N	N	SP	SP	N
