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Department of Housing  
and Community Development

## VILLAGE OF OLD BENNINGTON

### PUBLIC HEARING

The Village of Old Bennington will hold a public hearing on December 12, 2019, at 7:00 pm at the Village Barn located at 1 Monument Circle, Old Bennington, Vermont, 05201 to receive public comment on proposed amendments to the Village of Old Bennington Zoning Bylaw and the Subdivision Bylaw.

The purpose of the proposed amendments is to update the 1999 Subdivision Bylaw and to add terminology to the Zoning Bylaw to reflect the proposed amendments to the 1999 Subdivision Bylaw.

1999 Subdivision Bylaw amendment purpose, It is the purpose of these subdivision regulations to encourage the most appropriate development of land, to secure safety against flood and other dangers, to facilitate the adequate and efficient provision for transportation, water, sewage, and other public requirements, to encourage economy in the process of land development, to encourage the use of desirable newer techniques in land development, and to regulate the approval and filing of subdivision plats, and boundary line adjustments in accordance with the Village Plan and other Village requirements, and to assure the Village of the completion of public improvements without cost to the Village, and within a reasonable period of time. The Subdivision process is generally a two-step process including Preliminary Plat and the Final Plat.

The following is a list of the Subdivision Bylaw headings:

#### PROPOSED SUBDIVISION REGULATIONS OF THE VILLAGE OF OLD BENNINGTON

##### **PURPOSE**

##### **SECTION 1 – DEFINITIONS**

##### **SECTION 2 – GENERAL REQUIREMENTS**

##### **SECTION 3 – PRELIMINARY PLAT INFORMATIONAL GUIDELINES**

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###### 3.02 Preliminary Plat Details

###### 3.03 Preliminary Plat Information

##### **SECTION 4 SUBDIVISION FINAL PLAT REQUIREMENTS**

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###### 4.02 Final Subdivision Plat

###### 4.03 Legal Data Required

###### 4.04 Performance Bond

###### 4.05 Public Hearing

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4.07 Filing with the Town Clerk

4.08 Recording of Plats

4.09 Official Map

## **SECTION 5 GUIDELINES**

5.01 Character of Land for Subdivision

5.02 Disclosure of Subsequent Development Plans

5.03 Development Envelope

5.04 Density and Lot Layout

5.05 Pedestrian Walks

5.06 Reserved Strips

5.07 Open Land

5.08 Trees and Planting

5.09 Street Design

5.10 Classification of Streets

5.11 Street Improvements

5.12 Utilities, Drainage

## **SECTION 6 BOUNDARY LINE ADJUSTMENT**

6.01 Purpose

6.02 Applicability

6.03 Application Requirements

6.04 Administrative Officer Duties

## **SECTION 7 ADMINISTRATION AND ENFORCEMENT**

7.01 Modifications

7.02 Acceptance of Streets

7.03 Enforcement

7.04 Penalties

7.05 Appeals

7.06 Validity

The changes to the Zoning Bylaw are as follows:

Section 85 – B: add building envelope as point 21.

Section Definitions: a) add definition of Building Envelope from proposed Subdivision Bylaw amendment. b) remove 1.06 Open Space definition from Zoning Bylaw.

Section 96 – A: at end of paragraph add “and guidelines included in Subdivision Bylaw”.

The full text of the proposed amendments to the Zoning Bylaw and the Subdivision Bylaw can be obtained by contacting the Planning Commission Chair Robert Bullington or Administrative Officer, Dennis C. McCarthy or on [www.oldbennington.org](http://www.oldbennington.org).

Contact information:

Robert Bullington, Chair  
Village of Old Bennington Planning Commission  
4 Fairview Street  
Old Bennington, Vermont 05201  
802 442-3023 [dewaters27@comcast.net](mailto:dewaters27@comcast.net)

Dennis C. McCarthy, Administrative Officer  
Village of Old Bennington  
PO Box 205  
North Bennington, Vermont 05257-0205  
802 440 2986 [dcmplumber@hotmail.com](mailto:dcmplumber@hotmail.com)

Bennington Banner 11/15/2019

VILLAGE OF OLD BENNINGTON

SUBDIVISION REGULATIONS

Adopted: February 1973

Readopted: July 13, 1989

Revised and Readopted: February 2, 1999

Effective: February 23, 1999

Revised and Readopted Xxxxxx xx, 2019

SUBDIVISION REGULATIONS OF THE VILLAGE OF OLD BENNINGTON

**PURPOSE**

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**SECTION 2 – GENERAL REQUIREMENTS**

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SUBDIVISION REGULATIONS  
OF  
THE VILLAGE OF OLD BENNINGTON

**PURPOSE:**

It is the purpose of these subdivision regulations to encourage the most appropriate development of land, to secure safety against flood and other dangers, to facilitate the adequate and efficient provision for transportation, water, sewage, and other public requirements, to encourage economy in the process of land development, to encourage the use of desirable newer techniques in land development, and to regulate the approval and filing of subdivision plats, and boundary line adjustments in accordance with the Village Plan and other Village requirements, and to assure the Village of the completion of public improvements without cost to the Village, and within a reasonable period of time. The subdivision process is generally a two-step process including Preliminary Plat and the Final Plat.

