

# TOWN OF WHITING SUBDIVISION REGULATIONS

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# **SUBDIVISION REGULATIONS**

## **TOWN OF WHITING**

### **ARTICLE I: GENERAL REGULATIONS**

#### **Section 110. Enactment**

The Town of Whiting has created a Planning Commission and has adopted and has in effect a plan under the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117, herein referred to as the Act, there are hereby established subdivision regulations for the Town of Whiting.

#### **Section 120. Title**

These regulations shall be known as the Town of Whiting Subdivision Regulations.

#### **Section 130. Purpose**

1. To insure that development conforms to the policies set forth in the Town of Whiting's Town Plan. The Commission will refer to the goals, objectives and policies, recommendations and capacities of public services as established by the Town Plan in making discretionary decisions and requiring modifications in subdivision proposals.
2. To insure that all development is compatible with the ecology, topography, geology, natural drainage, surface water runoff, groundwater resources, agricultural resources, and present and potential uses of land as identified in the maps and text of the Town Plan.
3. To insure conformity and compatibility of development with other applicable laws, as presently enacted or as from time to time hereinafter enacted, including but not limited to, zoning regulations, health ordinance, official map, and capital program.
4. To protect and provide for the health, safety, and general welfare of the Town of Whiting, its property owners and its inhabitants.
5. To guide the future growth and orderly development of the Town.
6. To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic.
7. To provide for the conservation and protection of the natural, visual and historical assets of the Town; the preservation of the existing rural character of the Town through the proper arrangement of uses on development parcels; the preservation of adequate open space between and within developments; and the preservation of values and an adequate tax base.
8. To insure that development encourages efficient and economic uses of energy that are consistent with current technology.

9. To provide for public facilities and services such as parks, and open spaces, recreation areas, schools, police and fire protection, off-street parking, and water supply and sewage disposal.
10. To insure that existing public services and facilities are available and will have a sufficient capacity to serve any proposed subdivision.

### **Section 140. Authority**

The Commission is hereby authorized and empowered to do all acts and things set forth and provided in §4401, §4402(3) and §4418 of the Act including but not limited to the approval, modification, or disapproval of all plats filed and the approval of the development of such plats previously filed in the municipal clerk's office if such plats are entirely or partially undeveloped under the subdivision regulations.

### **Section 150. Waivers and Variances**

1. Where the Planning Commission finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations or where there are special circumstances of a particular plat, it may vary these regulations so that substantial justice may be done and the public interest secured.
2. Where the Planning Commission finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions.
3. In granting variances and modifications, the Planning Commission shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or varied.
4. No such waiver or variance may be granted if it would have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Regulations, the Official Map, the Capital Budget and Programs, or these Subdivision Regulations.

### **Section 160. Amendments**

These Regulations may be amended according to the requirements and procedures established in §§4441 and 4442 of the Act.

### **Section 170. Enforcement, Violations, and Penalties**

These Regulations shall be enforced in accordance with §§4451 and 4452 of the Act.

### **Section 180. Severability**

The invalidity of any provision of these Regulations shall not invalidate any other part.

## **Section 190. Effective Date**

These Regulations shall take effect upon their adoption in accordance with the procedural requirements contained in 24 V.S.A. § 4442 of the Act.

# **ARTICLE II: SUBDIVISION APPLICATION AND APPROVAL PROCEDURE**

## **Section 200. Application of Regulations**

Whenever any subdivision of land is proposed to be made, before any contract for sale of such subdivision or any part thereof is made, before any grading, clearing, construction, or other improvement is undertaken, or before any permit for erection of a structure in such proposed subdivision is granted, and before plat may be filed with the Town Clerk, the Applicant, or authorized agent, shall apply in writing to the Planning Commission for and secure approval of the proposed subdivision in accordance with the procedure described in Section 220 of these Regulations.

## **Section 210. General Overview**

This Section explains the process applicants will need to go through to secure a subdivision permit. It begins with the application for sketch plan review, an informal meeting between the applicant and the Planning Commission. Minor Subdivisions will proceed to a final hearing because they involve less complicated issues and can generally be closed in one hearing. Major subdivisions will move to a hearing on preliminary plat. Both hearings constitute a more formal hearing process offering the opportunity for all parties with an interest in the project as it is proposed to participate before the Board. For Major subdivisions, if an applicant's proposed subdivision is approved at the preliminary plat phase, the process moves to the hearings on the final plat. For both major and minor subdivisions, after the hearing on the final plat closes, the Planning Commission will issue a written decision on the proposed project. The project will be approved or denied for cause. If approved, the local process ends with the filing of the Final Plat in the town land records and fulfillment of conditions, if any, on the approved application. Parties to the decision may appeal it.

## **Section 220. Sketch Plan Review**

### **221 General Overview:**

The Sketch Plan phase of an application is the most informal phase of the process and constitutes a chance for the Applicant to make a proposal and receive feedback and guidance from the Planning Commission regarding the proposal's general compliance with the goals of the Town Plan or other regulations adopted under that Plan and with specific requirements for items to be included in the preliminary plat. The applicant shall request a meeting with the Planning Commission to discuss the proposed subdivision and submit the information described in Section 222 of these Regulations discussing the specific requirements of these

Regulations. The Applicant shall be guided by the Commission as to the need for further meetings and the advisability of entering into the preliminary and final plan stages of the application process.

