

# SUBDIVISION REGULATIONS

**New text is bolded and underlined. Deleted text is strikethrough.**

On **12/9/15** the Planning Board voted **6-1** to **Adopt** the edits to the *Subdivision Regulations* as presented, subject to the proviso that they shall be prospectively repealed on March 9, 2016 if and in the event the zoning ordinance amendment on open space residential subdivisions should fail to pass on March 8, 2016.

## **SECTION 400: PROCEDURE**

### **401. PLANS NOT REQUIRING APPROVAL**

Any person may record a Plan located in the Town of Windham provided no new lines or streets are created, and which meet all of the requirements of NH RSA 676:18. Prior to recording the plan in the Registry of Deeds, the surveyor shall file, for information purposes only, a copy of the survey with the Community Development Department.

### **402. CONCEPTUAL APPLICATION PROCEDURE**

**402.1** Previous to filing an application for a Final Plan, the applicant may submit to the Planning Board conceptual plans and data as specified herein. This step does not require formal application or filing of the final plan with the Planning Board.

**402.2** General subdivision information shall describe or outline the existing conditions of the site and proposed development. This information may include data on existing covenants and utilities; and information describing the subdivision proposal, such as number of lots, typical lot width and depth, business areas, playgrounds, park area, and other public areas, proposed utilities and street improvements.

**402.3** Location Map shall show the relationship of the proposed subdivision to existing community facilities, which serve or influence it. Include development name and location, main roads, scale, north arrow, and date.

**402.4** Sketch Plan of the topography shall show in simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be freehand pencil sketch made directly on a print of the topographic survey.

**402.5** During Conceptual Review, statements made by the Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken. The time limits for acting on a plan shall not apply until a Final application is submitted and accepted by the Planning Board.

### **403 DESIGN REVIEW APPLICATION PROCEDURES**

**403.1** Prior to filing an application for a Major Final Subdivision Plan, the applicant shall submit to the Planning Board a Design Review Application and data as specified herein. Applicants filing an application for a Minor Final Subdivision may submit a Design Review Application; however they are not required to do so.

**403.2** The Board may engage in non-binding discussions with the applicant, which are beyond general conceptual discussions that may involve more specific design and engineering details than is provided in Sections 402 above.

**403.3** The applicant shall submit the following material in accordance with the posted Planning Board submission schedule for the meeting at which the applicant is requesting to be heard:

**403.3.1** Completed Design Review Subdivision Application form.

**403.3.2** Letter of intent detailing the proposal including a brief description of the land characteristics and a summary of the major development constraints and opportunities along with a brief description of the proposed development.

**403.3.3** Applicable fees, in accordance with the adopted fee schedule.

**403.3.4** List of any potential waiver requests that will be submitted with the Subdivision Application.

**403.3.5** Required number of copies of the Subdivision Plan as stated in the Application form and a PDF of the Subdivision Plan.

**403.3.6** One list of abutters, as defined in RSA 672:3, including the abutters' addresses, as shown not more than five days before the day of filing and 2 sets of mailing labels for the certified mailings to notify abutters.

**403.3.7** Existing Conditions plan that clearly illustrates the location of wetlands, and Wetland and Watershed Protection Districts; Zoning District lines including but not limited to the Aquifer Protection District, Cobbetts Pond and Canobie Lake Watershed Protection District and Flood Plain District; site topography (2 foot contours); stone walls, historic and archeological features; major bodies of water and other ecological features; existing easements, rights-of-way, roads, and trails; and High Intensity Soil Surveys (HISS soil types). This plan shall be stamped by a licensed engineer, land surveyor, NH certified soil scientist and wetlands scientist, as applicable.

**403.3.8** Proposed Conditions Plan that clearly shows the proposed development of the site, including roads, buildings, buffers/landscape areas, limits of tree clearing, easements, trails, open space/undeveloped areas, and stormwater infrastructure.

**403.4** Design Review phase may proceed only after notification to abutters and the general public has been made.

**403.5.** During Design Review, statements made by the Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken. The time limits for acting on a plan shall not apply until a Final application is submitted and accepted by the Planning Board.

**403.6** Once the Planning Board is satisfied with the Design Review Phase, the Board shall vote to formally end the review process. After satisfying design review, the Applicant will have 12-months within which to submit the Final Plan application, or an applicant will need to submit a new Design Review Application if otherwise required to do so.