**SECTION 1 DEFINITIONS**

**1.01 Applicant:** The owner of record or his agent duly authorized in writing.

**1.02 Boundary Line Adjustment:** A method of adjusting boundary lines between contiguous lots without creating additional lots and without creating nonconformities in the resultant lots (see Section 6).

**1.03 Commission:** The Planning Commission of the Village of Old Bennington.

**1.04 Development Envelope:** A specific area delineated on a lot within which all structures, accessory structures, accessory use structures, and other designated site improvements (e.g., parking area) are to be located, and outside of which no structures, accessory structures, accessory use structures, are to be located. The Commission may, as a condition(s) of plat approval, limit other site development activities, such as cutting trees, outside of the building envelope.

**1.05 Mylar Map:** A Subdivision Final Plat or Boundary line adjustment map drawn in pen and ink on a sheet of Mylar paper for recording with the Town Clerk.

**1.06 Open Space:** **For this bylaw open space is defined as that portion of a subdivision which is not designated by the subdivider as a site for a building(s) or a street(s)/private drive(s), or which is so designated by The Planning Commission in accordance with the provisions of Section 5.07 (c).**

**1.07 Planning Commission Approval:** The Planning Commission approval of a preliminary or final plat with or without conditions is a formal and favorable judgement for the applicant.

**1.08 Planning Commission Disapproval:** The Planning Commission's denial of a preliminary or final plat is an unfavorable judgement for the applicant.

**1.09 Preliminary Plat:** A plat submitted to the Commission for discussion purposes only, sufficiently clear to work out detailed solutions prior to preparing the final subdivision plat.

**1.10 Street:** A state highway, or a highway or road which is lawfully existing and maintained by the Village for vehicular travel. The word street shall include the entire right-of-way.

**1.11 Street, Access:** A Street used primarily to give access to abutting properties.



**1.12 Street, Collector:** A Street which, in addition to giving access to abutting properties, serves to carry traffic from access streets to thoroughfares and to public and other centers of traffic concentrations.

**1.13 Street, Frontage:** A marginal roadway parallel and adjacent to a thoroughfare to provide access to abutting properties.

**1.14 Subdivider:** The owner of record of the land to be subdivided, including any subsequent owner of record subdividing of such land or any part thereof.

**1.15 Subdivision:** The division of a parcel of land into two or more lots, or other divisions for present or future transfer of ownership. The word subdivision shall refer to the land to be subdivided or to the process of subdivision, as appropriate to the context, and shall include resubdivision. Boundary Line Adjustment is excluded from this definition of subdivision and is addressed in Section 6 of this bylaw.

**1.16 Subdivision Plat Final:** The final Mylar drawing or drawings on which the subdivider's plan of subdivision is indicated, prepared as required under the provisions of Sections 3.03 and 4.02, inclusive of these regulations, which, when approved by the Commission, may be filed with the office of the Village Clerk and the Town Clerk.

**1.17 Thoroughfare, Principal:** A Street that serves primarily to carry large volumes of traffic between the Village and a regional or interstate expressway. A principal thoroughfare may or may not be provided with frontage streets.

**1.18 Thoroughfare, Secondary:** A street which serves primarily to carry large volumes of traffic between collector streets and other thoroughfares, or to and from major centers of traffic concentration, but which may also provide access to abutting properties.

## **SECTION 2 GENERAL REQUIREMENTS**

No subdivision of land shall be made, no land in any subdivision shall be sold or offered for sale, no street, utility, or other construction shall be started until a final subdivision plat, prepared in accordance with the requirements of these regulations, has been approved by the Commission and has been filed in the office of the Bennington Town Clerk.

Newly subdivided property will remain untouched, in its current state, until a site development plan as defined in the Zoning Bylaws has been approved by the Planning Commission.

## **SECTION 3 PRELIMINARY PLAT INFORMATIONAL GUIDELINES**

### **3.01 Preliminary Plat Request:**

Prior to submitting a final subdivision plat, the current owner of record/applicant may request a preliminary meeting with the Planning Commission for discussion of the proposed subdivision by submitting to the Administrative Officer an application for approval which includes a subdivision Preliminary Plat.

The applicant has the right to go to the final plat after consultation with the Planning Commission. The Planning Commission may waive the need for the preliminary plat.

