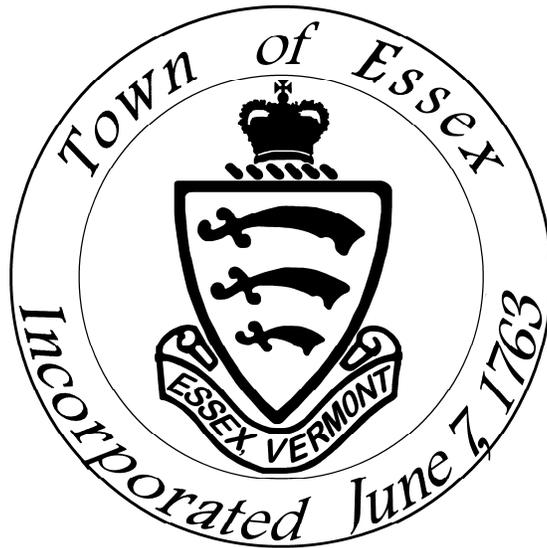


TOWN OF ESSEX
OUTSIDE THE VILLAGE OF ESSEX JUNCTION
OFFICIAL SUBDIVISION REGULATIONS



November 26, 1979
October 9, 1989
July 4, 1995
September 9, 1996
December 28, 1998
April 30, 2001
December 8, 2003
April 14, 2008
December 22, 2008
May 23, 2011

Town of Essex Subdivision Regulations
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**OFFICIAL SUBDIVISION REGULATIONS
OF THE TOWN OF ESSEX
OUTSIDE THE VILLAGE OF ESSEX JUNCTION**

ARTICLE I: AUTHORITY AND PURPOSE

1.0 Enactment: In accordance with the Vermont Planning and Development Act (24 V.S.A. Chapter 117), hereinafter referred to as “the Act,” these subdivision regulations are established for the Town of Essex, Vermont, excluding the Village of Essex Junction. These Regulations shall be known and may be cited as the “**Official Subdivision Regulations of the Town of Essex outside the Village of Essex Junction**”.

1.1 Purpose: These Regulations have been adopted to assure orderly growth and coordinated development in the Town of Essex, to promote the health, safety, and general welfare of the Town’s inhabitants, to implement the Essex Town Plan as most recently amended, and for the purposes set forth in of the Act [§ 4302].

1.2 Application & Interpretation: These Regulations are subject to all requirements of the Act as most recently amended, and shall apply to all subdivisions within the Town of Essex, outside of the incorporated Village of Essex Junction. Before any offer to sell or contract for the sale of land in a subdivision or any part thereof is made, other than an option for the entire parcel of land to be subdivided contingent upon approval by the Town, or any grading, clearing, construction, or other improvement is undertaken herein, the subdivider shall apply to the Town of Essex for and secure approval of the proposed subdivision in accordance with these Regulations.

<p>Subdivision: Any land, vacant or improved, which is divided or proposed to be divided into lots, parcels, sites, plots, units, or interests for the purpose of sale, lease or development, including amended subdivisions and re-subdivisions.</p>
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- (A) The provisions of these Regulations shall not be construed to abrogate or annul the provisions of other regulations or to impair the provisions of private restrictions placed upon property. Where these Regulations impose a greater restriction upon land, improvements, or structures than is imposed by any such other provision, the restrictions of these Regulations shall prevail.
- (B) The transfer of a portion of a parcel of land to an adjoining right-of-way for a street, road, or highway, owned by a public agency, shall not require approval under these regulations.
- (C) The status of subdivision plats recorded or received for recording prior to the effective date of these regulations shall be as follows:
 - (1) Plats filed before any subdivision regulations were adopted by the Town of Essex: Plats filed before any subdivision regulations were in effect remain valid unless there were specific provisions for expiration. The land described by such plats may be developed in accordance with the plat, without additional subdivision review, and individual lots in such subdivisions may be sold and developed (but not re-subdivided) without additional subdivision review.

- (2) Plats filed in accordance with subdivision regulations in effect prior to the effective date of these Regulations remain valid. The land described by such plats may be developed in accordance with the plat and all conditions or stipulations attached to the approval. Individual lots may be sold and developed (but not re-subdivided) as described in the plat and approval without additional subdivision review.
- (3) The re-subdivision of a lot in a subdivision described by a plat described in either (1) or (2) above shall be treated as a new subdivision under these Regulations.

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

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

- (A) The Planning Commission may, at any time, consider proposed amendments to these Regulations which it develops on its own or which may be suggested or requested by any other person. The Planning Commission may or may not decide to proceed with such potential amendments by warning and conducting a public hearing, and following the other procedures established in the Act.
- (B) If, however, a request for an amendment to these Regulations is supported by a petition signed by not less than five percent (5%) of the voters of the Town, the Planning Commission shall correct any technical deficiencies, prepare a written report regarding conformance with the Town Plan and, without changing the amendment, promptly proceed in accordance with the Act [§ 4441] as if the proposed amendment had been prepared by the Planning Commission.

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

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.

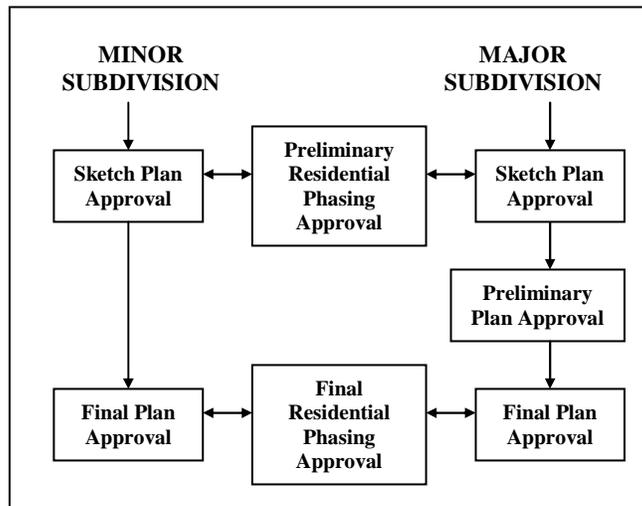
2.2 Classification: All subdivisions of land in the Town of Essex outside the Village of Essex Junction shall be classified into one of the following four categories, as defined in Article VI. Proposed subdivisions shall be classified by Staff. When classifying a subdivision containing one or more lots 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.
 - (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.

- (B) Boundary Adjustments and Simple Parceling: Applications for Boundary Adjustments and Simple Parceling are reviewed and approved by the Planning Commission in accordance with Section 2.5 of these Regulations.
- (C) Modification of Submitted Plans: For minor and major subdivision applications, the applicant shall not submit revised plans or revisions to other application materials between the time of the original submission and the meeting at which the Planning Commission reviews that submission, unless specifically requested by Staff to do so. If the applicant, of their own volition, wishes to revise the submitted plans prior to Planning Commission review, the pending application must be withdrawn via a written request, a complete package of application materials must be re-submitted and the Planning Commission review will be rescheduled.
- (D) Sketch Plan Review: All minor and major subdivisions must go through sketch plan review. Applications shall be submitted to staff in accordance with the provisions of Section 2.6, below. Staff, upon determining that an application is complete, shall arrange to place the application on the agenda of the next Planning Commission meeting to be held at least ten (10) days hence, or as soon thereafter as the agenda will allow, and shall notify the applicant of the date of the meeting.
- (1) If review by the Conservation Committee, staff, or other advisory boards is requested under these Regulations, the Sketch Plan application shall be forwarded to those bodies and comments requested prior to the Planning Commission's review of the Sketch Plan application.
 - (2) If the sketch plan is approved, and if the proposed subdivision includes residential development, the Planning Commission shall consider a preliminary residential phasing allocation for the subdivision as set forth in Article III of these Regulations.
 - (3) For Minor Subdivisions, a complete application for Final Subdivision Approval must be submitted within twelve months of Sketch Plan approval. Upon written request received prior to the end of the twelve-month period and demonstrating reasonable cause for the delay, the Planning Commission may approve an extension of up to six months. If a complete application is not received within this time period, the Sketch Plan Approval and any preliminary residential phasing allocation shall expire and the applicant must reapply.
 - (4) For Major Subdivisions, a complete application for Preliminary Subdivision Approval must be submitted within twelve months of Sketch Plan approval. Upon written request received prior to the end of the twelve-month period and demonstrating reasonable cause for the delay, the Planning Commission may approve an extension of up to twelve months. If a complete application is not received within this time period, the Sketch Plan Approval and any preliminary residential phasing allocation shall expire and the applicant must reapply.
 - (a) If review by the Conservation Committee, staff, or other advisory board is requested under these Regulations, the application shall be forwarded to

- those bodies and their reviews scheduled prior to Preliminary Subdivision Review by the Planning Commission.
- (b) If Conditional Use Approval by the Zoning Board of Adjustment is required under the Town's Zoning regulations, the applicant is urged to submit an application and request a hearing prior to Final Subdivision Review.
 - (c) If the subdivision is also being approved as a Planned Unit Development under Article VI of the Town's Zoning Regulations, all application materials required for Site Plan Approval and Planned Unit Development Approval shall be submitted with the Application for Preliminary Subdivision Approval.
- (E) Preliminary Subdivision Approval: All major subdivisions must obtain Preliminary Subdivision Approval. Applications must be submitted to staff in accordance with Section 2.8, below. Staff, upon determining that an application is complete, shall arrange to place the application on the agenda of the next Planning Commission meeting to be held at least ten (10) days hence, or as soon thereafter as the agenda will allow, and shall notify the applicant, abutters, and all other interested parties of the date of the meeting.
- (1) A complete application for Preliminary Subdivision Approval must be submitted within twelve months of Sketch Plan approval. Upon written request received prior to the end of the twelve-month period and demonstrating reasonable cause for the delay, the Planning Commission may approve an extension of up to twelve months. If a complete application is not received within this time period, the Sketch Plan approval and any preliminary residential phasing allocation shall expire and the applicant must reapply.
- (F) Final Subdivision Approval: All major and minor subdivisions must obtain Final Subdivision Approval. Applications must be submitted to staff in accordance with Section 2.9, below. Staff, upon determining that an application is complete, shall schedule a public hearing in accordance with Article VI of these Regulations as soon as the agenda will allow, and shall notify the applicant, abutters, and any other interested parties of the date of the hearing.
- (1) A complete application for Final Subdivision Approval must be submitted within twelve months of Sketch Plan approval for minor subdivisions or within twelve months of Preliminary Plan approval for major subdivisions. Upon written request received prior to the end of the twelve-month period and demonstrating reasonable cause for the delay, the Planning Commission may approve an extension of up to twelve months. If a complete application is not received within this time period, previous approval and any preliminary residential phasing allocation shall expire and the applicant must reapply, starting again at the beginning of the process.

