

# SUBDIVISION REGULATIONS

## TABLE OF CONTENTS

(Page Numbers are not accurate in this format)

	ARTICLE I	AUTHORITY AND PURPOSE	3
3	Section 1	Title	
3	Section 2	Statement of Intent	
3	Section 3	Enactment and Authority	3
4	Section 4	Purpose	
4	Section 5	Subdivision Waivers	
	Section 6	Adoption, Amendment and Repeal of Regulations	4
6	ARTICLE II	GENERAL CONDITIONS	
	Section 1	Fees	6
	Section 2	Completion Date	6
6	Section 3	Final Subdivision Plat	
6	Section 4	Revision of Approved Plat	6
6	Section 5	Public Acceptance of Roads and Open Spaces	
7	Section 6	Compliance with Other Bylaws	
7	Section 7	Performance Bond Requirements	7
	Section 8	Legal Data	
9	ARTICLE III	ADMINISTRATION AND ENFORCEMENT	
	Section 1	Appeals, Enforcement, Penalties & Amendments	9
	Section 2	Saving Provision	9
9	Section 3	Severability	
	Section 4	Effective Date	9
	ARTICLE IV	SUBDIVISION APPLICATION PROCEDURE	10
	Section 1	General	10
	Section 2	Informational Meeting	10
	Section 3	Application Procedure	10
	Section 4	Condition of Approval	10
	ARTICLE V	SUBMISSION REQUIREMENTS	12
	Section 1	Minor Subdivision – Application	12
	Section 2	Review and Approval of Minor Subdivision	12
	Section 3	Major Subdivision – Application	13
	Section 4	Review and Approval of Preliminary Plat	14
	Section 5	Major Subdivision – Final Plat Requirements	15
	Section 6	Review and Approval of Final Plat	15

Section 7	Plat Recordings and Modifications	16
Section 8	Public Acceptance of Roads and Utilities	16
Section 9	Revocation	16
ARTICLE VI	PLANNING AND DESIGN STANDARDS	17
Section 1	General Planning Standards	17
Section 2	Roads	18
Section 3	Road Name Signs	20
Section 4	Easements and Rights-of-Way	20
Section 5	Monuments	20
Section 6	Schools	21
Section 7	Open Space	21
Section 8	Power, Telephone and Cable	21
Section 9	Watersheds, Drainage and Erosion Control	21
Section 10	Fire Protection	22
Section 11	Provision of Buffer Areas	22
Section 12	Site Preservation and Improvements	23
Section 13	Water Supply	23
Section 14	Sewage Disposal	23
Section 15	Fire Hydrants	23
Section 16	Flood Hazard Areas	24
Section 17	Agricultural Land Overlay District	24
Section 18	Historic and Special Town Features	24
Section 19	Disclosure of Subsequent Development Plans	24
ARTICLE VII	DEFINITIONS	25

#### EXPLANATORY NOTE

*These Regulations do not apply to the division of a parcel of land into two lots for single family residential use or to a division of land into more than two lots if the lots will be owned or occupied by members of the subdivider's immediate family.*

ARTICLE I. AUTHORITY AND PURPOSE

Section 1 Title

These Regulations shall be known as the Town of Westminster Subdivision Regulations.

Section 2 Statement of Intent

These Regulations are intended to establish a comprehensive planning process, to accommodate the subdivision of land in an orderly and deliberative pace without undue burden on the Town or private property owners, to support the natural as well as built environment, to promote public health and safety, and to encourage citizen participation.

Section 3 Enactment and Authority

It is hereby declared to be the policy of the Town of Westminster to consider the subdivision of land, and the subsequent development of the subdivided plat, as subject to these Regulations pursuant to the Vermont Planning and Development Act, 24 V.S.A., Chapter 117, hereinafter referred to as the "Act." This document hereinafter shall be referred to as these "Regulations," and the Westminster Planning and Development Commission shall be referred to as the "Commission."

Section 4 Purpose

These Regulations are hereby adopted for the following purposes:

- a. To establish standards for the subdivision of land in a manner which will protect and promote the public health, safety and general welfare of the Town, its property owners and its inhabitants.
- b. To insure that the subdivision of parcels conforms to and is in harmony with the policies set forth in the Westminster Town Plan. The Commission shall refer to the goals, objectives, policies, and data contained in the Westminster Town Plan in making discretionary decisions;
- c. To insure that all subdivision is compatible with the ecology, topography, geology, natural drainage, surface water runoff, groundwater resources, agricultural resources;
- d. To insure conformity and compatibility of proposed subdivisions with other applicable laws, as presently enacted or as from time to time hereinafter enacted, including but not limited to the Westminster Zoning Ordinance;
- e. To protect the character and the social and economic stability of all parts of the Town, including historic resources;
- f. To establish reasonable standards of design and procedures for subdivisions and resubdivisions, in order to further the orderly layout and use of land, and to insure proper legal descriptions and monumenting of subdivided land;
- g. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the Westminster Town Plan, and;
- h. To make these Regulations available to all Town officials, subdividers, citizens, and all other interested parties.

Section 5 Subdivision Waivers

As authorized under 24 VSA Section 4413, the Commission may waive or modify, subject to appropriate conditions, the provision of any or all improvements and requirements for a particular plat.

Where the 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, the Commission may modify these Regulations so that substantial justice may be done and the public interest secured.

Where the 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, the Commission may waive such requirements, subject to appropriate conditions.

In granting modifications, the Commission shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or modified.

No such waiver or modification may be granted if it would have the effect of nullifying the intent and purpose of the Westminster Town Plan, the Westminster Zoning ordinance or these Regulations.

Any waiver or modification that may be granted shall apply only to that particular application and may not be considered a precedent for future applications.

