

ARTICLE 2. SUBDIVISION APPLICATION PROCEDURES

Section 2.1 Applicability

(A) Subdivision Approval Required. Subdivision approval is required for any proposed subdivision of land as defined in these Regulations.

(B) Boundary (lot-line) Adjustments. A boundary adjustment between parcels in existence as of the effective date of these regulations, as evidenced by recorded deeds, maps, or permits, is exempt from review under these regulations provided:

- (1) the adjustment would not invalidate or result in noncompliance of any conditions of a prior subdivision approval under Waitsfield Subdivision Regulations, and
- (2) the adjustment does not result in the creation of a new or nonconforming lot or structure under the Town of Waitsfield Zoning Bylaws.

Minor subdivision shall include amendments to an approved subdivision plan that will not substantially change the nature of any previous subdivision or conditions of approval; or the division of any parcel into not more than 4 lots; or, as determined by the Development Review Board in accordance with Section 2.2.

Major subdivisions shall include the division of any parcel into 5 or more lots; any subdivision requiring any new public or private road or driveway greater than 800 feet in length, or any combination of public and private roads and private driveways with a cumulative length greater than 2,000 feet; any subdivision in which access will be provided by a Class 4 Road.

While such a boundary adjustment shall not require review or plat approval by the Development Review Board under these Regulations, an application for a zoning permit shall be submitted to the Zoning Administrator in accordance with the provisions of Section 6.01(B) of the Waitsfield Zoning Bylaws and a permit issued in accordance with the provisions of Section 6.01(C) of those Bylaws if the aforementioned conditions are met. Any such permit application shall require that the owners of the two lots affected by the adjustment submit a diagram which reflects the existing and proposed lot boundaries, the location of water supplies and wastewater disposal systems and all structures located on the lots affected by the adjustment and the distances from those structures to the existing and proposed boundary line (the line to be adjusted). Any permit issued by the Zoning Administrator shall be subject to recording of a plat, approved by the Zoning Administrator, and recorded pursuant to Section 2.6 of these Regulations, which depicts the adjusted boundary line as plotted by a surveyor. Permits shall be filed and a notice thereof recorded pursuant to Section 6.07(E) of the Waitsfield Zoning Bylaws.

(C) Minor and Major Subdivisions. For the purposes of these regulations, subdivisions shall be classified by the Development Review Board as minor subdivisions or major subdivisions, as defined herein, following the Development Review Board's approval of a Sketch Plan Review submitted in accordance with Section 2.2.

(D) Coordination with Planned Unit or Planned Residential Development Review. Subdivision applications for Planned Unit or Planned Residential Developments (PUDs and PRDs) shall be reviewed as major subdivisions under this Article. PUDs and PRDs shall meet the standards set forth in Section 5.4 of the Waitsfield Zoning Bylaw, as well as subdivision standards included in Article 3, unless otherwise waived by the Development Review Board.

(E) Waiver Authority. Pursuant to the Act [§4418], the Planning the Development Review Board may waive application requirements as specified in Table 2.2, or subdivision standards under Article 3, which in its judgment:

**Table 2.1
Waitsfield Subdivision Regulations
Subdivision Review Process Outline**

Discussion Phase [all subdivisions]:	
(1) Submission of sketch plan and any request for waiver	Applicant; at least 15 days prior to a regularly scheduled Development Review Board meeting
(2) Development Review Board meeting	Applicant (or authorized representative) attendance required
(3) Classification of subdivision as minor or major; written determination & recommended design changes	Development Review Board; within 45 days of completion of the discussion phase
Minor Subdivision [4 or fewer lots, or as determined by Development Review Board]:	
(a) Submission of final subdivision plan, including any waiver requests; documentation of design changes and/or strategies to address Board issues raised during Discussion Phase (sketch plan review); proposed plat and supporting documentation	Applicant; within 180 days of the date of sketch plan approval
(b) Development Review Board public hearing	Development Review Board; to be scheduled for next available meeting upon receipt of the final subdivision plan
(c) Subdivision/plat approval	Development Review Board; within 45 days of the hearing adjournment date
(d) Final plat recording in the town records	Applicant; within 180 days of the date of subdivision approval
(e) Certificate of Compliance (if required)	Zoning Administrator; upon completion
Major Subdivision [other than minor]:	
(1) Submission of preliminary subdivision plan including any waiver requests, documentation of design changes and/or strategies to address Board issues raised during Discussion Phase (sketch plan review); proposed subdivision plan and supporting documentation	Applicant; within 6 months of the date of sketch plan approval
(2) Development Review Board public hearing	Development Review Board; to be scheduled for next available meeting upon receipt of the preliminary subdivision plan
(3) Preliminary subdivision/plat approval	Development Review Board; within 45 days of the adjournment of the hearing
(4) Submission of final subdivision plan, including supporting documentation	Applicant; within 6 months of the date of preliminary plan approval
(5) Final Development Review Board public hearing	Development Review Board; to be scheduled for next available meeting upon receipt of the final subdivision plan
(6) Final subdivision/plat approval	Development Review Board; within 45 days of the hearing adjournment date
(7) Final plat recording	Applicant; within 180 days of the date of final subdivision and plat approval
(8) Certificate of Compliance (if required)	Zoning Administrator; upon completion

