

**SUBDIVISION REGULATIONS**  
**FOR THE**  
**TOWN OF HYDE PARK,**  
**LAMOILLE COUNTY, VERMONT**

**HISTORY OF THE SUBDIVISION REGULATIONS**  
**FOR THE**  
**TOWN OF HYDE PARK**

ADOPTED  
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Town of Hyde Park Planning Commission

WITH TECHNICAL ASSISTANCE PROVIDED BY:  
Lamoille County Planning Commission

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## **Section I. General Provisions**

### **A. Enactment**

These regulations, set forth in this text, are hereby established as authorized in §4402(3) and have been enacted in accordance with the provisions of the Vermont Municipal and Regional Planning and Development Act (Title 24, Chapter 117 of the Vermont Statutes Annotated (V.S.A.)) hereinafter referred to as “the Act.”

### **B. Applicability**

Unless specifically exempted herein, no subdivision of land shall commence within the area affected by these regulations except in conformance with these regulations [§4446].

Subdivision defined. Subdivision includes but is not limited to:

1. The division of a parcel into two or more parcels.
2. Resubdivisions, amendments to subdivisions, amendments to conditions of plat approval, and boundary line adjustments.
3. Creation of easements or rights of way to allow access to landlocked parcels [§4418(1)(B)].
4. Creation of common interest ownership communities where parcels within the community are subdivided.

Exemptions. The following are not defined as subdivisions with regard to these regulations:

1. The filing of boundary surveys and/or corrective deeds to repair boundary metes and bounds or to correct technical errors are not considered amendments or boundary line adjustments within the meaning of these regulations provided they are records of existing parcels with known boundaries.
2. The receipt of new or amended permits associated with an approved subdivision provided the new or amended permits do not violate any prior conditions of approval. Such permits may include State Water and Wastewater permits, local or state access permits, and other related permits.
3. The development of shared infrastructure between already subdivided parcels provided the shared infrastructure does not violate any prior condition of approval. Such development may include shared wastewater disposal sites, stormwater treatment sites, or shared driveways (except as provided for in section 1.02(A)(1)(c)).

4. The merging of two parcels into one parcel.

Parcel defined. A parcel is any contiguous piece of land in single ownership, and not divided by a public or private highway, with defined boundaries created by an act of subdivision.

1. After the effective date of these regulations, an act of subdivision occurs through the procedures and standards established herein. An act of subdivision occurring prior to the effective date of these regulations shall be deemed to have occurred through the conveyance of the first parcel or the filing of a plat, plan, or deed in the town records [§1-201(a)(60) of the *Wastewater System and Potable Water Supply Rules*]. Any parcel with a valid Wastewater System and Potable Water Supply Permit (W&W Permit) issued by Department of Environmental Conservation (DEC) and recorded in the Hyde Park Land Records prior to the effective date of these regulations shall be considered to be a separate parcel. Any parcel which cannot establish existence by one of these standards is not considered subdivided for these regulations.
2. Multiple parcels described on a single deed shall remain separate parcels provided they are described as having separate and distinct boundaries and that any subsequent deed or survey describing the parcels does not eliminate the separate and distinct boundaries.

Area of effect. All subdivision of land within the Town of Hyde Park is subject to review under these regulations except subdivision of land within the Village of Hyde Park, which is not subject to review under these regulations.

### **C. Effect of Regulations.**

No person, who, being the owner or agent of the owner of any parcel of land, shall lay out, construct, open or dedicate any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or sell, transfer, or agree or enter into an agreement to sell any land in a subdivision or land development whether by reference to or by other use of a plat of that subdivision or land development or otherwise, or erect any structure on that land, unless a final plat has been approved and recorded as provided in these regulations. [§4451(b)]

All subdivisions lawfully in effect as of the effective date of these bylaws are allowed to continue indefinitely. Any resubdivision or other changes in the subdivision shall be subject to all applicable requirements of these bylaws.

These regulations shall not repeal, abrogate, or impair any other land use controls including but not limited to previous permit conditions, statutes, bylaws, rules, ordinances, permits, easements, deed restrictions, and covenants. However, the provisions of this regulation shall be

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minimum requirements and shall therefore take precedence over any concurrent and less restrictive controls. [§4413(c)]

The granting of plat approval under these regulations shall not relieve the applicant from the obligation of obtaining any necessary approvals by local, state, or federal law.