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

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

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

- (A) Simple Parceling: Simple Parceling, as defined in Article VI, must satisfy the conditions of this section, and shall require submission to the Community Development Director of a boundary plat showing the delineation of all proposed parcels and other application materials described below.
- (1) Application Materials: Technical plans, drawings, property surveys, etc., shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a written summary of the proposed project, names and addresses of all adjacent property owners (if an adjoining property is owned as common land by an owners' association, the applicant shall provide the name and address of the president of the owners' association), three (3) copies of the proposed plan(s) and supporting written materials, and the following:
- (a) Identifying Information:
 - (i) Address of parcel being subdivided.
 - (ii) Name and address of applicant and owner.
 - (iii) Name and address of professional advisors.
 - (iv) Date.
 - (v) Zoning district(s) involved.
 - (b) A fee as may be established by the Town Selectboard; and
 - (c) A complete survey of the land to be divided, prepared as a plat, shall be submitted, in conformance with Section 4.2 of these Regulations, which shows the proposed lot configuration, significant natural features (as shown on the Significant Features Reference Map defined in Article VI) and location of the 100 year flood plain (if applicable).
- (2) Planning Standards: A proposed simple parceling must satisfy the following:
- (a) The applicant must demonstrate that there is adequate area for primary and replacement septic areas on both lots, or that both lots are served by the municipal sewer system or other approved off-site system.
 - (b) Both lots created must meet all applicable minimum requirements of the Town Zoning Regulations.
 - (c) If the parcel to be divided contains any feature identified on the Significant Features Reference Map, Staff shall review and accept plans to mitigate the impact of the proposed parceling on said features (e.g. conservation easements, specified building envelopes, preservation of an open field, etc.). Staff may consult with the Conservation Committee regarding such a proposed parceling.

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

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

- (a) Identifying Information:
 - (ii) Address of parcel being subdivided.
 - (iii) Name and address of owner(s).
 - (iv) Name and address of any professional advisors.
 - (v) Date.
 - (vi) Zoning district(s) involved.
 - (b) A fee as may be established by the Town Selectboard;
 - (c) A scale drawing submitted to Staff showing the existing and proposed boundaries between the relevant lots.
 - (d) An indication of whether or not either of the lots involved was part of a previous subdivision and if so, when that approval was granted.
- (2) Planning Standards: A boundary adjustment must satisfy the following:
- (a) The proposed boundary adjustment shall not create any new lots.
 - (b) No existing lot shall be made non-conforming or more non-conforming.
 - (c) The total acreage being transferred as a result of the boundary adjustment may not exceed the minimum lot size in the zoning district in which the property is located, or no more than one acre if the property is located in a zoning district that has no minimum lot size. If a larger area is being transferred, the proposal must be treated as a minor subdivision.
- (3) Upon determining that an application for a boundary adjustment is complete, Staff shall review the application, prepare a draft decision for the Planning Commission, and place the matter on the consent agenda (see Section 5.1(D) of these Regulations) for the Planning Commission at the next available meeting.
- (4) Staff shall notify the applicant, adjacent property owners, and other interested parties of the application for a boundary adjustment, the draft decision, and the date on which the Planning Commission will consider the matter under its consent agenda, at least seven days prior to the meeting, in accordance with Article V of these Regulations.
- (5) Following action by the Planning Commission, the decision shall be issued in accordance with Section 5.1(E) of these Regulations.
- (6) When the proposed boundary adjustment has been approved by the Planning Commission, a mylar suitable for recording shall be prepared showing all relevant information, bearings and distances of perimeter boundary lines, monumentation in accordance with Section 4.11 on all corners of each lot, and all easements, and certification by a registered land surveyor that information is based on deed research and field information. In addition, the following language shall be printed on the mylar:

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

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

- (7) The mylar shall be filed in accordance with the provisions of Section 2.10 of these Regulations. A fee, payable by the applicant, will be charged to file the mylar and is due at its submittal.
- (8) Any further subdivision of a lot created by the approved Boundary Adjustment shall require subdivision approval in accordance with these Regulations.

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

- (A) Purpose: The purpose of Sketch Plan Review is to explore the options for the overall subdivision concept and layout, including uses and open spaces, in relation to the objectives of the Town Plan, the characteristics of the site and characteristics of the surrounding area, and to determine that the proposed subdivision appears consistent with the requirements of these Regulations and the Town’s Zoning Regulations.
 - (1) When the proposed development occupies only a portion of the parcel of land being subdivided, the applicant should be prepared to discuss future plans for the remainder of the parcel. A Master Plan may be required in accordance with Section 2.7 of these Regulations.
 - (2) For large or complex subdivision projects, the applicant is urged to meet informally with Staff to discuss the project, prior to filing an application for Sketch Plan Review.
- (B) Application Materials: Technical plans, drawings, property surveys, etc. shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a written summary of the proposed project, names and addresses of all adjacent property owners, ten (10) copies of the proposed plan(s) and supporting written materials along with the following:
 - (1) Identifying Information:
 - (a) Address of parcel being subdivided.
 - (b) Name and address of applicant and owner.
 - (c) Name and address of any professional advisors.
 - (d) Date.
 - (e) Zoning district(s) involved.

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

- (C) Planned Unit Developments: When the application is for a proposed Planned Unit Development in accordance with Article VI of the Town's Zoning Regulations, the applicant shall so state in the Sketch Plan Review application, and shall be prepared to discuss the proposed development in view of the requirements established for Planned Unit Developments in the Town's Zoning Regulations.
- (D) Review Procedure:
- (1) The Community Development Director shall determine whether or not a previously approved Master Plan exists for the subject property in accordance with Section 2.7 of these regulations or any previous regulations. If so, the applicant shall be notified and the Master Plan shall be kept as part of the current application.
 - (2) If the application is deemed complete, the Community Development Director shall schedule a hearing before the Planning Commission at the earliest available time, with notice of the hearing at least seven days prior to the hearing in accordance with Article V of these Regulations, The Community Development Director shall notify the applicant, owners of adjacent properties, and other interested parties of the date of the hearing.
 - (3) Where the proposed subdivision consists of, or has the potential of, supporting more than 10 dwelling units, Staff shall notify the Superintendent of Schools to allow potential input regarding the impact of the development on school facilities.
 - (4) Staff shall notify the applicant of the requirements for residential development phasing (Article III). Staff shall advise the applicant of the construction priority of projects with final approval and projects under review by the Planning Commission and, if available, an estimate of the earliest start date and term of construction.
 - (5) At Sketch Plan Review, Staff shall provide relevant information from the Significant Features Reference Map, aerial photographs, and other available sources. The applicant is encouraged to meet with Staff prior to Sketch Plan Review to explore this information.
 - (6) The Planning Commission shall study the Sketch Plan to determine whether it conforms to, or would be in conflict with, the General Requirements set forth in Article IV of these Regulations.
 - (7) The Planning Commission and the applicant may explore alternative layouts or arrangements during the Sketch Plan Review.
 - (8) When the applicant states that the proposal is for a Planned Unit Development or Planned Residential Development, the Planning Commission shall also consider the requirements of Article VI of the Town's Zoning Regulations.

- (9) The Planning Commission shall consider the need for and extent of open space and recreation land in the proposed subdivision in accordance with Section 4.5 of these Regulations.
 - (10) The Planning Commission shall review the classification of the proposed subdivision as either Minor or Major, if requested by the applicant, and may confirm or revise said classification.
 - (11) Prior to granting Sketch Plan Approval, the Planning Commission shall determine whether a Master Plan shall be required in accordance with Section 2.7 of these Regulations. If a Master Plan is required, it shall be submitted prior to the next level of review of the proposed subdivision.
 - (12) The Planning Commission shall approve, modify and approve, or disapprove the Sketch Plan, including the preferred layout. If the applicant has submitted more than one plan, the Commission may take action on one of the proposed alternative layouts submitted with the application. Written comments on the Sketch Plan which clearly express the results of the Commission's review shall be sent to the applicant. Sketch Plan approval constitutes authorization to proceed to the next step in the subdivision approval process. Sketch Plan Approval is not binding in that it does not guarantee Preliminary or Final Subdivision Approval.
- (E) Residential Phasing: If the proposed subdivision will include residential development, residential phasing shall be reviewed in accordance with Article III of these Regulations.
- (F) Conservation Committee Review: The Conservation Committee is to be notified of all applications and be given the opportunity to review the application and submit comments to staff for inclusion in staff reports and/or to present comments directly to the Planning Commission.