- (1) are not requisite in the interest of public health, safety, and general welfare; and
- (2) are inappropriate due to the inadequacy or lack of connecting facilities (e.g., existing or planned utilities, roads, sidewalks, dedicated open space, etc.) adjacent to or in proximity to the subdivision; and
- (3) will not have the effect of nullifying the intent and purpose of applicable provisions of these regulations.

The request for a waiver shall be submitted in writing by the applicant with the application for sketch plan review under section 2.2. It shall be the responsibility of the applicant to provide sufficient information to justify the waiver and enable the Development Review Board to reach a decision. In granting waivers, the Development Review Board may require such conditions that will, in its judgment, substantially meet the objectives of the requirements waived. No such waiver may be granted if it would have the effect of nullifying the intent and purpose of these regulations or other municipal ordinances or regulations currently in effect.

(F) Waiver for Large Parcels. Pursuant to the Act [§4418], subdivisions involving especially large parcels, such as the subdivision of a single one-acre lot from an existing 50 acre parcel, may, at the discretion of the Development Review Board, be exempted from one or more of the application requirements listed in Table 2.2, such as the requirement that the boundaries of the large parcel to be retained by the landowner be surveyed or that one or more natural resources be identified on non-impacted portion of the parcel located far from identified development envelopes. In granting such an exemption, the Development Review Board may require that the portion of the subdivision involving newly created boundary lines (e.g. the one-acre lot in the preceding example) comply with these requirements, and that a surveyed plat for that portion of the larger subdivision be recorded in the land records.

Section 2.2 Sketch Plan Review [applying to all applications for subdivision]

(A) Submission of Sketch Phase. The applicant shall submit to the Zoning Administrator, at least 15 days prior to a regularly scheduled Development Review Board meeting, a sketch plan that includes the information for the discussion phase specified in Table 2.2.

(B) Initial Meeting. The applicant and/or an authorized representative shall attend an initial meeting with the Development Review Board, to be held at a regularly scheduled meeting of the Development Review Board, to discuss the subdivision application and proposed sketch plan. At this meeting the Development Review Board may request any additional information as needed to act on the sketch plan, and may schedule a site visit to the parcel.

(C) Action on Sketch Plan. The Development Review Board shall, by motion at an open meeting, determine the following:

- (1) Whether the subdivision is a minor subdivision to be reviewed under Section 2.4, or major subdivision to be reviewed under Sections 2.3 and 2.4. In making such a determination, the Development Review Board may classify a subdivision as a major subdivision, regardless of the number of lots proposed, in the event that the proposed subdivision poses a significant threat of an undue adverse impact to natural or cultural resources identified in the Waitsfield Town Plan or through site investigation.
- (2) Whether requested waiver provisions will be granted or denied.
- (3) Whether to include recommendations for proposed changes in subsequent submissions, including any requests for additional studies or supporting documentation, which, in the Development Review

Board's judgment, would be necessary for the proposed subdivision to comply with applicable subdivision review standards under Article 3, the goals, objectives and policies of the Waitsfield Town Plan, and with other municipal regulations currently in effect.

- (4) Meeting minutes, approved by the Development Review Board and delivered to the applicant, may satisfy the requirements for a written response under this section.

(D) Effect of Sketch Plan Determinations. A sketch plan determination is a nonbinding determination of subdivision conformance with these regulations. It simply authorizes the subdivider to proceed with an application for subdivision approval, and does not in any way imply formal approval of the subdivision by the Development Review Board. Sketch Plan determinations and associated recommendations shall be valid for 6 months from the date of issuance. Within 6 months of the determination by the Development Review Board, the applicant may apply to the Development Review Board for preliminary plan approval under Section 2.3 for major subdivisions and final plan and plat approval under Section 2.4 for minor subdivisions. As an alternative, an applicant may submit a revised sketch plan for review of the Development Review Board under this section prior to submitting an application for preliminary plan approval or final plat approval.