#### **D. Intent**

It is the intent of these regulations:

1. To ensure that any new lots created will have legal access, meet dimension and frontage requirements, have access to required services and utilities, and have a permissible use. In addition, the regulations are intended to ensure any new roads are designed and laid out appropriately and that meadowland and agricultural land are protected.
2. To implement the Town of Hyde Park Municipal Development Plan so as to achieve orderly community growth, development, and fair property taxation;
3. To further the purposes of the Act [§4302].

#### **E. Effective Date**

These regulations shall be effective twenty-one (21) days after adoption (by majority vote of the Selectboard) and shall remain in effect until repealed or amended in accordance with the Act [§4442(c)(1)].

A vote on regulations or an amendment shall not take effect if five percent of the voters of the Town of Hyde Park petition for a meeting of the municipality to consider the regulation or amendment, and the petition is filed within twenty (20) days of the vote. In this case a meeting of the municipality shall be duly warned for the purpose of acting upon the regulation or amendment by Australian ballot [§4442(d)].

#### **E. Severability**

The provisions of these regulations are severable. If a court of competent jurisdiction holds any provision or the application thereof to any person or circumstance unconstitutional or invalid, the remainder of these regulations shall not be affected.

#### **G. Computation of Time**

Where an event is required or permitted to occur by these regulations before, on, or after a specified period of time measured from another event, the first day shall not be counted and the final day shall be counted in calculating the period [§4303(a)].

**H. Subdivision During Adoption or Amendment Process**

Once notice for a public hearing on the adoption or amendment to these regulations is issued by the Selectboard, the Development Review Board (hereafter referred to as the “DRB”) shall review any new subdivision plat filed after the date of the notice under the proposed regulations or amendment and the existing subdivision regulations. [§4449(d)]

If the proposed regulations or amendment has not been adopted within 150 days of the notice, or if the proposed regulations or amendment is rejected, then new plats shall be reviewed under the existing regulations. [§4449(d)]

A subdivision plat that has been denied under a proposed regulations or amendment that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing subdivision regulations, upon request of the applicant. [§4449(d)]

## **Section II. Administration, Appeals, and Enforcement**

### **A. Zoning Administrator**

1. These regulations shall be administered by the Zoning Administrator [§4448(a)].
2. The Zoning Administrator may hold any other office in town except membership on the DRB [§4448(a)].
3. The Zoning Administrator shall administer these regulations literally and shall not have the power to permit any subdivision that is not in conformance with these regulations [§4448(a)].
4. The Zoning Administrator shall receive and administer subdivision plat applications under section III(A) of these bylaws.
5. The Zoning Administrator shall review minor boundary line adjustment applications under section III(D) of these bylaws.
6. The Zoning Administrator shall investigate complaints and has the power to pursue violations of these regulations through procedures set forth under section II(E) of these regulations [§4452].
7. The Zoning Administrator should provide forms required to obtain any municipal permit or other municipal authorization required under this regulation or any other bylaw, regulation, or ordinance that relate to the regulation of land development within the Town of Hyde Park [§4448(c)].
8. The Zoning Administrator should inform any person applying for approval of a subdivision plat that the person should contact the regional permit specialist in order to identify, apply for, and obtain relevant state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits [§4448(c)].
9. The Zoning Administrator shall meet the recording requirements of section II(H) of these regulations [§4449(b) – (c)].

### **B. Development Review Board**

1. The Development Review Board (hereinafter referred to as “the DRB”) shall not consist of less than 5 nor more than 9 members whose members shall be appointed by the Selectboard for specified terms. The Board may consist of the members of the Planning Commission. Vacancies shall also be filled by appointment of the Selectboard for unexpired terms and upon the expiration of terms. The Selectboard

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upon written charges and after a public hearing may remove any member of the DRB for just cause [§4460(b) - (c)].