### **3.02 Preliminary Plat Details:**

The preliminary plat may be drawn in pencil and shall be submitted in six copies. Dimensions may be approximate, the data may be tentative, but shall be sufficiently clear to illustrate all conditions and establish

the basis and clarify the design requirements for the final subdivision plat. Maps shall be at a scale of not more than 100 feet to the inch.

### **3.03 Preliminary Plat Information:**

The preliminary plat shall contain or be accompanied by the following information:

- a) Name of subdivision, name and address of the owner of record, subdivider and designer.
- b) A map prepared by a qualified individual that contains boundaries and area of the entire parcel, whether or not all land therein is to be subdivided, north point, scale, date and dates of any revisions.
- c) Names of abutting property owners.
- d) Locations of buildings to remain.
- e) Existing and proposed street or private drive lines, widths of streets or private drive, proposed names of new streets or private drive, existing and proposed lot lines.
- f) Location of existing and/or proposed easements, existing building lines, parks and other open space, water mains, sanitary sewers, storm water drainage lines, drainage structures and drainage ways.
- g) Boundaries of Zoning Districts lying within the subdivision, municipal boundary, if any.
- h) A general location map at a scale of one-inch equals 1500 feet, locating exactly the subdivision of intersecting streets, or other features shown on the official map.
- i) A statement of conditions of land as to suitability for residential development.
- j) A statement of the work required on existing streets to meet the minimum standards for a subdivision, including cost estimates and the method of meeting such costs.
- k) A sketch map showing future subdivisions, if any, in and adjacent to the subject subdivision.
- l) A statement and contours in sufficient detail to indicate clearly the method of storm water drainage on and off the subdivision, methods of sanitary sewage disposal and water supply.
- m) Preliminary road profiles, including cross sections.
- n) A written description of the proposal type and intensity of use including at minimum, a schedule of development proposed for each building lot per subdivision.
- o) Development Envelope: Refer to Sections 1.04 and 5.03.

The application shall be submitted to the Administrative Officer. When the Officer determines the application is complete, they will schedule it for review at the next available meeting of the Planning Commission, at least 15 days hence. Within 45 days after such meeting, the Planning Commission shall give approval or approval with conditions authorizing the preparation of the final subdivision plat or shall disapprove such preliminary plat. Approvals of a preliminary plat shall be valid for a period of six months from date of such approval.

## **SECTION 4 SUBDIVISION FINAL PLAT REQUIREMENTS**

### **4.01 Final Subdivision Plat Procedure:**

The subdivision plat shall be printed on paper or shall be drawn in ink on Mylar. It shall be submitted in one original and six black line prints on paper. Sheet sizes shall not exceed 34 by 44 inches. A digital version, ideally meeting Vermont GIS data standards, is also required.



The plat shall contain the following statement: "The Subdivision Regulations of the Village are part to this plat and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any modifications made in writing by the Commission, and attached hereto."

Once preliminary review has been conducted and the applicant has addressed any concerns raised, the applicant shall submit one full-sized and six reduced (11X17) copies of the proposed final plat. With narrative demonstrating conformance with the subdivision standards outlined in this ordinance, and any additional supporting documentation demonstrating conformance with the design standards enumerated in Section 5.

The final plat submission shall include any restrictions or covenants of all types which will run with the land. All proposed deeds conveying property or easements to the village shall accompany the final plat application. In addition, when applicable, the final plat shall be accompanied by a certificate of title as showing the ownership of all property and easements to be dedicated to the village. The Planning Commission may require the submission of such other legal data as it deems necessary in the enforcement of these regulations.

Application for approval of the final subdivision plat shall be filed with the Administrative Officer by the owner of record, or by his agent, authorized in writing, within six months from the date of conditional approval of the preliminary plat. If the subdivision plat is not submitted within such period, the Commission may require the resubmission of a preliminary plat. The application shall be accompanied by a fee for processing, payable to the Village in an amount established by the Board of Trustees. The Final Subdivision plat and information, as described in this section shall accompany the application.

When the Administrative Officer determines the application is complete, they will schedule it for review at the next available meeting of the Planning Commission, at least 15 days hence. Such meeting shall be the date of submission, provided that all maps, statements and data required under sections 3.03 and 4.02 shall have been received by the Planning Commission members

#### **4.02 Final Subdivision Plat:**

Space shall be reserved on the plat for endorsement by all appropriate agencies. The subdivision plat shall conform to the approved preliminary plat, except as specifically modified and approved by the Planning Commission.

The plat shall contain the following statement: "The Subdivision Regulations of the Village are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Planning Commission, and attached hereto," together with the following information.

- a. Name of Village, name of subdivision, name of owner of record, subdivider, name and seal of an engineer, if any, and of land surveyor, licensed by the State of Vermont, names of abutting property owners.
- b. North point, scale, not to exceed 100 feet to the inch, date, dates of all revisions, and approved title block in lower right-hand corner.