#### Section 6                      Adoption, Amendment and Repeal of Regulations

These regulations may be adopted, amended or repealed upon vote of the Town by Australian ballot at a regular or special town meeting in accordance with Sections 4403 and 4404 of the Act.

If a written protest against an amendment to the regulations is filed with the Selectboard at least fifteen days before the town vote is scheduled to occur and the protest is supported by a petition of five percent of the voters of the town, or the owners of forty percent of the lots or area included in the proposed amendment, or is supported by a petition of the owners of forty percent of the lots or area located outside the proposed amendment, but within two hundred feet from the outer limits of the lots included in the proposed amendment, then the subdivision amendment must pass by a two-thirds majority vote.

Subdivision regulations may be repealed using the same process as used for adoption and amendment, including Planning Commission hearing and review, Selectboard hearing and review, and vote of the town by Australian Ballot as a regular or special town meeting in accordance with Sections 4403 and 4404 of the Act.

## ARTICLE II

## GENERAL CONDITIONS

### Section 1                      Fees

Upon submission of an application for minor subdivision approval or major subdivision preliminary approval, the subdivider shall pay the application fee as established by the Selectboard.

### Section 2                      Completion Date

Each approval for a final plat shall contain a time limit within which the entire project is completed not to exceed three (3) years, unless extended by the Commission.

### Section 3                      Final Subdivision Plat

Submittal of a final subdivision plat shall be required prior to the use or occupancy of any major subdivision, and may be required by the Commission for a minor subdivision. This plat shall be drawn to scale and shall indicate by dimensions, angles, and distances the location of all utilities, structures, roadways, easements and other improvements as constructed. Final subdivision plats shall be submitted by the subdivider to the Town Clerk on a permanent recordable Mylar print(s) 18" x 24" size.

### Section 4                      Revision of Approved Plat

No changes, modifications or revisions that alter the conditions attached to a subdivision application shall be made unless the plat is first resubmitted to the Commission and the Commission approves such modifications at a public meeting.

### Section 5                      Public Acceptance of Roads and Open Spaces

Nothing in these Regulations shall be construed to constitute the acceptance by the Town of Westminster of any road, easement, utilities, park recreation area or other open space shown on the Final Subdivision Plat.

Consistent with the objectives of the Town plan, and in accordance with 10 VSA, Chapter 155, the Town may accept less than fee interest in property to protect its open, scenic or resource value. Donation of a conservation easement to a qualified non-profit organization may also serve as a means of meeting the Westminster Town Plan objectives. In either case, acceptance is conditional upon approval of written agreements between the parties.

### Section 6                      Compliance with Other Bylaws

Nothing in these Regulations shall be so construed as to supersede the conditions and criteria for permit approval set forth in other bylaws or ordinances in effect. This includes, but is not limited to conditional use criteria and planned residential development and planned unit development requirements as set forth in the Westminster Zoning Ordinance and water and sewer requirements stipulated in the Westminster Sewage Disposal Ordinance.

### Section 7                      Performance Bond Requirements

The Commission shall require from the applicant, for the benefit of the Town, a performance bond in an amount sufficient to cover the full cost of constructing any public improvements that the Commission may require in approving the project; such performance bond to be submitted prior to approval of the Final Subdivision Plat.

Security that the project shall be completed, as approved, may be required in the form of:

- a. A surety bond, issued by a surety company authorized to do business in Vermont, to be filed with the Selectboard in form and amount satisfactory to it, or
- b. A letter of credit, cash, escrow account or savings bond book properly endorsed to the Town in an amount to be determined by the Selectboard, or
- c. A performance bond from the developer or contractor.

*The performance guarantee shall not be released until the Commission has certified completion of the improvements in substantial accordance with the approved Final Subdivision Plat. The performance bond shall run for a term to be fixed by the Commission.*

The Commission may also require surety covering the maintenance of said improvements for a period of five (5) years after acceptance by the Town; said surety to be equal to not less than ten (10 %) percent of the estimated cost of those improvements.

Section 8                      Legal Data

Where applicable to a specific subdivision, the following may be required prior to approval of the Final Subdivision Plat:

- a. An agreement to convey to the Town land to be used for roads, open space and other public purpose;
- b. An agreement to maintain roads, parks, recreation areas and other improvements in the future and to waive any claims regarding the Town’s obligation to accept said improvements as Town facilities;
- c. Descriptions of easements and rights-of-way over property to remain in private ownership;
- d. Descriptions of easements to drain onto or across other property; and
- e. Other information as may be required by the specifics of the Final Subdivision Plat.

ARTICLE III                      ADMINISTRATION AND ENFORCEMENT

Section 1                      Appeals, Enforcement, Penalties and Amendments

The procedures and conditions for appeals, enforcement, penalties and amendments shall be in accordance with the provisions of the Act, Sections 4410, 4444, 4445, and 4475, as presently enacted or, as from time to time hereinafter, amended.

Section 2                      Saving Provision

These Regulations shall not be construed as abating any action now pending under pre-existing bylaws.

Section 3                      Severability

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

Section 4                      Effective Date

These regulations shall take effect immediately upon adoption by the Town by Australian ballot at a regular or special town meeting in accordance with Sections 4403 and 4404 of the Act.

## ARTICLE IV SUBDIVISION APPLICATION PROCEDURE

### Section 1 General

Whenever any subdivision of land is proposed, before construction is commenced thereon, before any contract for sale of all or any part of the land or structures involved, before any permit for the erection of any building in such proposed subdivision shall be granted, and before any subdivision plat may be filed with the Town Clerk, the subdivider of his/her authorized agent shall apply for and secure final approval from the Commission of such proposed subdivision.