2. The DRB shall have all powers set forth in the Act to administer the provisions of these regulations, including, but not limited to, the power to:
  - a. Consider sketch plans for approval under section III(A) [§4460(e)(8)] [§4418(2)(B)].
  - b. Consider final plat approval and major boundary line adjustments under section III(B) [§4460(e)(8)] [§4418(2)(B)].
  - c. Consider applications for Planned Unit Developments under section III(B) [§4460(e)(5)] [§4417].
  - d. Consider requests for a waiver under section III(C) [§4460(e)(6)] [§4418(2)(A)].
  - e. Consider decisions of the Zoning Administrator upon appeal under section II(C) [§4460(e)(10)].
3. The DRB shall adopt rules of procedure and perform its functions in conformance with the Act [§4461] and Vermont's Open Meeting Law [1 V.S.A. §§310-314].
4. The DRB shall meet all relevant recording requirements of section II(H) of these regulations.

### **C. Appeals- Decisions of the Zoning Administrator**

Applicability: An interested person may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the DRB within fifteen (15) days of the act or decision [§4465].

Notice of Appeal Requirements: A notice of appeal shall be in writing and include [§4466]:

1. The name and address of the appellant.
2. A brief description of the property with respect to which the appeal is taken.
3. A reference to applicable regulation provisions.
4. The relief requested by the appellant.
5. The alleged grounds why such relief is believed proper under the circumstances

Rejection of Notice of Appeal: The DRB may reject an appeal or request for reconsideration without hearing and render a decision and findings of fact within ten (10) days of the filing of the notice of appeal, if the DRB considers the issues raised by the appellant have been decided in an earlier appeal or involve substantially or materially the same facts by or on behalf of that appellant.



The decision shall be rendered, on given notice, as in the case of a decision on appeal below [§4470(a)].

Public Hearing: Within sixty (60) days of receiving a notice of appeal, the DRB shall hold a public hearing. [§4468]

1. Public notice for any hearing shall be given not less than fifteen (15) days prior to the date of the public hearing and shall include the date, place, and purpose of such hearing. Public notice shall be: [§§4464, 4468]
  - a. Mailed to the appellant;
  - b. Published in a newspaper of general circulation in the Town;
  - c. Posted in three or more public places within the municipality including:
    - i. The town clerks office; and
    - ii. Within view from the public right of way most nearly adjacent to the property for which the application is made; and
  - d. Written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
2. The applicant is required to bear the cost of the public warning and the responsibility of notification of adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. [§4464(a)(3)]
3. In any hearing, there shall be an opportunity for each person wishing to establish status as an interested person (as defined in Section V) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name address, and participation of the persons [§4461(b)]. Any interested person may appear and be heard in person or be represented by agent at the public hearing [§4468].
4. All hearings of an appeal shall be open to the public and the rules of evidence applicable at such hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies [§4468]. These include:
  - a. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence in civil cases in the Vermont Superior Courts shall be followed. When necessary to ascertain facts

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not reasonably susceptible of proof under those rules, evidence not admissible there under may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offerings may be made and shall be noted on the record.

- b. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request parties should be given opportunity to compare the copy with the original.
  - c. A party may conduct cross examinations required for a full and true disclosure of the facts.
  - d. Facts and information understood by members of the board may be presented as evidence. [3 V.S.A. §810]
5. In most cases the Zoning Administrator is the defendant in the appeal before the DRB. In those cases the Zoning Administrator should not act as a staff member during the hearing or deliberations.
6. The DRB may recess the proceedings of the appeal pending submission of additional information [§4464(b)(1)]. The hearing may be adjourned by the DRB from time to time provided, however, that the date and place of the adjourned hearing shall be announced at the hearing [§4468].

**Decision:** The DRB should close the hearing promptly after all parties have submitted requested information. The DRB shall adjourn the hearing and issue a decision within 45 days after the adjournment of the hearing, and failure of the DRB to issue a decision within this period shall be deemed approved and shall be effective on the 46<sup>th</sup> day. Decisions shall be issued in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. [§4464(b)(1)]

In rendering a decision in favor of the applicant, the DRB may attach reasonable conditions and safeguards, as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan then in effect. [§4464(b)(2)]

Copies of the DRB decision shall be sent to the appellant and applicant (both by certified mail) and mailed to every person or body appearing and having been heard at the hearing [§4464(b)(3)].