- c. Existing and proposed streets, private roads, driveways, boundary lines of the subdivision and of all lots and areas for parks, playgrounds, open space, or other purposes, with accurate distances, true bearings, angles and curve data.
- d. Easements and rights-of-way, including those for utilities, water mains, sewers and drainage either on or off the site, accurately located.
- e. Names of proposed streets, as approved by the Planning Commission, which names shall not duplicate or resemble the names of any existing street in the Village or Town.
- f. The areas of all lots noted thereon, lots shall be numbered consecutively.
- g. The location of all existing and proposed water mains, sanitary sewers, or on-site water supply and sewage disposal facilities.
- h. Accurate location of all traffic and street signs, markers and monuments to be set at street intersections, points of curvature and tangency of curved streets and at angles to lots.
- i. The subdivision plat shall show any work required for existing streets to meet the minimum standards established hereunder, together with a statement of the proposed methods of meeting the cost of such work.
- j. A general site or location map drawn to a scale of 1500 feet to the inch, indicating the relation of the proposed streets and property boundaries to at least two intersecting existing streets, and accurately locating the subdivision for the official map of the Village.
- k. Contours of such intervals as the Planning Commission may require as necessary to indicate clearly the relation of topography to the design of the subdivision. In subdivisions where all lots are not less than 40,000 square feet in area, contour interval shall be 20 feet, except where otherwise required by the Planning Commission.
- l. Methods of dedication of proposed easements, rights-of-way, and open spaces, which may be required by these Regulations. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Village.
- m. Road profiles, showing accurate existing and finished grades, existing and proposed cross sections, together with construction plans, including details of the drainage structures, grading of banks, temporary and permanent erosion control features, and such other information as the Planning Commission may require.
- n. If the subdivision abuts a state highway, or if a proposed street intersects a state highway, a statement from the Vermont Highway Department, approving any proposed driveway or street intersection with such state highway.
- o. If a subdivision is to be served by public water supply or by public sewers, a statement from the Municipal Department or company involved, attesting to the availability of such service.

#### **4.03 Legal Data Required:**

Where applicable to a specific subdivision, the following are required, in forms as approved by the Village Attorney, prior to approval of a subdivision plat:

- a. Agreement to convey to the Village land to be used for streets and other public purposes, with transfer of title to such interest to be effective on such date as the Village accepts such land.
- b. Easements and rights-of-way over property to remain in private ownership.
- c. Rights to drain onto or across other property, whether public or private, including a street.
- d. Performance bond described in Section 4.04 hereafter.

#### **4.04 Performance Bond:**

Except in the case of a subdivision of lots on an existing improved Village road, or where all streets and public improvements are completed prior to approval of the plat by the Commission, no subdivision plat filed with the Planning Commission shall be approved until the subdivider shall have filed with the Planning Commission an estimate of costs of streets, public improvements, drainage structures, and other utilities, together with maps, plans, and supporting data accompanied by either:

- a. A surety bond, issued by a surety company authorized to do business in Vermont, to be filed with the Trustees in form and amount satisfactory to the Trustees.
- b. Cash, or savings bank book or an irrevocable Letter of Credit properly endorsed to the Village, in an amount to be determined by the Trustees, and to be deposited with the Trustees.
- c. In the case of electric lines or other utilities to be installed by a public utility corporation or a municipal department, a statement in writing from such public utility corporation or municipal department that the work will be done within a reasonable time and without expense to the Village.
- d. Each approval of a plat shall contain a time limit within which streets and public improvements shall be complete, not to exceed 3 years, unless extended with the owner's consent by the Commission.
- e. In addition to surety guaranteeing completion of improvements, surety covering maintenance of roads and improvements for a period of 2 years from completion shall be furnished in an amount based on the cost of such improvements, as approved by the Trustees.

#### **4.05 Public Hearing:**

Within 45 days from the submission of the Final Plat, the Planning Commission shall hold a public hearing, notice of which shall be given as required by Section 4447 of Chapter 117, Title 24, V.S.A. A copy of such notice shall be sent by certified mail to the applicant and the Bennington County Regional Commission at least 15 days prior to such public hearing. If any part of the proposed subdivision lies within five hundred feet of a municipal boundary, such notice shall also be sent to the clerk of the municipality adjacent thereto.



#### **4.06 Action of the Planning Commission:**

Within 45 days after the public hearing, the Planning Commission shall approve, modify and approve, or disapprove the subdivision plat. Failure to act within 45 days shall be deemed approval. Only approval of the final subdivision plat shall constitute approval. Approval of a subdivision plat shall not constitute any acceptance by the Village of any street, easement or other open space shown on such plat.