Subdivision development and the resulting lots shall be of such character that they can be used safely without danger to health or peril from fire, flood, or other menace in accordance with Section 4417 (3) of the Act. Subdivision development and the resulting lots shall be in harmony with the Westminster Town Plan and shall conform to the Westminster Zoning Ordinance and these Regulations in accordance with Section 4415 of the Act. Subdivision development and the resulting lots shall conform to all applicable State and local health regulations and all applicable State and federal environmental regulations.

### Section 2 Informational Meeting

A potential applicant may request, by dated letter, a meeting with the Commission to discuss a proposed subdivision. An informational meeting may be held at the potential applicant's option. Potential applicants proposing a major subdivision are encouraged to exercise this option.

### Section 3 Application Procedure

An applicant of a minor subdivision may submit a final subdivision plat and proceed to a final hearing on such application.

An applicant of a major subdivision must submit a preliminary plat and proceed to a final hearing on such application. Only after the Commission has approved a preliminary plat, with or without modification, may an applicant submit a Final Subdivision Plat and proceed to a final hearing on such application.

Where the applicant submits a proposal for a planned unit development or planned residential development, the Commission shall simultaneously review the application under the criteria established in both these Regulations and the Westminster Zoning ordinance.

Section 4

Condition of Approval

No subdivision of the resulting lots shall be approved unless all roads or other improvements, including installation of utilities and sewage disposal systems, required by the subdivision plat have been installed according to these Regulations, or until a performance bond has been posted, as provided for in Article II, Section 7.

The Commission reserves the right to approve a final plat subject to a final inspection of certification that all roads and infrastructure improvements were constructed and installed in accordance with the standards, specifications and requirements set forth in these regulations.

ARTICLE V

SUBMISSION REQUIREMENTS

Section 1

Minor Subdivision – Application

For a minor subdivision, the Subdivision Plat shall consist of the required maps and information.

- a. A completed subdivision permit application which includes the date, the applicant's name and address, as well as the landowner's name and address if different from the applicant, the parcel number of all affected parcels, and the names of all adjacent roads, streets and property owners.
- b. A survey of the boundaries by a Vermont licensed surveyor of the subdivision parcels(s), number of acres with the proposed subdivision, water courses and other essential physical features, true north point, a survey drawn to scale of the boundaries, all existing and proposed lot lines, right-of-way lines, all buildings, walkways, driveways, parking areas, paved/graveled surfaces, and other manmade improvements.
- c. A sketch of all proposed buildings, walkways, amenities, utilities, water wells, septic systems, and other manmade improvements.
- d. In the event the subdivision grants an easement or right(s)-of-way, the applicant must provide a recordable instrument delineating the responsibility for maintenance of easement or right(s)-of-way.

The submittal shall be made in two (2) copies to the Zoning Administrator. Maps shall be at scale no greater than one hundred (100) feet per inch.

Section 2

Review and Approval of Minor Subdivisions

The Subdivision Plat must be submitted to the Zoning Administrator at least twenty (20) days prior to the date of the regular monthly meeting of the Commission in order for it to be given consideration at that meeting. This plat must satisfy the requirements of these Regulations to be considered complete, and all supporting documents must be presented in duplicate. It must be accompanied by the fee in accordance with Article II, Section 1 of these Regulations. The Zoning Administrator retains one copy, and one is presented to the Commission.

*There will be a public hearing in accordance with Section 4414 and 4447 of the Act within thirty (30) days after submission of a completed subdivision plat plus all essential supporting documents to the Commission. The subdivider or authorized representative shall attend the hearing.*

The Commission shall, within forty-five (45) days of the adjournment of the public hearing on the subdivision plat, give approval to the subdivision plat, give approval subject to stated conditions, or deny with the reasons stated therefor. The Commission's action shall be in writing, and shall specify variances, waivers, restrictions and conditions. Performance bond requirements may be included in accordance with



Article II Section 7 of these Regulations. The decision shall be prepared in triplicate; one copy give to the subdivider; one copy filed with the Zoning Administrator; and one copy retained by the Commission.

Section 3                      Major Subdivision Application

Application for Preliminary Plat

The Preliminary Plat for a major subdivision shall consist of the required maps and information. The submittal shall be made in two (2) copies to the Zoning Administrator. Maps shall be at a scale no greater than one hundred (100) feet per inch and indicate phasing of development.

The Preliminary Plat shall include all of the following. If a certain element is not applicable to the subdivision in question, the Preliminary Plat shall so state.

- a. A completed subdivision permit application which includes the date, the applicant's name and address, as well as the landowner's name and address if different from the applicant, the parcel number of all affected parcels, and the names of all adjacent roads, streets and property owners.
- b. A surveyed plan of the boundaries of the subdivision parcel(s), number of acres within the proposed subdivision, watercourses and other essential physical features, and true north point.
- c. A statement detailing the proposed subdivision's compliance with the Westminster Town Plan, the Westminster Zoning Ordinance, including reference to any zoning variances, and other bylaws in effect.
- d. A complete survey of the boundaries of the subdivision parcel by a Vermont licensed surveyor.
- e. Description of proposed water supply system(s). If source is an existing community water supply system, evidence of the right to use such system and the adequacy of such a system to meet water supply requirements shall be shown. All design criteria shall be in accordance with applicable State and local health regulations.
- f. Description of proposed sewage disposal system(s). If on site sewage disposal is proposed, then a registered professional engineer's or certified site technician's report and plans prepared in conformance with Vermont State and local health regulations shall be submitted. If a community sewage disposal system is to be used, demonstrate the institutional arrangements are in place addressing the legal relationships of parties responsible for the continued operation of a shared system and a financial mechanism to assure continued operation and maintenance/replacement in the event of failure.
- g. Preliminary grading plans showing areas of cut and fill and revised contours at a contour interval not greater than five (5) feet.
- h. Storm water drainage plan, drawn at a contour interval not greater than five (5) feet, shall indicate the methods of collecting and discharging of drainage, as well as methods for temporary and permanent erosion control.
- i. All existing and proposed right-of-way lines, widths of roads, typical road profiles, dimensions of all lot lines and size of all lots, locations of all buildings, walkways, amenities, utilities and other manmade improvements.
- j. Calculation of stopping sight distances for new road or driveway intersections with Town or State highways.
- k. Typical landscaping plans showing plant types and size, ground cover, lighting and signage.