**Appeals:** Appeals of a decision of the DRB may be made to the Environmental Court, as per section II(D) [§4471].

**Recording requirements:** The DRB shall file its decision with the Zoning Administrator and the Town Clerk for filing as part of the public record [§4464(b)(3)] as well as meeting all recording requirements of section II(H).

#### **D. Appeals of DRB Decisions**

**Applicability:** An interested person who has participated in a municipal regulatory proceeding under these regulations may appeal a decision of the DRB to the Environmental Court [§§4471]. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. Appeals to Environmental Court must be taken in accordance with the provisions of V.R.C.P. 76a and V.R.A.P. 3 and 4.

**Initiation of Appeal.** Within thirty (30) days [V.R.A.P. 4] following the date of decision rendered by the DRB, notice of the appeal shall be filed by certified mailing, with fees to the environmental court and by mailing a copy to the municipal clerk or Zoning Administrator, if so designated, who shall supply a list of interested persons to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene. [§§4471(c)]

**Notice of Appeal Requirements:** A notice of appeal shall be in writing and include [§4471]:

1. The name of the party appealing.
2. What board made the decision being appealed.
3. The nature of the decision under appeal.
4. A reference to the specific provisions of the bylaw.
5. The relief requested by the appellant.
6. The signature of the appellant or attorney.

**Filing Fee:** The filing fee is established by V.R.C.P. 76 (e). At the time of the development of these regulations, the fee for filing an appeal with the Environmental Court is \$150.

#### **E. Violations and Enforcement**

**Applicability:** The commencement or continuation of any subdivision of land that is not in conformance with the provisions of these regulations or the approved and recorded plat shall constitute a violation. Violations of these regulations shall be prosecuted in accordance with the Act [§§4451, 4452].

**Identification and Investigation of Violations:** The Zoning Administrator is required by law to enforce all violations of these regulations [§4448(a)]. Whether through direct observation, written

or oral complaint, site visit, or notification of violation from the landowner, the discovery of an alleged violation must be pursued by the Zoning Administrator.

1. Any person may file a written complaint with the Zoning Administrator if it is believed that a violation of these regulations has occurred. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such a complaint, investigate within a reasonable time, and take action as appropriate in accordance with these regulations.
2. The Zoning Administrator may not enter upon any private property, for purposes of inspection and investigation, except by permission of the landowner or per a search warrant duly issued by a court [13 V.S.A. §4701].

Formal Notice of Violation: No action may be brought under this section unless the alleged offender has had at least seven (7) working days notice by certified mail that a violation exists and has failed to satisfactorily respond or correct the alleged violation [§4451(a)].

1. The warning notice shall state:
  - a. That a violation exists;
  - b. That the alleged offender has an opportunity to cure the violation within the seven (7) day period;
  - c. That the alleged offender has the right to appeal the notice of violation to the DRB within fifteen (15) days from the date the notice was sent; and
  - d. That the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) day period.
2. Action may be brought without notice and opportunity to cure, if the alleged offender repeats the violation of the regulation after the seven (7) day notice period and within the next succeeding twelve (12) months.

Informal Resolution of Violations: Where a landowner is cooperating with the Zoning Administrator in finding a cure for the violation, the Zoning Administrator has the authority to enter written agreements to resolve violations. The Zoning Administrator is under no obligation to enter any agreement - informal resolutions are not required under statute and are provided by the Town of Hyde Park as an amicable means of resolving violations.

1. At minimum, any agreement must:
  - a. Be in writing and be signed by both the violator and administrator.
  - b. Must establish a timeline for curing the violation not to exceed 60 days, unless an extension is requested and granted by the DRB not to exceed 180 days.
  - c. Give written authorization that will allow the Zoning Administrator to inspect the premises to ensure compliance upon completion or by

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the agreed upon date of completion.

2. The Zoning Administrator is prevented from making any agreement allowing a violation to continue in perpetuity, even if the violation is minimal, inadvertent, and/or the violator agrees to pay a fine [§4448(a)].