## **222 Sketch Plan Application:**

The Applicant shall submit one original and two (2) copies of a Sketch Plan of the proposed subdivision to the Zoning Administrator at least fifteen days prior to the meeting of the Planning Commission. The following information shall be submitted for consideration with a sketch plan application for a Subdivision:

1. Subdivision name or title and address at which it is located;
2. Names and addresses of Applicant and professional advisers;
3. A vicinity map drawn at a scale sufficient to depict the entire parcel subject to the subdivision application and to allow the Planning Commission to locate the parcel within the municipality and to view it in the context of the land surrounding the parcel;
4. A general plat map depicting the subdivision and important features, including existing development or roads, planned infrastructure and roads, significant natural areas or other areas of interest or concern;
5. Description of proposed easements and/or covenants encumbering the property.
6. A statement by the Applicant concerning the use of any adjoining property owned or controlled by the landowner or Applicant, if different.

## **223 Sketch Plan Meeting**

1. The Zoning Administrator shall notify the Planning Commission of the application, set the meeting and contact the Applicant with the date, time and schedule of the meeting. Applicant, or its duly authorized representative, shall attend the meeting.
2. The Planning Commission shall study the Sketch Plan to determine whether or not it conforms to, or would be in conflict with: Zoning Regulations, the Town Plan, developments proposed by any public agency, existing private and public development, facilities and services, and for any special problems.
3. The Planning Commission may adjourn and reconvene the meeting to a future date if further discussion and/or the presentation of additional information on the sketch plan are deemed necessary.
4. Where the Applicant submits a proposed Planned Unit Development (PUD) the Planning Commission may simultaneously review the project under the criteria established in both these Subdivision Regulations and the requirements of Section 3.32 of the Town's Zoning Regulations governing PUDs.
5. At this meeting, the Planning Commission will:
  - a. Classify the project as a major subdivision or minor subdivision.
  - b. Specify what the submission requirements for subsequent review will be.
  - c. Determine whether the project meets the purposes of these regulations and may make specific written recommendations for changes.

## **224 Findings and Decision, Sketch Plan**

Within forty-five (45) days of the completion of the sketch plan meeting, the Planning Commission shall inform the applicant in writing of its classification of his/her project as a major or minor subdivision, determine whether the project as proposed meets the purposes of these regulations and make any specific recommendations it has for changes and make determinations as to what will be required to be submitted to the Planning Commission prior to the formal hearing (Final Plat, Minor), or hearings (Preliminary and Final Plat, Major), on the application.

## **Section 230. PRELIMINARY PLAT (MAJOR) AND FINAL PLAT (MINOR) APPLICATION AND REVIEW PROCEDURE**

### **231 Minor and Major Subdivision Procedure**

Within six months after classification of the Sketch Plan as a Major or Minor Subdivision by the Planning Commission, the Applicant shall submit an application for approval of a Final Plat (for a minor) or a Preliminary Plat (for a major) according to the procedures and requirements below. If the applicant fails to submit the plat application within 6 months, the Planning Commission may require resubmission of the Sketch Plan for reclassification. The plat should substantially conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Commission in its findings from the Sketch Plan Hearing.

### **232 Plat Application and Review Process**

The Plat application and review process shall be the same for major and minor subdivisions, except that:

1. Minor subdivisions may require only one hearing;
2. Because of minor subdivisions presumed smaller size and impact, the Planning Commission will generally waive many of the application criteria for minor subdivisions and inform the applicant of those waivers.
3. Because of minor subdivisions presumed smaller size and impact, the review criteria for minor subdivisions will be limited to the Application and Approval Procedures in this article, and other Town Regulations and Ordinances including:
  - a. The proposed subdivision must comply with the definition of a Minor Subdivision.
  - b. All Rights of Way to a public road must conform to the requirements in the Zoning Regulations.
  - c. Lots created must meet the specific Town Zoning regulations for Lot Area Setbacks, Building Coverage, etc. for the Zoning Districts in which they are located.

## **233 Application**

The Applicant shall file an original application and plat drawings and six (6) copies of all material necessary for the Planning Commission to conduct its review. The Application and plat drawings shall contain information and references necessary for the Planning Commission to put the application into the context of its location within the town and on the parcel it occupies. As such, they shall include all information included on the sketch plan, plus any additional information requested by the Planning Commission in its decision regarding the sketch plan and including the following:

### **A. Written Application Material**

1. A statement of the compliance of the proposed subdivision with the provisions of the Town Plan, the Town's Zoning Regulations – including reference to any zoning variances that may be requested – and any other Federal, State and Town statutes and regulations that may pertain to the proposed development;
2. A description of the proposed water supply for the project. If the source is a community water supply system, evidence of the right to use the system and the adequacy of the system to meet the project's water supply requirements shall be presented. All design criteria shall conform to the requirements of the applicable State health regulations and water supply rules;
3. A description of the proposed sewage disposal system for the project. If an on-site sewage disposal system is proposed, the applicant should provide a soils test report and system design data prepared by a registered professional engineer or a certified site technician in accordance with the provisions of the State's environmental protection rules.
4. A description of all existing and proposed street right-of-way boundaries, street widths, typical road, walkway and utility profiles, dimensions and sizes of all lots, locations of all existing and proposed structures, walkways, amenities, utilities and other man-made improvements on the site; the description shall include the locations of temporary markers, to allow the Planning Commission to appraise the basic layout of the proposed subdivision in the field.
5. Evidence that the traffic generated by the proposed project will not cause the capacity of roadways and intersections in the area to be exceeded. Information to be provided shall include but not be limited to current traffic volumes, current excess capacities or deficiencies, trip generation estimates and their impact on capacities, and light/stopping distances for new road intersections with existing Town highways;
6. Evidence that the school-age population of the proposed subdivision can be accommodated in the Town's existing school facilities, or that it conforms to the provisions of the Town's capital improvement plan and budget for the school;
7. A description of any proposed covenants and/or deed restrictions which are intended to all or part of the subdivision and a description of the homeowners' association or any other form of management organization for the subdivision, if such is proposed.