Section 2.3 Preliminary Plan Review [applying only to major subdivisions]

(A) Application Requirements. Within 6 months of the date of action on a sketch plan, and determination that the subdivision is a major subdivision by the Development Review Board, the applicant shall submit an application and associated fees for preliminary plan approval which includes, unless otherwise specified or waived by the Development Review Board under Section 2.1(D), the information required for preliminary plan review as specified in Table 2.2.

(B) Public Hearing. Upon determination by the Zoning Administrator that the application is complete, a public hearing shall be warned for the next available regularly scheduled meeting of the Development Review Board in accordance with Section 4.3. Failure of the Zoning Administrator to determine whether the application is complete within 30 days of receipt shall not result in the application being deemed approved.

(C) Preliminary Plan Approval. Within 45 days of the date of adjournment of the public hearing, the Development Review Board shall issue a written decision either approving, approving with modifications, or disapproving the preliminary plan based on a determination of whether or not the preliminary plan conforms to applicable subdivision review standards under Article 3, or would be in conflict with specific policies of the town plan and other municipal regulations in effect. The Development Review Board may also require, as a condition of approval, the submission of proposed changes or modifications resulting from further study. The approval of a preliminary plan shall be effective for a period of 6 months from the date of written notice of approval, unless otherwise approved or extended by the Development Review Board in the written notice of decision.

(D) Written Decision. The written decision noted in subsection (C) shall include a statement of the factual bases on which the Development Review Board made its conclusions, a statement of those conclusions, any conditions and/or required modifications, and shall specify the period of time within the decision may be appealed to the Vermont Environmental Court. Failure to issue a decision within the 45 day period shall be deemed approval. The decision shall be mailed, via certified mail, to the applicant within the 45 day period. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and a copy of the decision shall be recorded in accordance with subsection 4.6.

(E) Phasing. At the time that the Development Review Board grants preliminary plan approval it may require the plat to be divided into two or more phases to ensure project conformity with the town plan and

capital budget and program currently in effect. Conditions may be imposed upon the filing of application for final plat approval for each phase as the Development Review Board deems necessary to ensure the orderly development of the project and to avoid overburdening town facilities and services.

(F) Effect of Preliminary Plan Approval. Approval of the preliminary plan shall not constitute approval of the final subdivision plan and plat. Subsequent to the approval of the preliminary plan, the Development Review Board may require the submission of all applicable approvals of local agencies having jurisdiction over the project (e.g., Selectboard, Health Officer), and such state and federal agencies as may be required by law. Upon receipt of evidence of approval of the preliminary plan by said agencies, if required, and the expiration of all relevant appeal periods, the applicant may apply to the Development Review Board for final plan and plat approval under Section 2.4.

Section 2.4 Final Plan Approval [applying to all applications for subdivision]

(A) Application Requirements. Within 6 months of the date of sketch plan review and the issuance of written recommendations, if any, for minor a subdivision, or preliminary plan approval for a major subdivision, unless otherwise waived by the Development Review Board, the subdivider shall submit an application for final subdivision plan approval, including plat approval. If the subdivider fails to do so, the subdivider shall be required to resubmit for minor subdivisions a new sketch plan, or for major subdivisions a new preliminary plan, for approval, subject to any new zoning and subdivision regulations. The application for final subdivision plan and plat approval shall include associated fees and, unless otherwise specified or waived by the Development Review Board under 2.2(C), four copies of the information for final plan and plat review specified under Table 2.2.

(B) Public Hearing. In accordance with the Act [§4414], upon receipt of a complete application for final subdivision approval by the Zoning Administrator, the Development Review Board shall schedule a public hearing on the final plan and associated plat, warned in accordance with Section 4.3.

(C) Final Plan Approval. Within 45 days of the date of adjournment of the public hearing, the Development Review Board shall issue a written decision either approving, approving with modifications, or disapproving the final plan based on a determination of whether or not the plan conforms to applicable subdivision review standards under Article 3, or would be in conflict with specific policies of the town plan and other municipal regulations in effect. The Development Review Board may also require, as a condition of approval, conditions and/or modifications to subdivision design and future development plans of subdivided parcels. Each approval for a final plan shall contain a time limit within which all improvements shall be completed.