- l. All land proposed to be dedicated to open or public uses or to be reserved for screening and buffer purposes, and the methods for assuring and maintaining such dedication or reservation.
- m. Description of any proposed covenants, and/or deed restrictions which are intended to cover all or part of the subdivision.
- n. Description of the homeowner's association or other form of management organization, if such is proposed.
- o. In the event the subdivision grants an easement or right(s)-of-way, the applicant must provide a recordable instrument delineating the responsibility for maintenance of easement or right(s)-of-way.

#### Section 4                      Review and Approval of Preliminary Plat

##### Approval of Preliminary Plat

Within forty-five (45) days after submission of a completed package of preliminary plat information required by the Commission, the Commission shall commence a preliminary public hearing; said hearing to be publicly warned at least fifteen (15) days in advance of the hearing date. The subdivider, or duly authorized representative, shall attend the meeting of the Commission. Within forty-five (45) days of the date of adjournment of the hearing, the Commission shall, in a written decision, approve, with or without modification or conditions, or disapprove said preliminary plat. Any conditions of the approval or grounds for disapproval shall be set forth in a written notice of decision.

##### Validity of Preliminary Plat Approval

Approval of the Preliminary Plat shall not constitute approval of the subdivision. Prior to approval of the final subdivision plat, the Commission may require additional changes, as a result of further study.

*Subsequent to the approval of the Preliminary Plat, the applicant shall submit the approved plat to the, Fire Chief, Road Commissioner, and Health Officer. Upon receipt of evidence of approval of the Preliminary Plat by each of the above, the applicant may apply to the Commission for Final Plat approval.*

The approval of a Preliminary Plat shall be effective for a period of six (6) months from the date of the written notice of approval by the Commission. The Commission may extend this period upon request.

#### Section 5                      Major Subdivision – Final Plat Requirements

Upon receiving approval from other entities with jurisdiction, the subdivider shall submit an application for approval.

The final shall conform to the layout shown on the Preliminary Plat plus any recommendations made by the Commission and must satisfy the requirements of these Regulations, including but not limited to:

- a. proof of conformity with local Septic and Solid Waste Disposal regulations;
- b. proof of conformity with the Westminster Town Plan and Zoning regulations;
- c. offers of cession, if necessary, of streets, rights-of-way, public areas, and easements;
- d. required performance bonds;
- e. certified deed description; and

- f. additional legal assurances and information previously stipulated by the Commission.

The Final Application shall include a written project description including the following information:

- a. All information required for the Preliminary Plat shall be submitted in final form, including any revision or additional detail requested by the Commission.
- b. In the event of granting of easements to the municipality, a written recordable instrument of the subdividers (or his heirs or assigns) responsibility for maintenance of easement areas until such land has been legally accepted by the Town.
- c. Written evidence of approval by all local, regional, State and Federal agencies having jurisdiction over the project, including final approvals for any water supply and sewage disposal systems, and certification of the expiration of all appeal periods.

#### Section 6                      Review and Approval of Final Plat

The Final Subdivision Plat must be submitted to the Zoning Administrator at least twenty (20) days prior to the date of the regular monthly meeting of the Commission in order for it to be given consideration at that meeting. This plat must satisfy the requirements of these Regulations to be considered complete, and all supporting documents must be presented in duplicate. It must be accompanied by the fee in accordance with Article II, Section 1 of these Regulations. The Zoning Administrator retains one copy, and one is presented to the Commission.

There will be a public hearing in accordance with Section 4414 and 4447 of the Act within thirty (30) days after submission of a completed final subdivision plat plus all essential supporting documents to the Commission. The subdivider or authorized representative shall attend the hearing.

The Commission shall, within forty-five (45) days of the adjournment of the public hearing on the final subdivision plat, give approval to the final subdivision plat, give approval subject to stated conditions, or deny with the reasons stated therefor. The Commission's action shall be in writing, and shall specify variances, waivers, restrictions and conditions. Performance bond requirements may be included in accordance with Article II Section 7 of these Regulations. The decision shall be prepared in triplicate; one copy give to the subdivider; one copy filed with the Zoning Administrator; and one copy retained by the Commission.

#### Section 7                      Plat Recordings and Modifications

All subdivisions must be recorded by the subdivider in the office of the Town Clerk within ninety (90) days of the date of the Final Subdivision Plat approval. One copy of the approved Final Subdivision Plat shall be filed with Town Clerk on a permanent recordable print(s) of 18" x 24" size. Failure to so timely record shall result in an expiration of the approval.

No changes, erasures, modifications, or revisions shall be made in any subdivision plat after the Commission has given approval, unless the plat is first resubmitted to the Commission and the Commission approves any modifications in writing.

#### Section 8                      Public Acceptance of Roads and Utilities

Approval of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement or utilities shown on such subdivision plat. The Commission may require the filing of a written agreement between the applicant and the Selectboard covering future deed and title,

dedication, and provision for the cost of grading, development, equipment, and maintenance of any such improvements.

Section 9

Revocation

The Commission may, after a hearing, revoke subdivision approval if it finds that the applicant or applicant's representative willfully or with gross negligence submitted inaccurate, erroneous, or materially incomplete information in connection with the permit application, and that accurate and complete information may have caused the Commission to deny the application or require additional or different conditions.