2.7 Master Plan:

- (A) Applicability: As determined by the Planning Commission at Sketch Plan Approval, a Master Plan shall be required for any project which is intended to be developed in phases and for which approval of only one phase is currently requested, or for any project where development of only part of the parcel is proposed and the remaining land exceeds in area three times the minimum lot size in the district in which the subdivision is located.
- (B) Purpose: The purpose of the preparation and review of a Master Plan by the Planning Commission is to acquaint the Commission with the entire tract of land without requiring the presentation of extensive surveying, engineering, or design data, to identify significant features warranting future protection, and to facilitate anticipated future development in an orderly manner. Applicants are encouraged to explore different schemes by presenting alternative plans that represent thoughtful site planning and are in conformance with the Town Plan and Bylaws.

(C) Application Materials:

(1) Identifying Information

- (a) Address of parcel for which the master plan applies.
- (b) Name and address of owner.
- (c) Name and address of any professional advisors.
- (d) Date.
- (e) Zoning district(s) involved.
- (f) Names, addresses, and tax parcel numbers (from Town tax records) of all adjacent parcels (if an adjoining property is owned as common land by an owners' association, the applicant shall provide the name and address of the president of the owners' association).
- (g) Existing and proposed uses of all parcels (residential, farm, etc.).

(2) Draft Master Plan: A complete application for Master Plan approval shall include a written summary of the proposed project, names and addresses of all adjacent property owners, ten copies of the proposed plan(s) and supporting written materials along with the following:

- (a) Completed Planning/Zoning application form.
- (b) Application fee, as determined by the Selectboard.
- (c) Site location map (upper right or upper left corner of plan).
- (d) Identification and delineation of Zoning District(s) involved.
- (e) Name and address of applicant and owner.
- (f) Name of subdivision, if any, and address.
- (g) North arrow on map.
- (h) Scale - not smaller than 1"=200', preferably 1"=100'.
- (i) Date.
- (j) Property boundaries with approximate dimensions and total acreage.
- (k) Location of all adjoining properties and names of owners thereof.
- (l) Tentative arrangement of proposed streets, utilities, and facilities, including water, sewer, drainage, electric, telephone, etc.
- (m) Mapping of soil classifications as shown in the Chittenden County Soil Survey, including the delineation of prime agricultural soils as designated in Agricultural Value Groups for Soils (available at the USDA Soil Conservation Service Office) and a discussion of the capabilities and limitations of the soil types.
- (n) General location of watercourses, wetlands, the 100-year flood plains, wooded areas, significant ledge outcrops, and other natural features as may be depicted on the Significant Features Reference Map.
- (o) Tentative layout of proposed lots with approximate dimensions and areas, and approximate layout of areas to be designated as open spaces, parks, playgrounds, or other public spaces.
- (p) Open-fields.
- (q) Location of the 100-year flood plain boundaries, if applicable.
- (r) Trails, as shown in the Town Plan or other report incorporated into the Town Plan.

- (s) An assessment of areas to remain undeveloped (using information on the Significant Features Map and other available sources as a guide).
- (D) Review by Planning Commission: The Planning Commission shall review the Master Plan as a Sketch Plan, taking into consideration the requirements of the Town Plan and the Bylaws and indicate to the applicant any changes or preferences for the overall design of the project. Master Plan review is intended to be an informal exchange of ideas between the applicant and the Planning Commission and presentations and suggestions are not binding. Approval of a Master Plan shall not constitute approval of the proposed subdivision.
- (E) Filing: If approved as a Master Plan, the decisions of the Planning Commission and a copy of the Master Plan shall be filed in the Community Development Office. The Master Plan shall be consulted whenever future subdivision of any land included in the Master Plan is proposed. An approved Master Plan shall not constitute approval of the proposed subdivision.

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

- (A) Purpose: The purpose of Preliminary Subdivision Approval shall be to compare the plan for consistency with the requirements of these Regulations, to determine that the plan addresses the issues raised at Sketch Plan Review, to ensure that all survey information, septic system and well data, required public improvements, and other data are complete, to ensure that the proposed subdivision is in compliance with all appropriate Regulations and standards, and to complete the major portion of engineering review of improvements and land alterations.
- (B) Application Materials: Technical plans, drawings, property surveys, etc., shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a detailed written summary of the proposed project, names and addresses of all adjacent property owners, ten (10) copies of the proposed plan(s) and supporting written materials along with the following, plus all information in the technical checklist approved by the Planning Commission:
 - (1) Identifying Information: All information required for Sketch Plan Approval, updated as needed, as specified in 2.6(B)(1), above.
 - (2) Subdivision Plan: Detailed subdivision plan(s) shall be submitted containing all of the information required for Sketch Plan Approval, as set forth in Paragraph 2.6(B)(2), above, updated and accurate, plus existing and finished contours as described below.
 - (a) Existing and finished contours with intervals of not more than five feet (5').
 - (b) Contours with intervals of not more than two feet (2') shall be shown for large portions of the site that do not contain relatively level terrain or where on-site wastewater treatment facilities are to be installed.

- (c) General mapping of soil classifications as shown in the Chittenden County Soil Survey, including the delineation of prime agricultural soils by value groups (available at the USDA Soil Conservation Service Office) and a discussion of the capabilities and limitations of the soil types as described in the Soil Survey.
 - (d) Septic System and Well Data:
 - (i) For subdivisions not served by the municipal sewer system, Results and locations of percolation tests and soil borings, made and certified by a professional engineer (with a civil or sanitary specialty) licensed in Vermont. If State approval is required, the application shall so indicate, and certification of state approval shall accompany the application for Final Subdivision Approval.
 - (ii) For subdivisions not served by the municipal water system, water quantity and quality data from well logs of nearby wells.
 - (iii) Location of proposed septic systems and wells, including wells on adjoining properties.
 - (e) Natural Features and New Trees:
 - (i) A site resource map, at the same scale as the other land use plan maps, delineating any resources identified on the Town's Significant Features Reference Map which lie within the boundaries of the site.
 - (ii) Roadside Landscaping Plan showing proposed street trees and other landscaping features.
 - (f) Stormwater Management and Erosion Control Plan:
 - (i) All structural and non-structural measures for stormwater management and erosion control.
 - (ii) Proof that the subdivision design conforms to the Town's Stormwater Ordinance (e.g., a local stormwater management permit, a State Stormwater Management Permit, or a certification that neither is required).
- (3) Preliminary Plat: A Preliminary Plan shall contain the following:
- (a) Field Survey of boundary lines of the tract giving complete description data by metes and bounds, made and certified by a registered land surveyor.
 - (i) All new subdivisions within one mile of Vermont Grid 1927 shall be tied in to those controls and converted to Vermont Grid 1983 if reasonably possible.
 - (b) Location of boundary monuments, as required by Section 4.11 of these Regulations.
 - (c) Location and width of proposed street rights-of-way.
 - (d) Preliminary names of all streets for submission to the Selectboard for approval.
 - (e) Location, dimensions, area and number of lots and blocks.
 - (f) Location and dimensions of property to be dedicated for public use, or to be reserved for private open space.
 - (g) Boundaries of proposed permanent easements and conservation easements, and statement of purpose of easement.

- (4) Construction Detail Drawings: All plans shall be prepared and certified by a professional engineer (civil or related specialty) licensed in Vermont.
 - (a) Plans and profiles showing existing and proposed elevations along center lines of all streets within the subdivision.
 - (b) Plans and profiles showing location of street pavements, curbs, gutters, sidewalks, manholes, catch basins and culverts.
 - (c) Plans showing proposed building locations with building envelopes.
 - (d) Plans showing the location, size and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants and location and size of water, gas, electricity and any other utilities or structures.
 - (e) Plans showing temporary and permanent procedures for erosion control, consistent with the requirements of the Town's Stormwater Ordinance.
 - (5) Traffic Study: When requested by Staff, the applicant shall provide a traffic study demonstrating the ability of the surrounding street system to accommodate traffic to be generated by the proposed subdivision. If there is any question about the need for a traffic study, staff shall refer the matter to the Planning Commission.
 - (a) Traffic studies shall conform to the standards set forth by the Town Public Works Department.
 - (6) All information necessary to demonstrate conformance with the General Standards set forth in Article IV of these Regulations.
 - (7) Fees: A fee, as established by the Selectboard, plus the cost of publishing a notice and notifying adjacent property owners shall be provided, as described in Article V of these Regulations.
 - (8) A schedule for phasing of construction of streets and dwelling units within the proposed subdivision, consistent with the preliminary phasing allocation in accordance with Article III of these Regulations.
- (C) Review Procedure:
- (1) The Community Development Director shall determine whether or not the application is complete. If so, a hearing before the Planning Commission shall be scheduled at the earliest available time, and notice shall be sent at least fifteen days prior to the hearing, in accordance with the provision of Article V of these Regulations.
 - (2) The Community Development Director shall notify the applicant, owners of adjacent properties, and other interested parties of the date of the hearing.
 - (3) The Planning Commission shall review the Preliminary Subdivision submission for conformity with the General Requirements set forth in Article IV of these Regulations, and with the standards contained in these and any other relevant

regulations (such as the PUD and Site Plan requirements of the Zoning Regulations).

