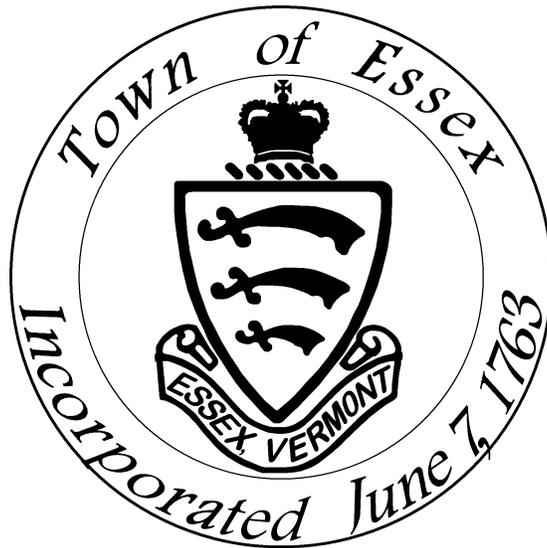


TOWN OF ESSEX
OUTSIDE THE VILLAGE OF ESSEX JUNCTION
OFFICIAL SUBDIVISION REGULATIONS



Effective: November 26, 1979
Effective: October 9, 1989
Effective: July 4, 1995
Effective September 9, 1996
Effective December 28, 1998
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Effective: December 8, 2003
Effective April 14, 2008
Effective December 22, 2008
Effective May 23, 2011

Selectboard Draft

PROPOSED ADDITIONS ARE UNDERLINED
PROPOSED DELETIONS ARE STRUCK OUT

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50 (2) Plats filed in accordance with subdivision regulations in effect prior to the
51 effective date of these Regulations remain valid. The land described by such
52 plats may be developed in accordance with the plat and all conditions or
53 stipulations attached to the approval. Individual lots may be sold and developed
54 (but not re-subdivided) as described in the plat and approval without additional
55 subdivision review.

56
57 (3) The re-subdivision of a lot in a subdivision described by a plat described in either
58 (1) or (2) above shall be treated as a new subdivision under these Regulations.
59

60 **1.3 Effective Date:** In accordance with the Act [§ 4442], these regulations shall take effect
61 twenty-one (21) days from the date of adoption by a majority of the members of the Essex
62 Selectboard, or immediately upon adoption as the a result of a petitioned or warned town
63 meeting vote. All subdivision regulations previously in effect for the Town of Essex are
64 repealed as of the effective date of these regulations.
65

66 **1.4 Amendments:** Preparation and adoption of amendments to these regulations shall be in
67 accordance with the procedures established in the Act [§§ 4441 and 4442].
68

69 (A) The Planning Commission may, at any time, consider proposed amendments to these
70 Regulations which it develops on its own or which may be suggested or requested by
71 any other person. The Planning Commission may or may not decide to proceed with
72 such potential amendments by warning and conducting a public hearing, and
73 following the other procedures established in the Act.
74

75 (B) If, however, a request for an amendment to these Regulations is supported by a
76 petition signed by not less than five percent (5%) of the voters of the Town, the
77 Planning Commission shall correct any technical deficiencies, prepare a written report
78 regarding conformance with the Town Plan and, without changing the amendment,
79 promptly proceed in accordance with the Act [§ 4441] as if the proposed amendment
80 had been prepared by the Planning Commission.
81

82 **1.5 Severability:** The provisions of these Regulations are severable. In the event that any part
83 of these Regulations, or their application, is determined by a court of jurisdiction to be
84 invalid, this determination shall not affect the validity of any other part of these
85 Regulations, nor to their application by the Town of Essex.

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ARTICLE II: SUBDIVISION PROCEDURES

2.0 General Procedures, Waivers: The following procedures apply to all subdivisions requiring approval under these Regulations. This Article sets forth requirements for the preparation and submittal of sketch plan, master plan, preliminary and final subdivision plats, and application for acceptance of streets and other public improvements. The information called for is necessary to inform the Planning Commission and the public about the proposed subdivision. Due care in the preparation of all the maps and other information will expedite the review and approval of proposed subdivisions.

2.1 Waivers: Where the Planning Commission finds that extraordinary and unnecessary hardships may result from strict compliance with these Regulations, or where there are special circumstances of a particular subdivision, it may make the minimum modifications to the Regulations necessary to afford relief without nullifying or adversely affecting the intent and purpose of the Town Plan or the Zoning Regulations.

(A) Where the Planning Commission finds that, due to special circumstances of a particular subdivision, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or that connecting facilities are not adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

(B) When in the opinion of the Planning Commission the number of submissions, as required by strict compliance with these regulations, seems excessive and unnecessary for full review, the Commission may waive or combine some of the submissions. In no case may it waive the Public Hearing of the final submission or recording of the subdivision plat.

(C) In granting waivers, the Planning Commission shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

(D) Where the Planning Commission, after recommendation from the Town Engineer, believes a waiver from the requirements of the *Public Works Specifications* is appropriate for a particular subdivision and such finding is in accordance with the above subsections, the Selectboard may grant such a waiver.

2.2 Classification: All subdivisions of land in the Town of Essex outside the Village of Essex Junction shall be classified into one of the following four categories, as defined in Article VI. Proposed subdivisions shall be classified by Staff. When classifying a subdivision containing one or more lots of a subdivision approved within the past ten years, the lots of the original subdivision shall be counted along with the proposed new lots. If an applicant disagrees with the Staff classification, staff shall forward the request for classification to the Planning Commission. The diagram below illustrates the procedures for minor and major subdivision approvals.

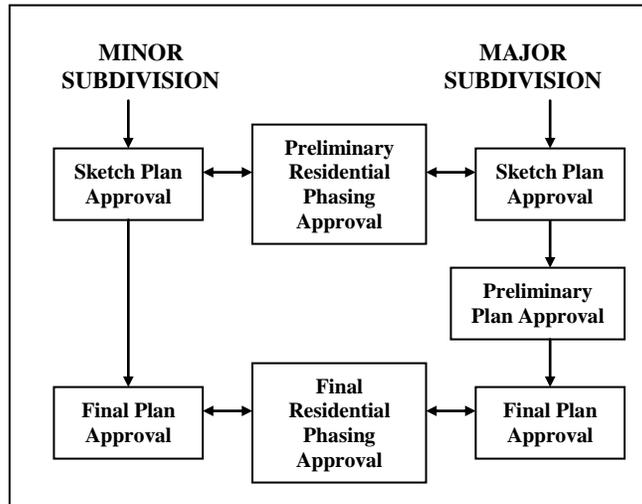
(A) **Simple Parceling** (Reviewed according to the provisions of Section 2.5(A), below.)
Note that Paragraph 2.5(A) specifies how lots created by simple parceling are to be

counted for purposes of classification.

(B) **Boundary Adjustment** (Reviewed according to the provisions of Section 2.5(B), below). Note that Section 2.5(B) limits transfer by boundary adjustment to a parcel no larger than the minimum required lot in the zoning district in which the subject property is located, or no larger than one acre if the subject property is located in a zoning district that has no minimum lot size.

(C) **Minor Subdivision** (Requires Sketch Plan and Final Subdivision Approval in accordance with Sections 2.6 and 2.8, below.) A Master Plan may be required in accordance with Section 2.7.

(D) **Major Subdivision** (Requires Sketch Plan, Preliminary and Final Approval in accordance with Sections 2.6, 2.8 and 2.9, below). A Master Plan may be required, in accordance with Section 2.7, below. Subdivisions for development of a mixed-use development containing housing, multiple family housing projects, congregate housing projects, or planned developments (per Article VI of the Zoning Regulations) shall be considered as major subdivisions.



2.3 Review Process:

(A) **Conceptual Discussion:** An applicant may schedule a conceptual discussion with the Planning Commission prior to developing and submitting a formal application for subdivision review. The purpose of such a discussion is to explore possible concepts for developing a site without requiring detailed surveying or engineering data. This is intended to be an informal exchange of ideas. It is not binding and is not intended to result in approvals or denials of development plans, nor does it imply approval or denial when formal application is made. [Notifications to abutting landowners is required by first-class mail.](#)

(1) Materials provided at conceptual discussion should include a subdivision plan drawn to scale showing major features of the site (natural and man-made), north arrow, general location of the site within the Town, the area of the site, and sketches of possible development approaches.

(2) The minutes of the meeting will serve as written documentation of the discussion.

- 182 (B) Boundary Adjustments and Simple Parceling: Applications for Boundary
183 Adjustments and Simple Parceling are reviewed and approved by the Planning
184 Commission in accordance with Section 2.5 of these Regulations.
185
- 186 (C) Modification of Submitted Plans: For minor and major subdivision applications, the
187 applicant shall not submit revised plans or revisions to other application materials
188 between the time of the original submission and the meeting at which the Planning
189 Commission reviews that submission, unless specifically requested by Staff to do so.
190 If the applicant, of their own volition, wishes to revise the submitted plans prior to
191 Planning Commission review, the pending application must be withdrawn via a
192 written request, a complete package of application materials must be re-submitted and
193 the Planning Commission review will be rescheduled.
194
- 195 (D) Sketch Plan Review: All minor and major subdivisions must go through sketch plan
196 review. Applications shall be submitted to staff in accordance with the provisions of
197 Section 2.6, below. Staff, upon determining that an application is complete, shall
198 arrange to place the application on the agenda of the next Planning Commission
199 meeting to be held at least ten (10) days hence, or as soon thereafter as the agenda will
200 allow, and shall notify the applicant of the date of the meeting.
201
- 202 (1) If review by the Conservation Committee, staff, or other advisory boards is
203 requested under these Regulations, the Sketch Plan application shall be
204 forwarded to those bodies and comments requested prior to the Planning
205 Commission's review of the Sketch Plan application.
206
- 207 (2) If the sketch plan is approved, and if the proposed subdivision includes
208 residential development, the Planning Commission shall consider a preliminary
209 residential phasing allocation for the subdivision as set forth in Article III of
210 these Regulations.
211
- 212 (3) For Minor Subdivisions, a complete application for Final Subdivision Approval
213 must be submitted within twelve months of Sketch Plan approval. Upon written
214 request received prior to the end of the twelve-month period and demonstrating
215 reasonable cause for the delay, the Planning Commission may approve an
216 extension of up to six months. If a complete application is not received within
217 this time period, the Sketch Plan Approval and any preliminary residential
218 phasing allocation shall expire and the applicant must reapply.
219
- 220 (4) For Major Subdivisions, a complete application for Preliminary Subdivision
221 Approval must be submitted within twelve months of Sketch Plan approval.
222 Upon written request received prior to the end of the twelve-month period and
223 demonstrating reasonable cause for the delay, the Planning Commission may
224 approve an extension of up to twelve months. If a complete application is not
225 received within this time period, the Sketch Plan Approval and any preliminary
226 residential phasing allocation shall expire and the applicant must reapply.
227
- 228 (a) If review by the Conservation Committee, staff, or other advisory board is
229 requested under these Regulations, the application shall be forwarded to

230 those bodies and their reviews scheduled prior to Preliminary Subdivision
 231 Review by the Planning Commission.
 232 (b) If Conditional Use Approval by the Zoning Board of Adjustment is required
 233 under the Town’s Zoning regulations, the applicant is urged to submit an
 234 application and request a hearing prior to Final Subdivision Review.
 235 (c) If the subdivision is also being approved as a Planned Unit Development
 236 under Article VI of the Town’s Zoning Regulations, all application materials
 237 required for Site Plan Approval and Planned Unit Development Approval
 238 shall be submitted with the Application for Preliminary Subdivision
 239 Approval.

240
 241 (E) Preliminary Subdivision Approval: All major subdivisions must obtain Preliminary
 242 Subdivision Approval. Applications must be submitted to staff in accordance with
 243 Section 2.8, below. Staff, upon determining that an application is complete, shall
 244 arrange to place the application on the agenda of the next Planning Commission
 245 meeting to be held at least ten (10) days hence, or as soon thereafter as the agenda will
 246 allow, and shall notify the applicant, abutters, and all other interested parties of the
 247 date of the meeting.

248
 249 (1) A complete application for Preliminary Subdivision Approval must be submitted
 250 within twelve months of Sketch Plan approval. Upon written request received
 251 prior to the end of the twelve-month period and demonstrating reasonable cause
 252 for the delay, the Planning Commission may approve an extension of up to twelve
 253 months. If a complete application is not received within this time period, the
 254 Sketch Plan approval and any preliminary residential phasing allocation shall
 255 expire and the applicant must reapply.

256
 257 (F) Final Subdivision Approval: All major and minor subdivisions must obtain Final
 258 Subdivision Approval. Applications must be submitted to staff in accordance with
 259 Section 2.9, below. Staff, upon determining that an application is complete, shall
 260 schedule a public hearing in accordance with Article VI of these Regulations as soon
 261 as the agenda will allow, and shall notify the applicant, abutters, and any other
 262 interested parties of the date of the hearing.

263
 264 (1) A complete application for Final Subdivision Approval must be submitted within
 265 twelve months of Sketch Plan approval for minor subdivisions or within twelve
 266 months of Preliminary Plan approval for major subdivisions. Upon written
 267 request received prior to the end of the twelve-month period and demonstrating
 268 reasonable cause for the delay, the Planning Commission may approve an
 269 extension of up to twelve months. If a complete application is not received within
 270 this time period, previous approval and any preliminary residential phasing
 271 allocation shall expire and the applicant must reapply, starting again at the
 272 beginning of the process.

273
 274 **2.4 Application Requirements:** At each stage of the subdivision review and approval process,
 275 the applicant shall provide to the Community Development Department a complete
 276 application including all fees and materials specified in these Regulations, information
 277 specified on the *Town of Essex Planning Commission Checklist for Subdivision*

278 *Applications*, and other items determined by Staff necessary for review by the Planning
279 Commission. Incomplete applications may be held or returned to the applicant, but shall
280 not entitle the applicant to further consideration or Planning Commission review.
281

282 **2.5 Simple Parceling and Boundary Adjustments:** Applications for simple parceling and
283 boundary adjustments shall be approved as described in this section.
284

285 (A) Simple Parceling: Simple Parceling, as defined in Article VI, must satisfy the
286 conditions of this section, and shall require submission to the Community
287 Development Director of a boundary plat showing the delineation of all proposed
288 parcels and other application materials described below.
289

290 (1) Application Materials: Technical plans, drawings, property surveys, etc., shall be
291 prepared by a licensed architect, engineer, or surveyor. A complete application
292 shall include a written summary of the proposed project, names and addresses of
293 all adjacent property owners (if an adjoining property is owned as common land
294 by an owners' association, the applicant shall provide the name and address of
295 the president of the owners' association), three (3) copies of the proposed plan(s)
296 and supporting written materials, and the following:
297

298 (a) Identifying Information:

299 (i) Address of parcel being subdivided.

300 (ii) Name and address of applicant and owner.

301 (iii) Name and address of professional advisors.

302 (iv) Date.

303 (v) Zoning district(s) involved.

304 (b) A fee as may be established by the Town Selectboard; and

305 (c) A complete survey of the land to be divided, prepared as a plat, shall be
306 submitted, in conformance with Section 4.2 of these Regulations, which
307 shows the proposed lot configuration, significant natural features (as shown
308 on the Significant Features, Water Features or Scenic Resources Reference
309 Maps defined in Article VI) and location of the 100 year flood plain (if
310 applicable).
311

312 (2) Planning Standards: A proposed simple parceling must satisfy the following:
313

314 (a) The applicant must demonstrate that there is adequate area for primary and
315 replacement septic areas on both lots, or that both lots are served by the
316 municipal sewer system or other approved off-site system.

317 (b) Both lots created must meet all applicable minimum requirements of the
318 Town Zoning Regulations.

319 (c) If the parcel to be divided contains any feature identified on the Significant
320 Features, Water Features or Scenic Resources Reference Maps, Staff shall
321 review and accept plans to mitigate the impact of the proposed parceling on
322 said features (e.g. conservation easements, specified building envelopes,
323 preservation of an open field, etc.). Staff may consult with the
324 Conservation Committee regarding such a proposed parceling.