ARTICLE VI

PLANNING AND DESIGN STANDARDS

Section 1

General Planning Standards

The Commission shall authorize the creation of lots, and the siting of structures and improvements on those lots in accordance with the Westminster Town Plan and Zoning Ordinance. The Commission shall consider and apply the Town's special features, landscape patterns, natural resources and the relationship of land use and road access in rendering its decisions.

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 the intended purposes without danger to public health or safety, to the environment or to critical resources, as identified in the Town Plan. Land designated as flood hazard areas or characterized by poor drainage or steep slopes, or subject to other hazardous conditions shall not ordinarily be subdivided.

Lot Layout/Siting

The layout of lots and the siting of structures shall conform to the requirements of these Regulations and the Westminster Zoning Ordinance. Consideration in lot layout and siting shall be given to topographic and soil conditions and compatibility with existing scenic conditions.

## Preservation of Existing Features

Due regard shall be given to the preservation and protection of existing features such as, but not limited to, trees, scenic points and roads, brooks, streams, rock outcroppings, water bodies, forest resources, other natural resources, wildlife habitat, historic resources, cultural resources, and prime agricultural soils. Specifically, the following areas shall be treated as follows:

- a. Wetlands: Wetlands, as identified and defined by the State of Vermont, shall not be drained, filled or altered to accommodate subdivision. Proposals for the subdivision of a lot involving or adjacent to an identified wetland shall provide for adequate setbacks of roads, buildings, structures and sewage systems from the wetland. Setbacks in excess of those as specified by the Westminster Zoning Ordinance may be established by the Commission to protect the following wetland values:
  1. water quality control;
  2. groundwater supply;
  3. flood and erosion control;
  4. flora and fauna; and
  5. education and recreation.

- b. Deeryard: Subdivision immediately adjacent to a deeryard identified and mapped by the State of Vermont shall be designed, sited and undertaken in a manner compatible with the continued viability of the deeryard. Applicants submitting proposals for subdivision of a lot involving or adjacent to an identified deeryard shall include a consultation with and or approval by representatives of the Vermont Department of Fish and Wildlife and shall provide evidence of such to the Commission.

Where subdivision takes place within a deeryard or includes part or all of a deeryard in the land base for the subdivision or the determination of its density, the remainder of the deeryard owned by the applicant shall be managed in a manner compatible with the continued viability of the deeryard. This may include the preparation and implementation of a forest management plan approved by the Vermont Department of Fish and Wildlife.

- c. Aquifer Recharge Areas: Applicants submitting a subdivision proposal in an Aquifer Recharge Area shall present evidence from the Vermont Department of Water Resources that the proposal will not result in the pollution of ground or surface waters or an unreasonable reduction of the supply of groundwater. The Commission shall consider such factors as the amount and type of wastes to be generated by the proposed use and the adequacy of design for the proposed disposal system and the capability of the land and water to sustain such use without degradation. In considering an application, the commission may consult with the Vermont department of Water Resources for assistance or require certification by a registered professional engineer that the project will not result in degradation.
- d. Scenic Roads: Subdivision proposals adjacent to those Town or State road officially designated as scenic highways or highways generally accepted as exhibiting exceptional scenic character or values shall be reviewed by the commission to ensure that the siting of any proposed structure and any site alterations, including grading, filling, removal of trees, stone walls or other existing landscape features are consistent with the scenic quality of the road, roadside and area and to minimize an interference with views or vistas afforded from the scenic road. To accomplish this purpose, the Commission may guide the location of structure(s) by varying setbacks, height and other requirements of the district and may restrict or require landscaping or screening measures.
- e. Energy Conservation: Energy efficient site planning and layout shall be encouraged in the review of a proposed subdivision.

Section 2

Roads

Every road shall be deemed to be a private road until such time as it has been formally accepted by the Selectboard, in accordance with Section 4421 of the Act and Westminster Road Specifications. In order for a road to be accepted by the Town a subdivider must prepare and submit to the Selectboard a warranty deed for a fifty- (50) foot wide right-of-way, including the necessary slope and drainage rights. Submission of said warranty deed does not commit the Selectboard to accepting the road.

Layout

All roadways and intersections shall be designed to insure the safe and efficient movement of vehicles, including but not exclusive to, all emergency vehicles, maintenance, and snow removal in accordance with Section 4417 of the Act and Westminster Road Specifications. Roads shall be logically related to the topography so as to produce usable lots and reasonable road grades. Wherever extensions of proposed roads could rationally provide access to adjacent properties or connection to existing public State or Town highways, a right-of-way across the subdivider's property may be required.

In the event the subdivision grants an easement or right(s)-of-way, the applicant must provide a recordable instrument delineating the responsibility for maintenance of easement or right(s)-of-way.

Traffic Management

If, in the judgment of the Commission or Selectboard, a proposed subdivision presents the potential for significant traffic impact on Town or State roads, village centers, historic areas, or other significant features, a traffic impact study may be required. The purpose of such a study shall be to identify the traffic impact potential of a proposed subdivision and to identify necessary and appropriate mitigating measures. Such studies shall be funded by the applicant and shall be prepared by a qualified, licensed professional engineer or transportation planner. Such studies shall include:

- a. A description of the general location of the project;
- b. A statement of existing traffic conditions and projected traffic conditions on all impacted roadway(s) for ten (10) years;
- c. A statement comparing the operating Level of Service (LOS) of the impacted roadway(s) and/or intersection(s) at the opening date of the project and for ten (10) years; and
- d. A statement of recommendations outlining any adverse traffic impact of a proposed project and the necessary improvements to mitigate negative impacts.

Based upon a review of the study, the Commission shall set appropriate conditions to avoid or mitigate any traffic congestion or safety problems associated with the proposed subdivision.