- (4) The Planning Commission may decide that the proposed plan does not address the comments and concerns raised at Sketch Plan Review, or that the layout is substantially different from that discussed at Sketch Plan Review, and may require the applicant to resubmit it as a Sketch Plan. The Commission may choose to conduct a second Sketch Plan Review in lieu of the scheduled Preliminary Review.
- (5) The Planning Commission shall determine the water supply system and the wastewater disposal system that shall be required to serve the subdivision in accordance with Section 4.9 of these Regulations. Any subdivision to be served by the municipal sewer system shall have obtained approval of a sewer allocation from the Selectboard or the Town Manager prior to Preliminary Subdivision Approval.
- (6) The Planning Commission may require phased construction of streets and dwelling units consistent with the preliminary residential phasing allocation issued in accordance with Article III of these Regulations.
- (7) The Planning Commission shall review the classification of all existing and proposed streets within the subdivision, using the classification system in the Town's Public Works Specifications. Streets shall be constructed to the standard for each classification as set forth in the Public Works Specifications.
- (8) Based on the traffic study (see Subsection 2.8(B)(5)), if applicable, recommendations of the Town Engineer, or other credible observations, The Planning Commission may require the applicant to improve any access roads and/or traffic controls to the subdivision that are found to be inadequate to accommodate the additional traffic to be generated from the proposed subdivision.
- (9) The Planning Commission shall approve subject to modifications, or disapprove the Preliminary Subdivision submission. The Commission may make specific recommendations to be incorporated by the applicant in the application for Final Subdivision Approval.
- (10) Following Preliminary Subdivision Approval, the Community Development Director shall submit the list of proposed street names to the Selectboard for approval prior to Final Subdivision Approval. Submission of street names shall include preliminary assignment of street numbers by the Town according to the criteria of the E911 emergency response system.

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

- (A) Purpose: The purpose of Final Subdivision Review shall be to compare the plat for consistency with the approved Preliminary Plan or approved Sketch Plan, to ensure that all engineering, survey and other data are complete, and to ensure that the proposed subdivision is in compliance with all appropriate regulations and standards. Review by the Planning Commission shall include a public hearing in accordance with the provisions of Article V of these Regulations.
- (B) Application Materials: Technical plans, drawings, property surveys, etc., shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a detailed written summary of the proposed project, names and addresses of all adjacent property owners, ten (10) copies of the proposed plan(s) and supporting written materials along with the following, plus all information in the technical checklist approved by the Planning Commission:
- (1) Identifying Information: Everything required for Sketch Plan Approval under Section 2.6 (for minor subdivisions) and/or Preliminary Subdivision Approval under Section 2.8 (for major subdivisions), updated and current.
 - (2) Subdivision Plan: Updated and accurate. For Major Subdivisions, this material was originally submitted for Preliminary Subdivision Approval. For minor subdivisions, refer to Section 2.8(B) of these Regulations.
 - (3) Proposed Final Plat: The Final Subdivision Application must include the following:
 - (a) Preliminary Plat data updated and accurate. For Minor Subdivisions refer to 2.8(B) of these Regulations.
 - (b) Sufficient data to determine readily the location, bearing and length of all straight lines, radii, length of curves, tangent bearings, and angles of all street lines, plat boundary lines, lot lines and all other boundary lines.
 - (c) Street names.
 - (d) Location and material of all monuments and boundary markers in accordance with the provisions of Section 4.11 of these Regulations.
 - (4) Construction Detail Drawings: Updated and accurate. For Major Subdivisions, this material was originally submitted for Preliminary Subdivision Approval. For Minor Subdivisions, refer to Section 2.8(B) of these Regulations.
 - (5) Endorsement Block: The following endorsement block shall be placed on each section of the final submission, to be completed by the Planning Commission Chair or designee, upon approval:

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

- (6) Fees: A fee, as established by the Selectboard, plus the cost of publishing a notice and notifying adjacent property owners shall be provided, as described in Article V of these Regulations.
 - (7) A schedule for phasing of construction of streets and dwelling units within the proposed subdivision, consistent with the phasing allocation granted to the subdivision under Article III.
- (C) Review Procedure:
- (1) The Public Hearing shall be held at a Planning Commission meeting in accordance with the provisions of Article V of these Regulations.
 - (2) Before convening the public hearing on a minor or major subdivision, the Planning Commission may decide that the proposed subdivision does not address the comments and concerns raised at Sketch Plan Review, or that the layout is substantially different from that discussed at Sketch Plan Review, and may require the applicant to resubmit it as a Sketch Plan. The Commission may choose to conduct a second Sketch Plan Review in lieu of the scheduled hearing.
 - (3) Before convening the public hearing on a major subdivision, the Planning Commission may decide that the proposed subdivision does not address the comments and concerns raised at Preliminary Subdivision Approval. The Commission may choose to conduct a second Preliminary Subdivision Review in lieu of the scheduled hearing.
 - (4) The Planning Commission shall review the final submission for conformity with the preliminary submission, with Article I of these regulations, and with the standards of these and any other relevant Regulations (such as the PUD or Site Plan Review provisions of the Zoning Regulations).
 - (5) For Minor Subdivisions, the Planning Commission shall determine the water supply and waste water systems that shall be required to serve the subdivision in accordance with Section 4.9 of these Regulations.
 - (6) The Planning Commission shall act to confirm and make final the residential phasing allocation in accordance with Article III of these Regulations.
 - (7) The Planning Commission may require phased construction of streets and dwelling units, consistent with the phasing allocation approved in item 6, above.
 - (8) The Planning Commission may establish conditions to Final Subdivision Approval that it determines are necessary to ensure that the subdivision conforms to the requirements of these Regulations.
 - (9) The Planning Commission shall review all stipulations or conditions of approval and may, at its discretion, require that some or all be recorded in the Town's Land Records as restrictions on the property affected by the subdivision.

- (10) The Planning Commission may require a performance guarantee for the construction of public improvements, as set forth in Section 2.11(B).
- (11) The Planning Commission, within forty-five (45) days of the close of the Public Hearing, shall approve, modify and approve, or disapprove the Final Subdivision submission. The decision shall be issued in writing in accordance with Article V of these Regulations. In the event that the Planning Commission fails to act within such forty-five (45) days, the Final Plat and other final drawings shall be deemed approved, effective on the 46th day.
- (12) The Planning Commission may set a time limit for completion of required improvements, including correction of outstanding violations (if any). If improvements are not completed within the specified time period, approval for the uncompleted portion of the subdivision shall be void.
- (13) Approval of the subdivision plat shall not be deemed to constitute or imply acceptance by the Town of any street or other open space shown on the plat.
- (14) The Final Plat shall be filed in accordance with the provisions of Section 2.10 of these Regulations.

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

- (A) Eligible Plats: No Final Plat of subdivision of land shall be received by Staff for recording in the office of the Town Clerk until approved by the Planning Commission, and the fact of such approval is endorsed thereon, except as otherwise provided by statute.
- (B) Requirements: All Plats for filing shall meet the requirements of 27 V.S.A., Chapter 17, and any guidelines adopted by the Planning Commission.
- (C) The Community Development Director shall have the plat signed and shall file the signed plat with the Town Clerk's Office within 180 days of the date of approval. In accordance with the Act [24 V.S.A., § 4463] the Community Development Director may grant a 90-day extension if final local and state permits are pending.
- (D) If a plat is not filed with the Town Clerk's Office in accordance with these provisions, the subdivision approval shall become void.
- (E) One copy of the signed plat shall be returned to the applicant.

- (F) The plat is void if changes are made to it after the Planning Commission has endorsed it in writing, unless amended in accordance with Section 2.12 of these Regulations.
- (G) After the Community Development Director files it with the Town Clerk, the Final Plat shall become part of the official Town Land records and of any duly adopted Official Map.
- (H) In addition to the mylar of the final plat, the applicant shall file a computerized file in DXF of the information specified below. If the final plat was hand drawn and not available in computerized form, the applicant shall submit a signed statement to that effect by the land surveyor or engineer who prepared the plat. In addition, the applicant shall provide three paper copies of the approved Final Plat and any portion of the submitted plans that are required to be recorded as a stipulation of the Final Subdivision Approval. All documents shall bear the endorsement specified in Paragraph 2.9(B)(5), above. Staff shall retain one paper copy for the files of the Community Development Department and provide a copy to the Town Engineer, and the Assessor's Department. No Zoning Permit shall be issued prior to receipt and filing of the approved plat.
- (I) The computerized DXF file shall contain all the information on the final plat, wetland and wetland buffer boundaries (if these have been field surveyed and verified by the State of Vermont Wetlands Coordinator or designee), and any trails, walks or bikepaths constructed or designated for public use as part of the subdivision approval.

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

- (A) Legal Data: The following legal data shall be provided:
 - (1) Deed description of tract boundary.
 - (2) Information on all proposed publicly-owned land:
 - (a) Certificate of title.
 - (b) Offer of irrevocable dedication.
 - (c) A warranty deed, free and clear of all encumbrances, to be provided to the Town prior to the issuance of any Zoning Permit and to be recorded after final acceptance of all streets, parks, or other open space by the Town.
 - (3) Copies of agreements or other documents showing the manner in which areas reserved by the applicant are to be maintained, including any conservation easements.

- (4) Any other data, such as contracts, certificates, affidavits, endorsements, receipts, or other materials or agreements which may have been required by the Planning Commission or by the Selectboard.
- (B) Performance Guarantee: Where public improvements are required as part of subdivision approval, a performance guarantee in the form of a Letter of Credit, an escrow account, or other security, as approved by the Selectboard shall be posted before any site modification.
- (1) When a performance guarantee is required, the applicant shall file it with the Town in an amount sufficient to provide for and secure to the public the full cost of completion of all streets and required improvements within a period of time fixed by the Selectboard, and to ensure that all improvements and construction remain in satisfactory condition for a period of three (3) years after completion of all items. This amount shall be verified by the Town Engineer. Such guarantee may consist of separate portions covering required improvements and maintenance.
 - (2) The Selectboard shall specify the time period within which the required improvements must be completed, but in no case for a longer term than three (3) years. The term of the guarantee may, with the consent of the applicant, be extended for an additional period not to exceed three years. The time period shall be expressed as part of the posting of the guarantee.
 - (3) If any required improvements have not been installed or maintained as provided within the terms of such performance guarantee, it shall be considered to be forfeited after thirty (30) days' written notice. Upon receipt of the proceeds, the Town shall establish an escrow account and draw on it to install or maintain such improvements, and in the event the proceeds are insufficient therefore, the applicant shall be liable for reimbursing the Town for the balance. Any balance remaining in the escrow account at the end of the established maintenance period may be refunded to the applicant after all expenses to the Town are paid.
 - (4) The applicant may transfer his/her rights in the performance guarantee or other surety to any purchaser of the undeveloped part of the subdivision if the Selectboard approves the transfer. The Selectboard may ask the Commission for review and recommendations prior to granting approval.
- (C) Inspection of Required Improvements: The Town Engineer, or his/her designated representative, shall inspect all required public infrastructure and review all certificates of inspection submitted by the engineer representing the developer to ascertain whether the work has been completed in accord with relevant Town specifications.
- (1) The developer shall review the intended construction schedule with the Town Engineer to facilitate required site inspections.