(D) Written Decision. The written decision noted in subsection (C) shall include a statement of the factual bases on which the Development Review Board made its conclusions, a statement of those conclusions, any conditions and/or required modifications, and shall specify the period of time within the decision may be appealed to the Environmental Court. The decision shall be mailed, via certified mail, to the applicant within the 45 day period. Failure to issue a decision within the 45 day period shall be deemed approval. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and a copy of the decision shall be recorded in accordance with subsection 4.6.

(E) Effect of Final Plan Approval. The approval by the Development Review Board of a final subdivision plan and associated plat shall not be construed to constitute acceptance by the Town of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Selectboard, in accordance with state statute. Each approval for a final plan shall contain a time limit within which all improvements shall be completed.

**Table 2.2
Subdivision Application Requirements**

	Sketch Plan	Preliminary Plan	Final Plan
(A) Application Information			
Application Form [a single form may used throughout the process]	√	√	√
Application Fee	√	√	√
Name of project, if any	√	√	√
Name, address of applicant (landowner and subdivider, if different)	√	√	√
Written description of proposed development plans, including number and size of lots; general timing of development	√	√	√
Waiver request, in writing [optional]	√	√	
Evidence of written notification to owners of all properties adjoining the parcel of intent to subdivide; to include copies of any waiver request if any)	√	√	√
(B) Plan/Plat Mapping Requirements			
	Sketch	Prelim. Plan	Final Plat
Materials	Paper	Paper	Mylar
Date, North Arrow, Legend	√	√	√
Preparer Information, Certifications	√	√	√
Scale (not less than 1 inch = 200')	√	√	√
Project boundaries and property lines	Drawn	Drawn	Surveyed
Existing and proposed lot lines, dimensions	Drawn	Drawn	Surveyed
Adjoining land uses, roads and drainage	√	√	√
Zoning district designations and boundaries	√	√	√
Location of all significant natural features, including but not limited to: - wetlands; - flood hazard areas, including base flood elevations; - slopes with a gradient of 15% or greater, and 25% or greater; - significant wildlife habitat; - historic sites and features, including stone walls; - scenic features identified in the Town Plan; - existing trail corridors, - surface waters and associated buffer areas; and - other significant geologic features and landforms, including prominent knolls and ridgelines.	General location based on available maps & data	Specific boundaries, unless waived by PC because of limited potential impact	Specific boundaries, unless waived by PC because of limited potential impact
Existing and proposed elevations, contour lines*		5' interval	5' interval
Existing and proposed roads, paths, parking areas, associated rights-of-way or easements	Drawn	Drawn	Surveyed
Proposed utilities, water and wastewater systems and associated rights-of-way or easements*	General location based on available maps & data	√	√

Table 2.2 Subdivision Application Requirements (cont.)

(B) Plan/Plat Mapping Requirements (continued)			
	Sketch	Draft Plat	Final Plat
Proposed development envelopes	General location based on available maps & data	√	√
Monument locations			√
Road profiles; road, intersection and parking area geometry and construction schematics*	General location based on available maps & data	√	√
Proposed landscaping and screening*	General location based on available maps & data	√	√
Proposed conservation buffer and/or easement areas*	General location based on available maps & data	√	√
Notation prepared in accordance with Section 2.6 (Plat recording)			√
Reduced (11' x 17') copies of proposed plan [number of copies]	10	10	10
(C) Supporting Information & Documentation			
	Sketch Plan	Preliminary Plan	Final Plan
Site location map showing proposed subdivision in relation to major roads, drainage ways, and adjoining properties	√	√	√
Statement of compliance with the town plan and applicable local regulations	√	√	√
Engineering reports (water and wastewater systems)		√	√
Existing and proposed traffic generation rates, volumes*		Estimated	Documented
Off-site easements (e.g., for water, wastewater, access)*	Description	Draft	Final
Proposed phasing schedule*	Description	Draft	Final
Proposed covenants and/or deed restrictions*	Description	Draft	Final
Proposed homeowner or tenant association or agreements*	Description	Draft	Final
Proposed performance bond or surety*		Description	Final
(D) As may be required by the Development Review Board			
Stormwater and erosion control plan			
Grading plan (showing proposed areas of cut and fill)			
Open space management plan			
Site reclamation plan (for subdivisions involving extraction)			
Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)			
Visual impact analysis and mitigation plan			

Table 2.2 Subdivision Application Requirements (cont.)
(D) As may be required by the Development Review Board (continued)
Wildlife habitat impact assessment and mitigation plan
Fiscal impact analysis (analysis of fiscal costs and benefits to the town)
Evidence of applicable municipal, state and federal permits and approvals.
Other
* Upon written request may be waived by the Development Review Board.