- 325 (d) If the parcel to be divided contains any non-motorized, multi-use
 326 trails/paths identified in the Town Plan, applicant shall provide easement(s)
 327 at least fifteen (15) feet in width.
 328
- 329 (3) Upon determining that an application for simple parceling is complete, Staff shall
 330 review the application, prepare a draft decision for the Planning Commission,
 331 and place the matter on the consent agenda (see Section 5.1(D) of these
 332 Regulations) for the Planning Commission at the next available meeting.
 333
- 334 (4) Staff shall notify the applicant, adjacent property owners, and other interested
 335 parties of the application for simple parceling, the draft decision, and the date on
 336 which the Planning Commission will consider the matter under its consent
 337 agenda, at least seven days prior to the meeting, in accordance with Article V of
 338 these Regulations.
 339
- 340 (5) Following action by the Planning Commission, the decision shall be issued in
 341 accordance with Section 5.1(E) of these Regulations.
 342
- 343 (6) When the proposed simple parceling has been approved by the Planning
 344 Commission, a copy of the approved survey on mylar, suitable for recording,
 345 shall be prepared showing the information from Sub-Paragraph 2.5(A)(1), above,
 346 soil test pit results (if required), bearings and distances of perimeter boundary
 347 lines, monumentation in accordance with Section 4.11 on all corners of each lot,
 348 all easements and certification by a registered land surveyor that information is
 349 based on deed research and field information. In addition, the following
 350 language shall be printed on the mylar:
 351
- 352 *“Approved by the Planning Commission of the Town of Essex, Vermont, on the*
 353 *_____ day of _____, 20___, subject to all requirements and conditions of*
 354 *said approval. Signed this _____ day of _____, 20___ by*
 355 _____
 356 *Chair”*
- 357
- 358 (7) The mylar shall be filed in accordance with the provisions of Section 2.10 of
 359 these Regulations. A fee, payable by the applicant, will be charged to file the
 360 mylar and is due at its submittal.
 361
- 362 (8) Any further subdivision of a lot created by the approved Simple Parceling within
 363 a period of ten years of the date of filing the parceling drawing shall require
 364 subdivision approval in accordance with these Regulations.
 365
- 366 (B) Boundary Adjustments: Any boundary adjustment, as defined in Article VI, must
 367 satisfy the requirements of this section, must be approved in accordance with this
 368 section, and shall be submitted to Staff for filing with the Town Clerk.
 369
- 370 (1) Application Materials: Technical plans, drawings, property surveys, etc., shall be
 371 prepared by a licensed architect, engineer, or surveyor. A complete application
 372 shall include a written summary of the proposed project, names and addresses of

373 adjacent property owners (if an adjoining property is owned as common land by
374 an owners' association, the applicant shall provide the name and address of the
375 president of the owners' association), three (3) copies of the proposed plan(s) and
376 supporting written materials, and the following:

- 377
- 378 (a) Identifying Information:
- 379 (ii) Address of parcel being subdivided.
- 380 (iii) Name and address of owner(s).
- 381 (iv) Name and address of any professional advisors.
- 382 (v) Date.
- 383 (vi) Zoning district(s) involved.
- 384 (b) A fee as may be established by the Town Selectboard;
- 385 (c) A scale drawing submitted to Staff showing the existing and proposed
386 boundaries between the relevant lots.
- 387 (d) An indication of whether or not either of the lots involved was part of a
388 previous subdivision and if so, when that approval was granted.
- 389

390 (2) Planning Standards: A boundary adjustment must satisfy the following:

391

- 392 (a) The proposed boundary adjustment shall not create any new lots.
- 393 (b) No existing lot shall be made non-conforming or more non-conforming.
- 394 (c) The total acreage being transferred as a result of the boundary adjustment
395 may not exceed the minimum lot size in the zoning district in which the
396 property is located, or no more than one acre if the property is located in a
397 zoning district that has no minimum lot size. If a larger area is being
398 transferred, the proposal must be treated as a minor subdivision.
- 399

400 (3) Upon determining that an application for a boundary adjustment is complete,
401 Staff shall review the application, prepare a draft decision for the Planning
402 Commission, and place the matter on the consent agenda (see Section 5.1(D) of
403 these Regulations) for the Planning Commission at the next available meeting.

404

405 (4) Staff shall notify the applicant, adjacent property owners, and other interested
406 parties of the application for a boundary adjustment, the draft decision, and the
407 date on which the Planning Commission will consider the matter under its
408 consent agenda, at least seven days prior to the meeting, in accordance with
409 Article V of these Regulations.

410

411 (5) Following action by the Planning Commission, the decision shall be issued in
412 accordance with Section 5.1(E) of these Regulations.

413

414 (6) When the proposed boundary adjustment has been approved by the Planning
415 Commission, a mylar suitable for recording shall be prepared showing all
416 relevant information, bearings and distances of perimeter boundary lines,
417 monumentation in accordance with Section 4.11 on all corners of each lot, and all
418 easements, and certification by a registered land surveyor that information is
419 based on deed research and field information. In addition, the following
420 language shall be printed on the mylar:

421 *“This boundary line adjustment does not constitute the creation of a separate*
 422 *parcel of land. It only adjusts the physical location of the boundary of these*
 423 *adjoining parcels. Any future subdivision and/development of these new*
 424 *parcels must be approved by the Town of Essex Planning Commission.*

425
 426 *This plan is approved, subject to all requirements and conditions of this*
 427 *approval, on the _____ day of _____, 20__*
 428 *by _____*
 429 *Chair”*

430
 431 (7) The mylar shall be filed in accordance with the provisions of Section 2.10 of
 432 these Regulations. A fee, payable by the applicant, will be charged to file the
 433 mylar and is due at its submittal.

434
 435 (8) Any further subdivision of a lot created by the approved Boundary Adjustment
 436 shall require subdivision approval in accordance with these Regulations.

437
 438 **2.6 Sketch Plan Approval:** Sketch Plan approval is required for all subdivisions except
 439 boundary adjustments and simple parceling.

440
 441 (A) Purpose: The purpose of Sketch Plan Review is to explore the options for the overall
 442 subdivision concept and layout, including uses and open spaces, in relation to the
 443 objectives of the Town Plan, the characteristics of the site and characteristics of the
 444 surrounding area, and to determine that the proposed subdivision appears consistent
 445 with the requirements of these Regulations and the Town’s Zoning Regulations.

446
 447 (1) When the proposed development occupies only a portion of the parcel of land
 448 being subdivided, the applicant should be prepared to discuss future plans for the
 449 remainder of the parcel. A Master Plan may be required in accordance with
 450 Section 2.7 of these Regulations.

451
 452 (2) For large or complex subdivision projects, the applicant is urged to meet
 453 informally with Staff to discuss the project, prior to filing an application for
 454 Sketch Plan Review.

455
 456 (B) Application Materials: Technical plans, drawings, property surveys, etc. shall be
 457 prepared by a licensed architect, engineer, or surveyor. A complete application shall
 458 include a written summary of the proposed project, names and addresses of all
 459 adjacent property owners, ten (10) copies of the proposed plan(s) and supporting
 460 written materials along with the following:

461
 462 (1) Identifying Information:

- 463 (a) Address of parcel being subdivided.
- 464 (b) Name and address of applicant and owner.
- 465 (c) Name and address of any professional advisors.
- 466 (d) Date.
- 467 (e) Zoning district(s) involved.
- 468

- 469 (f) Names, addresses, and tax parcel numbers (from Town tax records) for all
470 adjacent parcels (if an adjoining property is owned as common land by an
471 owners' association, the applicant shall provide the name and address of the
472 president of the owners' association).
- 473 (g) Existing and proposed uses of all parcels (residential, farm, etc.).
474
- 475 (2) Sketch Plan: A Sketch Plan in the form of a scaled drawing, based on the best
476 available information, of the parcel to be subdivided, and including the following
477 information along with all information in the technical checklist approved by the
478 Planning Commission:
- 479
- 480 (a) Address of parcel being subdivided.
481 (b) Name/address of applicant and owner.
482 (c) Scale, preferably (1"=100') or (1 dm=100 meters).
483 (d) North arrow.
484 (e) Site location map.
485 (f) Total acreage.
486 (g) Best available property boundary information, to scale.
487 (h) Zoning district boundaries and name(s) of zoning districts in which the
488 development is located.
489 (i) Best available topographic information (USGS Contour maps may be
490 consulted at the Community Development Department office).
491 (j) General location of water courses, wetlands, the 100-year flood plain (if
492 applicable), wooded areas, significant ledge outcrops, and other natural
493 features as may be depicted on the Town's Significant Features Reference
494 Map.
495 (k) Trails as shown in the Town Plan or other report incorporated into the Town
496 Plan.
497 (l) Location of all adjoining properties.
498 (m) Preferred layout of lots, streets, and any area to be designated as open space.
499 (n) Proposed and/or existing easements.
500 (o) In addition to Significant Features in Subsection j, general location of other
501 important features such as stone walls, historic structures and sites, and large
502 stand-alone trees and tree stands (identified as important by the Town Tree
503 Warden or the Town Plan).
504
- 505 (3) Layout Sketches: Applicants may want to explore a variety of potential layout(s)
506 for the proposed subdivision. One or more alternatives may be submitted on
507 tracing paper overlays of the sketch plan. The layouts should also indicate how
508 the proposed subdivision relates to surrounding development, roads and land
509 uses. Applicants are encouraged to present sketch layouts for **Planned**
510 **Residential Developments and** Planned Unit Developments, as applicable, in
511 addition to conventional zoning layouts.
512
- 513 (4) Fees: A fee, as established by the Selectboard, plus the cost of publishing notice
514 and notifying adjacent property owners shall be provided as described in Article
515 V of these Regulations.
516

- 517 (C) Planned Unit Developments: In zoning districts where Planned Unit Developments
518 (PUDs) are permitted, they are encouraged and preferred over conventional
519 subdivisions. When the application is for a proposed ~~Planned Unit Development~~PUD
520 in accordance with Article VI of the Town's Zoning Regulations, the applicant shall
521 so state in the Sketch Plan Review application, and shall be prepared to discuss the
522 proposed development in view of the requirements established for Planned Unit
523 Developments in the Town's Zoning Regulations.
524
- 525 (D) Review Procedure:
526
- 527 (1) The Community Development Director shall determine whether or not a
528 previously approved Master Plan exists for the subject property in accordance
529 with Section 2.7 of these regulations or any previous regulations. If so, the
530 applicant shall be notified and the Master Plan shall be kept as part of the current
531 application.
532
- 533 (2) If the application is deemed complete, the Community Development Director
534 shall schedule a hearing before the Planning Commission at the earliest available
535 time, with notice of the hearing at least seven days prior to the hearing in
536 accordance with Article V of these Regulations, The Community Development
537 Director shall notify the applicant, owners of adjacent properties, and other
538 interested parties of the date of the hearing.
539
- 540 (3) Where the proposed subdivision consists of, or has the potential of, supporting
541 more than 10 dwelling units, Staff shall notify the Superintendent of Schools to
542 allow potential input regarding the impact of the development on school
543 facilities.
544
- 545 (4) Staff shall notify the applicant of the requirements for residential development
546 phasing (Article III). Staff shall advise the applicant of the construction priority
547 of projects with final approval and projects under review by the Planning
548 Commission and, if available, an estimate of the earliest start date and term of
549 construction.
550
- 551 (5) At Sketch Plan Review, Staff shall provide relevant information from the
552 Significant Features Reference Map, aerial photographs, and other available
553 sources. The applicant is encouraged to meet with Staff prior to Sketch Plan
554 Review to explore this information.
555
- 556 (6) The Planning Commission shall study the Sketch Plan to determine whether it
557 conforms to, or would be in conflict with, the General Requirements set forth in
558 Article IV of these Regulations.
559
- 560 (7) The Planning Commission and the applicant may explore alternative layouts or
561 arrangements during the Sketch Plan Review.
562

- 563 (8) When the applicant states that the proposal is for a Planned Unit Development or
564 Planned Residential Development, the Planning Commission shall also consider
565 the requirements of Article VI of the Town’s Zoning Regulations.
566
- 567 (9) The Planning Commission shall consider the need for and extent of open space
568 and recreation land in the proposed subdivision in accordance with Section
569 [4.54.3](#) of these Regulations.
570
- 571 (10) The Planning Commission shall review the classification of the proposed
572 subdivision as either Minor or Major, if requested by the applicant, and may
573 confirm or revise said classification.
574
- 575 (11) Prior to granting Sketch Plan Approval, the Planning Commission shall
576 determine whether a Master Plan shall be required in accordance with Section 2.7
577 of these Regulations. If a Master Plan is required, it shall be submitted prior to
578 the next level of review of the proposed subdivision.
579
- 580 (12) The Planning Commission shall approve, modify and approve, or disapprove the
581 Sketch Plan, including the preferred layout. If the applicant has submitted more
582 than one plan, the Commission may take action on one of the proposed
583 alternative layouts submitted with the application. Written comments on the
584 Sketch Plan which clearly express the results of the Commission’s review shall
585 be sent to the applicant. Sketch Plan approval constitutes authorization to
586 proceed to the next step in the subdivision approval process. Sketch Plan
587 Approval is not binding in that it does not guarantee Preliminary or Final
588 Subdivision Approval.
589
- 590 (E) Residential Phasing: If the proposed subdivision will include residential
591 development, residential phasing shall be reviewed in accordance with Article III of
592 these Regulations.
593
- 594 (F) Conservation Committee Review: The Conservation Committee is to be notified of
595 all applications and be given the opportunity to review the application and submit
596 comments to staff for inclusion in staff reports and/or to present comments directly to
597 the Planning Commission.
598

2.7 Master Plan:

- 601 (A) Applicability: As determined by the Planning Commission at Sketch Plan Approval, a
602 Master Plan shall be required for any project which is intended to be developed in
603 phases and for which approval of only one phase is currently requested, or for any
604 project where development of only part of the parcel is proposed and the remaining
605 land exceeds in area three times the minimum lot size in the district in which the
606 subdivision is located.
607
- 608 (B) Purpose: The purpose of the preparation and review of a Master Plan by the Planning
609 Commission is to acquaint the Commission with the entire tract of land without
610 requiring the presentation of extensive surveying, engineering, or design data, to

- 611 identify significant features warranting future protection, and to facilitate anticipated
612 future development in an orderly manner. Applicants are encouraged to explore
613 different schemes by presenting alternative plans that represent thoughtful site
614 planning and are in conformance with the Town Plan and Bylaws.
615
- 616 (C) Application Materials:
- 617
- 618 (1) Identifying Information
- 619
- 620 (a) Address of parcel for which the master plan applies.
621 (b) Name and address of owner.
622 (c) Name and address of any professional advisors.
623 (d) Date.
624 (e) Zoning district(s) involved.
625 (f) Names, addresses, and tax parcel numbers (from Town tax records) of all
626 adjacent parcels (if an adjoining property is owned as common land by an
627 owners' association, the applicant shall provide the name and address of the
628 president of the owners' association).
629 (g) Existing and proposed uses of all parcels (residential, farm, etc.).
- 630 (2) Draft Master Plan: A complete application for Master Plan approval shall
631 include a written summary of the proposed project, names and addresses of all
632 adjacent property owners, ten copies of the proposed plan(s) and supporting
633 written materials along with the following:
- 634 (a) Completed Planning/Zoning application form.
635 (b) Application fee, as determined by the Selectboard.
636 (c) Site location map (upper right or upper left corner of plan).
637 (d) Identification and delineation of Zoning District(s) involved.
638 (e) Name and address of applicant and owner.
639 (f) Name of subdivision, if any, and address.
640 (g) North arrow on map.
641 (h) Scale - not smaller than 1"=200', preferably 1"=100'.
642 (i) Date.
643 (j) Property boundaries with approximate dimensions and total acreage.
644 (k) Location of all adjoining properties and names of owners thereof.
645 (l) Tentative arrangement of proposed streets, utilities, and facilities, including
646 water, sewer, drainage, electric, telephone, etc.
647 (m) Mapping of soil classifications as shown in the Chittenden County Soil
648 Survey, including the delineation of prime agricultural soils as designated in
649 Agricultural Value Groups for Soils (available at the USDA Soil
650 Conservation Service Office) and a discussion of the capabilities and
651 limitations of the soil types.
652 (n) General location of watercourses, wetlands, the 100-year flood plains,
653 wooded areas, significant ledge outcrops, and other natural features as may
654 be depicted on the Significant Features Reference Map.

- 655 (o) Tentative layout of proposed lots with approximate dimensions and areas,
- 656 and approximate layout of areas to be designated as open spaces, parks,
- 657 playgrounds, or other public spaces.
- 658 (p) Open-fields.
- 659 (q) Location of the 100-year flood plain boundaries, if applicable.
- 660 (r) Trails, as shown in the Town Plan or other report incorporated into the
- 661 Town Plan.
- 662 (s) An assessment of areas to remain undeveloped (using information on the
- 663 Significant Features Map and other available sources as a guide).
- 664

665 (D) Review by Planning Commission: The Planning Commission shall review the Master
 666 Plan as a Sketch Plan, taking into consideration the requirements of the Town Plan and
 667 the Bylaws and indicate to the applicant any changes or preferences for the overall
 668 design of the project. Master Plan review is intended to be an informal exchange of
 669 ideas between the applicant and the Planning Commission and presentations and
 670 suggestions are not binding. Approval of a Master Plan shall not constitute approval
 671 of the proposed subdivision.

672
 673 (E) Filing: If approved as a Master Plan, the decisions of the Planning Commission and a
 674 copy of the Master Plan shall be filed in the Community Development Office. The
 675 Master Plan shall be consulted whenever future subdivision of any land included in the
 676 Master Plan is proposed. An approved Master Plan shall not constitute approval of
 677 the proposed subdivision.

678
 679 **2.8 Preliminary Subdivision Approval:** All major subdivisions must go through Preliminary
 680 Subdivision Approval. This is the point where the details of the proposed subdivision are
 681 reviewed against the requirements set forth in these and other town Regulations.

682
 683 (A) Purpose: The purpose of Preliminary Subdivision Approval shall be to compare the
 684 plan for consistency with the requirements of these Regulations, to determine that the
 685 plan addresses the issues raised at Sketch Plan Review, to ensure that all survey
 686 information, septic system and well data, required public improvements, and other
 687 data are complete, to ensure that the proposed subdivision is in compliance with all
 688 appropriate Regulations and standards, and to complete the major portion of
 689 engineering review of improvements and land alterations.

690
 691 (B) Application Materials: Technical plans, drawings, property surveys, etc., shall be
 692 prepared by a licensed architect, engineer, or surveyor. A complete application shall
 693 include a detailed written summary of the proposed project, names and addresses of all
 694 adjacent property owners, ten (10) copies of the proposed plan(s) and supporting
 695 written materials along with the following, plus all information in the technical
 696 checklist approved by the Planning Commission:

697
 698 (1) Identifying Information: All information required for Sketch Plan Approval,
 699 updated as needed, as specified in 2.6(B)(1), above.