Enforcement Action: Where a property owner fails to remedy a violation within the seven (7) day period or the timetable agreed to under an informal resolution, the Zoning Administrator, in the name of the municipality, shall bring appropriate action to enforce the provisions of these regulations [§4452]. The appropriate action is typically an action in either Environmental or Superior Court although other actions are available. The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§4454] including the following:

1. An enforcement action relating to any municipal land use permit must be instituted within fifteen (15) years of the date the alleged violation first occurred and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted [§4454(a)].
2. No action, injunction, or enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit was recorded in the land use records of the municipality as required by the Act [§4454(b)].
3. Nothing in the section shall prevent any action, injunction, or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to a municipality's authority under Title 18 relating to the abatement and removal of a public health risk or hazard [§4454(c)].

Fines: Any person who violates these bylaws shall be fined not more than the amount permitted under the Act [§4451(b)], which at the time of development of these bylaws is \$100. Each day that a violation is continued after the initial seven (7) day notice period shall constitute a separate offense. All fines imposed and collected shall be paid to the Town of Hyde Park.

Recording requirements. The Zoning Administrator shall meet all recording requirements of section II(H) regarding notices of violation.

### **E. Fees**

The Selectboard may prescribe reasonable fees to be charged with respect to the administration of these regulations and for the administration of development review. These fees may include the cost of posting and publishing notices and holding public hearings and the cost of conducting periodic inspections during the installation of public improvements. These fees may be

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payable by the applicant upon submission of the application or prior to issuance of plat approval [§4440(b)].

The Selectboard may set reasonable fees for filing of notices of appeal and for other acts as it deems proper, the payment of which shall be a condition for filing the notice [§4440(c)]

The Selectboard may establish procedures and standards for requiring applicants to pay for reasonable costs of an independent technical review of the application [§4440(d)]. This may include the review of Articles of Association or similar arrangement by an attorney representing the Town of Hyde Park.

An applicant may be charged the cost of the recording fees as required by law [§4449(c)(2)].

The schedule of fees shall be posted in the offices of the Municipal Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Selectboard.

### **G. Recording Requirements**

Recording Plats with the Town Clerk: Within 180 days after the approval of a final plat by the DRB or certification by the clerk of the DRB's failure to act within 45 days, the subdivider shall submit the final plat, including all endorsements, for recording in the Town Clerks Office [§4463(b)].

1. Such final plat shall:
  - a. Be on a mylar sheet(s) of 24 inches by 18 inches.
  - b. Have all lettering and data which is clear and legible.
  - c. Have all sheets which have margins having a minimum one-half inch margin, except at the binder side, which shall have a minimum of one and one-half inches margin.
  - d. Meet any other requirements established in Chapter 17 of Title 27 Vermont Statutes Annotated.
  - e. Contain a signature box for an authorized member of the DRB.
  - f. Be signed by an authorized member of the DRB.
  - g. Contain the recording requirements of the town clerks office below.
2. The DRB approval, or certification by the clerk of the failure of the DRB to act, expires after 180 days [§4463(b)]. Any plat not submitted to the Clerk's Office for recording within 180 days shall be null and void.

Recording Items with the Town Clerk: Within thirty (30) days after the issuance of any of the items listed below, the Zoning Administrator shall deliver the original, or a legible copy, of the issuance to the Town Clerk for recording in the municipal land records [§4449(c)(1)].

1. The following issuances are covered in this subsection:

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- a. Approvals or denials of an application for sketch plan approval;
  - b. Notices of violation; and
  - c. Notices of denial of a final plat. [§4449(c)(1)(A)]
2. Any issuance delivered for recording shall list:
- a. As grantor, the owner of record title to the property at the time of issuance;
  - b. As grantee, the municipality issuing the permit, certificate, or notice – i.e. *the Town of Hyde Park*;
  - c. The municipal office where the original, or a true, legible copy of the issuance may be examined;
  - d. Whether an appeal of such issuance was taken; and
  - e. The tax map lot number or other description identifying the lot [24 V.S.A. §1154(c)].

Zoning Administrator records: The Zoning Administrator shall maintain a file of development including:

1. Copies of all permits and approvals or denials filed with the clerk.
2. A copy of the subdivision plat recorded in the Town Clerks Office. [§4449(c)(1)(B)]
3. Copies of all evidence presented, public notices, hearing minutes, findings of fact and other material collected by the Zoning Administrator or DRB in the process of reviewing an application.