#### **4.07 Filing with the Town Clerk:**

The approval of the subdivision plat by the Planning Commission, or certification by the Village Clerk of its failure to act within forty-five days, shall expire within ninety days from such approval or certification, unless, within such ninety-day period, such plat shall have been duly filed or recorded in the office of the Town Clerk of the Town of Bennington. No plat showing a new street or highway may be filed or recorded in the office of the Town Clerk until it has been approved by the Planning Commission, and such approval is endorsed in writing on such plat, or the certificate of the Village Clerk showing the failure of the Planning Commission to take action within the forty-five day period is attached thereto and filed or recorded with said plat.

#### **4.08 Recording of Plats:**

An approved Mylar, signed plat, supplemented with digital copy, must be filed or recorded with the Bennington Town Clerk within 80 days of approval, or approval expires without further action by the town. Upon written request, the Administrative Officer may grant an extension up to an additional 90 days, if other final local or state permits are still pending. Prior to the submission of the final plat to the town clerk, the subdivider shall obtain the endorsement of the chair of the Planning Commission, or of the Administrative Officer in the case of a boundary line adjustment, on this Mylar. One full-sized paper copy of the final plat shall be submitted to the Administrative Officer. A certificate of compliance, certifying the plat conforms to the approval, must be issued by the Administrative Officer prior to recording the Mylar plat. Once a plat is properly filed or recorded, the subdivision approval does not expire.

#### **4.09 Official Map:**

The recording of plats, which have been approved as provided herein, shall without further action modify the official map of the village in accordance therewith. Subsequent changes in lot size or configuration or in the development envelope would require a new application for subdivision prior to the subdivision of any site development application.

**SECTION 5 GUIDELINES:** Depending on the scale, nature and scope of the proposed subdivision, the Planning Commission, at its discretion, may employ some or all of the guidelines listed in this section.

**5.01 Character of Land for Subdivision:** All land to be subdivided shall be, in the judgment of the Commission, of such a character that it can be used for building purposes without danger to public health or safety, or to the environment and with no undue adverse impact to the land, to neighbor's property, and to the overall historic character of the Village. Land subject to periodic flooding, poor drainage, or other hazardous conditions, shall not be subdivided. Land with inadequate capacity for sanitary sewage disposal shall not be subdivided unless connected to public sewers. Plats for the subdivision of land shall conform to all regulations of the Commission, the Zoning Bylaws, Vermont State Wastewater System and Potable Water Supply Rules and, other applicable bylaws, ordinances and regulations.



Due regard shall be given to the preservation and potential enhancement of existing natural features, large trees, scenic points, and other assets of community nature. Subdivisions and Boundary Line Adjustments shall not have undue adverse impact on the scenic or natural beauty of the area or the objectives expressed in the Village Plan and the Zoning Bylaw.

The layout of lots shall conform to the requirements of the Zoning Bylaw, and shall be appropriate for the intended construction. Said lot lines shall generally be at right angles to straight street lines, or radial to curved street lines. Except in cases of unusual topography or property lines, through lots bounding on two generally parallel streets will not be permitted.

#### **5.02 Disclosure of Subsequent Development Plans:**

Whenever subdividers submit a proposal for development on a minor portion of a parcel, they shall provide a general indication of the intended use of the remaining portion of the land.

#### **5.03 Development Envelope:**

All lots shall have a designed development envelope to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excavating road and utility rights-of-way or easements) on one or more portions of a lot. The size and shape of the development envelope shall at minimum be determined by district setback requirements unless otherwise specified in these regulations. The Village of Old Bennington Planning Commission may require the identification of specific building footprints if, in their judgement such information is necessary to meet the standards set forth in these regulations.

The Planning Commission shall consider the location of development envelopes and associated possible development relative to potential visibility and the availability of less visible locations on the site. The location of development may be restricted to minimize visibility as viewed from Village roads and existing development.

The Development Envelope shall be designed to maintain the historic context of the site, as defined by historic structures located on the property and in the immediate vicinity of the site, and to minimize the impact of possible new development on the historic and architectural integrity of historic resources. Subdivision boundaries, lots and the location of possible development envelopes should be configured to reflect the historic settlement pattern of nearby historic structures or clustered to minimize the contrast between contemporary and historic development.

#### **5.04 Density and Lot Layout:**

- a. Lower densities of possible future development may be required based on site limitations, the visibility of the lots proposed to public streets and neighboring properties, and the possible impact on the rural residential character of the Village.
- b. Except in cases of unusual topography or property lines, through lots bound on two generally parallel streets will not be permitted.
- c. Corner lots shall generally have sufficient width to permit a front yard setback from each road.
- d. Lots of irregular shapes (curves, jogs, dog-legs, etc.) shall not be created unless absolutely warranted by conditions of topography, the location of natural features, or existing roads.