700
 701 (2) Subdivision Plan: Detailed subdivision plan(s) shall be submitted containing all
 702 of the information required for Sketch Plan Approval, as set forth in Paragraph

- 703 2.6(B)(2), above, updated and accurate, plus existing and finished contours as
704 described below.
- 705
- 706 (a) Existing and finished contours with intervals of not more than five feet (5').
- 707 (b) Contours with intervals of not more than two feet (2') shall be shown for
708 large portions of the site that do not contain relatively level terrain or where
709 on-site wastewater treatment facilities are to be installed.
- 710 (c) General mapping of soil classifications as shown in the Chittenden County
711 Soil Survey, including the delineation of prime agricultural soils by value
712 groups (available at the USDA Soil Conservation Service Office) and a
713 discussion of the capabilities and limitations of the soil types as described in
714 the Soil Survey.
- 715 (d) Septic System and Well Data:
- 716 (i) For subdivisions not served by the municipal sewer system, Results and
717 locations of percolation tests and soil borings, made and certified by a
718 professional engineer (with a civil or sanitary specialty) licensed in
719 Vermont. If State approval is required, the application shall so
720 indicate, and certification of state approval shall accompany the
721 application for Final Subdivision Approval.
- 722 (ii) For subdivisions not served by the municipal water system, water
723 quantity and quality data from well logs of nearby wells.
- 724 (iii) Location of proposed septic systems and wells, including wells on
725 adjoining properties.
- 726 (e) Natural Features and New Trees:
- 727 (i) A site resource map, at the same scale as the other land use plan maps,
728 delineating any resources identified on the Town's Significant Features
729 Reference Map which lie within the boundaries of the site.
- 730 (ii) Roadside Landscaping Plan showing proposed street trees and other
731 landscaping features.
- 732 (f) Stormwater Management and Erosion Control Plan:
- 733 (i) All structural and non-structural measures for stormwater management
734 and erosion control.
- 735 (ii) Proof that the subdivision design conforms to the Town's Stormwater
736 Ordinance (e.g., a local stormwater management permit, a State
737 Stormwater Management Permit, or a certification that neither is
738 required).
- 739
- 740 (3) Preliminary Plat: A Preliminary Plan shall contain the following:
- 741
- 742 (a) Field Survey of boundary lines of the tract giving complete description data
743 by metes and bounds, made and certified by a registered land surveyor.
- 744 (i) All new subdivisions within one mile of Vermont Grid 1927 shall be
745 tied in to those controls and converted to Vermont Grid 1983 if
746 reasonably possible.
- 747 (b) Location of boundary monuments, as required by Section 4.11 of these
748 Regulations.
- 749 (c) Location and width of proposed street rights-of-way.

- 750 (d) Preliminary names of all streets for submission to the Selectboard for
751 approval.
- 752 (e) Location, dimensions, area and number of lots and blocks.
- 753 (f) Location and dimensions of property to be dedicated for public use, or to be
754 reserved for private open space.
- 755 (g) Boundaries of proposed permanent easements and conservation easements,
756 and statement of purpose of easement.
- 757
- 758 (4) Construction Detail Drawings: All plans shall be prepared and certified by a
759 professional engineer (civil or related specialty) licensed in Vermont.
- 760
- 761 (a) Plans and profiles showing existing and proposed elevations along center
762 lines of all streets within the subdivision.
- 763 (b) Plans and profiles showing location of street pavements, curbs, gutters,
764 sidewalks, manholes, catch basins and culverts.
- 765 (c) Plans showing proposed building locations with building envelopes.
- 766 (d) Plans showing the location, size and invert elevations of existing and
767 proposed sanitary sewers, storm water drains, and fire hydrants and location
768 and size of water, gas, electricity and any other utilities or structures.
- 769 (e) Plans showing temporary and permanent procedures for erosion control,
770 consistent with the requirements of the Town's Stormwater Ordinance.
- 771
- 772 (5) Traffic Study: When requested by Staff, the applicant shall provide a traffic
773 study demonstrating the ability of the surrounding street system to accommodate
774 traffic to be generated by the proposed subdivision. If there is any question about
775 the need for a traffic study, staff shall refer the matter to the Planning
776 Commission.
- 777
- 778 (a) Traffic studies shall conform to the standards set forth by the Town Public
779 Works Department.
- 780
- 781 (6) All information necessary to demonstrate conformance with the General
782 Standards set forth in Article IV of these Regulations.
- 783
- 784 (7) Fees: A fee, as established by the Selectboard, plus the cost of publishing a
785 notice and notifying adjacent property owners shall be provided, as described in
786 Article V of these Regulations.
- 787
- 788 (8) A schedule for phasing of construction of streets and dwelling units within the
789 proposed subdivision, consistent with the preliminary phasing allocation in
790 accordance with Article III of these Regulations.
- 791
- 792 (C) Review Procedure:
- 793
- 794 (1) The Community Development Director shall determine whether or not the
795 application is complete. If so, a hearing before the Planning Commission shall
796 scheduled be at the earliest available time, and notice shall be sent at least fifteen

- 797 | days prior to the hearing, in accordance with the provision of Article VI of these
798 Regulations.
799
- 800 (2) The Community Development Director shall notify the applicant, owners of
801 adjacent properties, and other interested parties of the date of the hearing.
802
- 803 (3) The Planning Commission shall review the Preliminary Subdivision submission
804 for conformity with the General Requirements set forth in Article IV of these
805 Regulations, and with the standards contained in these and any other relevant
806 regulations (such as the PUD and Site Plan requirements of the Zoning
807 Regulations).
808
- 809 (4) The Planning Commission may decide that the proposed plan does not address
810 the comments and concerns raised at Sketch Plan Review, or that the layout is
811 substantially different from that discussed at Sketch Plan Review, and may
812 require the applicant to resubmit it as a Sketch Plan. The Commission may
813 choose to conduct a second Sketch Plan Review in lieu of the scheduled
814 Preliminary Review.
815
- 816 (5) The Planning Commission shall determine the water supply system and the
817 wastewater disposal system that shall be required to serve the subdivision in
818 accordance with Section 4.9 of these Regulations. Any subdivision to be served
819 by the municipal sewer system shall have obtained approval of a sewer allocation
820 from the Selectboard or the Town Manager prior to Preliminary Subdivision
821 Approval.
822
- 823 (6) The Planning Commission may require phased construction of streets and
824 dwelling units consistent with the preliminary residential phasing allocation
825 issued in accordance with Article III of these Regulations.
826
- 827 (7) The Planning Commission shall review the classification of all existing and
828 proposed streets within the subdivision, using the classification system in the
829 Town's Public Works Specifications. Streets shall be constructed to the standard
830 for each classification as set forth in the Public Works Specifications.
831
- 832 (8) Based on the traffic study (see Subsection 2.8(B)(5)), if applicable,
833 recommendations of the Town Engineer, or other credible observations, The
834 Planning Commission may require the applicant to improve any access roads
835 and/or traffic controls to the subdivision that are found to be inadequate to
836 accommodate the additional traffic to be generated from the proposed
837 subdivision.
838
- 839 (9) The Planning Commission shall approve subject to modifications, or disapprove
840 the Preliminary Subdivision submission. The Commission may make specific
841 recommendations to be incorporated by the applicant in the application for Final
842 Subdivision Approval.
843

- 844 (10) Following Preliminary Subdivision Approval, the Community Development
845 Director shall submit the list of proposed street names to the Selectboard for
846 approval prior to Final Subdivision Approval. Submission of street names shall
847 include preliminary assignment of street numbers by the Town according to the
848 criteria of the E911 emergency response system.

849
850 **2.9 Final Subdivision Approval:** All major and minor subdivisions must obtain Final
851 Subdivision Approval in accordance with this section.

- 852
853 (A) Purpose: The purpose of Final Subdivision Review shall be to compare the plat for
854 consistency with the approved Preliminary Plan or approved Sketch Plan, to ensure
855 that all engineering, survey and other data are complete, and to ensure that the
856 proposed subdivision is in compliance with all appropriate regulations and standards.
857 Review by the Planning Commission shall include a public hearing in accordance with
858 the provisions of Article V of these Regulations.
859
- 860 (B) Application Materials: Technical plans, drawings, property surveys, etc., shall be
861 prepared by a licensed architect, engineer, or surveyor. A complete application shall
862 include a detailed written summary of the proposed project, names and addresses of all
863 adjacent property owners, ten (10) copies of the proposed plan(s) and supporting
864 written materials along with the following, plus all information in the technical
865 checklist approved by the Planning Commission:
866
- 867 (1) Identifying Information: Everything required for Sketch Plan Approval under
868 Section 2.6 (for minor subdivisions) and/or Preliminary Subdivision Approval
869 under Section 2.8 (for major subdivisions), updated and current.
870
- 871 (2) Subdivision Plan: Updated and accurate. For Major Subdivisions, this material
872 was originally submitted for Preliminary Subdivision Approval. For minor
873 subdivisions, refer to Section 2.8(B) of these Regulations.
874
- 875 (3) Proposed Final Plat: The Final Subdivision Application must include the
876 following:
877
- 878 (a) Preliminary Plat data updated and accurate. For Minor Subdivisions refer
879 to 2.8(B) of these Regulations.
- 880 (b) Sufficient data to determine readily the location, bearing and length of all
881 straight lines, radii, length of curves, tangent bearings, and angles of all
882 street lines, plat boundary lines, lot lines and all other boundary lines.
- 883 (c) Street names.
- 884 (d) Location and material of all monuments and boundary markers in
885 accordance with the provisions of Section 4.11 of these Regulations.
886
- 887 (4) Construction Detail Drawings: Updated and accurate. For Major Subdivisions,
888 this material was originally submitted for Preliminary Subdivision Approval. For
889 Minor Subdivisions, refer to Section 2.8(B) of these Regulations.
890

891 (5) Endorsement Block: The following endorsement block shall be placed on each
 892 section of the final submission, to be completed by the Planning Commission
 893 Chair or designee, upon approval:
 894

895 *“Approved by Resolution of the Planning Commission of the Town of Essex,*
 896 *Vermont, on the ____ day of _____, 20__, subject to all requirements*
 897 *and conditions of said Resolution. Signed this ____ day of _____,*
 898 *20__ by _____*
 899 *Chair”*
 900

901 (6) Fees: A fee, as established by the Selectboard, plus the cost of publishing a
 902 notice and notifying adjacent property owners shall be provided, as described in
 903 Article V of these Regulations.
 904

905 (7) A schedule for phasing of construction of streets and dwelling units within the
 906 proposed subdivision, consistent with the phasing allocation granted to the
 907 subdivision under Article III.
 908

909 (C) Review Procedure:

910
 911 (1) The Public Hearing shall be held at a Planning Commission meeting in
 912 accordance with the provisions of Article V of these Regulations.
 913

914 (2) Before convening the public hearing on a minor or major subdivision, the
 915 Planning Commission may decide that the proposed subdivision does not address
 916 the comments and concerns raised at Sketch Plan Review, or that the layout is
 917 substantially different from that discussed at Sketch Plan Review, and may
 918 require the applicant to resubmit it as a Sketch Plan. The Commission may
 919 choose to conduct a second Sketch Plan Review in lieu of the scheduled hearing.
 920

921 (3) Before convening the public hearing on a major subdivision, the Planning
 922 Commission may decide that the proposed subdivision does not address the
 923 comments and concerns raised at Preliminary Subdivision Approval. The
 924 Commission may choose to conduct a second Preliminary Subdivision Review in
 925 lieu of the scheduled hearing.
 926

927 (4) The Planning Commission shall review the final submission for conformity with
 928 the preliminary submission, with Article I of these regulations, and with the
 929 standards of these and any other relevant Regulations (such as the PUD or Site
 930 Plan Review provisions of the Zoning Regulations).
 931

932 (5) For Minor Subdivisions, the Planning Commission shall determine the water
 933 supply and waste water systems that shall be required to serve the subdivision in
 934 accordance with Section 4.9 of these Regulations.
 935

936 (6) The Planning Commission shall act to confirm and make final the residential
 937 phasing allocation in accordance with Article III of these Regulations.
 938

- 939 (7) The Planning Commission may require phased construction of streets and
940 dwelling units, consistent with the phasing allocation approved in item 6, above.
941
- 942 (8) The Planning Commission may establish conditions to Final Subdivision
943 Approval that it determines are necessary to ensure that the subdivision conforms
944 to the requirements of these Regulations.
945
- 946 (9) The Planning Commission shall review all stipulations or conditions of approval
947 and may, at its discretion, require that some or all be recorded in the Town’s
948 Land Records as restrictions on the property affected by the subdivision.
- 949 (10) The Planning Commission may require a performance guarantee for the
950 construction of public improvements, as set forth in Section 2.11(B).
951
- 952 (11) The Planning Commission, within forty-five (45) days of the close of the Public
953 Hearing, shall approve, modify and approve, or disapprove the Final Subdivision
954 submission. The decision shall be issued in writing in accordance with Article
955 **VI** of these Regulations. In the event that the Planning Commission fails to act
956 within such forty-five (45) days, the Final Plat and other final drawings shall be
957 deemed approved, effective on the 46th day.
958
- 959 (12) The Planning Commission may set a time limit for completion of required
960 improvements, including correction of outstanding violations (if any). If
961 improvements are not completed within the specified time period, approval for
962 the uncompleted portion of the subdivision shall be void.
963
- 964 (13) Approval of the subdivision plat shall not be deemed to constitute or imply
965 acceptance by the Town of any street or other open space shown on the plat.
966
- 967 (14) The Final Plat shall be filed in accordance with the provisions of Section 2.10 of
968 these Regulations.
969

2.10 Plat Recording Requirements: Following Final Subdivision Approval, the applicant shall
971 prepare a final full size mylar of the plat and any portion of the submitted plans that are
972 required to be recorded as a stipulation of Final Subdivision Approval and submit them
973 within ~~forty five (45)~~180 days of the date of approval, to Staff for signature by the Chair of
974 the Planning Commission or his/her designee. In accordance with the Act [24 V.S.A §
975 4463], the Community Development Director may grant a 90-day extension if final local
976 and state permits are pending.
977

- 978 (A) Eligible Plats: No Final Plat of subdivision of land shall be received by Staff for
979 recording in the office of the Town Clerk until approved by the Planning Commission,
980 and the fact of such approval is endorsed thereon, except as otherwise provided by
981 statute.
982
- 983 (B) Requirements: All Plats for filing shall meet the requirements of 27 V.S.A., Chapter
984 17, and any guidelines adopted by the Planning Commission.
985

- 986 (C) The Community Development Director shall have the plat signed and shall file the
987 signed plat with the Town Clerk's Office within 180 days of the date of approval. In
988 accordance with the Act [24 V.S.A., § 4463] the Community Development Director
989 may grant a 90-day extension if final local and state permits are pending.
990
- 991 (D) If a plat is not filed with the Town Clerk's Office in accordance with these provisions,
992 the subdivision approval shall become void.
993
- 994 (E) One copy of the signed plat shall be returned to the applicant.
995
- 996 (F) The plat is void if changes are made to it after the Planning Commission has endorsed
997 it in writing, unless amended in accordance with Section 2.12 of these Regulations.
998
- 999 (G) After the Community Development Director files it with the Town Clerk, the Final
1000 Plat shall become part of the official Town Land records and of any duly adopted
1001 Official Map.
- 1002 (H) In addition to the mylar of the final plat, the applicant shall file a computerized file in
1003 DXF of the information specified below. If the final plat was hand drawn and not
1004 available in computerized form, the applicant shall submit a signed statement to that
1005 effect by the land surveyor or engineer who prepared the plat. In addition, the
1006 applicant shall provide three paper copies of the approved Final Plat and any portion
1007 of the submitted plans that are required to be recorded as a stipulation of the Final
1008 Subdivision Approval. All documents shall bear the endorsement specified in
1009 Paragraph 2.9(B)(5), above. Staff shall retain one paper copy for the files of the
1010 Community Development Department and provide a copy to the Town Engineer, and
1011 the Assessor's Department. No Zoning Permit shall be issued prior to receipt and
1012 filing of the approved plat.
1013
- 1014 (I) The computerized DXF file shall contain all the information on the final plat, wetland
1015 and wetland buffer boundaries (if these have been field surveyed and verified by the
1016 State of Vermont Wetlands Coordinator or designee), and any trails, walks or
1017 bikepaths constructed or designated for public use as part of the subdivision approval.
1018

1019 **2.11 Requirements Following Approval:** Following Final Subdivision Approval and before
1020 any zoning permits may be issued for construction of or on the approved subdivision. The
1021 following data shall be submitted to Staff prior to the issuance of any Zoning Permit.
1022 Where appropriate, the Town Attorney shall certify as to the documents' sufficiency.
1023 Review of these documents as well as any documents pertaining to the performance
1024 guarantee specified in Section 2.11(B) of these Regulations shall be done at the expense of
1025 the applicant.
1026

1027 (A) Legal Data: The following legal data shall be provided:

1028 (1) Deed description of tract boundary.