Location and Design of Intersections

Proposed intersections with existing roadways shall be as close to ninety (90) degrees as possible. Approaches to intersections with existing roads shall be at a maximum grade of three (3) percent for a distance of fifty (50) feet from the edge of the travel lane. In its considerations, the Commission shall consider the following standards of the American Association of State Highway Officials:

Minimum Stopping Sight Distance

Design Speed of Roadway Section <u>(mph)</u>	Stopping Sight Distance <u>(feet)</u>
---	--

40  
50

180  
220

The Commission may recommend special intersection design or use.

Intersections with Town highways require a town access permit. Intersections with State highways require a State access permit. Approval of a subdivision permit shall not be construed as approval to access a town or State highway.

#### Design Standards for Town Roads

All roads proposed for acceptance by the Town shall comply with the Westminster Road Specifications and any revisions made thereto, as adopted by the Selectboard. Road improvements shall be installed at the expense of the subdivider.

Any exceptions to the above standards shall be granted by written approval of the Selectboard and a copy shall be filed with the Town Clerk.

#### Road Maintenance

The subdivider shall supply evidence and assurance that said roads will be adequately maintained. Each such lot deed shall contain the provision that in accepting the conveyance, the purchaser accepts the obligation of his proportionate share of the expenses of maintaining said park or other recreation area until such time that the Town accepts said road(s).

#### Section 3                      Road Name Signs

All roads shall be signed subject to the policies of the Town of Westminster.

Road name signs shall be furnished and installed by the subdivider. The type, size and location shall be by the approval of the Road Commissioner.

#### Section 4                      Easements and Rights-of-Way

The Commission may require appropriate easements and rights-of-way for utilities and drainage facilities and for pedestrian access to schools, open space, parks, streets, and other public facilities.

The Commission's approval of any Applicant's right-of-way or easement in no way implies that the Town of Westminster is responsible or liable for any property or personal damage caused by a lack of maintenance or upgrading of same.

Section 5

Monuments

The Commission may require permanent monuments to be set at all corners and angle points of subdivision boundaries and at all road intersections and point of curve in accordance with Section 4417(4) of the Act.

Monuments shall be of stone or concrete with a one-inch or greater diameter metal pipe at least two feet long set in the center and located in the ground at final grade level.

The location of each monument shall be shown on the final plat.

Section 6

Schools

The subdivider shall indicate in his final application the impact of the major subdivision on Westminster schools.

Section 7

Open Space

When a subdivision development will accommodate more than fifteen (15) dwellings, the Commission may at its discretion require that the subdivider set aside an area not to exceed ten (10) percent of the total area being subdivided as a park or other recreation area, in accordance with Section 4417(5) of the Act. Each conveyance in such subdivisions shall include an undivided interest in said park or other recreation area vested in the purchaser of the lot sold. Each such lot deed shall contain the provision that in accepting the conveyance, the purchaser accepts the obligation of his proportionate share of the expenses of maintaining said park or other recreation area.

Section 8

Power, Telephone and Cable

Poles, power lines and cable installations are to be approved by the local power company and the Town.

The Commission may require the underground installation of power, telephone lines and cable installations where ever it is necessary to maintain and protect the character of a highly sensitive area. A diagram showing location of utility lines shall be submitted with the final site plat.

Section 9

Watersheds, Drainage and Erosion Control

When a drainage system is proposed, the subdivider shall ensure that it is designed and installed in conformance with State health and environmental regulations.

The Commission may require such temporary and permanent drainage and erosion control techniques as may be necessary to control surface runoff. Factors to be considered in determining the types of controls necessary shall include, but not be limited to, vegetation and ground cover, slopes, soil types, percentage of land covered by impermeable surfaces, distances to streams and impact on adjacent properties.

The Commission may require the phasing of construction to reduce the amount of land disturbed by construction at any one time and may stipulate deadlines for the installation of erosion control or soil stabilization measures.

For the purposes of calculating the amount of surface runoff, a minimum of twenty-five (25) year storm precipitation factor shall be used.

The Commission may require that the applicant provide a determination of the effect of the subdivision on the existing watershed outside of the area of the subdivision by a qualified hydrogeologist or hydrologist. Where the Commission anticipates a change in the runoff



resulting from the subdivision, it may require the subdivider to modify the proposal to protect existing watersheds.

Section 10                      Fire Protection

The Commission may require the provision of facilities necessary for adequate fire protection. Such facilities shall be designed in consultation with the Chief of the Westminster Volunteer Fire Department.

Section 11                      Provision of Buffer Area

Compliance with the following standards shall be considered to be the minimum landscaping necessary.

- a.        Where any non-residential land use abuts a residential land use, a strip of land, at least twenty-five (25) feet in width shall be maintained as a landscaped area or natural wooded area in the front yard, side yards and rear yard, unless waived or amended by the Commission.
- b.        Commercial and industrial uses shall provide for a strip of land at least twenty-five (25) feet in width that shall be maintained as a landscaped area or a natural wooded area in the front, side and rear yards, unless waived or amended by the Commission. Parking facilities may not be located within this landscaped buffer area.
- c.        Where required by the Commission, additional landscaping shall be installed to minimize the impact on adjoining residential properties and roadways.
- d.        In any Planned Residential/Planned Unit Development, landscaping shall be installed as required by the Commission.

The Commission may require greater setbacks from property boundaries or changes in use in order to create buffer zones. Conditions for requiring buffer areas may include, but not be limited to, lack of dense vegetation, proximity to scenic highways, streams or waterways, heightened visibility due to differences in elevation, concentration of uses on the site, and incompatibility of adjacent uses or other aesthetic considerations. The Commission may require that the subdivider coordinate buffer zones on his parcel with buffer areas on adjoining parcels in order to provide a continuous system of greenbelts.

Section 12                      Site Preservation and Improvements

Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, to retain, insofar as possible, the natural contours, limit stormwater runoff and conserve the natural cover and soil.