### **B. Plat Application Requirements**

In addition to the information above, the Applicant shall provide a plat and, as necessary, backup detail drawings. All drawing sheets shall be clearly marked with a Subdivision name or title, the address at which it is located, a scale, north point, date and key of other

information. Final Plats shall be required to conform to the requirements of 27 V.S.A. 1403 for recordable plats. In general, the plat and other drawings shall not be more than 36" long nor more than 24" wide and shall be drawn to a scale large enough to show the details clearly, but shall not be less than 1" x 100'. A one-half (1/2) inch marginal borderline shall be drawn around the outer edge of each plan and all data to appear thereon shall be within said marginal lines. The plat and backup drawings shall depict the following, except where a waiver is authorized by the Planning Commission pursuant to its authority under Section 150 of these regulations.

1. A survey of the property to be subdivided depicting Subdivision boundaries and boundaries of contiguous properties and names of owners of all parcels of land directly abutting or directly across any street abutting the proposed subdivision or an abutting parcel owned or controlled by the applicant. Depending upon the proposed use and the size of the parcel involved, the Planning Commission may require a survey of only the relevant portion of the parcel being subdivided.
2. Total acreage of subdivision and number of lots proposed. Commercial buildings shall be depicted on the lots.
3. Zoning or other existing district or boundaries, if any (County, Historic, Downtown, Water/Wastewater/Fire, etc.)
4. Existing infrastructure or landmarks or features:
  - a. Existing streets and structures, existing sewers, water mains, storm drainage, culverts, with pipe sizes and direction of flow.
  - b. Existing utilities, including gas lines, fire hydrants, electric and telephone facilities, streetlights.
  - c. Existing watercourses, marshes, wooded areas, public facilities and other significant physical features in and near the subdivision.
  - d. Contours with intervals of not more than 10 feet. Contours with intervals of not more than two feet, established by a field survey, shall be shown in the vicinity of any proposed development or where the grade is less than five percent; or where the high ground water elevation is within six feet of the existing or proposed ground level; or in the case of waterfront or riverfront property.
5. Proposed lot layout and infrastructure:
  - a. Proposed pattern of the lots including typical lot width, depth, street layout, open space, systems of drainage, sewerage and water supply within the subdivided area.
  - b. Location, width and approximate grade of proposed streets.
  - c. Location, dimensions, area and number of lots and blocks.
  - d. Location and dimensions of property to be dedicated for public use, if any.
  - e. Boundaries of proposed easements over private property.
  - f. Location of proposed wastewater or water systems;
  - g. Location of other proposed utilities including telephone, electric and cable.
  - h. Location of proposed provision of water supply, fire protection, disposal of sanitary wastes, storm water drainage and sidewalks, if applicable.
6. A preliminary grading plan for the site, showing areas of cut and fill and the revised contours of the parcel, drafted at a contour interval of not more than (10) feet;

7. A stormwater drainage plan, drafted at a contour interval of not more than ten (10) feet, indicating methods of collecting and discharging runoff, as well as methods of temporary and permanent erosion control, including preliminary design data prepared by a registered professional engineer and certified to be in compliance with Section 443 of these Regulations.
8. A preliminary landscaping plan for the subdivision, showing the types of ground cover, lighting and signage, and the existing features and trees to be retained on the site;

### **234 Time**

The application for approval of the plat, complete with all other requirements, shall be submitted to the Town Clerk on behalf of the Planning Commission at least twenty five days prior to the date of the meeting of the Planning Commission, Assuming the application is complete, the official submission date shall then be the date of the first review of the Planning Commission. The Planning Commission will set a date and place for a public hearing within 60 days of the filing of the application.

### **235 Notice**

Public Notice of hearing shall be given as required by the Act and shall be the same as that required in **Section 8.20(1) (a)** of the Zoning Regulations. Public Notice of hearing for plat review for subdivisions shall be given not less than **15 days** prior to the date of the public hearing **on preliminary plat for major subdivisions and final plat on minor subdivisions** by all the following:

1. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected. The Zoning Administrator or clerk of the Planning Commission shall place the notice in the paper.
2. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c) (2), including posting the permit information within view from the public right-of-way most nearly adjacent to the property for which an application is made. The clerk or Zoning Administrator shall post notices two places within town. The applicant shall be responsible for posting the property.
3. Written notification to the applicant or appellant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. The clerk shall be responsible for notifying all adjoining landowners and shall do so by a certificate of mailing or hand delivery. At the first hearing, the clerk shall demonstrate compliance with this provision by producing a copy of the letter sent, a list of those it was sent too and the certificate of mailing demonstrating that the letters were sent (The clerk need only demonstrate that the letter was sent, not that it was received) or signed receipts if the letter was hand-delivered.