Section 2.5. Special Procedures for Subdivisions involving land located in the Flood Hazard Areas

(A) Prior to the issuance of final subdivision approval involving land located in the Flood Hazard Overlay District, a copy of the application and supporting information shall be submitted by the Zoning Administrator to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. An approval may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

(B) Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any approval that involves the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any approval issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(C) Proposed development shall be reviewed by the Development Review Board to assure that all necessary permits have been received from those government agencies from which approval is required by Federal, State or Municipal law.

Section 2.6 Plat Recording Requirements [applying to all approved subdivisions]

(A) In accordance with the Act [§4463], within 180 days of final plan approval under Section 2.4(C), the applicant shall file two copies of the final subdivision plat, for recording with the Town in conformance with the requirements of 27 V.S.A., Chapter 17. Approval of subdivision plats not filed within 180 days shall expire, unless the subdivider requests and receives a 90 day extension from the Zoning Administrator based upon a determination by the Zoning Administrator that necessary final municipal, state or federal permits are pending but have not been issued.

(B) Prior to plat recording, the plat must be signed by two members of the Development Review Board who participated in issuing the applicable decision of approval or, in the case of boundary adjustments approved under Subsection 2.1(B), signed by the Zoning Administrator. All final plats must include a notation to include the following statement:

“The subdivision depicted on this plat was duly approved, as conditioned, by the Waitsfield Development Review Board in accordance with the Waitsfield Subdivision Regulations and all other applicable laws and regulations on the ___ day of _____ 2 _____. Subdivision Permit# _____.”

Signed: _____ [for Development Review Board].”

The Development Review Board may, as a condition of final plat approval, require that other notations pertaining to conditions of subdivision approval also be included on the final plat.

(C) For any subdivision which requires the construction of roads or other public improvements by the applicant, the Development Review Board may require the subdivider to post a performance bond or comparable surety in accordance with the Act [§4464(b)(4)].

(D) The municipality shall meet all recording requirements for final subdivision plan approval as specified for municipal land use permits under Section 4.6.

Section 2.7 Certificate of Compliance

(A) In accordance with the Act [§§4449, 4464], the Development Review Board may require, as a condition of subdivision approval, that a Certificate of Compliance be obtained to ensure that any required improvements deemed essential prior to the development of approved lots have been installed in accordance with the conditions of subdivision approval prior to the issuance of a zoning permit under the Waitsfield Zoning Bylaw for the development of the affected lot(s).

- (1) The application for a Certificate of Compliance shall be submitted to the Zoning Administrator and shall include plans drawn to scale which show the location of all monuments, utilities, structures, roadways, easements, and other improvements as constructed. The Zoning Administrator shall rely on any information submitted as part of the subdivider’s application for subdivision approval to determine whether the as-built drawings conform to the approved plat and associated conditions.
- (2) A Certificate of Compliance shall not be issued until a subdivision plat has been recorded in accordance with Section 2.6, and the Zoning Administrator determines that the work required by the Development Review Board for the requested development has been completed.
- (3) Within 14 days of receipt of the application for a Certificate of Compliance, the Zoning Administrator may inspect the subdivision to ensure that all work has been completed in conformance with the conditions of subdivision approval. If the Zoning Administrator fails to either grant or deny the Certificate of Compliance within 14 days of the submission of an application, the certificate shall be deemed issued on the 15th day.
- (4) When requiring a Certificate of Compliance, the Development Review Board may authorize that a Certificate of Compliance be issued for individual lots within a subdivision in the event that required improvements are not deemed essential prior to the development of all approved lots, or to allow for the phased installation of improvements and associated land development in accordance with Subsection 2.3(E).

(B) In the event that there are discrepancies between the approved subdivision and as-built drawings or completed work, the Zoning Administrator shall deny the Certificate of Compliance. The Zoning Administrator, in consultation with the Development Review Board, may require the subdivider to submit an application for an amendment to the subdivision approval, or initiate enforcement action pursuant to Section 4.4.

Section 2.8 Revisions to an Approved Plat

No changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the Development Review Board as a minor subdivision and the Development Review Board approves such revisions after public hearing. In the event that such subdivision plan revisions are recorded without complying with this requirement, the revisions shall be considered null and void.