Topsoil removed in the process of grading the subdivision site shall be replaced, except in proposed roads, driveways, parking lots, and building locations.

Landscaping

The Commission may require properly planned and installed landscaping to reduce the potential for conflicts between different adjoining land uses; it can also help to reduce noise, glare and can provide privacy separation. The Commission may require that suitable landscaping be established in areas where it does not exist. The Commission shall determine the minimum acceptable size of trees.

Excavation and Grading

The Commission may require a program of soil stabilization and the establishment of appropriate, permanent vegetative cover following excavation or grading. The Commission may also require embankments to be planted with a stabilizing shrub or ground cover to prevent erosion.

Section 13                      Water Supply

A water supply shall be provided for each residential, commercial and industrial unit at the expense of the subdivider, designed and installed to conform to State and Town health regulations.

Section 14                      Sewage Disposal

Either individual septic systems or a public sewage disposal system shall be provided to service each residential, commercial and industrial unit at the expense of the subdivider, designed and installed to conform with State health regulations and the Westminster Sewage Disposal Ordinance.

Section 15                      Fire Hydrants

When fire hydrants are installed, the subdivider shall install them at the expense of the subdivider, designed and installed to conform to Vermont fire Insurance Rating Organization specifications

Section 16                      Flood Hazard Areas

Development of any kind in flood hazard areas, as defined by the current National Flood Insurance Maps, must conform to the Flood Insurance Study for the Town of Westminster as designated by flood maps supplied by the Federal Emergency Management Agency (FEMA).

Section 17                      Agricultural Land Overlay District

Subdivisions within the agricultural land overlay district shall conform to the requirements of the Westminster Zoning Ordinance.

Section 18                      Historic and Special Town Features

The subdivider shall plan the subdivision to be in harmony with the natural, scenic, archeological, and historical assets of the Town. The Commission may impose special restrictions to insure that this provision be met.

Section 19                      Disclosure of Subsequent Development Plans

Whenever a subdivider submits a proposal for development on only a portion of a contiguous parcel, the Commission may require a general indication of the intended uses of the remaining portion of land. Such an indication should include access, type of use, intensity of use, and phasing.

## ARTICLE VII

## DEFINITIONS

Words and phrases contained herein shall have the following interpretations for the purpose of these Regulations. Other words and phrases contained herein and not defined below shall be interpreted according to the definitions provided in the Act and the Town of Westminster's Town Plan and Zoning Ordinance.

*Act:* The Vermont Municipal and Regional Planning Development Act, 24 V.S.A., Chapter 117.

*Applicant:* The owner of land proposed to be subdivided or his/her representative. Any party with a legal interest in the property may apply in cooperation with the owner of the property.

*Approval:* The form of approval shall be a written resolution prepared by the Commission and attached to the subdivision application, or in the event that the Commission should fail to act with the forty-five (45) day time limit specified in Article IV, Section 3 of these Regulations, certification of such failure to act by the Town Clerk, and recording of the approved application and subdivision plat with the Town Clerk, in accordance with the conditions set forth in Article IV, Section 3 of these Regulations.

*Aquifer:* A consolidated or unconsolidated geologic formation or series of formations that are hydraulically interconnected and that have the ability to receive store or transmit water.

*Authorized Agent or Representative:* A person or group of persons, who have been duly authorized, in writing filed with the Commission, by the subdivider to act in his or her behalf.

*Bond:* Any form of security including a cash deposit, surety bond or instrument of credit in an amount and form satisfactory to the Commission.

*Buffer:* Any space between adjoining uses intended and designed to reduce the impact of one use upon the other including open space, woodland, landscaped areas and other types of visual and sound barriers.

*Commercial Use:* The provision of facilities, goods or services by a person to others in exchange for payment of a purchase price, fee, contribution, donation or other object have value.

*Commission:* The Westminster Planning and Development Commission of the municipality of Westminster created under 24 VSA chapter 117, subchapter 2.

*Community Sewage Disposal System:* Any sewage disposal system, other than a municipal sewage disposal system, owned by the same person, that disposes of sewage created by two or more residential, commercial, industrial, or institutional sources.

*Community Water System:* Any water system owned by a single entity and which supplies water for residential, commercial, industrial, or institutional uses to two or more customers or users.

*Construction:* The undertaking of the first improvement on a tract of land, including work preparatory to construction such as clearing, the staking out or use of a right-of-way or in anyway incidental to the altering of land according to a plan or intention to improve or to divide land by sale, lease, partition or otherwise transfer an interest in the land. Activities which are principally for the preparation of plans and specifications that may be required and necessary for making application for a permit such as test wells and pits, percolation tests and line of sight clearing for surveys are not commencement of construction.

*Creation of Two Lots from One Lot:* The division of a lot into two lots for single family residential use. For the purposes of these regulations the creation of two lots from one lot is not considered subdivision, but such action is subject to site plan review as per the Westminster Zoning Ordinance.

*Cul de Sac:* A road intersecting another road at one end and terminated at the other end by some form of vehicular turnaround.

*Dedication:* The formal acceptance by the Town of Westminster of title to streets, easements, or land to be used for public purpose.

*Development:* The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. For the purposes of these regulations, subdivision of land is considered development.

*Driveway/Private Road:* Every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.

*Easement:* The authorization by a property owner of any designated part of his/her property for the use by another for a specified purpose.

*Easement, Conservation:* An easement intended to protect, preserve and conserve a natural feature, which shall prohibit the construction of any buildings or structures within the easement and shall prohibit the removal of all vegetation, except that which is necessary for protecting the public health and safety and/or according to any approved forest management plan, where required.

*Easement, Utility:* An easement provided for entities and companies providing sanitary sewer, water, storm water, gas, electric, telecommunication, cable television and other public utility services.

*Engineer:* Duly designated consulting engineer, or the engineer employed by or assigned to the Commission.