4. A copy of the notice shall be sent to the clerk of an adjacent municipality in the case of a plat located within five hundred feet of a municipal boundary at least fifteen days prior to the hearing.

### **236 Review Procedures.**

The Review Procedures shall be the same as those laid out in **Section 8.20(2)** of the Zoning Regulations. Pursuant to the requirements of 24 V.S.A. § 4461 the Planning Commission shall set a date and place for a public hearing of an application within 60 days of the filing of a complete application. The Hearing shall be conducted as follows:

1. The applicant or its agent shall attend the hearings.
2. Any person or body empowered by Section 4465 of the Act to participate as an interested party or to take an appeal with respect to that property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing.
3. The Planning Commission may adjourn the hearing from time to time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing.
4. All hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. §810.
5. The Planning Commission shall review the information submitted for conformity to these Regulations.
6. The Planning Commission may conduct a site visit where it deems appropriate and shall have the right to continue the hearings to a date certain if it deems it necessary to gather further information. If the Planning Commission requests a site visit, the Applicant shall provide markings noting the approximate location of the lots to be subdivided, roads and other important features.
7. In addition, the Planning Commission may require that the Applicant submit its plans to an engineer representing the town for an independent review. The cost of the review shall be in addition to the application fee and shall be born by the Applicant. Before the Town engages the services of a person or firm to conduct a specific independent technical review, it shall provide an applicant with notice of the same and an opportunity to be heard on any proposed review.
8. After submittal of all evidence and testimony, the Planning Commission shall close the hearing.

### **237 Decision**

The Planning Commission shall issue a written decision, which shall include findings of fact, any conditions, and provisions for appeal within 45 days after completing the hearing and shall within that period send the applicant, by certified mail, a copy of the decision. Copies of the decision shall also be mailed to every interested person who appeared and was heard at the hearing. A copy of the decision shall be filed with the zoning administrator and the town clerk who shall record the decision as a public record. If the Planning Commission fails to make a decision within 45 days, on the 46<sup>th</sup> day the Planning Commission shall be deemed to have rendered a decision in favor of the applicant. When granting approval to a plat, the Planning Commission will state the conditions with respect to:

1. Special changes that it may require.
2. Character and extent of the required improvements for waivers.
3. Amount of improvement or the amount of all bonds that it will require.

For minor subdivisions the decision shall be final. For major subdivisions, approval of a Preliminary Plat shall not constitute approval of the subdivision. Prior to the approval of the Final Plat; the Planning Commission may require additional changes as a result of further study.

## **Section 240: Final Plat Application and Review For Major Subdivisions**

### **241 Application**

Within one year of approval of the preliminary plat, unless waived for cause by the Planning Commission, the Applicant shall file an original and six (6) copies of all material necessary for submittal of a complete application for approval of the Final Plat. The Final Plat shall:

1. Conform to the approved Preliminary Plat, plus any recommendations or additional information required by the Planning Commission;
2. Conform to the requirements of 27 V.S.A. 1403 for recordable plats and include a deed description and a map of survey of tract boundary made and certified by a licensed land surveyor, tied into established boundary monuments.
3. Include sufficient data to determine readily the location, bearing and length of all street, lot and boundary lines, referenced to established monuments.
4. Identify and include the location, dimensions and names of all sites for residential, commercial, industrial, public, non-public, dedicated and reserved uses.
5. Include the location, material and size of monuments.
6. Carry the following endorsements: APPROVED BY RESOLUTION OF THE TOWN OF WHITING PLANNING COMMISSION, VERMONT, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_, SUBJECT TO ALL REQUIREMENTS AND CONDITIONS \_\_\_\_\_ OF \_\_\_\_\_ SAID RESOLUTION.

SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_.

BY: CHAIRMAN \_\_\_\_\_  
SECRETARY \_\_\_\_\_.

7. The application shall be accompanied by:
  - a. Construction Details for proposed roads and driveways. Proposed roads shall be named in accordance with the guidelines in Section 320-329 of these regulations.
  - b. Construction Details of existing and proposed sanitary sewers, storm water drains, and fire hydrants; and location and size of water, gas, electricity and any other utilities or structures.
  - c. A State of Vermont Water Supply and Wastewater Permit Application and the supporting designs and plans.
  - d. Applicable State of Vermont Stormwater Permit Applications and the supporting designs and plans.

- e. Other applicable State or Federal Permit Applications.
- f. Offers of cession to streets and public areas and any agreements with the Selectboard pertaining to the Town of Whiting taking streets or permits issued by the Selectboard authorizing the applicant to work within existing Town Streets.
- g. Copies of agreements showing the manner in which areas reserved by the Applicant are to be maintained.
- h. Draft protective covenants whereby the Applicant proposes to regulate land use in the subdivision and otherwise protect the proposed development.
- i. Other information that the Planning Commission requires.

**242 Hearing and Notice**

The Planning Commission shall hold a public hearing within sixty days after it has accepted the official submission of the final application and plat for approval. The notice shall be issued pursuant to Section 235 subsections 1, 2, and, if applicable, 4. Additionally, Applicant shall be required to provide written notice of the final plat hearing to all parties that participated in the preliminary plat hearings. The Hearing shall be conducted in the same manner as the preliminary plat, pursuant to 236.

