



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

3 North Lowell Road, Windham, New Hampshire 03087  
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[www.WindhamNH.gov](http://www.WindhamNH.gov)

### VOLUNTARY MERGER REGULATIONS

The Town of Windham, acting through its Planning Board, hereby adopts the following rules and regulations governing the process of voluntary lot mergers in Windham, New Hampshire.<sup>1</sup>

#### **SECTION I - Purpose –**

The purpose of the rules and regulations herein are to

- (a) provide for harmonious development (RSA 674:36 (II) (b)),
- (b) assure that land which is merged through voluntary merger does not result in violation of the zoning ordinance and/or provisions of prior land use approvals obtained from the Town of Windham (RSA 674:36 (II) (i)),
- (c) promote the general convenience and prosperity of the Town of Windham (RSA 674:36 (II) (j)),
- (d) implement the provisions of RSA 674:39-a, and
- (e) create no increase in the non-conformity of a lot.

#### **SECTION II – Authority –**

These regulations are derived from the authority contained in RSA 674:35, and as allowed in RSA 674:39-a.

#### **SECTION III – Procedure –**

Applications for voluntary lot merger shall be processed in the following fashion:

- (a) Any property owner who owns two (2) or more contiguous parcels of land who wishes to merge them for municipal regulation and tax purposes shall file such

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<sup>1</sup> Adopted January 11, 2017 by Planning Board

requests with the Windham Code Enforcement Administrator, as designee of the Planning Board.

- (b) Such requests shall be filed on the official form annexed to these regulations as Exhibit A. Filing will require duplicate originals.
- (c) The application for merger shall be accompanied by a copy of the relevant portion of the Windham Tax Map, notating the lots to be merged and the dividing or lot lines to be eliminated. Applicants shall also attach copies of the deeds which are referred to in the application form. Where land has been inherited by the applicant, a copy of the statutory “Notice to Cities and Towns” shall be attached.
- (d) The application for merger shall be accompanied by up to three checks (i) one payable to the Rockingham County Registry of Deeds to cover the cost of recording the merger form, (ii) one to the Town of Windham to cover the application costs, and (iii) one to the Town of Windham to cover the legal review, if applicable. The fee amounts are established by the Windham Board of Selectmen and shall reflect the reasonable costs of the town.
- (e) The Code Enforcement Administrator shall review such merger requests for compliance with the provisions herein, and shall either (i) approve the request in writing by endorsement on the forms, or (ii) deny the request by sending notice in writing to the applicant. Such action shall be taken within thirty (30) days of filing of the application.
- (f) If an application is approved by the Code Enforcement Administrator, both copies will be forwarded to the Assessor’s office, who will assign the merged lot a tax map and lot number, sign the forms and then forward one (1) copy, along with the recording fee check, to the Rockingham County Registry of Deeds for recording. The recorded copy will be returned to the property owner. The duplicate original shall be retained by the Town.
- (g) If the Code Enforcement Administrator denies the merger application, the applicant may, within thirty (30) days of the issuance of the written notice of denial, appeal the decision to the Windham Zoning Board of Adjustment. See, Windham Zoning Ordinance, Section 904.2.

#### **SECTION IV – Standards –**

The decision to approve a voluntary lot merger shall be governed by the following standards:

- (a) Mergers shall be permitted only of lots currently shown on the Windham Tax Map.
- (b) The Code Enforcement Administrator shall verify with the office of the Assessor that the legal owner(s) of all of the lots submitted for merger is (are) identical for all the lots.
- (c) No merger shall be permitted if the result is to create a violation of zoning or other land use ordinances of the Town of Windham.
- (d) Parcels separated by a stream or way (private or public) may be considered contiguous if they are or can be utilized in a unitary fashion (e.g. a septic system on one lot serving a dwelling across a way from a served structure).
- (e) No lots shall be merged unless all real estate taxes on all lots are current.
- (f) No lots shall be merged unless legal counsel for the applicant, admitted to practice in New Hampshire, has signed a certification that the lots (i) are not subject to mortgages, liens or encumbrances, or (ii) if there is any mortgage on any of the lots, the applicant shall give written notice to each mortgage holder at the time of the submission of the application. The written consent of each mortgage holder shall be required as a condition of approval of the merger, and shall be recorded with the notice of the merger. Alternatively, an applicant may elect to have Town Counsel complete said review, at the expense of the applicant, and Town Counsel will notify the Code Enforcement Administrator if the application meets the foregoing requirements.
- (g) Create no increase in the non-conformity of a lot.