1029
1030 (2) Information on all proposed publicly-owned land:
1031
1032

- 1033 (a) Certificate of title.
- 1034 (b) Offer of irrevocable dedication.
- 1035 (c) A warranty deed, free and clear of all encumbrances, to be provided to the
- 1036 Town prior to the issuance of any Zoning Permit and to be recorded after
- 1037 final acceptance of all streets, parks, or other open space by the Town.
- 1038
- 1039 (3) Copies of agreements or other documents showing the manner in which areas
- 1040 reserved by the applicant are to be maintained, including any conservation
- 1041 easements.
- 1042
- 1043 (4) Any other data, such as contracts, certificates, affidavits, endorsements, receipts,
- 1044 or other materials or agreements which may have been required by the Planning
- 1045 Commission or by the Selectboard.
- 1046
- 1047 (B) Performance Guarantee: Where public improvements are required as part of
- 1048 subdivision approval, a performance guarantee in the form of a Letter of Credit, an
- 1049 escrow account, or other security, as approved by the Selectboard shall be posted
- 1050 before any site modification.
- 1051
- 1052 (1) When a performance guarantee is required, the applicant shall file it with the
- 1053 Town in an amount sufficient to provide for and secure to the public the full cost
- 1054 of completion of all streets and required improvements within a period of time
- 1055 fixed by the Selectboard, and to ensure that all improvements and construction
- 1056 remain in satisfactory condition for a period of three (3) years after completion of
- 1057 all items. This amount shall be verified by the Town Engineer. Such guarantee
- 1058 may consist of separate portions covering required improvements and
- 1059 maintenance.
- 1060
- 1061 (2) The Selectboard shall specify the time period within which the required
- 1062 improvements must be completed, but in no case for a longer term than three (3)
- 1063 years. The term of the guarantee may, with the consent of the applicant, be
- 1064 extended for an additional period not to exceed three years. The time period
- 1065 shall be expressed as part of the posting of the guarantee.
- 1066
- 1067 (3) If any required improvements have not been installed or maintained as provided
- 1068 within the terms of such performance guarantee, it shall be considered to be
- 1069 forfeited after thirty (30) days' written notice. Upon receipt of the proceeds, the
- 1070 Town shall establish an escrow account and draw on it to install or maintain such
- 1071 improvements, and in the event the proceeds are insufficient therefore, the
- 1072 applicant shall be liable for reimbursing the Town for the balance. Any balance
- 1073 remaining in the escrow account at the end of the established maintenance period
- 1074 may be refunded to the applicant after all expenses to the Town are paid.
- 1075
- 1076 (4) The applicant may transfer his/her rights in the performance guarantee or other
- 1077 surety to any purchaser of the undeveloped part of the subdivision if the
- 1078 Selectboard approves the transfer. The Selectboard may ask the Commission for
- 1079 review and recommendations prior to granting approval.
- 1080

- 1081 (C) Inspection of Required Improvements: The Town Engineer, or his/her designated
1082 representative, shall inspect all required public infrastructure and review all
1083 certificates of inspection submitted by the engineer representing the developer to
1084 ascertain whether the work has been completed in accord with relevant Town
1085 specifications.
1086
- 1087 (1) The developer shall review the intended construction schedule with the Town
1088 Engineer to facilitate required site inspections.
1089
- 1090 (2) The applicant shall provide for engineering inspection of the project by a
1091 Vermont licensed professional engineer (civil or related specialty) such that the
1092 applicant can, upon completion of the project, provide the project verification of
1093 facilities as required in the Town of Essex Public Works Specifications. The
1094 provisions of this section will be met through evidence of a contract for these
1095 services or establishment of a letter of credit or similar financial instrument as a
1096 guarantee of performance.
1097
- 1098 (D) Public Acceptance of Streets, Reservations, and Other Public Improvements: Every
1099 street shown on a plat filed or recorded as provided in these Regulations shall be
1100 deemed to be a private street until such time as it has been formally accepted by the
1101 Town.
1102
- 1103 (1) No Zoning Permit shall be issued until proof is shown of acceptance of the
1104 streets and other improvements by the Selectboard, or that an adequate
1105 performance guarantee has been agreed upon by the Selectboard.
1106
- 1107 (2) Paper copies of as-built drawings and computerized DXF files(s) containing, in
1108 separate files by municipal service system (i.e. water, sewer, drainage, roads), or
1109 a signed statement by the engineer who designed the municipal improvements
1110 that the plans were hand drafted showing the location of all required
1111 improvements, and certified by a Vermont licensed professional engineer (with
1112 civil or related specialty) or registered land surveyor, shall be filed with the
1113 Town Manager prior to the acceptance of the improvements. Until as-built
1114 drawings are filed, the balance of the performance guarantee or other surety
1115 guaranteeing the completion of such improvements shall not be released.
1116
- 1117 (3) Upon satisfactory completion of improvements, as certified by the Town
1118 Engineer, submission of as-built drawings in accordance with item 2 in this sub-
1119 section, and submission of legal data required under Paragraph 2.11(A) of these
1120 Regulations, the Town Manager shall recommend to the Selectboard that all
1121 security covering construction of improvements be released. Sufficient guarantee
1122 in the form of a Letter of Credit or other security shall be retained, however, to
1123 guarantee maintenance of the streets and other public improvements, as provided
1124 for in Section 2.11(B) of these regulations.
1125
- 1126 (4) Final acceptance of all proposed streets and utilities shall be in conformance with
1127 the steps and procedures established by the Selectboard.
1128

- 1129 (5) Final acceptance of public lands for recreation or open space shall be in
1130 conformance with the steps and procedures established by the Selectboard.
1131
- 1132 (6) Final approval of the subdivision plat, or filing for record thereof, shall not
1133 constitute or be evidence of an acceptance of any street, park or other open space
1134 shown on such plat. Such acceptance shall be by resolution of the Selectboard,
1135 which shall set forth the fact of such acceptance for public purposes, describing
1136 the same by reference to a warranty deed conveying the site thereof to the Town
1137 free and clear of all encumbrances, together with a designation of the name by
1138 which such street shall be known.
1139

1140 **2.12 Modifications and Amendments:** When a subdivision has received final approval in
1141 accordance with the provisions of this Article, the approved plans may not be amended
1142 without approval in accordance with the provisions of this section. Before granting
1143 approval it must be determined that the proposed amendments are consistent with the intent
1144 of the original subdivision approval.
1145

- 1146 (A) Development on individual lots that would normally only require issuance of a
1147 zoning permit under Section 7.1 of the Zoning Regulations (e.g., sheds, decks,
1148 additions, etc.) shall not require subdivision amendment.
1149
- 1150 (B) Minor **Final Plan** Amendments: Minor amendments are those which do not involve
1151 changes to curb-cuts, ~~exterior lighting, road layout~~ **internal circulation patterns**, ~~or~~
1152 pedestrian circulation patterns, ~~screening~~, or which do not include boundary line
1153 adjustments involving the transfer of an acreage of land exceeding the minimum lot
1154 size of the district in which the property is located. Minor amendments may be
1155 approved by the ~~Community Development Director~~ **Administrative Officer**, who shall
1156 notify the Planning Commission of all such approvals.
1157
- 1158 (1) The ~~Administrative Officer~~ **Community Development Director** shall review the
1159 proposed minor amendment, prepare a draft decision for the Planning
1160 Commission, and place the matter on the consent agenda for the Planning
1161 Commission at the next available meeting.
1162
- 1163 (2) The ~~Administrative Officer~~ **Community Development Director** shall notify the
1164 applicant, adjacent property owners, and other interested parties, of the
1165 proposed amendment, draft decision, and the date on which the Planning
1166 Commission will consider the matter under a consent agenda, at least seven
1167 days prior to the meeting, in accordance with Article V of these Regulations.
1168
- 1169 (3) Following action by the Planning Commission, the decision shall be issued in
1170 accordance with Section 5.1(E) of these Regulations.
1171
- 1172 (4) When the proposed minor amendment has been approved by the Planning
1173 Commission, a copy of the approved survey on mylar, suitable for recording,
1174 shall be prepared showing the information from Sub-Paragraph 2.5(A)(1),
1175 above, soil test pit results (if required), bearings and distances of perimeter
1176 boundary lines, monumentation in accordance with Section 4.11 on all corners

1177 of each lot, all easements and certification by a registered land surveyor that
 1178 information is based on deed research and field information. In addition, the
 1179 following language shall be printed on the mylar:

1180
 1181 *“Approved by Resolution of the Planning Commission of the Town of Essex,*
 1182 *Vermont, on the ____ day of _____, 20__, subject to all requirements*
 1183 *and conditions of said approval. Signed this ____ day of _____,*
 1184 *20__ by _____*
 1185 *Chair”*

1186 | (5) An amended mylar shall be filed in accordance with the provisions of Section
 1187 2.10 of these Regulations.

1188
 1189 (C) Major Amendments: All amendments other than those identified in paragraphs (A)
 1190 and (B), above, i.e., those that involve significant changes to the road layout and/or
 1191 the overall layout of the subdivision, or revisions to curb-cuts, utility/pedestrian
 1192 easements, or pedestrian circulation patterns, or which include boundary line
 1193 adjustments involving the transfer of an acreage of land exceeding the minimum lot
 1194 size of the district in which the property is located, shall be considered major
 1195 amendments and shall require approval by the Planning Commission.

1196
 1197 (1) Major Amendments shall be treated as Final Subdivision Approvals in
 1198 accordance with the provisions of Section 2.9 of these Regulations. The usual
 1199 per lot fee shall apply based on the categorization of the subdivision proposed
 1200 for amendment as Minor or Major. Fees shall be required for advertisement of
 1201 a Public Hearing notice and notification of adjacent property owners of both
 1202 the original subdivision and new property owners within the subdivision, in
 1203 | accordance with the provisions of Article VI of these Regulations. It, along
 1204 with any other fee for this review as may be established by the Selectboard,
 1205 shall be payable at the time of application.

1206
 1207 (2) If the amendments involve changes to the overall layout of the subdivision, the
 1208 Planning Commission may require the application be reviewed as a new
 1209 subdivision (Minor or Major) according to these Regulations.

1210
 1211 (D) Amendments to Final Plat:

1212
 1213 (1) If an amendment to a subdivision is approved prior to the filing of the Final
 1214 Plat for the original subdivision, the amendment shall be incorporated into the
 1215 Final Plat before it is filed.

1216
 1217 (2) If an amendment to a subdivision is approved after the original Final Plat has
 1218 been filed, an Amended Plat shall be prepared and submitted in accordance
 1219 with Section 2.10 of these Regulations. An Amended Plat shall carry a
 1220 notation to the effect that it supersedes the previously filed original plat, giving
 1221 the date and recording information of the original plat.

End of Article II
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ARTICLE III: RESIDENTIAL DEVELOPMENT PHASING

1222
1223
1224 **3.0 Purpose:** The purpose of this Residential Development Phasing provision is to implement
1225 specific objectives set forth in the Town Plan.

- 1226
1227 (A) Maintain a population growth rate consistent with the growth rate set forth in Chapter
1228 2 of the 2006 Town Plan which indicates that the Town outside of the Village should
1229 grow by between 184 and 226 persons per year over the coming years. The mid-point
1230 of this range is 205 persons per year.
1231
1232 (B) Maintain a continuing balance between population growth and the Town's ability to
1233 provide facilities and services.
1234
1235 (C) Favor development in established growth areas.
1236
1237 (D) Establish a target of at least 80 percent of new housing within designated growth
1238 areas.
1239
1240 (E) Recognize that different dwelling types have different household sizes.
1241
1242 (F) Reinforce other objectives of the Town Plan.
1243

1244 **3.1 Definitions:** For the purposes of these residential phasing provisions, the following
1245 definitions shall apply.

- 1246
1247 (A) Phasing Allocation: An allocation grants a specific development the right to construct
1248 a specified number of dwelling units of specified types and sizes during specified
1249 calendar years.
1250
1251 (B) Preliminary Phasing Allocation: A phasing allocation awarded by the Planning
1252 Commission to a specific development upon completion of sketch plan approval. The
1253 Planning Commission will grant final phasing allocation when the development
1254 secures final subdivision approval.
1255
1256 (C) Dwelling Unit: A structure or part of a structure that is intended for occupancy as a
1257 separate living quarters. In general a dwelling unit will contain living, sleeping,
1258 cooking and sanitary facilities and be planned to accommodate a single household.
1259 Dwelling units will be classified according to the number of bedrooms contained in
1260 the unit. For the purposes of residential phasing, a studio apartment where the living
1261 and sleeping spaces are combined, and a single room occupied as part of a senior,
1262 congregate housing, or similar establishment shall be considered to be a one bedroom
1263 dwelling unit.
1264
1265 (D) Estimated Population Equivalent (EPE): An estimate of the population that will reside
1266 in a proposed residential development, based on the number of dwelling units
1267 proposed and the number of bedrooms in each unit.
1268

1269 **3.2 Phasing Procedures:** The following procedures and guidelines shall apply to all phasing
 1270 allocations:

1271
 1272 (A) Any proposed development that contains dwelling units and that requires Subdivision
 1273 Approval must obtain a preliminary phasing allocation upon completing Sketch Plan
 1274 approval and before submitting an application for Preliminary or Final Subdivision
 1275 Approval. The Planning Commission may waive the residential phasing requirement
 1276 for a minor subdivision if it determines that no additional dwelling units will be built
 1277 as a result of the subdivision.

1278
 1279 (B) The Planning Commission shall act on a request for a preliminary phasing allocation
 1280 when a proposed development receives sketch plan approval.

1281
 1282 (C) For purposes of phasing allocations, proposed residential development shall be
 1283 converted to Estimated Population Equivalents (EPEs) based on the assumption of one
 1284 person per bedroom, as shown in the following table:

Table 3.1 Population Equivalents Per Dwelling Unit ⁽¹⁾					
	Number of Bedrooms				
	1	2	3	4	5
Persons per Dwelling Unit	1.0	2.0	3.0	4.0	4.5

(1) These ratios were derived by examination of tabulations of the 2000 Census Public Use Microdata Samples prepared by the Center for Urban Policy Research at Rutgers University for Vermont dwellings.

1293
 1294 (D) The phasing allocation for a proposed development shall specify the number of
 1295 dwelling units, by type and size, which are authorized in each calendar year. A
 1296 phasing allocation for a single development may extend over several calendar years,
 1297 and the number, type, and size of units authorized in each calendar year must be
 1298 specified. When considering a phasing allocation for a proposed development, the
 1299 Planning Commission shall consider the number, type, and size (number of bedrooms)
 1300 of dwelling units proposed, the Estimated Population Equivalent (EPE) of the
 1301 proposed development, and the following phasing rules.

1302
 1303 (1) The total Estimated Population Equivalent (EPE) of all development phased in a
 1304 given calendar year should aim for the midpoint of the target range set forth in
 1305 Section 3.0(A), above (205 persons per year).

1306
 1307 (2) The total EPE for dwelling units phased for development outside of the sewer
 1308 core for any specified calendar year shall not exceed 20 percent of the targeted
 1309 mid-point (205), as that target may have been adjusted as described below, for
 1310 that calendar year.

1311
 1312 (3) The sewer core shall be as delineated on the map entitled “Town Of Essex
 1313 Sanitary Sewer Core Area” as approved by the Essex Selectboard.

1314
 1315 (4) Except as specified below, the maximum number of dwelling units phased for
 1316 any single development in any given calendar year shall not exceed 20 if the

- 1317 development is within the sewer core, and shall not exceed five if the
 1318 development is not in the sewer core.
 1319
- 1320 (a) Exception: If the Planning Commission feels that it is necessary in order to
 1321 achieve Town Plan objectives related to affordable housing, as defined
 1322 elsewhere in these Regulations, it may phase as many as 25 units per
 1323 calendar year to a single development within the sewer core, provided that
 1324 the total EPE for that year does not exceed the targeted mid-point (205), as
 1325 that target may have been adjusted as described below.
 1326
- 1327 (5) Starting with the phasing as requested by the applicant, the units proposed in
 1328 each calendar year shall be converted to Estimated Population Equivalent (EPE)
 1329 as described above. Beginning with the first year, the EPE of the phasing
 1330 requested by the applicant shall be added to the EPE of all development already
 1331 phased for that year.
 1332
- 1333 (a) If the sum is less than the targeted mid-point, as that target may have been
 1334 adjusted as described below, the requested allocation for the calendar year
 1335 may be approved, and the approach repeated for subsequent years as
 1336 requested by the applicant.
- 1337 (b) If the sum exceeds the targeted mid-point, as that target may have been
 1338 adjusted as described below, the Planning Commission may reduce the
 1339 allocation to the development for that year so that the EPE falls below the
 1340 targeted mid-point (and shift the unphased units to subsequent years of the
 1341 development), shift the entire development to subsequent years, or make
 1342 other adjustments as required to keep the yearly EPE totals below the
 1343 targets.
 1344
- 1345 (6) Exceptions to the two rules of Part 3.2(D)(5):
 1346
- 1347 (a) If the project being considered contains three (3) or fewer dwelling units,
 1348 the Planning Commission may approve a phasing request even if it will
 1349 push the total EPE above the targeted mid-point (205), as that target may
 1350 have been adjusted as described below), provided that the total EPE for that
 1351 calendar year does not exceed 226 persons per year.
- 1352 (b) If the project being considered contains affordable dwelling units (as
 1353 defined elsewhere in these regulations) numbering at least 20 percent of
 1354 total dwellings in the project, or 5 dwelling units, whichever is more, the
 1355 Planning Commission may approve a phasing request even if it will push
 1356 the total EPE for that calendar year above the targeted mid-point (205), as
 1357 that target may have been adjusted as described below, subject to the
 1358 following:
 1359
- 1360 (i) The total EPE for that year does not exceed 226 persons per calendar
 1361 year, and
- 1362 (ii) That the targeted mid-point for the next calendar year is adjusted
 1363 downward by an amount equivalent to the amount by which the current
 1364 year EPE exceeds the targeted mid-point (205) as it may have been

1365 adjusted, provided that the adjusted future year target may not go below
 1366 184 persons per year. If this adjustment would push the year’s target
 1367 below 184 persons per year, some of the reduction may be shifted an
 1368 additional year forward.
 1369

1370 (E) If, at the end of a calendar year the Planning Commission finds that the total EPE of
 1371 all developments phased for that year falls short of the targeted mid-point (205), as
 1372 that target may have been adjusted, the Planning Commission may shift unallocated
 1373 growth to the next year by adjusting the target for that year upward, provided that the
 1374 adjusted target does not exceed 226 persons per year. If the shift would push the
 1375 target for the next year above 226 persons per year, the excess may be shifted an
 1376 additional year forward until the entire shortfall is made up but the targets for all years
 1377 remain below the 226 level.
 1378

1379 **3.3 Record Keeping:** Town staff shall maintain an accurate and up to date tabulation of
 1380 approved phasing, showing both the number of units by size and type that have been phased
 1381 for each calendar year and the total Estimated Population Equivalent (EPE) for each
 1382 calendar year for which any phasing has been approved. The phasing tabulation shall
 1383 include all developments that have preliminary and/or final phasing allocations, plus a
 1384 separate list of proposed developments that have applied for sketch approval. This
 1385 tabulation shall be updated immediately after any preliminary or final phasing allocation is
 1386 granted, shall be distributed to any applicant seeking sketch approval prior to the Planning
 1387 Commission meeting at which that sketch application will be discussed, and shall be
 1388 distributed to the Planning Commission prior to any meeting at which a development is
 1389 reviewed for sketch approval.
 1390

1391 ~~Prior to January 31 of~~ As early as possible each year, staff shall prepare and the Planning
 1392 Commission shall approve a summary report of residential phasing activity during the prior
 1393 calendar year and the status of all residential development that has been granted
 1394 preliminary and/or final phasing prior to and during that calendar year. This approved
 1395 summary report shall be presented to the Selectboard at the earliest convenient meeting.
 1396

1397 **3.4 Changes After Preliminary Phasing Allocation:** If, after receiving a preliminary phasing
 1398 allocation, the design of the development, with respect to the number and sizes of the
 1399 dwelling units, changes before Final Subdivision Approval is received, the applicant shall
 1400 request a modification of its preliminary phasing allocation to be consistent with the revised
 1401 development design.
 1402

1403 (A) If the changes result in a reduction in the total number of dwelling units and/or the
 1404 total EPE, staff may make the modification to the preliminary phasing allocation and
 1405 report the change to the Planning Commission.
 1406

1407 (B) If the changes result in an increase in the total number of dwelling units and/or the
 1408 total EPE, the additional allocation must be approved by the Planning Commission in
 1409 accordance with Section 3.2, above.
 1410

- 1411 (C) The preliminary phasing allocation, as it may be modified in accordance with this
1412 section, shall be approved by the Planning Commission as a final phasing allocation
1413 when the development receives Final Subdivision Approval.
1414
- 1415 (D) If an applicant, after receiving a preliminary phasing allocation, does not file an
1416 application for Preliminary or Final Subdivision Approval within the time periods
1417 specified in these Regulations, the preliminary phasing allocation shall expire and the
1418 unused dwelling units or EPE may be reallocated to other applicants by the Planning
1419 Commission.
1420

1421 **3.5 Changes after Phasing Allocation Becomes Final:** If, after receiving a final phasing
1422 allocation, an applicant modifies the design with respect to the number and size of dwelling
1423 units, or chooses to not draw all authorized permits in the specified calendar year, the
1424 unused allocation must be reallocated to the development in subsequent years.
1425

- 1426 (A) If the number of unused units is five or less, or if the total unused EPE is 18 or less,
1427 staff may reallocate the unused development in accordance with Section 3.2, above,
1428 and report the change to the Planning Commission.
1429
- 1430 (B) If the number of unused units is greater than five or if the unused EPE is greater than
1431 18, the unused development must be reallocated to future years by the Planning
1432 Commission in accordance with Section 3.2, above.
1433
- 1434 (C) If the changes result in an increase in the total number of dwelling units or an increase
1435 in the EPE, the development must return to the Planning Commission for reallocation
1436 in accordance with Section 3.2, above.
1437
- 1438 (D) If, after four years from the year of the first allocation to an approved project, the
1439 applicant has not drawn any of the authorized zoning permits, the final allocation shall
1440 expire and the units and EPE shall become available for allocation to other projects.
1441
- 1442 (1) No less than ninety (90) days before the four-year expiration date, staff shall
1443 notify the applicant, in writing, of the pending expiration.
1444
- 1445 (2) The Planning Commission may, upon written request, grant a single one-year
1446 extension beyond the four-year limit if it determines that the applicant has been
1447 diligently trying to implement the subdivision.
1448

1449 **3.6 Disclaimer:** The granting of a preliminary phasing allocation to a proposed development
1450 does not, in any way, commit the Planning Commission to grant Preliminary Subdivision
1451 Approval or Final Subdivision Approval to that proposed development.