- e. Side lot lines shall be generally be at right angles to straight roads, or radial or curved roads.
- f. Unless otherwise indicated for safety reasons, there shall be only a single curbcut onto a public road.
- g. Proposed lots should be configured so any new primary residential construction can face and be parallel to existing or proposed streets and private roads.
- h. Access roads, driveways and utility corridors shall be shared to the extent feasible; and, where sites include linear features such as existing roads, tree lines, stone walls, and /or fence lines, shall follow these to minimize the fragmentation of agricultural land and visual impacts.
- i. Historic features, including stone walls, fences, and tree lines, should be preserved and integrated into the subdivision design (e.g., driveways may follow stone walls).
- j. Subdivisions within view of streets/roads, as identified in the Old Bennington Village Plan, shall be designed to avoid adverse impact to the scenic resources.

#### **5.05 Pedestrian Walks:**

Where required, in the judgment of the Commission, rights-of-way for pedestrian travel and access shall be provided between subdivisions or its parts, or between a subdivision and public property, or within subdivision.

#### **5.06 Reserved Strips:**

No privately-owned reserved strip shall be permitted which controls access to any part of the subdivision, or to any other parcel of land from any street, or from any land dedicated to public use, or which may be so dedicated.

#### **5.07 Open Space:**

- a. The following objectives should be used to guide the design.
  - 1. Conservation and improvement of natural features and green areas, including areas along roads, the banks of streams and ponds,
  - 2. Retention of fish and wildlife refuge areas, and nature observation areas, protection of the quality of water bodies.
  - 3. Protection of natural drainage ways and flood water retention areas.
  - 4. Provision, in appropriate areas of population concentration, of areas of land for active recreational use.
  - 5. The provision of adequate controls to assure the permanence of open space use in areas so designated through public acquisition of easement or other suitable type of agreement.
  - 6. Open [space](#) plans shall be designed to take the greatest possible advantage of all existing natural features noted above.
- b. Where a proposed park, playground, or significant open space is to be located in whole or in part in a proposed subdivision, the Commission may, as a condition of approval of the subdivision plat,,



require that the area shown thereon as open space be offered for dedication to the Village. The Commission shall not require such dedication in excess of 15 percent of the total area of the subdivision without reasonable compensation, and if the Village does not take steps within a period of one year from the date of approval of the subdivision plat, to acquire the portion of open space in excess of said 15 percent, the subdivider may submit to the Planning Commission a plan for subdivision for such portion, provided such additional subdivision does not increase the total number of family dwelling units permitted by the Zoning Bylaw for the applicable district.

c. If no such open space, park, or playground is located within the boundaries of a proposed subdivision, the Commission may, where it deems essential in light of the scope of the subdivision, require that the plat show one or more sites of character, size, shape and location suitable to be used as community open space or park, in area not to exceed 15 percent of the total area of the subdivision. Such area of open space shall be dedicated to the Village or to a community association comprising all of the present and future owners of lots in the subdivision, in the discretion of the Commission. Such community association, if any, shall be incorporated under the laws of Vermont; each lot shall be entitled to one vote, and membership shall be mandatory for owners of lots in the subdivision; such association shall have the power to assess each of its members for the costs of its operations on the basis of their respective assessed valuations for purposes of the grand list of the Town. A condition of the approval of the subdivision plat shall require the inclusion of a covenant in every deed stipulating such mandatory membership and the beneficial right to the use of the open space and all property and facilities of the association. The Commission and the Village Attorney, prior to the approval of the subdivision plat, shall approve the charter of any such association.

Open space should be located so as to conform with and extend existing areas sharing similar characteristics or natural features and resources on adjacent parcels, and to make such open space easily available, if not adjacent to all of the lots in the subdivision.

d. Such open space as above provided shall abut or have direct access to a public street through a right-of-way dedicated to public use. The right-of-way shall not be included in the required playground area, shall be at least 15 feet wide, and shall be leveled off in a manner suitable for foot and vehicle traffic, with maximum grade of 12%. When a property line of a subdivision abuts an existing public open space, the Commission may require the new public open space to form a continuation of the existing area to provide a single large unified area.

e. Land to be used as public open space shall be left in condition for the purpose intended. Undesirable growth and debris shall be removed from all such areas. Wooded and brook areas shall be left natural, open space shall be graded to properly dispose of surface water, and shall be seeded with lawn grass. There shall be no depositing, dumping, or storage of waste, or other natural or man-made material supplies or equipment, on any subdivision land designated as open space. No work, removal, or filling shall be done, nor shall the existing natural characteristics of open space be altered from its original condition, until the Commission shall have approved a site plan, prepared by a qualified person.

#### **5.08 Trees and Planting:**

All dead and diseased trees shall be removed from all streets, lots and land to be dedicated to public use. Existing trees on land that is required for public open space shall be preserved unless otherwise directed by



the Commission. Trees existing on lots shall be preserved wherever feasible, and where no trees are preserved in the front yard, each lot shall have two trees, of not less than 1" caliper, of a species approved by the Village Tree Commissioner, planted not less than 10 feet inside the street line, between the street line and the building line.

