

VILLAGE OF OLD BENNINGTON
SUBDIVISION REGULATIONS

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SUBDIVISION REGULATIONS
Of
THE VILLAGE OF OLD BENNINGTON

Purpose

It is the purpose of these subdivision regulations to encourage the most appropriate development of land, to secure safety against flood and other dangers, to facilitate the adequate and efficient provision for transportation, water, sewage, and other public requirements, to encourage economy in the process of land development, to encourage the use of desirable newer techniques in land development, and to regulate the approval and filing of subdivision plats, and to assure the Village of the completion of public improvements without cost to the Village, and within a reasonable period of time.

SECTION 1 – DEFINITIONS

- 1.01 **Applicant:** Shall mean the owner of record or his agent duly authorized in writing.
- 1.02 **Commission:** Shall mean the Planning Commission of the Village of Old Bennington.
- 1.03 **Preliminary Plat:** Shall mean a plat submitted to the Commission for discussion purposes only, sufficiently clear to work out detailed solutions prior to preparing the subdivision plat.
- 1.04 **Street:** A state highway, or a highway or road which is lawfully existing and maintained by the Village for vehicular travel. The word street shall include the entire right-of-way.
- 1.05 **Street, Access:** A street used primarily to give access to abutting properties.
- 1.06 **Street, Collection:** A street which, in addition to giving access to abutting properties, serves to carry traffic from access streets to thoroughfares and to public and other centers of traffic concentrations.
- 1.07 **Street, Frontage:** A marginal roadway parallel and adjacent to a thoroughfare to provide access to abutting properties.
- 1.08 **Subdivider:** The owner of record of the land to be subdivided, including any subsequent owner of record making and subdivision of such land or any part thereof.
- 1.09 **Subdivision:** The division of a parcel of land into two or more lots, or other divisions for present or future transfer of ownership. The word subdivision shall refer to the land to be subdivided or to the process of subdivision, as appropriate to the context, and shall include resubdivision.
- 1.10 **Subdivision Plat:** The final drawing or drawings on which the subdivider's plan of subdivision is indicated, prepared as required under the provisions of Section 4.02, a. through j. inclusive of these regulations, which, when approved by the Commission, may be filed with the office of the Village Clerk and the Town Clerk.
- 1.11 **Thoroughfare, Principal:** A street that serves primarily to carry large volumes of traffic between the Village and a regional or interstate expressway. A principal thoroughfare may or may not be provided with frontage streets.
- 1.12 **Thoroughfare, Secondary:** A street which serves primarily to carry large volumes of traffic between collector streets and other thoroughfares, or to and from major centers of traffic concentration, but which may also provide access to abutting properties.

SECTION 2 – GENERAL REQUIREMENTS

2.01 Compliance with Regulations

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

2.02 Character of Land for Subdivision

All land to be subdivided shall be, in the judgment of the Commission, of such a character that it can be used for building purposes without danger to public health or safety, or to the environment. Land subject to periodic flooding, poor drainage, or other hazardous conditions, shall not be subdivided. Land with inadequate capacity for sanitary sewage disposal shall not be subdivided unless connected to public sewers. Plats for the subdivision of land shall conform to all regulations of the Commission, the Zoning Bylaws, the Sanitary Code and other applicable bylaws, ordinances and regulations.

2.03 Natural Features

Due regard shall be given to the preservation and potential enhancement of existing natural features, large trees, scenic points, and other assets of community nature.

2.04 Pedestrian Walks

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

2.05 Reserved Strips

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

2.06 Lot Layout

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

2.07 Trees and Planting

All dead and diseased trees shall be removed from all streets, lots and land to be dedicated to public use. Existing trees on land that is required for public open space shall be preserved unless otherwise directed by the Commission. Trees existing on lots shall be preserved wherever feasible, and where no trees are preserved in the front yard, each lot shall have two trees, of not less than 1 ½" caliper, of a species approved by the Village Tree Warden, planted not less than 10 feet inside the street line, between the street line and the building line.

SECTION 3 – PROCEDURES, APPLICATIONS

3.01 Applications, Preliminary Plat

Prior to submitting a subdivision plat, the applicant may request a preliminary meeting with the Commission for discussion of the proposed subdivision. Application for approval of a preliminary plat shall be submitted to the Administrative Officer by the owner of record, or his agent, authorized in writing, on a form to be supplied by the Commission. A preliminary plat and information as described in Section 4.01 shall accompany the application. The application shall be accompanied by a fee for processing, payable to the Village, in an amount established by the Board of Trustees. Such application shall be submitted not less than 10 days prior to a regular meeting of the Commission. Within 45-days after such meeting, the Commission shall give conditional approval or approval with modifications, only to authorize the preparation of the subdivision plat, or shall disapprove such preliminary plat. The Commission shall state in its records any modifications which it will require in the preliminary plat, or any reasons for disapproval. A copy of this record shall be sent to the applicant. The Commission may hold a public hearing on the preliminary plat, if it deems desirable.