**End of Article III
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1452 **ARTICLE IV: SUBDIVISION STANDARDS**

1453
1454 **4.0 General Standards:** The Planning Commission shall evaluate any proposed subdivision
1455 according to the following general standards. In light of findings made regarding these
1456 standards, the Commission may require modification or phasing of the proposed
1457 subdivision.

1458
1459 **4.1 Standards Applicable To All Subdivisions.**

- 1460
1461 (A) The applicant shall be guided by the minimum planning, design and construction
1462 standards contained in these Regulations and the Town’s Public Works specifications,
1463 and shall provide all of the improvements specified in this Article. As specifications
1464 for alternative energy technologies become available and incorporated into the Town’s
1465 Public Works Specifications, they shall also become incorporated into review under
1466 these Regulations.
1467
- 1468 (B) Where the Planning Commission finds that, because of exceptional and unique
1469 conditions of topography, location, shape, size, drainage or other physical features of
1470 the site, or because of the special nature and character of surrounding areas, the
1471 minimum standards specified herein would not reasonably protect or provide for
1472 public health, safety or welfare, a higher standard may be required.
1473
- 1474 (C) Land to be subdivided for building purposes shall be of such character that it can be
1475 used safely without danger to health or peril from flood or other menace.
1476
- 1477 (D) To ensure adequate access, any subdivision or combination of proposed and
1478 previously approved or built subdivisions containing fifty (50) or more dwelling units
1479 shall include a street system that has two separate permanent connections to the
1480 existing street system. Such connections shall be open to public motorized vehicular
1481 traffic and shall be proposed as Town streets for acceptance by the Town.
1482 Notwithstanding the above regulation, with Planning Commission and Selectboard
1483 approval, one of the street connections may be limited to emergency and pedestrian
1484 access only. Prior to granting such limitation, the Town Engineer, Community
1485 Development Director, Fire Chief, and Police Chief shall be consulted for their
1486 recommendation(s).
1487
- 1488 (E) The subdivision plan must contain adequate provisions for pedestrian traffic and
1489 connections with pedestrian ways on adjoining properties by sidewalks, paths, and/or
1490 trails.
1491
- 1492 (F) Any major subdivision fronting on a major street or collector street, as defined in
1493 Article VI of these Regulations, shall be laid out so that all lots created have access
1494 from new minor roads rather than directly from the major or collector street. (See also
1495 Street Planning Standards in Section 4.3).
1496
- 1497 (G) All lots created by any proposed subdivision shall conform to the Town's Zoning
1498 Regulations.
1499

- 1500 (H) The proposed subdivision shall demonstrate a desirable relationship to the land form,
1501 its topography and geology, to natural drainage and surface water runoff, to the ground
1502 water table, and to other natural features.
1503
- 1504 (I) The proposed subdivision shall provide adequate access to all of the lots in the
1505 subdivision by streets that are designed to current safety standards under existing and
1506 future traffic conditions, and designed to meet appropriate standards based on the
1507 functional characteristics of the type of street. The four functional types of streets are:
1508 major (arterial) road, collector road, minor (local through) road, and minor dead-end
1509 road.
1510
- 1511 (J) The proposed subdivision shall make adequate provisions for water, sewage, drainage,
1512 stormwater management, and other requirements where necessary, in accordance with
1513 the health and safety of the community.
1514
- 1515 (K) The proposed subdivision shall include provisions for safety in the case of fire, flood,
1516 panic and other emergencies.
1517
- 1518 (L) The proposed subdivision shall include provision for such facilities as are desirable
1519 adjuncts to the contemplated use, such as parks, recreation areas, pedestrian ways and
1520 off-street parking.
1521
- 1522 (M) The proposed subdivision shall include preservation of natural assets such as streams,
1523 ponds, trees, agricultural land, attractive scenic areas, and historic sites.
1524
- 1525 (N) The proposed subdivision shall promote variety and flexibility in residential
1526 development including clustering of lots under provisions of the Act [§4417], and the
1527 Town Zoning Regulations.
1528
- 1529 (O) The proposed subdivision shall include appropriate utilization of municipal services
1530 and avoidance of adverse effect on the Town's ability to maintain facilities and to
1531 provide public works and educational services.
1532
- 1533 (P) The proposed subdivision is in conformance with the Town Plan.
1534
- 1535 (Q) Where an existing home(s) exists within a proposed subdivision the Town shall be
1536 informed of any apartment(s) within said home(s).
1537
- 1538 (R) The proposed subdivision shall provide adequate landscaping and screening to ensure
1539 an aesthetically pleasing development while screening undue adverse impacts of the
1540 proposed subdivision on adjacent properties.
1541
- 1542 (S) Over-Sized Improvements and Provisions for Future Expansion:
1543
- 1544 (1) In conformance with the Town Plan or as otherwise determined by the Town, the
1545 applicant may be required to install storm drainage, stormwater management,
1546 water supply, or sewage disposal facilities of a size adequate to accommodate

1547 anticipated needs of future developments.

1548

1549 (2) The Town may require the applicant to provide easements, in combination with
 1550 anticipated street connections or at other necessary locations, to allow future
 1551 extension of facilities and/or street or walkway access to adjacent undeveloped
 1552 properties.

1553

1554 (3) The Town, with Selectboard approval, may reimburse the applicant for the
 1555 difference in cost between the facilities actually needed in the subdivision and
 1556 the cost of facilities necessary to provide for future development.

1557

1558 (4) When further development occurs, the Town may charge the appropriate portion
 1559 of the additional cost to that subsequent subdivider.

1560

1561 (T) Development within an approved subdivision shall be subject to any impact fees that
 1562 the Town may enact in accordance with 24 V.S.A., Chapter 131. However, if the
 1563 subdivision developer is required to provide land or construct facilities explicitly
 1564 included in the calculation of the impact fees, the developer may apply for a credit
 1565 against the impact fees in an amount equal to the cost of such construction, but not
 1566 exceeding the amount of the impact fee.

1567

1568 **4.2 Standards Applicable to Minor Subdivisions:** In general, Minor Subdivisions shall be
 1569 subject to the standards listed above and required improvements as specified in the
 1570 following sections of this Article. The Planning Commission may, however, require that a
 1571 particular Minor Subdivision meet any additional standards and required improvements
 1572 specified under this Article, if it deems that necessary to achieve the purposes of these
 1573 Regulations.

1574

1575 (A) Depending on the size and layout of the minor subdivision, the requirements of the
 1576 following sections may also apply:

1577

- 1578 (1) Section 4.3 Preservation of Natural and Significant Features
- 1579 (2) Section 4.4 Lots – Planning and Design Standards.
- 1580 (3) Section 4.5 Streets – Construction Standards
- 1581 (4) Section 4.6 Sidewalks – Planning and Construction Standards
- 1582 (5) Section 4.7 Open Space
- 1583 (6) Section 4.8 Utility Easements and Public Utility Improvements
- 1584 (7) Section 4.9 Water Supply and Waste Water Systems
- 1585 (8) Section 4.10 Stormwater Management and Erosion Control
- 1586 (9) Section 4.11 Monuments and Lot Markers

1587

1588 ~~**Preservation of Natural and Scenic Features:**~~

1589

1590 **4.3 Preservation of Natural and Scenic Features:**

1591 (A) Scenic Features: Subdivisions within the Scenic Protection Resource Overlay District
 1592 (SRPO) shall be subject to the review process established in Table 2.20 of the Official
 1593 Subdivision Regulations of the Town of Essex Outside the Village of Essex Junction. All
 1594 subdivisions located in this district shall be reviewed according to the process and standards

1595 | [laid out in the *Views to the Mountain: Scenic Protection Manual*. These standards include](#)
1596 | [site development, building envelopes, building design and massing, access roads and](#)
1597 | [driveways, dimensional requirements, landscaping, signs, and lighting.](#)

1598 |
1599 | **(B) Natural Features:** Outstanding natural features of the site, including groves of trees,
1600 | watercourses and falls, historic sites, exceptional views, and similar irreplaceable assets,
1601 | shall be preserved. The Planning Commission may require building envelopes to be
1602 | specified for some or all buildings where it is necessary to carefully define building
1603 | locations and heights in order to protect the natural features listed in this section or
1604 | identified on the Significant Features Reference Map.

1605 |
1606 | (1) The subdivision shall be planned so as to retain, insofar as possible, the natural
1607 | contours and to conserve the natural cover and soil. No topsoil, sand or gravel
1608 | shall be removed from the subdivision for any other purpose than to meet
1609 | construction needs of that particular subdivision unless special approval is
1610 | obtained from the Zoning Board of Adjustment.

1611 |
1612 | (2) Where subdivision improvements will occur on slopes, in un-vegetated areas, or
1613 | in other areas with fragile soil conditions, plans shall be submitted to ensure
1614 | adequate erosion and stormwater control in conformance with the Town's
1615 | adopted Stormwater Ordinance. Where necessary, the Planning Commission
1616 | shall require temporary measures to protect areas exposed during the
1617 | development, consistent with the requirements of the Town's Stormwater
1618 | Ordinance.

1619 |
1620 | (3) Topsoil removed in the process of grading the subdivision site shall be replaced
1621 | to an average depth of four (4) inches (10 cm) with a minimum depth of two (2)
1622 | inches (5 cm) and the site seeded in accordance with Soil Conservation Service
1623 | recommendations and the Town's Public Works Specifications.

1624 |
1625 | (4) No building, building envelope, road, sidewalk or utility shall be located within
1626 | wetlands (as defined in Article VI of these Regulations) and associated buffers,
1627 | except as specified in Section 3.11(F) of the Town's Zoning Regulations.

1628 |
1629 | (a) Establishment of Wetland Buffer Boundaries: The location of wetlands and
1630 | associated buffers may be identified initially from one or more of the
1631 | following sources:

1632 | (i) The Significant Features Reference Map as included in the Essex Town
1633 | Plan.

1634 | (ii) The Water resources Map as included in the Essex Town Plan.

1635 | (iii) Current Vermont Significant Wetland Inventory (VSWI) Maps.

1636 | (iv) Current National Wetland Inventory (NWI) Maps.

1637 | (v) Vermont Base Maps (orthophotos).

1638 |
1639 | For the purposes of Sketch Plan review, these references shall be used as an
1640 | indication of the boundary of possible wetlands and associated buffers, in
1641 | the absence of field derived information.

1642
 1643 The boundary of the wetland and associated buffers shall be field delineated
 1644 by the applicant either at their discretion or as may be directed by the
 1645 Planning Commission as a condition of Sketch Plan approval. Boundaries
 1646 of wetlands shall be delineated on the basis of the presence of hydric soils,
 1647 vegetation and the hydrology of the site according to the current
 1648 requirements of the ANR and verified by a field inspection by a
 1649 representative of the ANR, as appropriate.

1650
 1651 Field delineations of wetlands and associated buffers must be performed by
 1652 a wetlands biologist, soils scientist or other land use professional (civil
 1653 engineer, landscape architect, planner) with recognized expertise in field
 1654 delineation of wetland areas. The Planning Commission reserves the right
 1655 to require the applicant to provide documentation regarding the expertise of
 1656 the person who has performed the field delineation. The Planning
 1657 Commission may also require that the field delineation be reviewed by staff
 1658 from the ANR or Army Corps of Engineers, as they may be available, or an
 1659 expert of the Planning Commission’s own choosing.

1660
 1661 Such a field delineation, upon approval by the Commission, shall supersede
 1662 the boundaries shown on the Significant Features Reference Map.

- 1663
 1664 (b) Review Process and Waiver Based on a Conditional Use Determination:
 1665 Because subdivision applications can differ dramatically with respect to the
 1666 amount of impact they may propose on wetlands or wetland buffer areas,
 1667 the Planning Commission may choose to require that all applicable wetland
 1668 permits be obtained prior to Preliminary Plan approval if it finds that either:
 1669
 1670 (i) The wetland impact is extensive in area; or
 1671 (ii) There is a likelihood that the wetland permitting agencies will require
 1672 significant changes in the proposed subdivision layout or extent of
 1673 development prior to issuing permits.

1674
 1675 At the Final Plan approval the Planning Commission may formally waive
 1676 the limitation on development within the wetland and its buffer established
 1677 by this section if the applicant has obtained a Conditional Use
 1678 Determination from the ANR which approves development within the
 1679 wetland and/or associated buffer.

- 1680
 1681 (5) Lot sizes should be encouraged to be the minimum possible to site the
 1682 primary use, accessory buildings, on-lot water, on-lot sewer and access
 1683 driveways in order to maximize the area of protected open space.
 1684
 1685 (6) Where the subdivision occurs in a forested or partially forested area, the
 1686 subdivider shall submit recommendations from a professional forester
 1687 regarding placement of subdivision improvements and removal of trees.

1688
 1689 (C) New Trees: New street trees shall be provided in areas where no trees presently exist or

1690 where existing trees would suffer life-shortening construction damage. One street tree shall be
 1691 provided for each fifty feet (50') of frontage along a public or private road, provided that at least
 1692 | ~~one~~ two street trees shall be provided on each lot.

1693
 1694 (1) Street trees shall be planted in the public right-of-way, either between the
 1695 sidewalk and the curb or no more than five feet (5') inside of the front property
 1696 line, at the discretion of the Planning Commission.

1697
 1698 (2) Street trees shall be of a size and species identified as appropriate on any Site
 1699 Plan or Landscape Guidelines adopted by the Planning Commission, or as
 1700 approved by the Commission. Street trees shall be planted on the property side
 1701 of the sidewalk when the green space between the curb and the walk is less than
 1702 or equal to five feet in width.

1703 |
 1704 (3) Street Trees will be guaranteed for a period of five (5) years from the date the
 1705 Town takes over the road as a public road.

1706
 1707 | (D) Floodplain: All areas identified as areas of special flood hazard are included in
 1708 the FLOODPLAIN OVERLAY (C2) DISTRICT as described in the Town's Zoning
 1709 Regulations. No development on such lands may be approved except in conformance
 1710 | with the provisions set forth in Table 2.17 (FLOODPLAIN OVERLAY (C2)
 1711 DISTRICT) of the Town's Zoning Regulations. Where such development requires
 1712 Conditional Use Approval by the Board of Adjustment, an application for Conditional
 1713 Use Approval must be filed prior to filing an application for Final Subdivision
 1714 Approval. Floodplain lands not used for development may be offered as a gift to the
 1715 Town for use as open space or for passive recreational purposes.

1716
 1717 | (E) Water Bodies and Adjacent Buffer Areas:

1718
 1719 (1) No natural watercourse shall be piped, dammed or altered without the approval
 1720 of the Town and, where applicable, the State Department of Environmental
 1721 Conservation.

1722
 1723 (2) Construction and site modifications to streams, lakes, ponds and associated
 1724 buffers may be allowed only in conformance with the provisions of Section
 1725 | ~~3.103.11~~ 3.103.11 (Surface Water and Wetlands Protection) of the Town's Zoning
 1726 Regulations. If construction is approved within these areas, construction shall
 1727 also conform to the applicable requirements of the Town's Stormwater
 1728 Management Ordinance.