At its discretion, the Commission may require that any new lot currently containing significant shielding from abutting, existing property owner's, retain shielding.

#### **5.09 Street Design:**

Proposed streets shall be in harmony with existing and proposed thoroughfares and collector streets, as shown on the Village Plan of Development or Official Map, shall be designed to afford safe access to abutting lots, and shall conform to these regulations. Street patterns shall give due consideration to contours and natural features. Where required by the Commission, provision shall be made for the extension of the street pattern to abutting undeveloped property. Every proposed street in a subdivision, whether intended for acceptance by the Village or not, shall be laid out and constructed as required by this bylaw..

Where a subdivision abuts an existing street with an inadequate alignment, or right-of-way width, the Subdivision Plat shall include in the street dedication all land needed to meet the standards established by these regulations, and as approved by the Commission.

Permanent dead-end streets shall not exceed 600 feet in length, and shall terminate in a turnabout 100 feet in diameter, with a paved area 80 feet in diameter.

Temporary dead-end streets where future extension to another outlet is approved by the Commission or where indicated on the site development plan may exceed 600 feet in length. In such cases, the full width of the right-of-way to the subdivision property line shall be dedicated to the Village, but the Village will require only an easement to the segments of the temporary turnabout outside the normal right-of-way width.

Except where it is impracticable, because of the character of the land, streets shall intersect so that within 75 feet of the intersection the street lines are at right angles, and the grade does not exceed plus or minus 2 percent. No structure or plants shall impair corner visibility as provided in the Zoning Bylaw.

The plan of any subdivision shall show all work required to connect and complete the improvements and utilities between the proposed street pattern and any non-improved connecting street in an existing subdivision.

All streets shall be constructed and paved, and all bridges, culverts, drainage structures, storm sewers, gutters, drainage ditches, and other improvements required by the subdivision plat and accompanying documents shall be installed in conformance with the standards and specifications adopted by the Town of Bennington..

#### **5.10 Classification of Streets:**

The classification of Village streets shall be as designated in the Village Plan of Development and the classification of new streets and streets not shown on such Plan shall be as determined by the Commission.

The following standards of design shall apply to streets maintained by the Village unless contraindicated by Vermont State Design Standards for local roads or specifications adapted by the Town of Bennington.

<u>Classification</u>	<u>Minimum Right of Way</u>	<u>Maximum Gradient Percent</u>	<u>Minimum Centerline Radius of Curve Feet</u>
Principal Thoroughfare	100	5%	955
Secondary Thoroughfare	60	8%	700
Collector Street	50	10%	400
Access Street	50	10%	125

The minimum gradient shall be 0.5 percent.

The Commission may modify the maximum gradient for short lengths of streets where, in its judgment, existing topographical conditions or the preservation of natural features indicate that such modification will result in the best subdivision of land.

The Commission may require greater width of right-of-way where, in its judgment, the demands of present or future traffic make it desirable or where topographical conditions create a need for greater width for grading.

#### **5.11 Street Improvements:**

Access streets shall be paved to a minimum width of 20 feet, but this width may be reduced based on the historic character of a particular area. The Commission may require a greater width for collector streets and thoroughfares, and may require shoulders when needed for safety considerations. Sufficient right-of-way may be required, together with curbs and sidewalks, to accommodate pedestrian mobility.

The Commission will establish standards for private drives on a case by case basis.

All streets and private drives shall be graded to that portion of the right-of-way deemed necessary by the Commission, as shown on the approved final subdivision plat.

In the case of subdivisions requiring construction of new streets and private drives, any existing streets and private drives that provide either frontage to new lots or access to new streets shall at least meet the minimum standards established by the prevailing authority for such street and private drives. Where a subdivision requires undue expenditures by the Village to improve existing Village streets to conform, the Commission may disapprove such subdivision until the Trustees shall certify that funds for the improvements have been assured.

#### **5.12 Utilities, Drainage:**

All subdivisions shall make adequate provisions for water supply, storm water and sanitary sewage disposal, and required utilities and improvement. The Commission may require the extension of public water and sewers to and within a proposed subdivision without cost to the Village, where existing lines are, in the sole judgment of the Commission within a reasonable distance of the proposed subdivision.



An adequate subsurface storm drainage system for the entire subdivision shall be provided, unless, in the judgment of the Commission, the natural topography and easy access to natural watercourses makes storm drainage unnecessary. Storm drainage shall be carried to existing watercourses, with adequate provisions to prevent runoff of sediment or other contaminants to the watercourses, or connect to existing storm drains. If the storm water drainage system creates any additional flow over any adjacent property, the Subdivider shall obtain an easement therefor from the adjacent owner and shall hold the Village harmless from any claims for damage resulting therefrom.