Conditional approval of a preliminary plat shall be valid for a period of six months from date of such approval.

3.02 Application for Subdivision Plat

Application for approval of the final subdivision plat shall be filed with the Administrative Officer by the owner of record, or by his agent, authorized in writing, within six months from the date of conditional approval of the preliminary plat. If the subdivision plat is not submitted within such period, the Commission may require the resubmission of a preliminary plat. The application shall be accompanied by a fee for processing, payable to the Village in an amount established by the Board of Trustees. The Subdivision plat and information, as described in Section 4.02 shall accompany the application. Such application shall be submitted not less than 10 days prior to a regular meeting of the Commission and the date of which meeting shall be the date of such submission, provided that all maps, statements and data required under section 4.02 shall have been received by the Commission. In the case of a subdivision containing not more than four lots, which does not require a new street for access to or the required frontage of any lots, the applicant may submit the subdivision plat without having submitted a preliminary plat.

3.03 Public Hearing

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

3.04 Action of the Commission

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

3.05 Filing with the Town Clerk

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

3.06 Official Map

After adoption of the official map of the Village, the recording of plats, which have been approved as provided herein, shall without further action modify the official map in accordance therewith.

SECTION 4 – PROCEDURE, SUBDIVISION PLAT

4.01 Preliminary Plat

The preliminary plat may be drawn in pencil, and shall be submitted in four copies. Dimensions may be approximate; the data may be tentative, but shall be sufficiently clear to illustrate all conditions and establish the basis and clarify the design requirements for the subdivision plat. Maps shall be at a scale of not more than 100 feet to the inch.

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

- a. Name of subdivision, name and address of the owner of record, subdivider and designer
- b. Boundaries and area of the entire parcel, whether or not all land therein is to be subdivided; north point, scale, date and dates of any revisions;
- c. Names of abutting property owners;
- d. Locations of buildings to remain;
- e. Existing and proposed street lines, widths of streets, proposed names of new streets, existing and proposed lot lines;
- f. Location of existing and proposed easements, building lines, parks and other open space, water mains, sanitary sewers, storm water drainage lines, drainage structures and drainage ways;
- g. Boundaries of Zoning Districts lying within the subdivision, municipal boundary, if any;

- h. A general location map at a scale of one inch equals 1500 feet, locating exactly the subdivision of intersecting streets, or other features shown on the official map;
- i. A statement of conditions of land as to suitability for residential development;
- j. A statement of the work required on existing streets to meet the minimum standards for a subdivision, including cost estimates and the method of meeting such costs;
- k. A sketch map showing future subdivisions, if any, in and adjacent to the subject subdivision;
- l. A statement and contours in sufficient detail to indicate clearly the method of storm water drainage on and off the subdivision, methods of sanitary sewage disposal and water supply;
- m. Preliminary road profiles, including cross sections.

4.02 Procedure, Subdivision Plat

The subdivision plat shall be printed on muslin-backed paper or shall be drawn in ink on tracing linen or acetate. It shall be submitted in one original and four black line prints on paper. Sheet sizes shall not exceed 34 by 44 inches. Space shall be reserved on the plat for endorsement by all appropriate agencies. The subdivision plat shall conform to the approved preliminary plat, except as specifically modified and approved by the Commission.

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

- a. Name of Village, name of subdivision, name of owner of record, subdivider, name and seal of an engineer, if any, and of land surveyor, licensed by the State of Vermont, names of abutting property owners;
- b. North point, scale, not to exceed 100 feet to the inch, date, dates of all revisions, and approved title block in lower right hand corner;
- c. Existing and proposed streets, boundary lines of the subdivision and of all lots and areas for parks, playgrounds, open space, or other purposes, with accurate distances, true bearings, angles and curve data;
- d. Easements and rights-of-way, including those for utilities, water mains, sewers and drainage, either on or off the site, accurately located;
- e. Names of proposed streets, as approved by the Commission, which names shall not duplicate or resemble the names of any existing street in the Village or Town;
- f. The areas of all lots noted thereon, lots shall be numbered consecutively;
- g. The location of all existing and proposed water mains, sanitary sewers, sewage disposal facilities serving more than one lot;
- h. Accurate location of all monuments to be set at street intersections, points of curvature and tangency of curved streets and at angles to lots;

In addition to the above, the following shall be filed with the Commission with the application, as supporting data to the subdivision plat:

- i. The subdivision plat shall show any work required for existing streets to meet the minimum standards established hereunder, together with a statement of the proposed methods of meeting the cost of such work;
- j. A general site or location map drawn to a scale of 1500 feet to the inch, indicating the relation of the proposed streets and property boundaries to at least two intersecting existing streets, and accurately locating the subdivision for the official map of the Village;
- k. Contours of such intervals as the Commission may require as necessary to indicate clearly the relation of topography to the design of the subdivision. In subdivisions where all lots are not less than 40,000 square feet in area, contour interval shall be 20 feet, except where otherwise required by the Commission. Methods of proposed disposal of sanitary and storm sewerage, and methods of supplying water;
- l. Methods of dedication of proposed easements, rights-of-way, and open spaces, which may be required by these Regulations. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Village.
- m. Road profiles, showing accurate existing and finished grades, existing and proposed cross sections, together with construction plans, including details of the drainage structures, grading of banks, and such other information as the Commission may require;
- n. If the subdivision abuts a state highway, or if a proposed street intersects a state highway, a statement from the Vermont Highway Department, approving any proposed driveway or street intersection with such state highway;
- o. If a subdivision is to be served by public water supply or by public sewers, a statement from the Municipal Department or company involved, attesting to the availability of such service.

4.03 Legal Data Required

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

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

4.04 Performance Bond

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

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

Section 5 OPEN SPACE

5.01 Open Space Shown on Village Plan

Where a proposed park, playground, or other open space is shown on the Village Plan of Development to be located in whole or in part in a proposed subdivision, the Commission shall require substantial compliance with such Plan of Development.

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

5.02 Other Open Space

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

5.03 Objectives of Open Space Design

Where land to be subdivided does not include open space shown on the Village Plan of Development, the following objectives shall be used to guide the design and locations of open space:

- a. Conservation and improvement of natural features and green areas, including areas along roads, the banks of rivers, streams and lakes, and ridge tops.

- b. Retention of fish and wildlife refuge areas, and nature observation areas; protection of the quality of water bodies.
- c. Protection of natural drainage ways and flood water retention areas.
- d. Provision, in appropriate areas of population concentration, of areas of land for active recreational use.
- e. The provision of adequate controls to assure the permanence of open space use in areas so designated, through public acquisition of easement or other suitable type of agreement.
- f. Open space plans shall be designed to take the greatest and possible advantage of all existing natural features noted above, and to make such open space easily available, if not adjacent to all of the lots in the subdivision.

5.04 School Sites

Where a development composed of one or more plats will accommodate a total of more than 100 dwelling units, the Commission may require the designation of necessary public school sites or a payment in lieu thereof, in accordance with the provisions of Section 4415(5) of Chapter 117, Title 24, V.S.A.

5.05 Access to Open Space

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

5.06 Development of Open Space

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

Section 6 STREET LAYOUT, UTILITIES

6.01 Street Design

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

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

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

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

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

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

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

6.02 Classification of Streets

The classification of Village streets shall be as designated in the Village Plan of Development, and the classification of new streets and streets not shown on such Plan shall be as determined by the Commission. The following standards of design shall apply to streets maintained by the Village:

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

The minimum gradient shall be 0.5 percent

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

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

6.03 **Street Improvements**

In rural areas streets shall be paved to a width of 24 feet, with shoulders not more than 4 feet wide. The Commission may require a greater width of paving and shoulders for Principal and Secondary Thoroughfares. In urban or village areas the Commission may require a greater width of right-of-way and paving, together with curbs and sidewalks.

All streets shall be graded to the full width of the right-of-way, as shown on the approved final subdivision plat.

In the case of subdivisions requiring construction of new streets, any existing street that provides either frontage to new lots or access to new streets shall meet the minimum standards established in Section 6.02 for such street. Where a subdivision requires undue expenditures by the Village to improve existing Village streets to conform to minimum requirements, the Commission may disapprove such subdivision until the Trustees shall certify that funds for the improvements have been assured.

6.04 **Utilities, Drainage**

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

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

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

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

Section 7 ADMINISTRATION AND ENFORCEMENT

7.01 Modification

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

7.02 Acceptance of Streets

Nothing herein is intended to modify the requirements of law with reference to the acceptance of streets by the Village. Nothing herein is intended to modify or control the construction, reconstruction, or extension of roads by the Village, Town or State.

7.03 Other Regulations

This Bylaw shall take precedence over any other regulations contained in any bylaw or ordinance of the Village, pertaining to roads or subdivisions, which are inconsistent herewith.

7.04 Enforcement

The Commission or its duly authorized representative shall enforce these regulations

7.05 Penalties

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

7.06 Appeals

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

7.07 Validity

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