**243 Decision**

The Planning Commission shall, within 45 days after completing the hearing, issue a written decision, which shall include findings of fact, any conditions, and provisions for appeal. It shall within that period send the applicant, by certified mail, a copy of the decision. Copies of the decision shall also be mailed to every interested person who appeared and was heard at the hearing. A copy of the decision shall be filed with the zoning administrator and the town clerk who shall record the decision as a public record. When granting approval to a Final Plat, the Planning Commission will state the conditions with respect to:

- 1. The Character and extent of the required improvements.
- 2. The amount of improvement or the amount of all bonds that it will require.
- 3. The issuance of the state or other permits noted above and compliance with them.
- 4. The phasing of the development, as it deems necessary from the testimony presented to assure orderly development. or
- 5. Other special conditions that it may require.

If the Planning Commission fails to make a decision within 45 days, on the 46<sup>th</sup> day the Planning Commission shall be deemed to have rendered a decision in favor of the applicant.

**Section 250. Appeals**

Interested parties who participated in the proceeding before the Planning Commission may appeal the Planning Commission’s decision and should be file their appeal as outlined in Section 8.80 of the Town of Whiting Zoning Regulations and 24 V.S.A. §4471.

## **Section 260. Filing of Approved Subdivision Plat**

### **261 Plat Recording:**

All subdivisions must be recorded in the office of the Town Clerk within one hundred and eighty (180) days of the date of final plan approval or the approval expires. Prior to recording, the plat must be signed by two (2) authorized members of the Commission. For any subdivision that requires the construction of streets or other public improvements by the applicant, the authorized members of the Commission may not sign the approved plat until the Applicant has:

1. met the requirements of Section 270 for all areas to be transferred to the town and Section 280, Performance Bond Requirements, of these regulations, or
2. constructed all public improvements to the satisfaction of the Commission.

Two copies of the approved Final Plan shall be filed with the Town Clerk. The Plan to be recorded shall be of a size determined by the Commission.

### **262 Filing of Sections of Subdivision:**

At the time the Commission grants final Plat approval, it may permit the Plat to be divided into two or more sections subject to any conditions the Commission deems necessary in order to insure the orderly development of the Plat.

### **263 Plan Void if Revised After Approval:**

No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Commission and endorsed in writing on the Plat, unless the said Plat is first resubmitted to the Commission and such Commission approves any modifications.

## **Section 270. Public Acceptance of Streets, Recreation Areas**

1. Formal offers of cession by the Applicant of all streets, rights of way, parks and other sites for public use shall be presented to the Planning Commission and Selectboard prior to Final Plat approval.
2. Offers of cession must be in a form certified as satisfactory by the Town Attorney prior to their acceptance by the Selectboard. The Planning Commission and Selectboard have the option to reject any offer of land, streets, easements or other improvements.
3. The Final Plat shall be endorsed with the necessary agreements in connection with required easements or releases after the Planning Commission has had the opportunity to coordinate with the Selectboard.

## **Section 280. Improvements and Performance Bond**

Before the Commission grants approval of the Final Subdivision Plat, the Applicant shall either file with the Municipal Clerk a certified check to cover the full cost of the required improvements or the Applicant shall file with the Municipal Clerk a performance bond to

secure to the public the full cost of completion of all streets, other required improvements, and their maintenance for a period of two years. The bond must be submitted and approved by the Planning Commission and Town Attorney as to form, sufficiency, manner of execution and surety, for completion of required improvements. The Planning Commission shall specify the time period within which the required improvements must be completed, but in no case for a longer term than three years, unless agreed to by the Applicant. The time period shall be expressed in the bond. Upon completion of the work secured by the bond, prior to the bonds release, the Administrative Officer or Town Engineer must file a certificate stating that all required improvements constructed by the Applicant have been designed and inspected and meet standards in these Regulations, and are as required by law. If any required improvements have not been installed or maintained as provided within the term of such bond, the Town may deem the bond forfeited and use the proceeds to install or maintain such improvements.

An inspection fee to be paid by the Applicant to cover the costs of inspection shall be established by the legislative body as part of the application fee.

## ARTICLE III: GENERAL REQUIREMENTS AND DESIGN STANDARDS

### Section 310. Planning Standards

#### **311 Character of the Land:**

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. Land subject to periodic flooding, poor drainage, inadequate capabilities to withstand structures, including streets, utilities, and buildings, or land with other hazardous/conditions shall not ordinarily be subdivided.

#### **312 Energy Conservation:**

In order to conserve energy, all subdivision shall use the least areas of roadway and the least length of sewer, water, and utility lines within environmentally and economically sound limits. All subdivisions shall be designed so as to take advantage of southeast, south, and southwest orientations where possible and so that the maximum number of buildings shall receive sunlight sufficient for using solar energy systems for space and water heating. Landscaping should be effectively used for providing wind barriers and reducing heat loss and heat gain. Cluster development (planned residential and planned unit development) should be encouraged wherever feasible and desirable.

#### **313 Reserved Strips:**

No privately owned reserved strip, except on open space areas, 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.

### **314 Lot Layout:**

The layout of lots shall conform to the requirements of the Zoning Regulations where in force, as altered by a PUD, if applicable, and shall be appropriate for the intended construction. Corner lots shall have extra width to permit setback on each street. Side lots shall have extra width to permit setback on each street. Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines. Consideration in lot layout shall be given to topographic and soil conditions.

### **315 Preservation of Existing Features:**

Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources, and historic resources.