#### **404. PROCEDURE FOR FILING OF FINAL PLAN APPLICATION**

**404.1** Applications shall be submitted in accordance with the posted Planning Board submission schedule, including the fee schedule adopted by the Board of Selectmen, and the appropriate number of copies of material as requested by the Community Development Department staff.

**404.2** The Planning Board shall begin formal consideration of the application within thirty (30) days after formal submission of the completed application.

**04.3** An application shall be determined to be complete when all items listed below have been provided and staff has determined that the application meets all Zoning Ordinance requirements:

**404.3.1** Letter of intent detailing the proposal

**404.3.2** Two (2) large copies of the Subdivision Plans Set, sized 22" X 34" and four (4) copies, sized 11" X 17 " of the Subdivision Plans Set.

**404.3.3** The Final Plan must include all of the required information detailed in Section 600 of the Subdivision Regulations. Once the plan is reviewed and edits are made more copies will be requested for the Planning Board. The exception to this is the Final Plan for Condominium Conversions which shall include the items indicated in Section 405.1.

**404. 3.4** Names and addresses of all abutters, as indicated on town records, as shown not more than five (5) days before the day of filing, and two (2) sets of mailing labels for certified mailings to notify the abutters

**404.3.5** Other studies may be necessary for submission when required by the Planning Board. This includes two (2) copies of traffic, drainage, and other studies.

**404.3.6** A written Waiver request if a waiver from the Subdivision Regulations is necessary, per Section 205 of the Subdivision Regulations.

**404.4** A completed application sufficient to invoke jurisdiction of the Board shall be accepted by the Board only at a public meeting, with notice as provided in RSA 676:4(I)(d)

**404.4.1** Within sixty-five (65) days of the formal acceptance of the complete application, the Board shall vote to approve, approve with conditions, or disapprove the proposed Subdivision plan per RSA 676:4(I)(c)(1) unless waived or extended as provided by law.

**404.4.2** If the Board determines that the application is not complete, it will not be accepted and no public hearing will be held. The applicant shall be notified of the determination in accordance with State law.

**404.5** Reasonable fees, in addition to the fees required in Section 404.1, may be imposed by the Board to cover the costs of special investigative studies, review of documents, and other materials which may be required by particular applications.

**404.6** The Applicant and Planning Board shall receive a report from the Town's engineer and/or Community Development Department Staff as to the conformity of the plan to the *Subdivision Regulations* and *Zoning Ordinance and Land Use Regulations* of the Town of Windham.

**404.7** The Planning Board shall receive comments and/or reports from town departments, boards, commissions, committees, and town personnel through the established Technical Review Committee (TRC) process, which is managed by Community Development Department Staff.

**404.8** The applicant is encouraged to make amendments to the subdivision plans per the TRC recommendations, and any consultant reviewing party comments prior to submittal of the Final Plans for Planning Board Review.

**404.9** No plan shall be acted upon by the Planning Board without affording a public hearing thereon. Notice to the applicant and abutters, and engineer, architect, land surveyor or soil scientist whose professional seal appears on any submitted plan shall be given by certified mail, of the date, time, and place at which the Board shall conduct a

public hearing on the application. Notice shall be mailed at least ten (10) days prior to the hearing. Notice to the general public shall be given at the same time by posting and publication. Additional notice shall not be required of a continued session of a hearing with proper notice, if the date, time, and place of the continued session was made known at the time of the hearing.

**SECTION 405: Condominium Conversion:** Conversion of existing residential duplex, residential multifamily, or multi-unit commercial structures to a condominium form of ownership is considered to be a minor subdivision for the purposes of this ordinance.

**405.1** Applications for Condominium Subdivisions must include a plot plan depicting the condominium unit boundary lines and any common areas for review and approval by the Planning Board. The Plot Plan shall also include the following:

**405.1.1** Title Block, as described in Section 601.3 Final Plan Requirements

**405.1.2** Signatures of Property Owners

**405.1.3** Abutting Features, as outlined in Section 601.5 Final Plan Requirements

**405.1.4** Locus Map depicting where the proposed subdivision is within the town; include Scale and North Arrow.

**405.1.5** The Zoning District of Subject parcel

**405.1.6** Deed Reference

**405.1.7** North Arrow

**405.1.8** Scale, drawn as to appropriately display the subdivision and found to be acceptable to the Planning Board.

**405.1.9** Each condominium unit will be assigned a map, block, and lot number by the Assessor.

**405.2** Subdivision of Commercial Condominiums may be authorized by staff as long as all Site Plan, Subdivision, and Zoning Regulations are satisfied providing that:

- a. No amendments are proposed to the existing Site Plan
- b. No new parcels are created
- c. No new roads or other infrastructure is proposed
- d. No change of use

(Note: The section proposed below, pertaining to “Procedures for Open Space Subdivisions” is an entirely new section. Tracked changes shown below are representative of the changes made from Section 611 of the Subdivision Regulations and not changes made from the existing Subdivision Regulations)

## **SECTION 406: Procedures for Open Space Subdivisions**

An Open Space Residential Development shall require **a four-step process: Conceptual Review; Yield Plan Review; Design Review, and Final Review. The process for an Open Space Subdivision approval is outlined below:**~~shall be described by current subdivision regulations, excepted as noted below:~~

**406.1 Conceptual Review: A Conceptual Application, following the procedures as outlined in Section 402 above, shall be submitted for review by the Board. Included in this application shall be a proposed layout of the Open Space Subdivision. A yield plan shall not be required at this stage.**

**406.2 Yield Plan Review Application Procedures: A yield plan establishing the maximum number of lots allowed by a conventional subdivision is a required component of an application under Section 611 of the Windham Zoning Ordinance governing Open Space Residential Subdivisions within one (1) year of the conceptual review date, and prior to filing an application for a Design Review Application, the applicant shall submit a Yield**

**Plan Application, after which a public hearing for review of the yield plan shall be scheduled within 30 days once all items listed below are submitted.**

**406.2.1 Density:** The number of lots allowed in an Open Space subdivision under this ordinance ~~shall~~would be calculated by the procedure outlined below ~~but~~and in no case ~~shall~~would the number of lots allowed under this ordinance exceed the number of lots under a ~~traditional~~ conventional subdivision.

**406.2.3** Determine the number of lots by soil type lot size requirements per ordinance. ~~This figure will be the maximum number of lots possible. A yield plan establishing the maximum number of lots allowed by a traditional subdivision is a required component of an application under Section 611.~~

**406.2.4 Realistic Layout.** The subdivision yield plan must be drawn to scale and must exhibit a conventional subdivision layout that could reasonably be expected to be constructed in consideration of dimensional standards set forth herein and calculating and addressing the presence of non-buildable or infrastructure areas, including, but not limited to, steep slopes, road length, rights-of-way, public improvement areas, wetlands, WWPDP, anticipated easements, and or encumbrances.

**406.2.5** The subdivision yield plan is not intended to propose or permit the actual development of the property, but is prepared merely to determine the base number of lots to be used in calculating the permitted number of lots and lot size of the actual Open Space subdivision.

**406.2.6 Approval of Yield Plan:** The subdivision yield plan must be approved by a formal vote of the Board for compliance with the standards and provisions of this section prior to the submission of a Design Review Application.

**406.2.7** Upon the Board's approval of the Yield Plan by a formal vote, the applicant must submit an application for Design Review for an Open Space Subdivision within six (6) months or twenty-six (26 weeks), whichever is later or the Yield Plan approval will expire.

**406.3 Design Review: The process of Design Review for an Open Space Subdivision shall be as described by current conventional subdivision regulations, except as noted below:**

**406.3.1** The Open Space Subdivision plan shall show the location of proposed buildings, common facilities, if any, and other development, as well as the remaining open space. The plan shall also indicate the natural features of the open space, such as open fields, water features, woodlands, wetlands, trails, stone walls, and historic features, as well as any proposed modifications to that open space.

**406.3.2** The Open Space Subdivision shall show the layout of all roads and shall differentiate between primary roads which move traffic through the development and secondary roads which provide access to the development and dwelling units. It is intended that all roads will be public roads.

**406.4 Final Review: The process of Final Review for an Open Space Subdivision shall be as described by current conventional subdivision regulations, except as noted below:**

**406.4.1** Any required legal open space ownership and protection covenants or cooperative open space ownership and protection agreements or similar forms of land protection and ownership shall be reviewed by Town Counsel to ensure legal form, ownership and enforceability. This land shall be dedicated as Open Space prior to the issuance of the first certificate of occupancy.