

## Article 6. Subdivision Standards

### Section 6.0 Definitions

For the purposes of this chapter, all definitions in Article 7, Definitions shall apply.

**Subdivision:** Division of any parcel of land for the purposes of conveyance, transfer of ownership, lease, improvement, building, development or sale whereby which results in a total of two or more lots, blocks or parcels ~~are created~~. The term subdivision includes re-subdivision.

### Section 6.1 Application of Standards

(A) Whenever any subdivision of land is proposed, the subdivider shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth in these regulations prior to:

- (1) Commencing any construction or land development (excluding forestry or agricultural activities);
- (2) The issuance of any municipal permit for any land development involving land to be subdivided;
- (3) The sale or lease of any subdivided portion of a property; and/or
- (4) Filing a subdivision plat in the land records of the Town

Such approval shall be granted by the Zoning Administrator or the Development Review Board in accordance with the procedures and standards set forth below.

(B) **Exemptions.** The following are specifically exempted from subdivision review under this article:

- (1) Parcels leased for agricultural or forestry purposes where no permanent roads or structures are established;
- (2) Rights-of-way or easements which do not result in the subdivision of land, and
- (3) Boundary adjustments between existing parcels which do not create new or non-conforming lots.

(C) **Classification of Minor and Major Subdivisions.** For the purposes of these regulations, the following two categories of subdivisions are established:

- (1) **Minor Subdivisions**, to be reviewed by the Zoning Administrator under Section 6.2 include:
  - (a) the subdivision of land which results in ~~the creation of~~ a total of three (3) or fewer lots within any five-year period; ~~and/or~~

Comment [KH1]:

Comment [KH2]:

Comment [KH3]:

Comment [KH4]:

Comment [KH5]: Land Development, driveway, road and road frontage are all defined in Section 7.

Comment [KH6]: Amend the definition of subdivision that is in Section 7.

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(b) an amendment to an approved subdivision which does not substantially alter the subdivision, nor result in the creation of a major subdivision.

(2) **Major Subdivisions**, to be reviewed by the Development Review Board under Section 6.2 include:

- (a) the subdivision of land which results in ~~the creation of~~ a total of four or more lots within any five-year period ~~and/or~~ involves the construction of a new road;
- (b) an amendment to an approved subdivision which substantially alters the subdivision or conditions of approval, or which results in the creation of a major subdivision or a new road; ~~and/or~~
- (c) a planned unit development.

(D) **Coordination with Planned Unit Development Review**. Applications for Planned Unit Developments (PUDs) shall be reviewed concurrently by the Development Review Board as subdivisions in accordance with Section 6.2 and under Section 5.3.

## Section 6.2 Subdivision Review

(A) **Subdivision Approval Requirement**. The Zoning Administrator or Development Review Board shall review all subdivisions in accordance with the Act [§ 4418] and these regulations.

(B) **Waiver Authority**. Pursuant to the Act [24 V.S.A. § 4418], the ~~Zoning Administrator or the~~ Development Review Board may waive application requirements as specified in Table 6.1, or subdivision standards under Section 6.3 which, in their judgment:

- (1) are not requisite in the interest of public health, safety and general welfare;
- (2) are inappropriate due to the inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision; ~~or~~
- (3) would unnecessarily add to the cost of an affordable housing development; or
- (4) the applicant is seeking a deferral under subsection 6.2 (F) (5).

**Comment [KH7]:** The statute provides for DRB waiving requirements but not the zoning administrator.

The request for a waiver shall be submitted in writing by the applicant with the subdivision application. It shall be the responsibility of the applicant to provide sufficient information to justify the waiver, and enable the ~~Zoning Administrator or~~ Development Review Board to reach a decision. In granting waivers, the ~~Zoning Administrator or~~ Development Review Board may require such conditions that will, in their judgment, substantially meet the objectives of the requirements so waived. No such waiver may be granted if it would have the effect of nullifying the intent and purpose of these regulations or other municipal ordinances or regulations currently in effect.

(C) **Application Requirements**. An application for subdivision approval, including applicable fees, shall be made on forms provided by and filed with the Zoning Administrator.