## **Section 320. Streets**

### **321 Layout:**

The layout of streets in the subdivision shall run in an east-west direction to the greatest extent possible in order to minimize future shading problems and to provide for the southerly orientation of buildings. Exception to the above requirement shall be granted if for safety or economic reasons it would be desirable for the arrangement of streets in the subdivision to provide for the continuation of principal streets in any adjoining subdivision or if topographic conditions or preservation of natural features makes an east-west street orientation difficult or undesirable, and if other design techniques like clustering are used to obtain good solar orientation of buildings.

Where the municipality has adopted an Official Map, subdivision shall be required to conform to that map. Streets shall be dedicated or reserved in the locations and widths shown on the official map as a condition of plat approval.

Where the subdivision borders on an existing street and the Comprehensive Plan or Official Map indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Commission shall require that such areas be shown and marked on the Final Plan "Reserved for Street Realignment (or Widening) Purposes."

### **322 Topography:**

Streets shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such streets.

### **323 Horizontal Alignment at Intersections:**

Intersections of streets shall be 90 degrees. Two streets intersecting the same street (T: intersections) shall be offset by at least 200 feet (centerline offset) when practicable.

### **324 Vertical Alignment at Intersections:**

The gradient within 100 feet of intersections shall not exceed 3%.

**325 Access, Cut and Embankment Slopes:**

Access shall be available for fire, ambulance, and police vehicles to within 100 feet of the principal entrances to dwellings, commercial or industrial establishments, and institutions. All slopes shall be well rounded to form a smooth transition from the shoulder edge to the existing grades.

**326 Dead-end Streets, Cul-de-sacs, and Turn-arounds:**

The maximum length of a cul-de-sac or dead-end street shall be 1200 feet. An exception to the requirements may be made for temporary dead-end streets. Dead-end streets or cul-de-sacs shall terminate in a turn-around with a radius of fifty (50) feet. Provisions shall be made for temporary turnarounds for temporary dead-end streets. The maximum grade for a cul-de-sac or a turnaround on a dead-end street shall be no more than five (5) percent.

**327 Street Standards:**

All new streets shall comply with the standards set forth in the Agency of Transportation 1997 publication entitled, "Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads, and Streets", as it may be revised from time to time.

**328 Street Names:**

Streets shall be identified by name on the preliminary plat. Proposed streets, which are obviously in alignment with other already existing and named streets shall bear the names of existing streets. In no case shall the names for proposed streets duplicate existing names irrespective of the suffix, be it road, street, avenue, boulevard, driveway, place, or court.

**329 Access Road:**

If the access road to the subdivision is a Class 4 road, the Commission may require the Applicant to improve the access road to municipal highway construction standards. If in the Municipal Five-year Highway Plan, the Class 4 road is not intended to be reclassified as Class 3, the Applicant must make arrangements for maintenance of the access road satisfactory to the Commission until such time as the legislative body may reclassify the road. The Commission may require the Applicant to improve any access road where it intersects with new streets or driveways in the subdivision to facilitate traffic circulation and pedestrian and vehicular safety.

**Section 330. Pedestrian Access**

Where necessary, in the judgment of the Commission, right-of-way for pedestrian travel and access may be required to facilitate pedestrian circulation within the subdivision and to provide access to public property. Sidewalks may be required in zoning districts where deemed necessary by the Commission.

## **Section 340. Utilities**

### **341 Easements:**

The Commission may require that underground utilities be placed either in the street right-of-way between the paved roadway and street line or placed horizontally underneath the roadway. When inclusion of utilities in the street right-of-way is impractical perpetual, unobstructed easements twenty (20) feet in width shall be provided with satisfactory access to the street.

### **342 Extension of Municipal Utilities:**

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

### **343 Connections to Municipal Utilities:**

If municipal utilities are available and utilized, the Applicant shall install laterals from all utilities to the street property line of each building lot. Any residential buildings constructed in the subdivision shall have house connections installed, and shall have such connections extended inside of the building. All such utility system installations shall be at the expense of the Applicant.

### **344 Depth of Utility Mains:**

Water and sewer mains must be laid below the depth of frost penetration of the area. Sewer lines shall be set lower than water mains, pursuant to State design standards.

### **345 Water Supply Improvements:**

1. For subdivisions that will connect to a public water supply system, the officers and agents of the public water supply system shall approve applications for extensions to the water supply system.
2. The Commission may require that a community water supply system unconnected to municipal systems be designed in such a way that it may eventually be connected to a municipal water supply system.
3. For subdivisions, which will have individual water supplies, the Applicant shall provide evidence of the location and availability of potable water in adequate quantities.
4. The following standards shall be met for those subdivisions which will have community water systems or individual water supplies:
  - a. Due consideration shall be given to the drainage patterns in the area.
  - b. Building sites and new roadways shall be located as per State regulations, far enough away from underground water concentrations, or surface areas that take in water, to prevent runoff from roads or leachate from septic systems from contaminating the water supply.
  - c. Buildings and septic systems shall be located sufficiently above flood water levels and high groundwater areas to prevent the pollution of surface water.