- (2) The applicant shall provide for engineering inspection of the project by a Vermont licensed professional engineer (civil or related specialty) such that the applicant can, upon completion of the project, provide the project verification of facilities as required in the Town of Essex Public Works Specifications. The provisions of this section will be met through evidence of a contract for these services or establishment of a letter of credit or similar financial instrument as a guarantee of performance.
- (D) Public Acceptance of Streets, Reservations, and Other Public Improvements: Every street shown on a plat filed or recorded as provided in these Regulations shall be deemed to be a private street until such time as it has been formally accepted by the Town.
- (1) No Zoning Permit shall be issued until proof is shown of acceptance of the streets and other improvements by the Selectboard, or that an adequate performance guarantee has been agreed upon by the Selectboard.
 - (2) Paper copies of as-built drawings and computerized DXF files(s) containing, in separate files by municipal service system (i.e. water, sewer, drainage, roads), or a signed statement by the engineer who designed the municipal improvements that the plans were hand drafted showing the location of all required improvements, and certified by a Vermont licensed professional engineer (with civil or related specialty) or registered land surveyor, shall be filed with the Town Manager prior to the acceptance of the improvements. Until as-built drawings are filed, the balance of the performance guarantee or other surety guaranteeing the completion of such improvements shall not be released.
 - (3) Upon satisfactory completion of improvements, as certified by the Town Engineer, submission of as-built drawings in accordance with item 2 in this subsection, and submission of legal data required under Paragraph 2.11(A) of these Regulations, the Town Manager shall recommend to the Selectboard that all security covering construction of improvements be released. Sufficient guarantee in the form of a Letter of Credit or other security shall be retained, however, to guarantee maintenance of the streets and other public improvements, as provided for in Section 2.11(B) of these regulations.
 - (4) Final acceptance of all proposed streets and utilities shall be in conformance with the steps and procedures established by the Selectboard.
 - (5) Final acceptance of public lands for recreation or open space shall be in conformance with the steps and procedures established by the Selectboard.
 - (6) Final approval of the subdivision plat, or filing for record thereof, shall not constitute or be evidence of an acceptance of any street, park or other open space shown on such plat. Such acceptance shall be by resolution of the Selectboard, which shall set forth the fact of such acceptance for public purposes, describing the same by reference to a warranty deed conveying the site thereof to the Town

free and clear of all encumbrances, together with a designation of the name by which such street shall be known.

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

- (A) Development on individual lots that would normally only require issuance of a zoning permit under Section 7.1 of the Zoning Regulations (e.g., sheds, decks, additions, etc.) shall not require subdivision amendment.
- (B) Minor Amendments: Minor amendments are those which do not involve changes to curb-cuts, road layout, or pedestrian circulation patterns, or which do not include boundary line adjustments involving the transfer of an acreage of land exceeding the minimum lot size of the district in which the property is located. Minor amendments may be approved by the Community Development Director, who shall notify the Planning Commission of all such approvals.
 - (1) The Community Development Director shall review the proposed minor amendment, prepare a draft decision for the Planning Commission, and place the matter on the consent agenda for the Planning Commission at the next available meeting.
 - (2) The Community Development Director shall notify the applicant, adjacent property owners, and other interested parties, of the proposed amendment, draft decision, and the date on which the Planning Commission will consider the matter under a consent agenda, at least seven days prior to the meeting, in accordance with Article V of these Regulations.
 - (3) Following action by the Planning Commission, the decision shall be issued in accordance with Section 5.1(E) of these Regulations.
 - (4) When the proposed minor amendment has been approved by the Planning Commission, a copy of the approved survey on mylar, suitable for recording, shall be prepared showing the information from Sub-Paragraph 2.5(A)(1), above, soil test pit results (if required), bearings and distances of perimeter boundary lines, monumentation in accordance with Section 4.11 on all corners of each lot, all easements and certification by a registered land surveyor that information is based on deed research and field information. In addition, the following language shall be printed on the mylar:

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

- (5) The mylar shall be filed in accordance with the provisions of Section 2.10 of these Regulations.
- (C) Major Amendments: All amendments other than those identified in paragraphs (A) and (B), above, i.e., those that involve significant changes to the road layout and/or the overall layout of the subdivision, or revisions to curb-cuts, utility/pedestrian easements, or pedestrian circulation patterns, or which include boundary line adjustments involving the transfer of an acreage of land exceeding the minimum lot size of the district in which the property is located, shall be considered major amendments and shall require approval by the Planning Commission.
- (1) Major Amendments shall be treated as Final Subdivision Approvals in accordance with the provisions of Section 2.9 of these Regulations. The usual per lot fee shall apply based on the categorization of the subdivision proposed for amendment as Minor or Major. Fees shall be required for advertisement of a Public Hearing notice and notification of adjacent property owners of both the original subdivision and new property owners within the subdivision, in accordance with the provisions of Article V of these Regulations. It, along with any other fee for this review as may be established by the Selectboard, shall be payable at the time of application.
- (2) If the amendments involve changes to the overall layout of the subdivision, the Planning Commission may require the application be reviewed as a new subdivision (Minor or Major) according to these Regulations.
- (D) Amendments to Final Plat:
- (1) If an amendment to a subdivision is approved prior to the filing of the Final Plat for the original subdivision, the amendment shall be incorporated into the Final Plat before it is filed.
- (2) If an amendment to a subdivision is approved after the original Final Plat has been filed, an Amended Plat shall be prepared and submitted in accordance with Section 2.10 of these Regulations. An Amended Plat shall carry a notation to the effect that it supersedes the previously filed original plat, giving the date and recording information of the original plat.

ARTICLE III: RESIDENTIAL DEVELOPMENT PHASING

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

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

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

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

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

- (A) Any proposed development that contains dwelling units and that requires Subdivision Approval must obtain a preliminary phasing allocation upon completing Sketch Plan approval and before submitting an application for Preliminary or Final Subdivision Approval. The Planning Commission may waive the residential phasing requirement for a minor subdivision if it determines that no additional dwelling units will be built as a result of the subdivision.
- (B) The Planning Commission shall act on a request for a preliminary phasing allocation when a proposed development receives sketch plan approval.
- (C) For purposes of phasing allocations, proposed residential development shall be converted to Estimated Population Equivalents (EPEs) based on the assumption of one 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.

- (D) The phasing allocation for a proposed development shall specify the number of dwelling units, by type and size, which are authorized in each calendar year. A phasing allocation for a single development may extend over several calendar years, and the number, type, and size of units authorized in each calendar year must be specified. When considering a phasing allocation for a proposed development, the Planning Commission shall consider the number, type, and size (number of bedrooms) of dwelling units proposed, the Estimated Population Equivalent (EPE) of the proposed development, and the following phasing rules.
 - (1) The total Estimated Population Equivalent (EPE) of all development phased in a given calendar year should aim for the midpoint of the target range set forth in Section 3.0(A), above (205 persons per year).
 - (2) The total EPE for dwelling units phased for development outside of the sewer core for any specified calendar year shall not exceed 20 percent of the targeted mid-point (205), as that target may have been adjusted as described below, for that calendar year.
 - (3) The sewer core shall be as delineated on the map entitled “Town Of Essex Sanitary Sewer Core Area” as approved by the Essex Selectboard.
 - (4) Except as specified below, the maximum number of dwelling units phased for any single development in any given calendar year shall not exceed 20 if the

development is within the sewer core, and shall not exceed five if the development is not in the sewer core.

- (a) Exception: If the Planning Commission feels that it is necessary in order to achieve Town Plan objectives related to affordable housing, as defined elsewhere in these Regulations, it may phase as many as 25 units per calendar year to a single development within the sewer core, provided that the total EPE for that year does not exceed the targeted mid-point (205), as that target may have been adjusted as described below.
- (5) Starting with the phasing as requested by the applicant, the units proposed in each calendar year shall be converted to Estimated Population Equivalent (EPE) as described above. Beginning with the first year, the EPE of the phasing requested by the applicant shall be added to the EPE of all development already phased for that year.
- (a) If the sum is less than the targeted mid-point, as that target may have been adjusted as described below, the requested allocation for the calendar year may be approved, and the approach repeated for subsequent years as requested by the applicant.
 - (b) If the sum exceeds the targeted mid-point, as that target may have been adjusted as described below, the Planning Commission may reduce the allocation to the development for that year so that the EPE falls below the targeted mid-point (and shift the unphased units to subsequent years of the development), shift the entire development to subsequent years, or make other adjustments as required to keep the yearly EPE totals below the targets.
- (6) Exceptions to the two rules of Part 3.2(D)(5):
- (a) If the project being considered contains three (3) or fewer dwelling units, the Planning Commission may approve a phasing request even if it will push the total EPE above the targeted mid-point (205), as that target may have been adjusted as described below, provided that the total EPE for that calendar year does not exceed 226 persons per year.
 - (b) If the project being considered contains affordable dwelling units (as defined elsewhere in these regulations) numbering at least 20 percent of total dwellings in the project, or 5 dwelling units, whichever is more, the Planning Commission may approve a phasing request even if it will push the total EPE for that calendar year above the targeted mid-point (205), as that target may have been adjusted as described below, subject to the following:
 - (i) The total EPE for that year does not exceed 226 persons per calendar year, and
 - (ii) That the targeted mid-point for the next calendar year is adjusted downward by an amount equivalent to the amount by which the current year EPE exceeds the targeted mid-point (205) as it may have been

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

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

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

Prior to January 31 of each year staff shall prepare and the Planning Commission shall approve a summary report of residential phasing activity during the prior calendar year and the status of all residential development that has been granted preliminary and/or final phasing prior to and during that calendar year. This approved summary report shall be presented to the Selectboard at the earliest convenient meeting.