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(D) **Sketch Plan Review.** Prior to the submission of an application for a major subdivision review, the applicant may submit a sketch plan to the Zoning Administrator for consideration by the Development Review Board at a regularly scheduled Development Review Board meeting.

(1) **Purpose.** The purpose of sketch plan review is to acquaint the Development Review Board with the proposed subdivision at an early stage in the design process, prior to the applicant incurring significant expense.

(2) **Submission Requirements.** One original and two copies of the sketch plan, to include information specified in Table 6.1, should be submitted to the Development Review Board at least 15 days prior to a regularly scheduled meeting.

(3) **Effect.** The Development Review Board may offer comments and recommendations at the meeting or, within the thirty (30) days of the date of the meeting, provide comments and recommendations to the applicant in writing. Such comments are advisory and as such shall not constitute an appealable decision or action of the Development Review Board, and shall not be binding on subsequent major subdivision review.

(E) **Minor Subdivision Review.** The application for minor subdivision review shall include one original of the information for subdivision plan approval specified in Table 6.1, and any required fees. The application must also include, in writing, any requested waivers to be considered under subsection (B) and the reason for such waivers. The Zoning Administrator shall consider the application in accordance with his or her review for a Zoning permit without the need for a public hearing, but may in his or her judgment forward any application to the Development Review Board for its review following a public hearing.

(F) **Major Subdivision Review.** The application for major subdivision review shall include one original and six copies of the information for subdivision plan approval specified in Table 6.1, and any required fees. The application must also include, in writing, any requested waivers to be considered under subsection (B) and the reason for such waivers. The Development Review Board shall consider the application in accordance with the following:

(1) **Public Hearing.** As required by the Act [§ 4464], upon submission of a complete application the Development Review Board shall schedule a public hearing on the application, warned in accordance with subsection 6.5 and the Act [§ 4464]. After the hearing is convened, the Development Review Board may continue the hearing as needed to request and allow for the submission of additional information or studies to determine conformance with these regulations.

(2) **Final Approval.** The Development Review Board shall act to approve, approve with conditions, or deny an application for subdivision approval within forty-five (45) days of adjournment of the final public hearing, and issue a written decision. The written

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decision shall include a statement of the factual bases on which the Development Review Board made its conclusions, a statement of those conclusions, any conditions, and shall specify the period of time within which the decision may be appealed to the Environmental Court. Failure to act within the forty-five (45) day period shall be deemed approval. The decision shall be mailed, via certified mail, to the applicant within the forty-five (45) day period. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and a copy of the decision shall be recorded in accordance with Subsection 6.5.

(3) **Performance Bonding.** For any subdivision that includes the construction of roads or other physical improvements, the Development Review Board may require the subdivider to post a performance bond or other comparable surety to ensure completion of the improvements in accordance with the approved specifications. In accordance with the Act [§ 4464], the term of the performance bond shall be fixed by the Development Review Board for a period not to exceed three years, unless with the consent of the owner it is extended for an additional period not to exceed three years. If any required improvements have not been installed or maintained as provided, the bond shall be forfeited to the municipality which shall then use the proceeds to install and maintain covered improvements.

(4) **Effect.** Approval of the Development Review Board of a subdivision shall not be construed to constitute acceptance by the town of any street, easement, utility, park, recreation area or other open space shown on the final plat. Such acceptance may be accomplished only by an act of the Moretown Selectboard, in accordance with state law for the laying out of public rights-of-way.

(5) **Deferral of Subdivision Standard(s).** The Zoning Administrator may, at the request of the applicant under subsection 6.2(B), defer review of a proposed minor subdivision's compliance with the standards set forth in Section 6.4 in the event the proposed subdivision involves the creation of a lot(s) that is solely intended for forestry, agriculture or other use not involving land development. Both the Zoning Administrator's decision and the plat recorded in the Town Land records shall clearly indicate the intended use of the lot(s), and shall require that any change in the use of the deferred lot be approved by the Development Review Board ~~RB~~ only upon a determination that the proposed use and associated development complies with the standards set forth in Section 6.4. All lots, however, shall meet the minimum lot size for the district in which the parcel is located, including any density requirement related to the creation of new lots set forth in subsection 6.4(D).