### **346 Sewage Disposal Improvements:**

1. For subdivisions that will connect to a municipal sewage disposal system, in the event Whiting or a neighboring town creates a system, the officers shall approve applications for extensions and agents of the municipality entrusted with the care and superintendence of a municipal sewage disposal system.
2. The Commission may require that community sewage disposal systems unconnected to municipal systems be designed in such a way that it may be connected eventually to a municipal sewage disposal system. Community sewage disposal systems shall meet the requirements of the State Wastewater Regulations.
3. Individual septic systems shall meet requirements of the State Wastewater Regulations.

### **347 Electric, Telephone, Cable T.V.:**

The Applicant shall coordinate the subdivision's design with the utility companies and submit a plan prepared with their cooperation showing all line extensions necessary to serve the subdivision. Such plan shall be integrated with a systematic program for distribution of service to the entire area around the subdivision now or in the future. Common right-of-way shall be utilized whenever possible and, when technology and terrain make it economically feasible, distribution systems should be built underground.

### **348 Fire Protection Facilities:**

Adequate water storage facilities for fire protection within the subdivision shall be provided to the satisfaction of the Commission and the Fire Chief. Where practicable, fire hydrants shall be installed by the Applicant.

## **Section 350. Drainage Improvements**

An adequate surface storm water drainage system for the entire subdivision area shall be provided. The Applicant may be required by the Commission to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivisions. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. Where it is anticipated that additional run-off incidental to the development of the subdivision will overload an existing downstream drainage facility so that there will be drainage to private property or an increase in the expenditure of public funds, the Commission shall not approve the subdivision until provision has been made for the improvement of said condition. Where a subdivision is traversed by a watercourse or drainage way, there shall be provided a storm water drainage easement of such width as to encompass the 25-year flood area of such watercourse, which easement shall be indicated on the Final Plat.

## **Section 360. Open Space and Recreation Areas**

Where a proposed park, playground, or other recreation area is shown on the Comprehensive Plan to be located in whole or in part in a proposed subdivision, the Commission shall

require that such area or areas be shown on said Plat. However, the area indicated on the Plat shall not exceed fifteen (15) percent of the total area of the Plat

### **Section 370. School Site Dedication**

Where the subdivision created by an application will accommodate a total of more than one hundred dwellings, the Commission may require the designation of necessary public school sites or a payment in lieu thereof. Prior to imposing a condition of school site dedication, the Commission shall contact the Whiting School Board. If the Board declares an interest in a site within the proposed subdivision, the Commission shall require the Applicant to set aside the site and to shown such area on the Plat. If the Commission determines that there is not interest in a school site or that a school site cannot be suitably located within the proposed subdivision, the Commission may require as a condition to the approval of such plat, payment to the municipality of an amount to be determined by the legislative body. The payment shall be used by the municipality for the requisition and development of school sites or capital improvements to school structures.

### **Section 380. Site Preservation and Improvements**

#### **381 Natural Cover:**

Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff, and conserve the natural cover and soil. After application for approval has been made to the Commission, no topsoil, sand, or gravel shall be removed from the subdivision for any other purpose than to meet construction needs for that particular subdivision or to meet any requirements of these regulations.

#### **382 Shade Trees:**

The Commission may require that suitable hardwood shade trees be planted along streets where trees do not exist. Shading by trees of the most southerly facing roof and wall of dwelling units shall be minimized to the greatest possible extent in selecting tree species and locating trees along streets. All trees shall measure at least 10 feet in height and at least two inches in diameter measured at a point six inches above finished grade level. All trees are to be planted within the street right of way, if possible and five to eight (5-8) feet from the edge of the traveled way.

#### **383 Erosion and Sediment Control:**

The smallest practical area of land should be exposed at any one time during development. Land should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required by the Commission to protect areas exposed during the development. Sediment basins shall be installed and maintained during the development to remove sediment from run-off water and from land undergoing development.

### **384 Excavation and Grading:**

The entire area of work shall be brought to the required lines and grades by excavation or filling. A minimum of four (4) inches of topsoil shall be provided to cover all finished slopes. All streets shall be graded from property line to property line to approved grade and cross section. The Commission may require the developer to submit evidence of boring and/or other soil investigation to determine the depth composition and stability of the subgrade within the road section. Materials for embankment shall be placed in successive horizontal layers not exceeding six (6) inches in depth. They shall be thoroughly compacted. The Commission may require embankments to be planted with stabilizing shrub, or ground cover and seeded with a deep root perennial grass to prevent erosion.

### **385 Subdivision Organizations and Restrictions**

When a development involves common ownership of community facilities, open spaces, or other commonly held property; the Commission will require the Applicant to demonstrate that the project complies with State statutes governing common ownership communities. The Applicant shall submit documents describing this organization, its financing and membership, which must meet the requirements of the Commission

## **ARTICLE IV: DEFINITIONS**

Certain means of references and words used herein shall be defined as listed below. Unless the content clearly indicates to the contrary, words in the singular include the plural and those in the plural include the singular. The word “person” includes a corporation, unincorporated association and partnership, as well as an individual. The word “building” includes structure and shall be construed as if followed by the phrase “or part thereof.” The word “may” is permissive; the words “shall” and “will” are mandatory. These definitions should be read in concert with and in support of all other definitions contained in any other town regulations and with the definitions contained in the Act.

ACT: Title 24, Chapter 117, the Vermont Municipal and Regional Planning and Development Act.

APPLICANT: Any person, firm, corporation, partnership, or association who shall lay out for the purpose of sale or development any subdivision or part thereof as defined herein, either for himself and/or for others.