1729
 1730 | **4.34.4 Blocks And Lots - Planning and Design Standards:**

1731
 1732 (A) Blocks:

1733
 1734 (1) The length, width and shape of blocks shall be determined with due regard to:

1735
 1736 (a) Provision of adequate building sites suitable to the special needs of the type

- 1737 of use contemplated.
- 1738 (b) Zoning requirements as to lot sizes and dimensions.
- 1739 (c) Need for convenient access, circulation, control and safety of vehicular and
- 1740 pedestrian traffic.
- 1741 (d) Limitations and opportunities of topography.
- 1742 (e) Impacts on resources identified on the Significant Features Reference Map.
- 1743
- 1744 (2) Irregularly shaped blocks shall be wide enough to allow two (2) rows of lots
- 1745 except where limited by unique or extreme topography. The minimum block
- 1746 width for two tiers of lots shall be 300 feet (91.5 meters), or twice the minimum
- 1747 depth as specified in the Zoning Regulations, whichever is larger.
- 1748
- 1749 (3) Generally, the length of a block should be three (3) times the width.
- 1750
- 1751 (4) Insofar as practical, side lot lines shall be at right angles to straight street lines or
- 1752 radial to curved street lines.
- 1753
- 1754 (B) Lots:
- 1755
- 1756 (1) Minimum lot and yard requirements shall be those of the Zoning Regulations and
- 1757 be appropriate for the proposed type of development. Where lots are more than
- 1758 double the minimum required area for the zoning district, the Planning
- 1759 Commission may require that such lots be arranged so as to allow further
- 1760 subdivision and the opening of future streets where they would be necessary to
- 1761 serve potential lots.
- 1762
- 1763 (2) In addition to the minimum requirements of the Zoning Regulations, lots shall be
- 1764 of sufficient size to provide an adequate building site and suitable areas, with
- 1765 adequate isolation distances from neighboring properties, for sewage disposal
- 1766 and water supply.
- 1767
- 1768 (3) Each lot shall be provided with satisfactory access to a public street. Driveway
- 1769 grades shall not exceed three percent (3%) within 20 feet (6.1 meters) of the edge
- 1770 of the traveled way. Driveway aprons shall be constructed to at least the same
- 1771 standard as the adjacent street. For paved streets, aprons must be paved, by the
- 1772 applicant, to the sidewalk/path or to the limit of the right-of-way in the absence
- 1773 of a sidewalk/path and completed prior to the three-year warranty period covered
- 1774 by the project's Highway Agreement. Construction of the aprons is the
- 1775 responsibility of the applicant. Waivers to these standards may be issued, with
- 1776 the approval of the Town Engineer, when such waivers are in the best interests of
- 1777 the Town.
- 1778
- 1779 (4) Lots shall be laid out so as to provide positive drainage away from all buildings,
- 1780 and individual lot drainage shall be coordinated by the applicant with the
- 1781 stormwater management plan for the subdivision. Drainage shall be designed so
- 1782 as to avoid concentration of storm drainage water from each lot to adjacent lots.
- 1783
- 1784 (5) The ratio of the average depth to the average width of any lot shall not exceed

1785 5:1.

1786
1787 | **4.44.5 Streets:**

1788
1789 (A) Planning Standards

- 1790
1791 (1) Streets shall be suitably located, of sufficient width, and adequately constructed
1792 to accommodate the prospective traffic and to afford satisfactory access to fire
1793 fighting and other emergency vehicles, snow removal and road maintenance
1794 equipment, and school buses.
1795
1796 (2) The arrangement of streets shall be coordinated with existing and planned major
1797 and collector streets so as to provide convenient access to places of employment,
1798 shopping areas, schools and recreational areas.
1799
1800 (3) To ensure adequate access, as described in 4.5(A)(1) and 4.5(A)(2), and
1801 connectivity between neighborhoods, the Planning Commission shall require the
1802 continuation of existing streets from adjacent properties. Where the adjacent
1803 property is undeveloped, the Commission shall require new streets to be
1804 constructed to property lines prior to the completion of the warranty period set
1805 forth in the project's Highway Agreement
1806
1807 (4) Minor streets shall be planned so as to discourage their use by through traffic.
1808
1809 (5) The location of streets shall conform to the Town Plan.
1810
1811 (a) Where the Town Plan indicates plans for realignment or widening of a
1812 street that would require reservation of some land of the subdivision, the
1813 Planning Commission shall require that such areas be shown and marked on
1814 the Subdivision Plat "Reserved for Street Realignment (or widening)
1815 Purposes".
1816 (b) Where the Town Plan indicates plans for a new street or highway on land
1817 within the subdivision, the Planning Commission may require reservation of
1818 a right-of-way of sufficient width and of suitable location to conform to the
1819 proposed Town street or highway plans.
1820
1821 (6) Where existing access roads are inadequate to handle traffic to be generated by
1822 the proposed subdivision, the Planning Commission may require the subdivider
1823 to improve existing access roads, affected intersections and pedestrian facilities,
1824 or provide additional access roads, intersection improvements, or pedestrian
1825 facilities. If adequate access cannot be provided, the Commission may limit the
1826 number of buildable lots approved.
1827
1828 (7) Streets shall be planned in relation to existing topographic conditions with grades
1829 that conform to design standards set forth later in this Section and in the Town's
1830 Public Works specifications.
1831

- 1832 (8) Intersections of major streets with other streets shall be held to a minimum and
1833 shall be at least 750 feet (228.7 meters) apart. Where necessary to accommodate
1834 additional traffic flow from proposed subdivision, the Planning Commission may
1835 require the applicant to construct turning lanes or other appropriate road
1836 improvements in existing major streets.
1837
- 1838 (9) Within 100 feet (30.5 meters) of an intersection right-of-way, the intersecting
1839 streets shall be at approximately right angles.
1840
- 1841 (10) Privately owned reserve strips, or other means of controlling access to streets or
1842 adjacent property, shall be prohibited.
1843
- 1844 (11) A circular turn-around meeting the Town's Public Works Specifications shall be
1845 provided at the end of a permanent dead-end street. A temporary turn-around
1846 shall be provided on all temporary dead-end streets. An alternative to a circular
1847 turn-around may be approved if recommended by the Town Engineer.
1848
- 1849 (12) Where the subdivision borders on a major street or road, driveway entrances shall
1850 not be permitted on the major street or road unless the Town Engineer determines
1851 that no safe access can be created from the minor road, and the Planning
1852 Commission determines that it is in the best interests of the Town to allow a
1853 driveway entrance on a major street. Access to individual lots shall be from
1854 minor streets within the subdivision.
1855
- 1856 (13) As specified in Section 4.1(D), the Planning Commission shall require the
1857 subdivision to have more than one entrance.
1858
- 1859 (14) All street names shall be approved by the Selectboard in accordance with all
1860 applicable E-911 requirements.
1861
- 1862 (15) The Planning Commission may require easements for future public transit
1863 facilities (e.g., bus shelters) and for future sidewalks and walkways.
1864
- 1865 (B) Design Standards: All roads shall be designed in conformance with the standards set
1866 forth in this Section.
1867
- 1868 (1) Type I Urban Design Standard
1869
- 1870 (a) The characteristics of this type of street are a 30-foot wide paved road, with
1871 partial or full curbs, a collected storm drainage system and concrete
1872 sidewalks and/or paved walkways, streetlights and other amenities as set
1873 forth in the Town's Public Works Specifications.
- 1874 (b) This type of street is the required street design for all new development
1875 roads, except for new streets in the AR, R1, C1, C2, or O1 Districts where a
1876 Type II Paved Road standard may be used, when recommended by the
1877 Town Engineer and approved by the Planning Commission.
- 1878 (c) The design standards for Type I Urban roads are set forth in table 4.1.
1879

Table 4.1 Type I Urban Design Standards for Streets

Standard Description	Standard Requirement, by Street Type			
	Major	Collector	Minor	Dead End*
Minimum Right-of-Way Width	66 FT (20.1m)	60 FT (18.3m)	60 FT (18.3m)	60 FT (18.3m)
Minimum Pavement Width	32 FT (9.76m)	30 FT (9.15m)	30 FT (9.15m)	30 FT (9.15m)
Maximum Grade	6%	8%	10% **	6%
Minimum Grade	0.5%	0.5%	0.5%	0.5%
Minimum Radius of Curves, Center Street Line	750 FT (228.5m)	350 FT (106.7m)	200 FT (61.0m)	150 FT (45.7m)
Minimum Tangent Length Between Reverse Curves	200 FT (61.0m)	100 FT (30.5m)	50 FT (15.2m)	50 FT (15.2m)
Maximum Grades within 100' of Center Line Intersections	2%	3%	3%	3%
Minimum Stopping Sight Distance	350 FT (106.7m)	240 FT (73.2m)	200 FT (48.8m)	200 FT (48.8m)
Minimum Distance Between Center Line Offsets	750 FT (228.7m)	300 FT (91.5m)	200 FT (61.0m)	-----
Minimum Angle at Intersections of Street Center Lines	90°	85°	80°	-----
Minimum Curb Radius at Intersections	30 FT (9.1m)	20 FT (6.1m)	15 FT (4.5m)	15 FT (4.5m)

*Dead End Street:

Maximum Length = 900' (274.5m)

Turn-around Diameter – Outside Edge of Pavement = 100' (30.5m)

Turn-around Diameter – Right-of-Way = 120' (36.6m)

**No grade greater than 8% may be continued for a distance of more than 300' (91.5m)

***Determined on a case-by-case basis reflecting the speed limit set for the roadway. At 25 mph, the lowest allowable speed limit under state law, the minimum stopping sight distance is 200 ft.

Note: 1' = .305m

(2) Type II Paved Rural Road

- (a) The characteristics of this roadway are a 24 foot wide paved width, Four (4) foot gravel shoulders on each side, deep drainage ditches fed by overland flow, paved paths or trails and other amenities as set forth in the Town's Public Works Specifications.
- (b) This type of road is intended for use in the rural areas of Town, where the density of development is low and will remain low for an extended period of time, and for reconstruction/upgrade of existing gravel roads.
- (c) Its use is permitted in the AR, R1, C1, C2, or O1 Districts where, in the opinion of the Planning Commission, with input from the Town Engineer, the density of development will remain low.
- (d) The design standards for a Type II Paved Rural Road are the same as set forth in the Table for Type I Urban Roads, except that the paved road width for a collector, minor or dead-end road shall be 24 feet.

(3) Private Roads.

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- (a) The creation of new private or gravel roads shall not be allowed, except in the case of a specific allowance for paved private roads under a Planned Unit Development as set forth in the Town’s Zoning Regulations, when recommended by the Town Engineer and approved by the Planning Commission.
- (b) The construction of all private roads shall meet the technical requirements of the Town’s Public Works Specifications with respect to materials, adequacy of pavement depth, drainage, and other related features.

(C) Construction Standards:

- (1) The applicant shall install street improvements in accordance with the requirements of the Town’s Public Works Specifications.
- (2) For all new streets, preparation of sub-grade, paving and installation of other improvements shall be in accordance with details in the Town’s Public Works Specifications.
- (3) Standards for improvements on existing streets or intersections shall be as required by the Planning Commission after recommendation from the Town Engineer.
- (4) Where the Planning Commission deems necessary, based on engineering input, other standards in excess of those of the Public Works Specifications may be required.

(D) Curbs - Planning and Construction Standards:

- (1) The applicant shall install curbs and storm drainage on all new streets where required by the Town of Essex Public Works Specifications, based on the Planning Commission's classification of streets under Paragraph 2.8(C)(7) and the design standards of Section 4.5(B) of these Regulations.
- (2) The applicant shall also install curbs, combined with storm drainage improvements, along existing streets adjacent to the subdivision where the Planning Commission determines that existing drainage will not be adequate to serve the proposed subdivision.

4.6 Sidewalks - Planning and Construction Standards:

- (A) The applicant shall install sidewalks or a combination of sidewalks and paved paths on both sides of new streets within a subdivision, on all major collectors and minor roads. Sidewalks and/or paths may be installed on one side for dead-end roads or roads with low anticipated traffic volumes.
- (B) The applicant shall also install sidewalks along the adjacent side of an existing street where the street is located in a high or medium density residential zone or when the

1954 Planning Commission determines that a significant volume of pedestrian traffic will
1955 exist.

1956
1957 (C) Installation of sidewalks and paved paths shall be in accordance with the requirements
1958 of the Town's Public Works Specifications.

1959
1960 **4.7 Land for Public Open Space and Recreational Use:**

1961
1962 (A) In lieu of all or part of recreation impact fees as may be established by the Selectboard
1963 under Chapter 3.04 of the Essex Municipal Code, the Town may accept land reserved
1964 for recreation purposes:

1965
1966 (1) Reserved sites shall have suitable public access. While some of the reserved land
1967 may remain as undeveloped open space, at least some of the area shall be suitable
1968 for development for active recreational use.

1969
1970 (2) Where necessary to assure suitability for recreational use, the Planning
1971 Commission may require sites to be graded.

1972
1973 (3) Areas for public open space and recreational use shall be dedicated to the Town
1974 subject to approval by the Selectboard.

1975
1976 (4) Open space and recreational sites shall be reserved after consideration of the
1977 resources identified on the Significant Features Reference Map and trails
1978 identified in the Town Plan in order to create an integrated system of public or
1979 protected spaces and trail networks.

1980
1981 (B) Trails and conservation greenways identified on the Significant Features Reference
1982 Map and in the Town Plan and located within the parcel must be accommodated
1983 within the open space and recreational areas.

1984
1985 **4.8 Utility and Access Easements and Improvements:**

1986
1987 (A) Easements for Utilities, Drainage and Access:

1988
1989 (1) Where conditions make it impracticable to include utilities or drainage facilities
1990 within street rights-of-way, perpetual, unobstructed easements shall be provided
1991 to the Town, centered on rear or side lot lines, with satisfactory access to the
1992 street.

1993
1994 (2) Permanent utility or drainage easements shall be at least 30 feet (9.2 meters) in
1995 width for pipelines buried 10 feet or less in the ground and shall be indicated on
1996 the plat. Pipelines buried at greater depths shall require easements in excess of
1997 30 feet as recommended by the Town Engineer. Lesser easement widths may be
1998 permitted with approval from the Town Engineer.

1999
2000 (3) The Planning Commission may require perpetual, unobstructed easements to

2001 facilitate non-motorized, multi-use facility user access to schools, public open
 2002 space, streets or adjacent properties as part of a proposed contiguous access plan.

2003
 2004 (4) Non-motorized, multi-use access easements shall be at least 15 feet (4.8 meters)
 2005 in width, and shall be so indicated on the plat. The Planning Commission may
 2006 require construction of a concrete or paved walk/path to be installed within the
 2007 easement.

2008
 2009 (B) Utility Improvements:

2010
 2011 (1) Public utility improvements, including electric and telephone cables, and, where
 2012 accessible, gas lines and television cables, shall be installed in accordance with
 2013 the Town’s Public Works Specifications.

2014
 2015 (2) All utility lines shall be underground except where the Planning Commission,
 2016 upon recommendation of the Town Engineer, determines that ledge, underground
 2017 water or other conditions make underground installation economically infeasible.

2018
 2019 (3) Location of utility lines shall be shown on a map submitted to the Public Works
 2020 Director. Record drawings of all utility locations shall be provided to the Town
 2021 upon completion of the subdivision and acceptance of the roads and easements
 2022 within it.

2023
 2024 (4) Underground siting of distribution transformers is preferred. If above grade,
 2025 distribution transformers are used, they shall be provided with adequate safety
 2026 covers, and shall be landscaped and sited in unobtrusive locations.

2027
 2028 **4.9 Water Supply and Waste Water Systems:**

2029
 2030 (A) Water Supply: Whenever a public water supply is reasonably accessible or required in
 2031 the interest of public health or safety, and where connection to the public water supply
 2032 is consistent with the Town Plan, the Town Water Ordinance, and any applicable
 2033 Town policies, the applicant shall install a complete water distribution system with
 2034 adequate connections to the public water supply system according to the standards set
 2035 forth in this Section, the Town’s Public Works specifications, and the Town’s Water
 2036 Ordinance. Where connection to the public water supply is not appropriate as
 2037 described in Item (2) of this sub-section, an alternative system shall be provided. As a
 2038 condition of subdivision approval, any connection to any municipal or non-municipal
 2039 water system shall require all applicable State approvals and permits.

2040
 2041 (1) Connection to the public water supply shall be guided by the following:

2042
 2043 (a) The applicant shall install a complete public water system, including mains,
 2044 fire hydrants, valves, services to the property lines and all other
 2045 appurtenances to the approval of the Town Engineer.

2046 (b) Construction procedures and materials and location of improvements shall
 2047 conform to the standards of the Public Works Specifications and the Town’s
 2048 Water Ordinance.

- 2049 (c) The system shall be designed in conformance with the standards of the State
- 2050 Department of Environmental Conservation, with sufficient capacity to
- 2051 provide adequate fire protection for the entire development without
- 2052 degrading fire protection for other users.
- 2053 (d) The system shall be of a size adequate to accommodate anticipated water
- 2054 supply needs of potential development beyond the property being
- 2055 subdivided in accordance with sub-section 4.1(T) of these Regulations.
- 2056
- 2057 (2) Alternative Water Supply: The Planning Commission may allow an alternative
- 2058 water supply, consisting of individual wells and/or a community water system,
- 2059 only if all the following conditions are met:
- 2060
- 2061 (a) Proposed or potential development for the subdivision and surrounding area
- 2062 is limited.
- 2063 (b) Extension of the public water system, in relation to the existing capability or
- 2064 potential expansion of the system, is not feasible or is not consistent with
- 2065 the Town Plan, as determined by the Town Engineer or Staff.
- 2066 (c) Acceptable evidence has been submitted by the applicant establishing
- 2067 adequate quality and quantity of water for domestic purposes. The Planning
- 2068 Commission may require the applicant, prior to Final Approval of a Minor
- 2069 Subdivision or Preliminary Approval of a Major Subdivision, to make one
- 2070 or more test wells if additional evidence is deemed necessary.
- 2071 (d) Where a subdivision consists of substantial development as determined by
- 2072 the Planning Commission based on density or total volume of dwelling
- 2073 units, acceptable evidence must be submitted by the applicant establishing
- 2074 ability to provide adequate fire protection.
- 2075 (e) The water supply system shall be designed and installed in conformance
- 2076 with standards and procedures of the State Department of Environmental
- 2077 Conservation.
- 2078 (f) The burden of proof for establishing infeasibility of connection to a public
- 2079 water supply system lies with the applicant. If unsatisfactory information
- 2080 has been provided, the Planning Commission shall require connection to a
- 2081 public water supply system, or deny or limit the proposed development.
- 2082 (g) A homeowners' association or other organization shall be established with
- 2083 full responsibility for maintaining the community water system, and the
- 2084 covenants establishing that responsibility shall be reviewed and approved
- 2085 by the Town's attorney.
- 2086 (h) The applicant shall provide a bond or other form of security to cover repair
- 2087 or maintenance costs, and/or costs of connecting to the public system
- 2088 should that become necessary in the future. The security shall be in an
- 2089 amount determined by the Town's Public Works Director.
- 2090
- 2091 (B) Waste Water Systems:
- 2092
- 2093 (1) Public Sewage Disposal: When the proposed development is located within the
- 2094 sewer core area as delineated on the map entitled "Town of Essex Sanitary Sewer
- 2095 Core Area", and wherever a public sewage disposal system is reasonably

2096 accessible within the designated sewer core area, and where connection to the
 2097 public sewage disposal system is consistent with the Town Plan and any other
 2098 applicable Town policies, the applicant shall install a complete sanitary sewer
 2099 system with adequate connections to the public system designed to meet the
 2100 standards set forth in this Sub-Section. As a condition of subdivision approval,
 2101 connection to any proposed wastewater collection, treatment and disposal
 2102 systems must be approved and permitted under all applicable state law.