Recording DRB Minutes and Findings with the Town Clerk: The DRB shall keep minutes of its proceedings, showing the vote of each member upon each question (or if absent or failing to vote, indicating this) and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the Town Clerks Office as a public record [§4461(a)].

For each case heard and decided, the DRB shall make written findings of fact and conclusions of law that shall be maintained in the Town Clerk's Office together with all minutes and other records of the DRB.

## **Section III. Development Review Procedures**

### **A. Subdivision- Sketch Plan Review**

**Applicability:** Sketch plan review is required for all applications for subdivision and major boundary line adjustments.

**Purpose:** The purpose of a sketch plan review is to have a preliminary discussion about the proposal with the developer. Sketch plan review is intended to ensure the most complete and efficient review of projects, to save resources for both the applicant and the Town, and to provide public and municipal input at the earliest stages of project development.

**Application requirements:** Prior to submitting an application for subdivision plat approval any subdivider of land must submit, to the Zoning Administrator, a sketch plan of the proposed subdivision (one copy). The sketch plan must be submitted at least twenty-one (21) days prior to a regular or special meeting of the DRB. The complete sketch plan application needs to be legible and to scale, but does not need to be completed by a surveyor or engineer. The complete application should include the following information:

1. Name and address of the owner of record and applicant.
2. Name of owners of record of abutting properties.
3. Boundaries and area of all abutting land, including land separated by a public right-of-way, belonging to owner of record, and proposed subdivision.
4. Existing and proposed layout of property lines including parcel sizes and frontage; type and location of existing and proposed restrictions on land, such as easements and covenants.
5. Type of location and approximate size of existing and proposed highway access, streets, sidewalks, street lighting, utilities, and open space.
6. Preliminary plans for services including water supply and wastewater disposal.
7. Preliminary plans for maintenance of common lands.
8. Identification of natural features such as wetlands, shorelines, watercourses, prime and statewide agricultural and forest soils, slopes of greater than 25%, and designated floodplains.
9. Date, true north arrow, and scale.
10. Location map showing relation of proposed subdivision to adjacent property and



surrounding area.

11. Any requests for waivers of application requirements or review standards. Waiver requests shall be submitted in writing by the applicant with the subdivision application.

Public hearing: A public hearing shall be held by the DRB at the earliest available regular or special meeting after the time of submission to the Zoning Administrator of a complete application for sketch plan approval. [§4464(a)(2)]

1. Public notice for any hearing shall be given not less than seven (7) days prior to the date of the public hearing and shall include the date, place, and purpose of such hearing. Public notice shall be: [§4464(a)(2)]
  - a. Mailed to the applicant;
  - b. Posted in three or more public places within the municipality including the town clerks office;
  - c. Written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
  - d. If any portion of the parcel lies within 500 feet of a municipal boundary, a copy shall be sent to the clerk of the adjacent municipality. [§4463(a)]

General Standards: When determining the appropriateness of a subdivision, the DRB may consider any of the standards and conditions contained in these regulations and any other applicable local bylaws.

1. Conformance: The DRB shall study the sketch plan to determine whether or not it conforms to these subdivision regulations, the zoning bylaws, any capital budget and program in effect, the official map, the local sewerage ordinance, and any other municipal by-laws in effect. Where it deems necessary, the DRB will make specific recommendations for changes in subsequent submissions.

Conditions of Approval:

1. Master Plan Review: As part of the requirements established after sketch plan review, the DRB may require a description of the potential build-out of the entire parcel and adjacent parcels even if the application only includes a portion of the parcel(s).

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- a. When required, the Master Plan build-out shall include an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses. The build-out may be drawn in a sketch plan format. The DRB may require that the build-out be submitted as part of an extended sketch plan review, or as a part of the final plat approval.
- b. Requirements for Master Plan review are intended to ensure the orderly development of the Town, and will be required when the DRB determines that the development currently under review may have an impact on the future developability of the remaining parcel or adjacent parcels. It may also be required when the DRB determines that the future build-out of the applicant's holdings, combined with the current proposal may have a significant impact on the Town of Hyde Park.
- c. Approval of an applicant's current application does not constitute approval of the Master Plan build-out.