The Commission may require the installation of street lighting in any subdivision where it deems it is necessary.

If underground utilities are to be furnished from a public source, all necessary mains, branch offsets to each lot, and fire hydrants, shall be installed by the Subdivider, as approved by the corporation or municipal department having jurisdiction, and to the satisfaction of the Trustees, and without expense to the Village.

In the case of electric lines or other utilities to be installed by a public utility corporation or a municipal department, a statement in writing from such public utility corporation or municipal department that the work will be done within a reasonable time and without expense to the Village.

Each approval of a plat shall contain a time limit within which streets and public improvements shall be complete, not to exceed 3 years, unless extended with the owner's consent by the Commission.

In addition to surety guaranteeing completion of improvements, surety covering maintenance of roads and improvements for a period of 2 years from completion shall be furnished in an amount based on the cost of such improvements, as approved by the Trustees.

## **SECTION 6 BOUNDARY LINE ADJUSTMENT**

### **6.01 Purpose:**

In accordance with Section 4464(c) of the Act, this Ordinance grants the Administrative Officer of the Village of Old Bennington the authority to administratively review requests for Boundary Line Adjustments between or among legal lots within village boundaries. A Boundary Line Adjustment is a method of adjusting boundary lines between contiguous lots without creating additional lots and without creating nonconformities in the resultant lots.

### **6.02 Applicability:**

To qualify for a Boundary Line Adjustment, the requested adjustment must meet all criteria outlined below. The Planning Commission will directly review requests that fail to adhere to one or more of the following criteria:

- a. The adjustment creates no additional lot(s).
- b. No nonconformities are generated within the resultant lots (i.e. no violations of existing regulations for lot size, building setback, lot coverage, etc. as a result of adjustment).
- c. No change in access or right-of-way to either lot.
- d. No material effect on existing or projected water supply or wastewater disposal systems.

### **6.03 Application Requirements:**

To obtain a Boundary Line Adjustment permit, the applicant must submit the following documents to the Administrative Officer:

- a. A detailed written request and description for the proposed adjustment, signed by all property owners and the applicant.
- b. A site plat showing all existing features, including but not limited to built structures, roadways, driveway and access points, parking and pedestrian walks, water and wastewater facilities, easements, and natural features such as wildlife habitat, aquifer recharge areas or springs, streams, wetlands and flood hazard areas.
- c. Copies of any required state and local permits, including but not limited to proof of compliance with state wastewater regulations.
- d. Draft deeds or draft boundary line agreements shall be submitted to define the revised lots.
- e. The applicant for a Boundary Line Adjustment shall furnish the Administrative Officer with names and addresses of all owners of property adjoining the subject lot/lots, and shall send notice of the application and, if applicable, any hearing, verified by a certificate of mailing, to the adjoining property owners.

#### **6.04 Administrative Officer Duties:**

The Administrative Officer shall review the adjustment to confirm adherence to the Zoning Bylaws, Village Plan, and any other applicable requirements. After review and consultation with the Chair of the Planning Commission, the Administrative Officer may grant provisional approval for a Boundary Line Adjustment by way of a written decision. Granting of a Boundary Line Adjustment permit shall be contingent upon the applicant filing the written approval from the Administrative Officer, revised deeds for affected properties, and a final Mylar plat supplemented with digital media of the boundary adjustment in the Town Clerk's office within 90 days of the date of conditional approval.

The plat does not have to be prepared by a licensed surveyor, but must accurately display all information pertinent to the application in a comprehensive and detailed manner.

### **SECTION 7 ADMINISTRATION AND ENFORCEMENT**

#### **7.01 Modification:**

The requirements of the foregoing regulations may be waived or modified when, in the opinion of the Commission, specific circumstances surrounding a subdivision, or condition of the land in such subdivision, indicate that such waiver or modification will properly carry out the purpose and intent of the Village Plan of Development and of these regulations.

#### **7.02 Acceptance of Streets:**

Nothing herein is intended to modify the requirements of law with reference to the acceptance of streets by the Village. Nothing herein is intended to modify or control the construction, reconstruction, or extension of roads by the Village or any other regulations contained in any bylaw or ordinance of the Village, pertaining to roads or subdivisions, which are inconsistent herewith.

#### **7.03 Enforcement:**

The Planning Commission or its duly authorized representative shall enforce these regulations.

#### **7.04 Penalties:**



Any person, firm or corporation, making any subdivision of land violating any provision of these regulations, shall be subject to the penalties provided in Section 4444 of Title 24 V.S.A., Chapter 117.

**7.05 Appeals:**

Any person, aggrieved by an official action of the Commission, may appeal to the Board of Adjustment as provided by law.

**7.06 Validity:**

If any section, subsection, or phrase of these regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of these regulations.

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