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

- (A) If the changes result in a reduction in the total number of dwelling units and/or the total EPE, staff may make the modification to the preliminary phasing allocation and report the change to the Planning Commission.
- (B) If the changes result in an increase in the total number of dwelling units and/or the total EPE, the additional allocation must be approved by the Planning Commission in accordance with Section 3.2, above.

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

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

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

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

**End of Article III
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ARTICLE IV: SUBDIVISION STANDARDS

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

4.1 Standards Applicable To All Subdivisions.

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

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

- anticipated needs of future developments.
- (2) The Town may require the applicant to provide easements, in combination with anticipated street connections or at other necessary locations, to allow future extension of facilities and/or street or walkway access to adjacent undeveloped properties.
 - (3) The Town, with Selectboard approval, may reimburse the applicant for the difference in cost between the facilities actually needed in the subdivision and the cost of facilities necessary to provide for future development.
 - (4) When further development occurs, the Town may charge the appropriate portion of the additional cost to that subsequent subdivider.
- (T) Development within an approved subdivision shall be subject to any impact fees that the Town may enact in accordance with 24 V.S.A., Chapter 131. However, if the subdivision developer is required to provide land or construct facilities explicitly included in the calculation of the impact fees, the developer may apply for a credit against the impact fees in an amount equal to the cost of such construction, but not exceeding the amount of the impact fee.

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

- (A) Depending on the size and layout of the minor subdivision, the requirements of the following sections may also apply:
- (1) Section 4.3 Preservation of Natural and Significant Features
 - (2) Section 4.4 Lots – Planning and Design Standards.
 - (3) Section 4.5 Streets – Construction Standards
 - (4) Section 4.6 Sidewalks – Planning and Construction Standards
 - (5) Section 4.7 Open Space
 - (6) Section 4.8 Utility Easements and Public Utility Improvements
 - (7) Section 4.9 Water Supply and Waste Water Systems
 - (8) Section 4.10 Stormwater Management and Erosion Control
 - (9) Section 4.11 Monuments and Lot Markers

4.3 Preservation of Natural Features:

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

- (1) The subdivision shall be planned so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. No topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs of that particular subdivision unless special approval is obtained from the Zoning Board of Adjustment.
- (2) Where subdivision improvements will occur on slopes, in un-vegetated areas, or in other areas with fragile soil conditions, plans shall be submitted to ensure adequate erosion and stormwater control in conformance with the Town's adopted Stormwater Ordinance. Where necessary, the Planning Commission shall require temporary measures to protect areas exposed during the development, consistent with the requirements of the Town's Stormwater Ordinance.
- (3) Topsoil removed in the process of grading the subdivision site shall be replaced to an average depth of four (4) inches (10 cm) with a minimum depth of two (2) inches (5 cm) and the site seeded in accordance with Soil Conservation Service recommendations and the Town's Public Works Specifications.
- (4) No building, building envelope, road, sidewalk or utility shall be located within wetlands (as defined in Article VI of these Regulations) and associated buffers, except as specified in Section 3.11(F) of the Town's Zoning Regulations.
 - (a) Establishment of Wetland Buffer Boundaries: The location of wetlands and associated buffers may be identified initially from one or more of the following sources:
 - (i) The Significant Features Reference Map as included in the Essex Town Plan.
 - (ii) The Water resources Map as included in the Essex Town Plan.
 - (iii) Current Vermont Significant Wetland Inventory (VSWI) Maps.
 - (iv) Current National Wetland Inventory (NWI) Maps.
 - (v) Vermont Base Maps (orthophotos).

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

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

Field delineations of wetlands and associated buffers must be performed by a wetlands biologist, soils scientist or other land use professional (civil

engineer, landscape architect, planner) with recognized expertise in field delineation of wetland areas. The Planning Commission reserves the right to require the applicant to provide documentation regarding the expertise of the person who has performed the field delineation. The Planning Commission may also require that the field delineation be reviewed by staff from the ANR or Army Corps of Engineers, as they may be available, or an expert of the Planning Commission's own choosing.

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

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

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

- (5) Lot sizes should be encouraged to be the minimum possible to site the primary use, accessory buildings, on-lot water, on-lot sewer and access driveways in order to maximize the area of protected open space.
 - (6) Where the subdivision occurs in a forested or partially forested area, the subdivider shall submit recommendations from a professional forester regarding placement of subdivision improvements and removal of trees.
- (B) **New Trees:** New street trees shall be provided in areas where no trees presently exist or where existing trees would suffer life-shortening construction damage. One street tree shall be provided for each fifty feet (50') of frontage along a public or private road, provided that at least one street tree shall be provided on each lot.
- (1) Street trees shall be planted in the public right-of-way, either between the sidewalk and the curb or no more than five feet (5') inside of the front property line, at the discretion of the Planning Commission.
 - (2) Street trees shall be of a size and species identified as appropriate on any Site Plan or Landscape Guidelines adopted by the Planning Commission, or as approved by the Commission. Street trees shall be planted on the property side

of the sidewalk when the green space between the curb and the walk in less than or equal to five feet in width.

- (3) Street Trees will be guaranteed for a period of five (5) years from the date the Town takes over the road as a public road.
- (C) Floodplain: All areas identified as areas of special flood hazard are included in the FLOODPLAIN OVERLAY (C2) DISTRICT as described in the Town's Zoning Regulations. No development on such lands may be approved except in conformance with the provisions set forth in Table 2.17 (FLOODPLAIN OVERLAY (C2) DISTRICT) of the Town's Zoning Regulations. Where such development requires Conditional Use Approval by the Board of Adjustment, an application for Conditional Use Approval must be filed prior to filing an application for Final Subdivision Approval. Floodplain lands not used for development may be offered as a gift to the Town for use as open space or for passive recreational purposes.
- (D) Water Bodies and Adjacent Buffer Areas:
- (1) No natural watercourse shall be piped, dammed or altered without the approval of the Town and, where applicable, the State Department of Environmental Conservation.
 - (2) Construction and site modifications to streams, lakes, ponds and associated buffers may be allowed only in conformance with the provisions of Section 3.10 (Surface Water and Wetlands Protection) of the Town's Zoning Regulations. If construction is approved within these areas, construction shall also conform to the applicable requirements of the Town's Stormwater Management Ordinance.

4.4 Blocks And Lots - Planning and Design Standards:

- (A) Blocks:
- (1) The length, width and shape of blocks shall be determined with due regard to:
 - (a) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
 - (b) Zoning requirements as to lot sizes and dimensions.
 - (c) Need for convenient access, circulation, control and safety of vehicular and pedestrian traffic.
 - (d) Limitations and opportunities of topography.
 - (e) Impacts on resources identified on the Significant Features Reference Map.
 - (2) Irregularly shaped blocks shall be wide enough to allow two (2) rows of lots except where limited by unique or extreme topography. The minimum block width for two tiers of lots shall be 300 feet (91.5 meters), or twice the minimum depth as specified in the Zoning Regulations, whichever is larger.

- (3) Generally, the length of a block should be three (3) times the width.
- (4) Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.

(B) Lots:

- (1) Minimum lot and yard requirements shall be those of the Zoning Regulations and be appropriate for the proposed type of development. Where lots are more than double the minimum required area for the zoning district, the Planning Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots.
- (2) In addition to the minimum requirements of the Zoning Regulations, lots shall be of sufficient size to provide an adequate building site and suitable areas, with adequate isolation distances from neighboring properties, for sewage disposal and water supply.
- (3) Each lot shall be provided with satisfactory access to a public street. Driveway grades shall not exceed three percent (3%) within 20 feet (6.1 meters) of the edge of the traveled way. Driveway aprons shall be constructed to at least the same standard as the adjacent street. For paved streets, aprons must be paved, by the applicant, to the sidewalk/path or to the limit of the right-of-way in the absence of a sidewalk/path and completed prior to the three-year warranty period covered by the project's Highway Agreement. Construction of the aprons is the responsibility of the applicant. Waivers to these standards may be issued, with the approval of the Town Engineer, when such waivers are in the best interests of the Town.
- (4) Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated by the applicant with the stormwater management plan for the subdivision. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.
- (5) The ratio of the average depth to the average width of any lot shall not exceed 5:1.

4.5 Streets:

(A) Planning Standards

- (1) Streets shall be suitably located, of sufficient width, and adequately constructed to accommodate the prospective traffic and to afford satisfactory access to fire fighting and other emergency vehicles, snow removal and road maintenance equipment, and school buses.
- (2) The arrangement of streets shall be coordinated with existing and planned major

and collector streets so as to provide convenient access to places of employment, shopping areas, schools and recreational areas.