- 2103
- 2104 (a) The applicant shall install a complete public sanitary sewer system,
 2105 including mains, manholes, services to the property lines and all other
 2106 appurtenances, separate from the storm water drainage system, to the
 2107 approval of the Town Engineer.
- 2108 (b) Construction procedures and materials shall conform to the standards of the
 2109 Public Works Specifications and the Town’s Wastewater Ordinance.
- 2110 (c) The system shall be designed in conformance with the applicable standards
 2111 of the State Department of Environmental Conservation.
- 2112 (d) The system shall be of a size adequate to accommodate anticipated sewage
 2113 disposal needs of potential development beyond the property being
 2114 subdivided in accordance with sub-section 4.1(T) of these Regulations.
- 2115 (e) If the sewer capacity required for the development exceeds the current
 2116 allocation for the parcel(s) as noted on the approved “Town Of Essex
 2117 Sanitary Sewer Core Area” map, the applicant shall be required to obtain
 2118 additional wastewater allocation from the Selectboard in accord with the
 2119 Town’s Sewer Allocation Ordinance.
- 2120
- 2121 (2) The Planning Commission may approve subdivisions that are not connected to
 2122 the public sewage disposal system if the development is located outside of the
 2123 sewer core area as delineated on a map entitled “Town of Essex Sanitary Sewer
 2124 Core Area”, or if the Planning Commission determines that service to each lot by
 2125 a public sanitary sewer system is not feasible or is not consistent with the Town
 2126 Plan and applicable Town policies.
- 2127

2128 **4.10 Stormwater Management and Erosion Control:** All proposed subdivisions shall include
 2129 a stormwater management and erosion control plan in accordance with the Town’s
 2130 Stormwater Management Ordinance (Chapter 10.20 of the Municipal Code).

- 2131
- 2132 (A) The plan shall address stormwater management and erosion control during
 2133 construction as well as permanent provisions for after construction.
- 2134
- 2135 (B) The plan may utilize any of a number of appropriate management techniques,
 2136 provided that they conform to the Town’s regulations. Techniques may include but
 2137 are not limited to swales, infiltration basins, sedimentation basins, retention ponds, as
 2138 well as manufactured systems such as filters and treatment chambers.
- 2139
- 2140 (C) A homeowners association or other organization shall be established with full
 2141 responsibility for maintaining the permanent stormwater management system.
- 2142

2143 **4.11 Monuments and Lot Markers:**

- 2144
- 2145 (A) Concrete monuments shall be set at all street intersections and points of curvature and
- 2146 tangency. Their location, size and type shall be shown on the Final Subdivision Plat.
- 2147
- 2148 (B) Concrete monuments shall conform to the requirements of the Town of Essex Public
- 2149 Works Specifications.
- 2150
- 2151 (C) Lot markers, consisting of metal pipes or rebar with a minimum outside diameter of
- 2152 three-fourths inch and at least three feet (9.1 dm) long, shall be set at all un-
- 2153 monumented corners and a minimum of four of the subdivision's perimeter points.
- 2154
- 2155 (D) If placement of a concrete monument along street intersections and points of curvature
- 2156 and tangency is not feasible due to ledge or other obstacle, the surveyor shall submit
- 2157 an alternate method of monumentation to the Town Engineer for approval.

2158 **ARTICLE V: ADMINISTRATION AND ENFORCEMENT**

2159
2160 **5.0 Applicability:** Administration and enforcement of these Regulations are subject to all
2161 applicable provisions of the Act [24 V.S.A, Chapter 117] and the Essex Town Charter now
2162 in effect or as hereafter amended.
2163

2164 **5.1 Municipal Administrative Requirements:**

2165
2166 (A) Appointments: The following municipal appointments shall be made as required for
2167 the administration and enforcement of these regulations, and as provided for in the Act
2168 and the Essex Town Charter:
2169

2170 (1) Administrative Officer(s): The Town Manager may appoint the following
2171 Administrative Officer(s) as required for the administration and enforcement of
2172 these regulations. An Administrative Officer shall be a regular Town employee
2173 subject to all rules and regulations applicable to Town employees, and may be
2174 discharged by the Town Manager for cause at any time.
2175

2176 (a) A Zoning Administrator shall be appointed for a term of three (3) years. It
2177 shall be the duty of the Zoning Administrator to assist the Planning
2178 Commission in administering these Regulations. The Zoning Administrator
2179 shall inspect development, maintain records, and perform other tasks as
2180 necessary for subdivision administration and enforcement, in accordance
2181 with the Act [§4448] and these Regulations.

2182 (b) An Assistant Zoning Administrator also may be appointed, who shall have
2183 the same duties and responsibilities as the Zoning Administrator only in the
2184 Zoning Administrator's absence.

2185 (c) For the purposes of administering these Regulations, the Town Manager
2186 may also appoint the Community Development Director, or other staff as
2187 appropriate, to conduct administrative reviews as specified in these
2188 Regulations, in accordance with the Act [§4464(c)].
2189

2190 (2) Planning Commission: The Planning Commission shall be appointed by the
2191 Selectboard for specified terms in accordance with the Act [§§4322, 4323]. A
2192 majority of members shall be residents of the Town of Essex. All members shall
2193 serve without compensation. Members may be removed at any time by
2194 unanimous vote of the Selectboard. The Commission shall adopt rules of
2195 procedure and rules of ethics with regard to conflicts of interest to guide its
2196 official conduct. The Planning Commission shall have the authority under these
2197 Regulations to hear and act upon matters including but not limited to:
2198

- 2199 (a) Simple Parceling.
2200 (b) Boundary Adjustments.
2201 (c) Sketch Plan Review.
2202 (d) Master Plan Approval.
2203 (e) Preliminary Subdivision Approval.
2204 (f) Final Subdivision Approval.

- 2205 (g) Amendments of previously approved subdivisions.
2206
- 2207 (3) Advisory Committees: The Selectboard may appoint one or more advisory
2208 committees to advise the Planning Commission, applicants and interested
2209 persons in the subdivision review process, in accordance with the Act [§§4433,
2210 4464(d)]. Advisory committees shall have the authority to:
2211
- 2212 (a) Review applications and prepare findings and recommendations on each of
2213 the review standards under these Regulations that are within the
2214 committee's purview for consideration by the Planning Commission at
2215 public hearing.
2216 (b) Meet with the applicant and interested parties, conduct site visits, and
2217 perform other fact-finding as needed to make recommendations.
2218 (c) Inform applicants of any negative recommendations prior to the public
2219 hearing, and suggest remedies to correct identified deficiencies in
2220 applications.
2221
- 2222 (B) Fee Schedule: The Selectboard shall establish a schedule of fees to be charged in
2223 administering these Regulations, which may be amended from time to time. Fees shall
2224 be payable upon submission of an application, as established in the fee schedule. The
2225 Selectboard may also establish procedures and standards for requiring an applicant to
2226 pay for reasonable costs of an independent technical review of an application.
2227
- 2228 (C) Public Notice: Public hearings shall be warned in accordance with the Act [§4464])
2229 and the requirements of these Regulations.
2230
- 2231 (1) Public notice for public hearings for Preliminary and Final subdivision Approval
2232 shall be given not less than fifteen (15) days prior to the date of the public
2233 hearing by *all* of the following:
2234
- 2235 (a) Publication of the date, place and purpose of the hearing in a newspaper of
2236 general circulation in the town.
2237 (b) Posting of the same information in three (3) or more public places within
2238 the municipality in conformance with the requirements of state statute [1
2239 V.S.A., §312(c)(2)], including the posting of a hearing notice within view
2240 of the public right-of-way nearest to the property for which the application
2241 is being made.
2242 (c) Written notification to the applicant and to owners of all properties
2243 adjoining the property subject to development, without regard to public
2244 rights-of-way, which includes a description of the proposed project,
2245 information that clearly informs the recipient where additional information
2246 may be obtained, and that participation in the local proceeding is a
2247 prerequisite to the right to take any subsequent appeal.
2248 (d) For hearings on subdivision plats located within 500 feet of a municipal
2249 boundary, written notification to the clerk of the adjoining municipality.
2250
- 2251 (2) Public notice for Planning Commission meetings to consider Sketch Plan
2252 Review, Boundary Adjustments, Simple Parceling, and Master Plan Approval,

2253 shall be given not less than seven (7) days prior to the date of the public meeting,
2254 and shall at minimum include the following:

2255

2256 (a) Posting of the date, place and purpose of the hearing in three (3) or more
2257 public places within the municipality in conformance with the requirements
2258 of state statute [1 V.S.A., §312(c)(2)], and

2259 (b) Written notification to the applicant and to owners of all properties
2260 adjoining the property subject to development, without regard to public
2261 rights-of-way, which includes a description of the proposed project,
2262 information that clearly informs the recipient where additional information
2263 may be obtained, and that participation in the local proceeding is a
2264 prerequisite to the right to take any subsequent appeal.

2265
2266 (3) Applicants are required to provide the names and mailing addresses of all
2267 adjoining landowners.

2268
2269 (a) In cases where an adjoining property is owned as common land by an
2270 owners' association, the notice shall be sent to the president of the owners'
2271 association.

2272
2273 (4) No defect in the form or substance of any required public notice under this
2274 section shall invalidate any action taken where reasonable efforts have been
2275 made to provide adequate posting and notice. However, the action shall be
2276 invalid when the defective posting or notice was materially misleading in
2277 content.

2278
2279 (5) Public hearings concerning proposed amendments to these regulations shall be
2280 noticed and warned in accordance with the Act [§§ 4441, 4444].

2281
2282 (D) Meetings and Hearings.

2283
2284 (1) Planning Commission: Pursuant to the Act [§§4461–4464] and Vermont's Open
2285 Meeting Law, all meetings and hearings of the Planning Commission, except for
2286 deliberative and executive sessions, shall be open to the public.

2287
2288 (a) In any hearing under these Regulations there shall be an opportunity for
2289 each person wishing to achieve status as an interested person, for purposes
2290 of participation or appeal under Section 5.2, to demonstrate that the criteria
2291 for achieving interested person status have been met. The Commission
2292 shall keep a written record of the name, address, and participation of each of
2293 these persons

2294 (b) The Commission may recess the proceedings on any application pending
2295 submission of additional information, and should close evidence promptly
2296 after all parties have submitted requested information.

2297 (c) Consent Agenda: The Planning Commission may act on proposed
2298 decisions for Simple Parceling, Boundary Adjustment, Minor Subdivision
2299 Amendments, and other procedural matters, as a consent agenda. The
2300 Planning Commission may approve the consent agenda as a whole, without

2301 discussion. However, if a majority of members of the Planning
2302 Commission, the applicant, or an interested party present at the meeting
2303 requests a more complete hearing on an item in the consent agenda, that
2304 item shall be withdrawn from the consent agenda and a hearing scheduled
2305 on that item, either later in the meeting or at a subsequent meeting, if
2306 necessary.

2307
2308 (2) Advisory Committees: In accordance with the Act [§4464(d)], meetings of an
2309 Advisory Committee to review an application under these Regulations shall
2310 comply with Vermont's Open Meeting Law and the committee's adopted rules of
2311 procedure, but shall not be conducted as public hearings before a quasi-judicial
2312 body. Committee recommendations may be presented in writing prior to the
2313 Planning Commission hearing, or may be presented orally at the public hearing.

2314
2315 (E) Decisions. In accordance with the Act [§ 4464], a decision by the Planning
2316 Commission must be made by the concurrence of a majority of the members of the
2317 Planning Commission. Decisions of the Planning Commission shall be issued within
2318 forty-five (45) days of the date of public hearing adjournment. Failure to issue a
2319 decision within the 45-day period shall be deemed approval and shall be effective the
2320 46th day.

2321
2322 (1) All decisions, whether for approval or denial, shall be issued in writing and
2323 include stated findings of fact, stated conclusions based on the findings, and a
2324 statement of the time within which appeals may be taken under Section 5.2.
2325 Meeting minutes may suffice provided they meet these requirements.

2326
2327 (a) In rendering a decision in favor of an applicant, the Commission may attach
2328 additional reasonable stipulations, condition, or other safeguards as it deems
2329 necessary to implement the purposes of the Act, these Regulations, and the
2330 Essex Town Plan then in effect. This may include, as a condition of
2331 approval:

2332 (i) A requirement for the submission of a three (3)-year performance bond,
2333 escrow account, or other form or surety acceptable to the Essex
2334 Selectboard, in accordance with Section 2.11(B) of these Regulations.

2335 (ii) A requirement that no certificate of occupancy be issued for an
2336 approved development until required improvements have been
2337 satisfactorily installed in accordance with the conditions of approval.

2338 (iii) A requirement for the execution of a development agreement
2339 acceptable to the Essex Selectboard that governs the timing, financing,
2340 and coordination of private and public facilities and improvements in
2341 accordance with the terms and conditions of approval, provided that the
2342 agreement complies with all applicable municipal bylaws and
2343 ordinances then in effect.

2344
2345 (b) In rendering a decision against the applicant, the written decision shall
2346 include, in addition to the material required by Paragraph 5.1(E)(1), a
2347 statement of the applicant's option of appealing the decision in accordance
2348 with the provisions of Section 5.2 of these Regulations.

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- (2) Any decision that includes as a condition of approval a requirement that the applicant deed land or easements to the Town (or other public entity) shall also include a full justification for said condition to ensure that the required dedication is reasonably related in both extent and nature to the impact of the proposed development.
- (3) All decisions shall be sent by certified mail, within the required 45-day period, to the applicant or to the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Town Clerk as part of the public record of the municipality, in accordance with Subsection (F) of this Section.

(F) Recording Requirements:

- (1) Within thirty (30) days of the issuance of a municipal land use permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the municipal land use permit or notice of violation to the Town Clerk for recording in the land records of the Town generally as provided in 24 V.S.A. §1154(c), and file a copy in the Town Office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.
 - (a) For development within the Floodplain (C2) District, the Zoning Administrator shall also maintain a record of all permits, elevation certificates, elevations, flood-proofing certifications and variance actions issued for development within the district.

(G) Availability & Distribution of Documents. Copies of these Regulations, other related municipal regulations and ordinances, and the Essex Town Plan shall be made available to the public during normal business hours in the Town Clerk’s Office, in accordance with the Act [§4445].