#### **SECTION V – Exception**

The foregoing regulations shall not apply when a property owner is proposing to merge two (2) or more lots as part of an application for subdivision approval or site plan approval which will result in the recording of a new plan in the Registry of Deeds which will reflect such merger and/or re-subdivision.

*Applicant to Provide Duplicate Originals; Please Type or Print with **Black Ink**; Signatures in **Black Ink***

**TOWN OF WINDHAM, NEW HAMPSHIRE**  
**LOT CONSOLIDATION/ VOLUNTARY MERGER FORM**

The undersigned applicant requests that the Town of Windham, New Hampshire, hereby consolidate the following parcels of land for the purposes of being assessed and treated for regulatory purposes as a single tract or parcel of land:

**Name of the owner(s) of record (must be identical for all lots consolidated)**

\_\_\_\_\_

Mailing address of owner(s): \_\_\_\_\_

The following existing parcels are to be consolidated into a single parcel:

<u>Map/Block/Lot</u>	<u>Street Address</u>	<u>Deed Reference:</u>
_____	_____	Book _____ Page _____
_____	_____	Book _____ Page _____
_____	_____	Book _____ Page _____

(attach an additional sheet if necessary)

It is a condition of this application that each of the above parcels shall (i) not be subject to liens or mortgages, or (ii) if there is any mortgage on any of the lots, the written consent of each mortgage holder is required and shall be recorded with the notice of merger. In addition, all real estate taxes on all parcels shall be current. By signing below, legal counsel for the owner(s) (admitted in New Hampshire) certifies as to the facts of either (i) or (ii) above.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature: Legal Counsel to Applicant

Printed name: \_\_\_\_\_

Office Address: \_\_\_\_\_

NOTE: If this form is not signed by owner's legal counsel, then a review by Windham's Town Counsel, at the applicant's expense, shall be completed.

Applicant understands that (i) this request is subject to approval of the Town Community Development Department to assure such action does not result in violation of Windham Land Use Ordinances, (ii) that if not signed by Applicant's counsel, that agreement is made to pay the costs of

a review by Town Counsel, (iii) that upon approval, a copy of this agreement shall be recorded in the Rockingham County Registry of Deeds, and (iv) subsequent to the approval of this agreement, the owner(s) shall not separately convey or encumber any of the previously existing single parcels, such assurance being in the form of an enforceable restrictive covenant between the owner and the Town. Any attempt to separately convey any parcel or part of a parcel submitted hereunder shall require subdivision approval from the Windham Planning Board.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Co-Owner Signature

\_\_\_\_\_  
Print Name(s)

STATE OF NEW HAMPSHIRE  
ROCKINGHAM, SS.

Then personally appeared the above named owners and acknowledged the forgoing to be his/her/their free act and deed.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires:

By signature below, the application has been reviewed by the Windham Code Enforcement Office, delegated authority by the Windham Planning Board under RSA 674:39-a and that the requested consolidation is hereby approved.

Dated: \_\_\_\_\_  
\_\_\_\_\_  
Windham Code Enforcement Administrator

By signature below, this request has been approved by the Windham Tax Assessor,

Resulting Parcel Identification of merged parcel: Map/Block/Lot: \_\_\_\_\_

New Street Address: \_\_\_\_\_

Dated: \_\_\_\_\_  
\_\_\_\_\_  
Windham Assessor

One copy to be retained in Town files. One copy shall be forwarded to the Rockingham County Registry of Deeds for recording upon approval. Recorded copy to be returned to Owner(s).

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TO REGISTRY OF DEEDS:

Upon recording, return to Owner at mailing address shown above.