- (3) To ensure adequate access, as described in 4.5(A)(1) and 4.5(A)(2), and connectivity between neighborhoods, the Planning Commission shall require the continuation of existing streets from adjacent properties. Where the adjacent property is undeveloped, the Commission shall require new streets to be constructed to property lines prior to the completion of the warranty period set forth in the project's Highway Agreement
- (4) Minor streets shall be planned so as to discourage their use by through traffic.
- (5) The location of streets shall conform to the Town Plan.
 - (a) Where the Town Plan indicates plans for realignment or widening of a street that would require reservation of some land of the subdivision, the Planning Commission shall require that such areas be shown and marked on the Subdivision Plat "Reserved for Street Realignment (or widening) Purposes".
 - (b) Where the Town Plan indicates plans for a new street or highway on land within the subdivision, the Planning Commission may require reservation of a right-of-way of sufficient width and of suitable location to conform to the proposed Town street or highway plans.
- (6) Where existing access roads are inadequate to handle traffic to be generated by the proposed subdivision, the Planning Commission may require the subdivider to improve existing access roads, affected intersections and pedestrian facilities, or provide additional access roads, intersection improvements, or pedestrian facilities. If adequate access cannot be provided, the Commission may limit the number of buildable lots approved.
- (7) Streets shall be planned in relation to existing topographic conditions with grades that conform to design standards set forth later in this Section and in the Town's Public Works specifications.
- (8) Intersections of major streets with other streets shall be held to a minimum and shall be at least 750 feet (228.7 meters) apart. Where necessary to accommodate additional traffic flow from proposed subdivision, the Planning Commission may require the applicant to construct turning lanes or other appropriate road improvements in existing major streets.
- (9) Within 100 feet (30.5 meters) of an intersection right-of-way, the intersecting streets shall be at approximately right angles.
- (10) Privately owned reserve strips, or other means of controlling access to streets or adjacent property, shall be prohibited.

- (11) A circular turn-around meeting the Town's Public Works Specifications shall be provided at the end of a permanent dead-end street. A temporary turn-around shall be provided on all temporary dead-end streets. An alternative to a circular turn-around may be approved if recommended by the Town Engineer.
 - (12) Where the subdivision borders on a major street or road, driveway entrances shall not be permitted on the major street or road unless the Town Engineer determines that no safe access can be created from the minor road, and the Planning Commission determines that it is in the best interests of the Town to allow a driveway entrance on a major street. Access to individual lots shall be from minor streets within the subdivision.
 - (13) As specified in Section 4.1(D), the Planning Commission shall require the subdivision to have more than one entrance.
 - (14) All street names shall be approved by the Selectboard in accordance with all applicable E-911 requirements.
 - (15) The Planning Commission may require easements for future public transit facilities (e.g., bus shelters) and for future sidewalks and walkways.
- (B) Design Standards: All roads shall be designed in conformance with the standards set forth in this Section.
- (1) Type I Urban Design Standard
 - (a) The characteristics of this type of street are a 30-foot wide paved road, with partial or full curbs, a collected storm drainage system and concrete sidewalks and/or paved walkways, streetlights and other amenities as set forth in the Town's Public Works Specifications.
 - (b) This type of street is the required street design for all new development roads, except for new streets in the AR, R1, C1, C2, or O1 Districts where a Type II Paved Road standard may be used, when recommended by the Town Engineer and approved by the Planning Commission.
 - (c) The design standards for Type I Urban roads are set forth in table 4.1.

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'.

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.

- (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 Planning Commission determines that a significant volume of pedestrian traffic will exist.

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

4.7 Land for Public Open Space and Recreational Use:

- (A) In lieu of all or part of recreation impact fees as may be established by the Selectboard under Chapter 3.04 of the Essex Municipal Code, the Town may accept land reserved for recreation purposes:
 - (1) Reserved sites shall have suitable public access. While some of the reserved land may remain as undeveloped open space, at least some of the area shall be suitable for development for active recreational use.
 - (2) Where necessary to assure suitability for recreational use, the Planning Commission may require sites to be graded.
 - (3) Areas for public open space and recreational use shall be dedicated to the Town subject to approval by the Selectboard.
 - (4) Open space and recreational sites shall be reserved after consideration of the resources identified on the Significant Features Reference Map and trails identified in the Town Plan in order to create an integrated system of public or protected spaces and trail networks.
- (B) Trails and conservation greenways identified on the Significant Features Reference Map and in the Town Plan and located within the parcel must be accommodated within the open space and recreational areas.

4.8 Utility and Access Easements and Improvements:

- (A) Easements for Utilities, Drainage and Access:
 - (1) Where conditions make it impracticable to include utilities or drainage facilities within street rights-of-way, perpetual, unobstructed easements shall be provided to the Town, centered on rear or side lot lines, with satisfactory access to the street.
 - (2) Permanent utility or drainage easements shall be at least 30 feet (9.2 meters) in width for pipelines buried 10 feet or less in the ground and shall be indicated on the plat. Pipelines buried at greater depths shall require easements in excess of 30 feet as recommended by the Town Engineer. Lesser easement widths may be permitted with approval from the Town Engineer.

- (3) The Planning Commission may require perpetual, unobstructed easements to facilitate non-motorized, multi-use facility user access to schools, public open space, streets or adjacent properties as part of a proposed contiguous access plan.
- (4) Non-motorized, multi-use access easements shall be at least 15 feet (4.8 meters) in width, and shall be so indicated on the plat. The Planning Commission may require construction of a concrete or paved walk/path to be installed within the easement.

(B) Utility Improvements:

- (1) Public utility improvements, including electric and telephone cables, and, where accessible, gas lines and television cables, shall be installed in accordance with the Town's Public Works Specifications.
- (2) All utility lines shall be underground except where the Planning Commission, upon recommendation of the Town Engineer, determines that ledge, underground water or other conditions make underground installation economically infeasible.
- (3) Location of utility lines shall be shown on a map submitted to the Public Works Director. Record drawings of all utility locations shall be provided to the Town upon completion of the subdivision and acceptance of the roads and easements within it.
- (4) Underground siting of distribution transformers is preferred. If above grade, distribution transformers are used, they shall be provided with adequate safety covers, and shall be landscaped and sited in unobtrusive locations.

4.9 Water Supply and Waste Water Systems:

- (A) **Water Supply:** Whenever a public water supply is reasonably accessible or required in the interest of public health or safety, and where connection to the public water supply is consistent with the Town Plan, the Town Water Ordinance, and any applicable Town policies, the applicant shall install a complete water distribution system with adequate connections to the public water supply system according to the standards set forth in this Section, the Town's Public Works specifications, and the Town's Water Ordinance. Where connection to the public water supply is not appropriate as described in Item (2) of this sub-section, an alternative system shall be provided. As a condition of subdivision approval, any connection to any municipal or non-municipal water system shall require all applicable State approvals and permits.
- (1) Connection to the public water supply shall be guided by the following:
 - (a) The applicant shall install a complete public water system, including mains, fire hydrants, valves, services to the property lines and all other appurtenances to the approval of the Town Engineer.
 - (b) Construction procedures and materials and location of improvements shall conform to the standards of the Public Works Specifications and the Town's

Water Ordinance.

- (c) The system shall be designed in conformance with the standards of the State Department of Environmental Conservation, with sufficient capacity to provide adequate fire protection for the entire development without degrading fire protection for other users.
 - (d) The system shall be of a size adequate to accommodate anticipated water supply needs of potential development beyond the property being subdivided in accordance with sub-section 4.1(T) of these Regulations.
- (2) Alternative Water Supply: The Planning Commission may allow an alternative water supply, consisting of individual wells and/or a community water system, only if all the following conditions are met:
- (a) Proposed or potential development for the subdivision and surrounding area is limited.
 - (b) Extension of the public water system, in relation to the existing capability or potential expansion of the system, is not feasible or is not consistent with the Town Plan, as determined by the Town Engineer or Staff.
 - (c) Acceptable evidence has been submitted by the applicant establishing adequate quality and quantity of water for domestic purposes. The Planning Commission may require the applicant, prior to Final Approval of a Minor Subdivision or Preliminary Approval of a Major Subdivision, to make one or more test wells if additional evidence is deemed necessary.
 - (d) Where a subdivision consists of substantial development as determined by the Planning Commission based on density or total volume of dwelling units, acceptable evidence must be submitted by the applicant establishing ability to provide adequate fire protection.
 - (e) The water supply system shall be designed and installed in conformance with standards and procedures of the State Department of Environmental Conservation.
 - (f) The burden of proof for establishing infeasibility of connection to a public water supply system lies with the applicant. If unsatisfactory information has been provided, the Planning Commission shall require connection to a public water supply system, or deny or limit the proposed development.
 - (g) A homeowners' association or other organization shall be established with full responsibility for maintaining the community water system, and the covenants establishing that responsibility shall be reviewed and approved by the Town's attorney.
 - (h) The applicant shall provide a bond or other form of security to cover repair or maintenance costs, and/or costs of connecting to the public system should that become necessary in the future. The security shall be in an amount determined by the Town's Public Works Director.