5.2 Appeals:

- (A) Administrative Acts: Any interested person, as defined under the Act [§4465(b)], and who has participated in the local proceeding, including the applicant, may appeal an act or statutory inaction of an Administrative Officer, including the Zoning Administrator or Community Development Director, to the Board of Adjustment in accordance with the provisions of the Act [§§ 4465, 4466, 4469].
 - (1) Notice of Appeal: The Notice of Appeal shall be filed with the Secretary of the Board of Adjustment, or Town Clerk if no Secretary has been elected, within fifteen (15) days of the date of the administrative act. A copy of the notice of appeal shall be filed with the Administrative Officer. The Notice of Appeal shall include all of the following:

- 2397 (a) The name and address of the appellant.
- 2398 (b) A brief description of the property with respect to which the appeal is being
- 2399 taken.
- 2400 (c) References to applicable provisions of these Regulations.
- 2401 (d) The relief requested by the appellant, including any requests for variances
- 2402 from the provisions of these Regulations.
- 2403 (e) The alleged grounds why such relief is believed proper under the
- 2404 circumstances.
- 2405
- 2406 (2) Hearing: The Board of Adjustment shall warn and conduct a public hearing
- 2407 within sixty (60) days of the date of the filing of a notice of appeal in accordance
- 2408 with Section 5.2. A copy of the hearing notice shall be mailed to the appellant at
- 2409 least fifteen (15) days prior to the hearing date.
- 2410
- 2411 (a) In accordance with the Act [§4470], the Board may reject an appeal or
- 2412 request for reconsideration without hearing, and render a decision within ten
- 2413 (10) days of the filing of a notice of appeal if the Board determines that the
- 2414 issues raised by the appellant have been decided in an earlier appeal or are
- 2415 based substantially or materially on the same facts by or on behalf of the
- 2416 appellant.
- 2417 (b) All appeal hearings shall be open to the public and the rules of evidence
- 2418 applicable at the hearings shall be the same as the rules of evidence
- 2419 applicable in contested cases before administrative agencies [3 VSA §810].
- 2420 Any interested person or body may appear and be heard in person or be
- 2421 represented by an agent or attorney at the hearing.
- 2422
- 2423 (3) Decision: The decision shall be issued in writing, to include findings of fact,
- 2424 within forty-five (45) days of the date of hearing. The decision shall be sent to
- 2425 the appellant by certified mail, and to all others appearing and having been heard
- 2426 at the hearing. Copies shall be filed with the Zoning Administrator and Town
- 2427 Clerk as part of the public records of the municipality.
- 2428
- 2429 (B) Planning Commission Decisions: Any interested person as defined under the Act
- 2430 [§4465(b)] who has participated in a proceeding before the Planning Commission may
- 2431 appeal a decision made by the Commission to the Vermont Environmental Court in
- 2432 accordance with the Act [§4471].
- 2433
- 2434 (1) “Participation” for these purposes shall consist of having offered, through oral or
- 2435 written testimony, evidence of a statement of concern related to the subject of the
- 2436 proceeding.
- 2437
- 2438 (2) The notice of the appeal shall be filed by certified mailing to the Environmental
- 2439 Court, and by mailing a copy to the Essex Town Clerk, within thirty (30) days of
- 2440 the date of the issuance of a decision by the Planning Commission, in
- 2441 conformance with Vermont Environmental Court Rules.
- 2442
- 2443 (3) The Town Clerk or Zoning Administrator, if so designated, shall supply a list of
- 2444 interested persons to the appellant within five (5) working days of receipt of the

2445 Notice of Appeal. The appellant is required to notify every interested person of
2446 the appeal by certified mail.
2447

2448 **5.3 Violations and Enforcement:** The construction or other implementation of a subdivision
2449 that is not in accordance with an approved subdivision plan, or the sale or offer for sale of a
2450 lot that is in a subdivision not approved in accordance with these Regulations or not
2451 exempted from these Regulations in accordance with Paragraph 1.2(C), shall constitute a
2452 violation. Each day that a violation continues shall be considered a separate offense. All
2453 violations shall be pursued in accordance with the Act [§§4451, 4452].
2454

2455 (A) The Zoning Administrator is authorized to institute or cause to be instituted, in the
2456 name of the Town of Essex, any and all actions, legal or equitable that may be
2457 appropriate or necessary for the enforcement of these Regulations.
2458

2459 (B) No action may be brought under this section unless the alleged offender has had at
2460 least seven (7) days notice by certified mail that a violation exists. The notice of
2461 violation shall state that a violation exists, that the alleged offender has an opportunity
2462 to cure the violation within seven (7) days, and that the alleged offender will not be
2463 entitled to an additional warning notice. Action may be brought without notice and
2464 opportunity to cure if the alleged offender repeats the violation after the seven-day
2465 notice period and within the succeeding twelve (12) months.
2466

2467 (C) Any enforcement action relating to the failure to obtain or comply with the terms and
2468 conditions of any required or duly recorded municipal land use permit may be
2469 instituted against the alleged offender if the action is instituted within fifteen (15)
2470 years of the date that the alleged violation first occurred. The burden of proof
2471 regarding the date that the alleged violation first occurred is on the person against
2472 whom the enforcement action is initiated.
2473

2474 (D) All fines imposed and collected for violations shall be paid over to the Town.

**End of Article V
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2476 **ARTICLE VI: DEFINITIONS**

2477
2478 **6.0 General Definitions:**

2479
2480 (A) Unless otherwise defined herein, definitions of words used in the Act [24 VSA
2481 § 4303], and definitions used in the Town Zoning Regulations shall apply. All
2482 other words shall carry their customary meanings.

2483
2484 (B) For the purposes of these Regulations, the following terms, phrases, words and
2485 their derivations shall have the meanings given herein. When not inconsistent
2486 with the context, words used in the present tense include the future tense,
2487 words used in the plural include the singular, and words used in the singular
2488 include the plural. The word “shall” is always mandatory and not merely
2489 discretionary.

2490
2491 **6.1 Specific Definitions:**

2492
2493 **Abut:** Refer to Adjacent Lot/Land.

2494
2495 **Adjacent Lot/Land:** A lot or parcel of land that shares all or part of a common lot line
2496 with another lot or parcel of land or is separated by a highway, street, right-of-way,
2497 railroad, river, stream or dedicated public easement. The terms adjoining and abut shall
2498 carry the same meaning as adjacent.

2499
2500 **Adjoining:** Refer to Adjacent Lot/Land.

2501
2502 **Administrative Officer:** For the purpose of these Regulations, the Administrative
2503 Officer shall include the Zoning Administrator or Community Development Director,
2504 appointed by the Town Manager.

2505
2506 **Affordable Housing:** (A) Housing that is owned by its inhabitants whose gross annual
2507 household income does not exceed 80 percent of the county median income, or 80
2508 percent of the standard metropolitan statistical area income if the municipality is located
2509 in such an area, as defined by the United States Department of Housing and Urban
2510 Development, and the total annual cost of the housing, including principal, interest, taxes,
2511 insurance, and condominium association fees is not more than 30 percent of the
2512 household's gross annual income; or (B) Housing that is rented by its inhabitants whose
2513 gross annual household income does not exceed 80 percent of the county median income,
2514 or 80 percent of the standard metropolitan statistical area income if the municipality is
2515 located in such an area, as defined by the United States Department of Housing and
2516 Urban Development, and the total annual cost of the housing, including rent, utilities, and

2517 condominium association fees, is not more than 30 percent of the household's gross
2518 annual income.

2519 ~~A housing development in which at least 20 percent of the units, or a minimum of five (5)~~
2520 ~~units, whichever is greater, are affordable housing units. Affordable units shall be subject~~
2521 ~~to covenants or restrictions that preserve their affordability for a minimum of fifteen (15)~~
2522 ~~years.~~

2523
2524 **Affordable Housing Development:** A housing development in which at least 20 percent
2525 of the units, or a minimum of five (5) units, whichever is greater, are affordable housing
2526 units.

2527
2528 **Applicant:** Any person, firm, corporation, partnership, association, or their authorized
2529 agent, who shall lay out, for the purpose of sale or development, any subdivision or part
2530 thereof as defined herein.

2531
2532 **Bedroom:** A private room with a closet(s) planned and intended for sleeping, physically
2533 separated from other rooms by a door, and accessible to a bathroom without crossing
2534 another bedroom.

2535
2536 **Block:** An area bounded by streets.

2537
2538 **Boundary Adjustment:** A division of land for the purpose of adjusting boundaries
2539 between adjacent lots or parcels where no new lot is created.

2540
2541 **Building:** Any structure having a roof and intended for the shelter, housing or enclosure
2542 of persons, animals, vehicles, machinery or materials including trailers or other roofed
2543 structures on wheels. For the purpose of this definition "roof" shall not include an
2544 awning or other similar covering, whether or not permanent in nature.

2545
2546 **Building Envelope:** A three-dimensional volume within which all structures must be
2547 contained. A building envelope shall be defined by building lines on the ground and one
2548 or more maximum height limitations. Where building envelopes are prescribed for a site,
2549 all buildings on that site must be entirely contained within the prescribed envelope.

2550
2551 **Building Footprint:** A horizontal projection, on the ground, of the outer-most perimeter
2552 of a building, including all projections, overhangs, chimneys, porches, stoops, etc.

2553
2554 **Bylaws:** The duly adopted Zoning Regulations and Subdivision Regulations of the Town
2555 of Essex.

2556
2557 **Community Development Director:** The director of the Community Development
2558 Department as appointed by the Town. See also Administrative Officer.

2559
2560 **Condominium:** A form of ownership of real property, applicable to structures containing
2561 one or more units, consistent with 27 VSA § 1301, in which individual owners have title

2562 to individual dwelling units to the center lines of boundary walls, and where a
2563 condominium association consisting of all dwelling owners holds title to the balance of
2564 all buildings, land and other facilities for the common use of all dwelling owners.
2565 Condominium ownership may also apply to non-residential properties.

2566
2567 **Congregate Housing Project:** A form of housing frequently provided for elderly or
2568 disabled individuals in accordance with federal and state fair housing laws, which
2569 provides individual dwelling units (which may or may not contain complete cooking
2570 facilities), and which also provides common facilities for use by all residents. A room in
2571 a congregate housing project shall be considered as a one bedroom apartment.

2572
2573 **Construction Detail Drawings:** Drawing(s) showing the details for the construction of
2574 improvements, and containing the information listed in Paragraph 2.8(B)(4) of these
2575 Regulations.

2576
2577 **Contiguous:** Land abutting or other land which is not separated by streets.

2578
2579 **Dedication:** An intentional donation of land for public use that is accepted by the proper
2580 public authorities.

2581
2582 **Development:** The division of a parcel into two (2) or more parcels, the construction,
2583 reconstruction, conversion, structural alteration, relocation, or enlargement of any
2584 building or other structure, or of any mining, excavation or landfill, and any change in the
2585 use of any building or other structure, or land, or extension of use of land.

2586
2587 **Dwelling:** Any structure designed or used as the living quarters for one or more families.

2588
2589 **Dwelling Unit:** A building, or entirely self-contained portion thereof, containing
2590 complete housekeeping facilities for a single family. A recreational vehicle, room in a
2591 boarding house, rooming house, convalescent home, fraternity or sorority house, hotel,
2592 inn, lodging or nursing home shall not be considered a dwelling unit.

2593
2594 **Easement:** Authorization by a property owner for the use of any designated part of
2595 his/her property by another for a specified purpose.

2596
2597 **Estimated Population Equivalent:** An estimate of the population that will reside in a
2598 proposed residential development, based on the number of dwelling units proposed and
2599 the number of bedrooms in each unit.

2600
2601 **Family:** One or more persons occupying a premise and living as a single housekeeping
2602 unit, as distinguished from a group occupying a boarding house, lodging house, club,
2603 fraternity, or hotel. Family may also include a group of not more than five (5) persons not
2604 related by blood, marriage, or civil union living as a single housekeeping unit.

2605
2606 **Final Plat:** Final survey of all street, boundary and lot lines of a Major or Minor
2607 Subdivision, or boundary adjustment, to be filed with the Town Clerk containing all

2608 information required by these Regulations and prepared in conformance with 27 VSA §§
2609 1401-1406.

2610

2611 **Final Plat Amendment:** A change to the approved Final Plat of a subdivision requiring
2612 preparation and approval of a new plat.

2613

2614 **Final Submission:** Submission of all information required for final review of a Major or
2615 Minor Subdivision and Final Plan Amendment.

2616

2617 **Footprint Lot:** A parcel of land which consists solely of the area directly under a
2618 structure.

2619

2620 **Lot:** A definable parcel of land occupied or capable of being occupied by one or more
2621 structures, or uses.

2622

2623 **Lot Area:** The area within the property lines of a lot, calculated from dimensions derived
2624 by horizontal projection of the boundaries of the lot, exclusive of any portion of the lot
2625 contained within the boundaries of a street, proposed street, right-of-way, or public
2626 thoroughfare.

2627

2628 **Lot, Corner:** A lot at the point of intersection of or abutting on two (2) or more
2629 intersecting streets, the angle of intersection being not more than 135 degrees.

2630

2631 **Metes and Bounds:** The boundary lines of land, with their measurements and angles or
2632 bearings.

2633

2634 **Multiple Family Residential Project:** A building, buildings or portions thereof, used or
2635 designed to be used as residences for three (3) or more families, with each occupying a
2636 dwelling unit separate and independent of the others.

2637

2638 **Off-Site:** Not located on the same lot on which is located the principal use or structure
2639 being served is located. This is particularly relevant to sewage disposal and water supply
2640 systems.

2641

2642 **On-Site:** Located on the same lot as the principal use or structure being served. This is
2643 particularly relevant to sewage disposal and water supply systems.

2644

2645 **Open Land:** A parcel of land which was created by subdivision of a larger parcel. The
2646 development rights of the open land will have been used for the creation of the other lots
2647 subdivided from the larger parcel.

2648

2649 **Planning Commission:** The Planning Commission of the Town of Essex appointed in
2650 accordance with the provisions of the Act [24 VSA Chapter 117].

2651

2652 **Planned Unit Development (PUD):** A residential, mixed use, or non-residential
2653 development, approved by the Planning Commission in accordance with Article VI of the

2654 Zoning Regulations, designed and planned as an integral unit, and which may consist of
2655 individual lots which do not satisfy all of the requirements otherwise contained in these
2656 Regulations.

2657

2658 **Preliminary Plat:** Preliminary survey of all boundary lines and location of all street and
2659 lot lines of a Major Subdivision.

2660

2661 **Preliminary Submission:** Submission of all information required for preliminary review
2662 of a Major Subdivision.

2663

2664 **Public Hearing:** The duly warned hearing as required by these Regulations, held by the
2665 Planning Commission after public notice in accordance with the Act [24 VSA §4464].

2666

2667 **Public Improvements:** Capital improvements necessary for the safety, health and
2668 welfare of the public and which will subsequently be owned and maintained by the
2669 public. Examples include, but are not limited to, streets, sidewalks, sewers, storm drains,
2670 and water lines.

2671

2672 **Public Works Specifications:** “*Town of Essex Standard Specification for Construction,*
2673 *May 1989,*” as the same may be from time to time amended, and any successor or
2674 replacement, which is incorporated herein by reference.

2675

2676 **Re-subdivision:** Change in a plat which was approved or recorded after November 16,
2677 1976.

2678

2679 **Shopping Center Complex:** Any structure or structures developed as a single entity,
2680 containing two (2) or more separate commercial establishments and containing 15,000
2681 square feet or more of gross floor area.

2682

2683 **Simple Parceling:** Division of any parcel of land, including footprint lots, with the
2684 exception of a boundary adjustment into two lots or parcels for the purpose of
2685 conveyance or transfer of ownership of either lot.

2686

2687 **Significant Features Reference Map:** A map which has been adopted by the Planning
2688 Commission depicting important features in the Town.

2689

2690 **Sketch Plan:** A drawing containing sufficient information, as specified in these
2691 Regulations, to allow initial review of a subdivision in relation to the Town Plan and
2692 Bylaws and to other land uses.

2693

2694 **Street:** Any road, highway, thoroughfare, avenue, land or right-of-way, whether public or
2695 private, used for vehicular circulation and/or to provide access to individual properties.

2696

2697 **Street, Collector:** A street which is being used or will be used to carry a substantial
2698 volume of traffic from a minor street(s) to a major street or community facility, and
2699 normally including the principal entrance street to a large subdivision or group of

2700 subdivisions, and the principal circulation streets within such subdivisions.

2701

2702 **Street, Major:** A street which is being used or will be used primarily as a street between
2703 different communities or portions of the Town, or which will otherwise carry a heavy
2704 volume of traffic.

2705

2706 **Street, Minor:** A street which is being used or will be used primarily to provide access to
2707 adjacent properties, and which does not provide for use by through traffic.

2708

2709 **Structure:** Any assembly of materials for display, use or occupancy, that has a value of
2710 \$500.00 or more, including but not limited to buildings, carports, porches, swimming
2711 pools, mobile homes or trailers, signs, walls, storage containers, or fences, and other
2712 building features but not including sidewalks, driveways, patios or recreational vehicles
2713 or trailers and other vehicles on wheels if regularly used for their manufactured purpose
2714 and not being used on site for long term housing or storage of animals or materials.

2715

2716 **Subdivider:** See “Applicant”.

2717

2718 **Subdivision:** (1) Any land, vacant or improved, which is divided or proposed to be
2719 divided into lots, parcels, sites, plots, units, or interests for the purpose of sale, lease or
2720 development, including amended subdivisions and re-subdivisions. Subdivisions are
2721 further divided into four categories as defined in this Article: a) Boundary Adjustments;
2722 b) Simple Parceling; c) Minor Subdivision; d) Major Subdivision. (2) The term
2723 “subdivision” shall mean the act of dividing a parcel of land as described above, and shall
2724 also include the development of a parcel as a mixed-use development that includes
2725 housing, multiple family housing project, congregate housing project, or planned
2726 development. Development of a shopping center complex that does not involve the
2727 subdivision of land shall not be considered a subdivision.

2728

2729 **Subdivision Plan:** Drawing(s), as required by these Regulations, containing the
2730 information listed in Section 2.8 (B) of these Regulations.

2731

2732 **Subdivision, Major:** A subdivision containing six (6) or more lots or any subdivision
2733 requiring a new street or extension of public water or sewage facilities.

2734

2735 **Subdivision, Minor:** A subdivision containing three (3), four (4) or five (5) lots, all of
2736 which front on an existing street and not requiring a new street or extension of public
2737 water or sewage facilities.

2738

2739 **The Act:** Vermont Planning and Development Act [Title 24, VSA, Chapter 117].

2740

2741 **Town:** Town of Essex, Vermont, outside the Village of Essex Junction.

2742

2743 **Townhouse:** A type of multiple family residential development characterized by side-by-
2744 side dwellings units, each of which extends from foundation to roof, and each of which
2745 has its own private entrance(s).

2746

2747 **Town Engineer:** A Vermont licensed professional engineer (in civil engineering or other
2748 directly related specialty) appointed by the Town Manager or under contract to the Town.

2749

2750 **Town Health Regulations:** “*Health Regulations Relating to Permissible Means of*
2751 *Individual Subsurface Sewage Disposal Systems,*” as adopted by the Town of Essex in
2752 November 1972, and as subsequently amended, or their successor, and which are
2753 incorporated herein by reference.

2754

2755 **Town Plan:** The duly adopted plan for development of the Town prepared by the
2756 Planning Commission, as it may be amended from time to time, pursuant to the Act [24
2757 VSA § 4385].

2758

2759 **Undevelopable Lot:** A lot (as defined in these Regulations) for which the capability of
2760 supporting structures has not yet been proven.

2761

2762 **Wetlands:** Lands that are inundated or saturated by surface water or groundwater with a
2763 frequency sufficient to support significant vegetation or aquatic life that depend on
2764 saturated or seasonally saturated soil conditions for growth and reproduction. Such areas
2765 include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake
2766 overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in
2767 connection with farming activities. For the purposes of these Regulations, these include
2768 wetlands that meet state requirements for Class I and II wetlands.

2769

2770 **Zoning Administrator:** An official appointed by the Town Manager to carry out the
2771 duties set forth in these Regulations and the Town’s Zoning Regulations.

2772

2773 **Zoning Permit:** A permit issued under the Town Zoning Regulations in accordance with
2774 the provisions of the Act [24 VSA §4449].