AUTHORIZED AGENT OR REPRESENTATIVE: A person or group of persons, who have been duly authorized in writing filed with the Commission by the Applicant to act in his or her behalf.

COMMISSION: The Planning Commission of the municipality created under 24 V.S.A., Chapter 117, Subchapter 2.

COMMUNITY WATER SUPPLY SYSTEM: Any water system owned by one person that supplies water for domestic, commercial, industrial or institutional uses to two (2) or more, but less than ten (10) users.

COMMUNITY SEWAGE DISPOSAL SYSTEM: Any sewage disposal system, other than municipal sewage disposal system, owned by one person that disposes of sewage for domestic, commercial, industrial, or institutional uses to two (2) or more users.

COMPREHENSIVE DEVELOPMENT PLAN, OR PLAN: A plan adopted pursuant to 24 V.S.A., §§4384 and 4385.

CONSTRUCTION DRAWINGS: Drawings showing the location, profile grades, size and types of drains, sewers, water mains, underground fire alarm ducts, underground power and telephone ducts, pavements, cross sections of streets, miscellaneous structures, etc.

DEFERRAL OF PERMIT: An arrangement in which the applicant agrees, by means of the inclusion of a restrictive covenant in the deed for the subdivided lot, that no development requiring the installation of a wastewater disposal system will be undertaken on the lot unless the appropriate permits have been applied for and granted.

EASEMENTS: The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of this or her property.

FINAL SUBDIVISION PLAT: The final drawings on which the Applicant's plan of subdivision is presented to the Planning Commission for approval and which, if approved, may be filed for record with the Municipal Clerk.

LEGISLATIVE BODY: The Board of Selectmen.

MUNICIPALITY: Town of Whiting.

MUNICIPAL SEWAGE DISPOSAL SYSTEM: Any sewage disposal system owned and operated by the municipality that disposes of sewage for domestic, commercial, industrial, or institutional uses.

OFFICIAL MAP: The map authorized under 24 V.S.A. §4402(5) and adopted according to 24 V.S.A. §§4441 and 4442 and modified according to 24 V.S.A. §4421.

OPEN SPACE: Land not occupied by structures, buildings, streets, rights-of-way, and automobile parking lots.

PLANNED UNIT DEVELOPMENT (PUD): An area of land to be developed as a single entity for a number of dwelling units, and commercial and industrial uses, if any, the plan for which does not correspond in lot size, bulk, or type of dwelling, commercial, or industrial use, density, lot coverage, and required open space to the zoning regulations established for the district in which it is proposed to be located. A PUD can encourage new communities, innovation in design and layout, and more efficient use of land. See Section 3.32 of Whiting's Zoning Regulations and 24 V.S.A. §4417 of the Act for a more detailed description of PUDs.

PLAT: A map or representation on paper of a piece of land subdivided into lots and streets, drawn to scale.

PRELIMINARY PLAT: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Commission for its consideration.

PUBLIC WATER SYSTEM: Any water system(s) owned by one person that supplies water for public, domestic, commercial or industrial uses to Fifteen (15) connections or twenty-five (25) or more users by pipe connection or by containers.

REGIONAL PLANNING COMMISSION: Planning Commission for a region created under Subchapter 3 of the Vermont Planning and Development Act, Title 24 V.S.A. Chapter 117.

RESUBDIVISION: A change of recorded subdivision plat if such change affects any street layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any such change if it affects any map or plan legally recorded.

SKETCH PLAN: A sketch of the proposed subdivision showing information specified in ARTICLE II, Section 220 of these regulations to enable the Applicant to save time and expense in reaching general agreement with the Planning Commission as to form of the subdivision and objectives and requirements of these regulations.

SOLAR ENERGY SYSTEM: A complete design or assembly consisting of a solar energy collector, an energy storage facility, where used, and components for the distribution of transformed energy, to the extent they cannot be used jointly with a conventional energy system. Passive solar energy systems, those that use natural or architectural components to collect and store solar energy without using external mechanical power, are included in this definition.

PUBLIC STREET: Any road, highway, avenue, street, land or other way between right-of-way lines, commonly used for vehicular traffic exclusive of a driveway serving not more than two (2) single-family residential uses or lots.

SUBDIVISION: The division of a parcel of land with or without streets into two (2) or more lots, plots, or other legal division of land for transfer of ownership, building development, or sale. Subdivision includes resubdivision.

SUBDIVISION, MAJOR: Any subdivision containing four (4) or more lots. Also, any subdivision containing two (2) or more lots which do not have frontage on any existing public street or which require any new public street.

SUBDIVISION, MINOR: A subdivision containing not more than three (3) lots which have frontage on an existing public street, and which does not require any new public street, extension of public street or of other municipal facilities.

TOWN HIGHWAY, CLASS 1: Town highways designated by the Highway Board which are part of a state highway route and which carry a state highway route number.

TOWN HIGHWAY, CLASS 2: Town highways designated by the legislative body of the municipality with the approval of the Highway Board for securing trunk lines of improved highways from town to town and to places which by their nature have more than normal amounts of traffic.

TOWN HIGHWAY, CLASS 3: All other traveled town highways, other than Class I or Class 2, designated by the legislative body of the Municipality, after conference with a representative of the Highway Board.

TOWN HIGHWAY, CLASS 4: All other town highways, including trails and pent roads, other than Class I, 2, or 3 highways, designated by the legislative body of the Municipality.