(B) Waste Water Systems:

- (1) Public Sewage Disposal: When the proposed development is located within the sewer core area as delineated on the map entitled "Town of Essex Sanitary Sewer

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

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

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

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

4.11 Monuments and Lot Markers:

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

ARTICLE V: ADMINISTRATION AND ENFORCEMENT

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

5.1 Municipal Administrative Requirements:

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

- (1) Administrative Officer(s): The Town Manager may appoint the following Administrative Officer(s) as required for the administration and enforcement of these regulations. An Administrative Officer shall be a regular Town employee subject to all rules and regulations applicable to Town employees, and may be discharged by the Town Manager for cause at any time.
 - (a) A Zoning Administrator shall be appointed for a term of three (3) years. It shall be the duty of the Zoning Administrator to assist the Planning Commission in administering these Regulations. The Zoning Administrator shall inspect development, maintain records, and perform other tasks as necessary for subdivision administration and enforcement, in accordance with the Act [§4448] and these Regulations.
 - (b) An Assistant Zoning Administrator also may be appointed, who shall have the same duties and responsibilities as the Zoning Administrator only in the Zoning Administrator's absence.
 - (c) For the purposes of administering these Regulations, the Town Manager may also appoint the Community Development Director, or other staff as appropriate, to conduct administrative reviews as specified in these Regulations, in accordance with the Act [§4464(c)].
- (2) Planning Commission: The Planning Commission shall be appointed by the Selectboard for specified terms in accordance with the Act [§§4322, 4323]. A majority of members shall be residents of the Town of Essex. All members shall serve without compensation. Members may be removed at any time by unanimous vote of the Selectboard. The Commission shall adopt rules of procedure and rules of ethics with regard to conflicts of interest to guide its official conduct. The Planning Commission shall have the authority under these Regulations to hear and act upon matters including but not limited to:
 - (a) Simple Parceling.
 - (b) Boundary Adjustments.
 - (c) Sketch Plan Review.
 - (d) Master Plan Approval.
 - (e) Preliminary Subdivision Approval.
 - (f) Final Subdivision Approval.

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

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

- (a) Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality in conformance with the requirements of state statute [1 V.S.A., §312(c)(2)], and
 - (b) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
- (3) Applicants are required to provide the names and mailing addresses of all adjoining landowners.
- (a) In cases where an adjoining property is owned as common land by an owners' association, the notice shall be sent to the president of the owners' association.
- (4) No defect in the form or substance of any required public notice under this section shall invalidate any action taken where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content.
- (5) Public hearings concerning proposed amendments to these regulations shall be noticed and warned in accordance with the Act [§§ 4441, 4444].

(D) Meetings and Hearings.

- (1) Planning Commission: Pursuant to the Act [§§4461–4464] and Vermont's Open Meeting Law, all meetings and hearings of the Planning Commission, except for deliberative and executive sessions, shall be open to the public.
 - (a) In any hearing under these Regulations there shall be an opportunity for each person wishing to achieve status as an interested person, for purposes of participation or appeal under Section 5.2, to demonstrate that the criteria for achieving interested person status have been met. The Commission shall keep a written record of the name, address, and participation of each of these persons
 - (b) The Commission may recess the proceedings on any application pending submission of additional information, and should close evidence promptly after all parties have submitted requested information.
 - (c) Consent Agenda: The Planning Commission may act on proposed decisions for Simple Parceling, Boundary Adjustment, Minor Subdivision Amendments, and other procedural matters, as a consent agenda. The Planning Commission may approve the consent agenda as a whole, without

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

- (2) **Advisory Committees:** In accordance with the Act [§4464(d)], meetings of an Advisory Committee to review an application under these Regulations shall comply with Vermont's Open Meeting Law and the committee's adopted rules of procedure, but shall not be conducted as public hearings before a quasi-judicial body. Committee recommendations may be presented in writing prior to the Planning Commission hearing, or may be presented orally at the public hearing.
- (E) **Decisions.** In accordance with the Act [§ 4464], a decision by the Planning Commission must be made by the concurrence of a majority of the members of the Planning Commission. Decisions of the Planning Commission shall be issued within forty-five (45) days of the date of public hearing adjournment. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day.
- (1) All decisions, whether for approval or denial, shall be issued in writing and include stated findings of fact, stated conclusions based on the findings, and a statement of the time within which appeals may be taken under Section 5.2. Meeting minutes may suffice provided they meet these requirements.
 - (a) In rendering a decision in favor of an applicant, the Commission may attach additional reasonable stipulations, condition, or other safeguards as it deems necessary to implement the purposes of the Act, these Regulations, and the Essex Town Plan then in effect. This may include, as a condition of approval:
 - (i) A requirement for the submission of a three (3)-year performance bond, escrow account, or other form or surety acceptable to the Essex Selectboard, in accordance with Section 2.11(B) of these Regulations.
 - (ii) A requirement that no certificate of occupancy be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.
 - (iii) A requirement for the execution of a development agreement acceptable to the Essex Selectboard that governs the timing, financing, and coordination of private and public facilities and improvements in accordance with the terms and conditions of approval, provided that the agreement complies with all applicable municipal bylaws and ordinances then in effect.
 - (b) In rendering a decision against the applicant, the written decision shall include, in addition to the material required by Paragraph 5.1(E)(1), a statement of the applicant's option of appealing the decision in accordance with the provisions of Section 5.2 of these Regulations.

- (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)], 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:
 - (a) The name and address of the appellant.

- (b) A brief description of the property with respect to which the appeal is being taken.
 - (c) References to applicable provisions of these Regulations.
 - (d) The relief requested by the appellant, including any requests for variances from the provisions of these Regulations.
 - (e) The alleged grounds why such relief is believed proper under the circumstances.
- (2) Hearing: The Board of Adjustment shall warn and conduct a public hearing within sixty (60) days of the date of the filing of a notice of appeal in accordance with Section 5.2. A copy of the hearing notice shall be mailed to the appellant at least fifteen (15) days prior to the hearing date.
- (a) In accordance with the Act [§4470], the Board may reject an appeal or request for reconsideration without hearing, and render a decision within ten (10) days of the filing of a notice of appeal if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based substantially or materially on the same facts by or on behalf of the appellant.
 - (b) All appeal hearings shall be open to the public and the rules of evidence applicable at the hearings shall be the same as the rules of evidence applicable in contested cases before administrative agencies [3 V.S.A. §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing.
- (3) Decision: The decision shall be issued in writing, to include findings of fact, within forty-five (45) days of the date of hearing. The decision shall be sent to the appellant by certified mail, and to all others appearing and having been heard at the hearing. Copies shall be filed with the Zoning Administrator and Town Clerk as part of the public records of the municipality.
- (B) Planning Commission Decisions: Any interested person as defined under the Act [§4465(b)] who has participated in a proceeding before the Planning Commission may appeal a decision made by the Commission to the Vermont Environmental Court in accordance with the Act [§4471].
- (1) “Participation” for these purposes shall consist of having offered, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
 - (2) The notice of the appeal shall be filed by certified mailing to the Environmental Court, and by mailing a copy to the Essex Town Clerk, within thirty (30) days of the date of the issuance of a decision by the Planning Commission, in conformance with Vermont Environmental Court Rules.
 - (3) The Town Clerk or Zoning Administrator, if so designated, shall supply a list of interested persons to the appellant within five (5) working days of receipt of the Notice of Appeal. The appellant is required to notify every interested person of

the appeal by certified mail.

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

- (A) The Zoning Administrator is authorized to institute or cause to be instituted, in the name of the Town of Essex, any and all actions, legal or equitable that may be appropriate or necessary for the enforcement of these Regulations.
- (B) No action may be brought under this section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists. The notice of violation shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within seven (7) days, and that the alleged offender will not be entitled to an additional warning notice. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the succeeding twelve (12) months.
- (C) Any enforcement action relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action is instituted within fifteen (15) years of the date that the alleged violation first occurred. The burden of proof regarding the date that the alleged violation first occurred is on the person against whom the enforcement action is initiated.
- (D) All fines imposed and collected for violations shall be paid over to the Town.

**End of Article V
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ARTICLE VI: DEFINITIONS

6.0 General Definitions:

- (A) Unless otherwise defined herein, definitions of words used in the Act [24 V.S.A. § 4303], and definitions used in the Town Zoning Regulations shall apply. All other words shall carry their customary meanings.
- (B) For the purposes of these Regulations, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words used in the plural include the singular, and words used in the singular include the plural. The word “shall” is always mandatory and not merely discretionary.

6.1 Specific Definitions:

Abut: Refer to Adjacent Lot/Land.

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

Adjoining: Refer to Adjacent Lot/Land.

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

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

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

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

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

Block: An area bounded by streets.

Boundary Adjustment: A division of land for the purpose of adjusting boundaries between

adjacent lots or parcels where no new lot is created.

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

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

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

Bylaws: The duly adopted Zoning Regulations and Subdivision Regulations of the Town of Essex.

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

Condominium: A form of ownership of real property, applicable to structures containing one or more units, consistent with 27 V.S.A. § 1301, in which individual owners have title to individual dwelling units to the center lines of boundary walls, and where a condominium association consisting of all dwelling owners holds title to the balance of all buildings, land and other facilities for the common use of all dwelling owners. Condominium ownership may also apply to non-residential properties.

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

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

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

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

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

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

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

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

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

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

Final Plat: Final survey of all street, boundary and lot lines of a Major or Minor Subdivision, or boundary adjustment, to be filed with the Town Clerk containing all information required by these Regulations and prepared in conformance with 27 V.S.A. §§ 1401-1406.

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

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

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

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

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

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

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

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

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

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

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

Planning Commission: The Planning Commission of the Town of Essex appointed in accordance with the provisions of the Act [24 V.S.A. Chapter 117].

Planned Unit Development (PUD): A residential, mixed use, or non-residential development, approved by the Planning Commission in accordance with Article VI of the Zoning Regulations, designed and planned as an integral unit, and which may consist of individual lots which do not satisfy all of the requirements otherwise contained in these Regulations.

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

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

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

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

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

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

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

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

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

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

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

Street, Collector: A street which is being used or will be used to carry a substantial volume of traffic from a minor street(s) to a major street or community facility, and normally including the principal entrance street to a large subdivision or group of subdivisions, and the principal circulation streets within such subdivisions.

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

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

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

Subdivider: See “Applicant”.

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

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

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

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

The Act: Vermont Planning and Development Act [Title 24, V.S.A., Chapter 117].

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

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

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

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

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

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

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

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

Zoning Permit: A permit issued under the Town Zoning Regulations in accordance with the provisions of the Act [24 V.S.A. §4449].