**(G) Recording and Amendment Requirements.**

(1) In accordance with the Act [24 V.S.A §4463], within 180 days of the date of receipt of final subdivision approval under Subsection (F)(2), the subdivider shall file three copies of the plan and final plat (one Mylar, two paper), signed by an authorized

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representative of the DRB, for recording in the land records of the town in conformance with the requirements of 27 V.S.A. Chapter 17. The Approval of subdivision plats not filed within 180 days shall expire. The Zoning Administrator may, however, grant one 90 day extension for plat filing in the event the applicant documents that other required local and/or state permits are still pending.

(2) The municipality shall meet all recording requirements for subdivision approvals as specified for municipal land use permits under Section 6.9.

(3) No changes, modifications, or other revisions that alter the final plat or the conditions attached to subdivision approval shall be made unless the proposed revisions are first submitted for review by the [Zoning Administrator pursuant to section 6.1\(C\)\(1\)\(b\) or the](#) Development Review Board under Section 6.2 as a subdivision amendment. In the event that revisions are recorded without complying with this requirement, the revisions shall constitute a violation of these regulations, and be considered null and void.

### **Section 6.3 Roads and Access (Minor and Major Subdivision)**

(A) **Access.** Access to the subdivision and to individual lots shall be provided in accordance with Section 4.1. All access onto town highways shall be subject to the approval of the Moretown Selectboard, or for state routes, the Vermont Agency of Transportation. Such approval shall be required prior to final subdivision plan approval. To better manage traffic flow and safety, to avoid congestion, and to preserve the capacity of local roads, the Development Review Board may also:

- (1) limit the number of access points onto public highways;
- (2) require shared access, driveways, and/or roads to serve multiple lots; and/or
- (3) require access from secondary roads, if a proposed subdivision has frontage on both primary and secondary roads.

### **Section 6.4 Application of Subdivision Standards (Major Subdivision)**

(A) The Development Review Board shall evaluate subdivisions under the standards set forth in this article. [The](#) Development Review Board, to assist in evaluation, may require:

- (1) an independent technical review of the proposed subdivision under one or more standards, prepared by a qualified professional and paid for by the subdivider; provided such technical review is commensurate with the scale and scope of the proposed subdivision, and
- (2) the phasing of development, and/or additional measures to avoid or mitigate any adverse impacts likely to result from the proposed subdivision.

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#### **Section 6.5 General Regulations (Major Subdivision)**

(A) **Stormwater Management and Erosion Control.** Subdivisions shall incorporate temporary and permanent stormwater management and erosion control practices appropriate for the type and density of proposed development (See Section 4.15).

(B) **Landscaping and Screening.** Subdivisions shall incorporate landscaping and screening measures appropriate to the type and density of the proposed development. These measures should include measures to address:

- (1) critical wildlife habitat areas (as defined by the Vermont Agency of Natural Resources – Natural Resources Atlas);
- (2) water quality; and
- (3) screening to increase privacy, reduce noise or glare, or to establish a barrier between incompatible land uses.

#### **Section 6.6 Facilities and Utilities (Major Subdivision)**

(A) **Public Facilities.** The proposed subdivision shall not create an undue burden on existing and planned public facilities. The Development Review Board should consult with appropriate municipal and school officials to determine whether adequate capacity exists to serve the subdivision.

#### **Section 6.7 Legal Requirements (Major Subdivision)**

(A) Land reserved for the protection of significant natural, cultural or scenic features, or other open space areas, may be held in common, or in separate ownership from contiguous parcels. Such land may be dedicated, either in fee or through a conservation easement approved by the Development Review Board, to the municipality, an owners' association comprised of all present or future owners of subdivided lots, and/or a nonprofit conservation organization. At minimum, land designated for protection shall be indicated with appropriate notation on the final subdivision plat.

(B) The subdivider shall provide documentation and assurances that all required improvements, associated rights-of-way and easements, and other common lands or facilities will be maintained either by the subdivider, an owners' association, or through other legal means acceptable to the Development Review Board. Such documentation, as approved by the Development Review Board, shall be filed in the Moretown land records.

{24 V.S.A. § 4418}

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