*Final Subdivision Plat:* The final drawings on which the subdivider's plan of subdivision is presented to the Commission for approval and which, if approved, may be filed for record with the Town Clerk.

*Flood Hazard Area:* Those lands subject to flooding from the one hundred (100) year flood, as defined in the existing or subsequently revised "Flood Insurance Study for the Town of Westminster, Vermont," and the: Flood Insurance Rate Map" (FIRM), published by the federal Emergency Management Agency (FEMA), and available at the Town Clerk's office.

*Improvement:* Street pavements or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, drains, street lights, flood control and drainage facilities, utility lines, landscaping, parks and other related matters normally associated with the development of undeveloped land into building sites.

*Level of Service:* The operating conditions that a driver will experience while traveling on a particular street or highway, including frequency of stops, operating speed, travel time, traffic density.

*Lot:* A portion of land in a subdivision or plat that is separated from other portions of land by a property line, except that an undersized lot which is contiguous with a lot under the same ownership shall be considered to be merged with the contiguous lot for regulatory purposes.

*Lot Area:* The total surveyed land area within the boundaries of a lot, exclusive of any land area designated for a public road as measured to the boundary of such right-of-way or easement.

*Lot Improvement:* Any building, structure, place or other object or improvement of the land on which they are situated which constitutes a physical betterment of real property or any part of such betterment.

*Major Subdivision:* Any residential subdivision containing four or more lots, or requiring any new road in excess of eight hundred (800) feet in length, or any commercial, industrial or commercial recreational project, multifamily housing project, planned residential development (PRD) or planned unit development (PUD), or a series of minor subdivisions of a tract of land occurring over a period of five years creating four or more lots, that meets the definition of a subdivision.

*Minor Subdivision:* any residential subdivision containing more than two and less than four lots, and which does not include any of the following: any new road in excess of eight hundred (800) feet in length, any multifamily housing project, planned residential development, or a series of minor subdivisions of a tract of land occurring over a period of five years creating four or more lots.

*Monument:* A permanent marker to indicate a boundary point or other point for measurement purposes.

*Open Space:* Land not occupied by structures, buildings, roads, rights-of-way, recreational facilities and parking lots.

*Owner:* Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in land sought to be subdivided under these Regulations.

*Parcel:* Any contiguous land owned or controlled by a person(s). Tracts or lots of land owned by a person(s) which have in common one or more points on any boundary or which are divided only by easement or interest consisting of less than fee simple ownership shall be deemed to be contiguous land for purposes of these Regulations except that:

1. Tracts or lots of land which are divided by state or municipal highway rights-of-way or surface waters with a drainage area greater than ten (10) square miles shall not be deemed contiguous;
2. Tracts or lots of land which are acquired by their owners with the same boundaries as they are to be conveyed shall not be deemed contiguous to any other parcel owned by that person; and
3. A subdivision which is created by State or municipal condemnation for highway or utility construction shall not require a permit.

*Person:* any individual, partnership, corporation, association, unincorporated organization, trust or other legal or commercial entity, including a joint venture or affiliated ownership which owns or controls the tract or tracts land to be developed. The word "person" also means any municipality or State agency.

*Planned Residential Development (PRD):* An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the plan for which does not correspond in lot size, bulk or type of dwelling, lot coverage and required open space to the regulations established in any one or more districts created by the Westminster Zoning Ordinance.

*Planned Unit Development (PUD):* An area of contiguous land, controlled by a landowner or owners, to be developed as a single entity for a number of dwelling units in two or more structures and/or commercial or industrial uses, if any, the plan for which does not correspond in lot size, lot coverage and required open space to the regulations established in any one or more districts created by the Westminster Zoning Ordinance. (See 24 VSA, Section 4407(12).)

*Plat:* A map or representation on paper or Mylar of a piece of land subdivided into lots and roads, drawn to scale.

*Preliminary Plat:* The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Commission for its consideration.

*Public:* Open to common use, whether or not under public ownership.

*Public Improvement:* Any improvement which shall be owned or maintained by the Town of Westminster, the Town School District, the Town Fire District, the Village of North Westminster or the Village of Westminster.

*Resubdivision:* A change of recorded subdivision plat of such change affects any road 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.

*Road:* A highway, street or other way which exists for vehicular travel, exclusive of a driveway serving no more than one single family residential use or lot. The word "road" shall mean the entire right-of-way.

*Road, Private:* A private way intended for vehicular traffic that is not dedicated to the public.

*Road, Public:* A public way, typically bounded between property lines, intended for vehicular traffic, dedicated to the public and improved to public standards.

*Structure:* An assembly of materials for occupancy or use, including but not limited to a building, mobile home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm.

*Subdivider:* Any person who shall lay out for the purpose of transfer of ownership or right to use any subdivision or part thereof. The term shall include an applicant for subdivision approval.

*Subdivision:* The division of a lot, tract, or parcel of land into two or more lots, tracts or parcels or other divisions of land. For the purposes of this regulation, see definitions of major and minor subdivisions and the creation of two lots from one lot.

*Town Plan:* A plan adopted pursuant to 24 VSA, Section 4384 and 4385.

*Utilities, private:* This term shall include telephone, cable, television, electric light and power, and gas lines, wind and solar power systems, water and sewage systems not owned or operated by the Town, whether installed on, above, or beneath the surface of the ground located entirely within the lot being serviced.

*Waiver of Development Rights:* Any easement, restrictions, covenants or condition attached to a deed and running with the land, wherein the right to certain types of development of a parcel or parcels is waived.

*Walkway:* A passage designed for use by pedestrians.

*Watershed:* The land areas from which water drains to a given point; the drainage basin in which the subdivision is located or that land whose drainage is affected by the subdivision.

*Wetland:* Those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated hydric soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.