Decisions: Within 45 days after the close of the public meeting, notification of approval or denial shall be sent by certified mail to the applicant. Copies of the decision shall also be sent by mail to every person or body appearing and having been heard at the hearing [§4464(b)(3)].

Effect of Sketch Plan Determination: Approval of a sketch plan shall not constitute approval of a subdivision plat and is merely authorization for the applicant to file a final plat application.

1. DRB determinations and associated recommendations shall remain in effect for one year from the date of issuance, unless otherwise specifically approved or extended by the DRB. Within one year of the determination by the DRB, the applicant may apply to the DRB for final plat approval under section III(B) of these regulations. At the expiration of one year from approval by the DRB, the subdivider shall be required to resubmit a sketch plan in accordance with section III(A) of these regulations.

Posting. When a sketch plan is approved, notice must be posted within view of the public right of way nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period [§4449(b)] and information as to where a full description of the project and approval can be found. Within three days of following the issuance of the decision, a copy of the approval must be posted in at least one public place in the municipality until the expiration of the fifteen (15) days from the date of issuance of the approval [§4449(b)(2)].

Appeals. Any interested person may appeal a decision of the DRB to the environmental court by filing a notice of appeal under Section II(D) of these regulations. Sketch plan approval shall not be effective until the time for appeal has passed, or in the event a notice of appeal is filed

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with the environmental court, no such approval shall take effect until adjudication of that appeal. [§4449(a)(3)]

Recording Requirements: Sketch plan approval must be sent to the Listers within three days of issuance of approval [§4449(b)(1)]. A copy of the decision shall be filed with the Zoning Administrator and the Town Clerk as a part of the public record [§4464(b)(3)]. The DRB shall meet all recording requirements of section II(H) of these bylaws.

## **B. Subdivision- Final Plat Review**

Applicability: Final plat approval is required for all applications for subdivision and major boundary line adjustment following sketch plan approval.

Plat - Application requirements: The applicant shall submit to the Zoning Administrator a permit application, fee and other supporting documentation sufficient to determine compliance with these regulations.

Public Hearing: A public hearing shall be held by the DRB at the earliest available regular or special meeting after the time of submission to the Zoning Administrator of a complete application for approval of a subdivision. [§4464(a)(1)]

1. Public notice for any hearing shall be given not less than fifteen (15) days prior to the date of the public hearing and shall include the date, place, and purpose of such hearing. Public notice shall be: [§4464]
  - a. Mailed to the appellant;
  - b. Published in a newspaper of general circulation in the Town;
  - c. Posted in three or more public places within the municipality including:
    - i. The town clerks office; and
    - ii. Within view from the public right of way most nearly adjacent to the property for which the application is made.
  - d. Written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
  - e. If any portion of the parcel lies within 500 feet of a municipal boundary, a copy shall be sent to the clerk of the adjacent municipality. [§4463(a)]

2. The applicant is required to bear the cost of the public warning and the responsibility of notification of adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last know address supported by a sworn certificate of service. [§4464(a)(3)]
3. In any hearing, there shall be an opportunity for each person wishing to establish status as an interested person (as defined in Section V) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name address, and participation of the persons [§4461(b)]. Any interested person may appear and be heard in person or be represented by agent at the public hearing [§4468].
4. Any hearing may be adjourned by the board from time to time pending submission of additional information [§4464(b)(1)] provided, however, that the date and place of the adjourned hearing is announced at the hearing.

General Standards: In reviewing a subdivision plat, the DRB must consider all of the subdivision standards required as a condition of sketch plan review and any additional regulations deemed relevant including other applicable local bylaws.

1. Subdivision standards found in Section IV-A of these regulations including Dimensional Requirements, Access to Lots, Useable Lot Requirement, Water Supply, Wastewater Disposal, Utilities, Private Road Design and Layout, Common Lands, Meadowland, Protection of Farm and Forest Land, and Planned Unit Developments.
2. The proposed subdivision conforms to the zoning bylaws, any capital budget and program in effect, any official map in effect, the sewerage ordinance, and any other municipal bylaw in effect.
3. Any proposed waiver has been properly decided under section III(C) of these regulations.

Conditions of Approval:

1. Completion requirement or Performance bonding: For any subdivision which requires the construction of roads or other public improvements by the applicant, the DRB may require that no zoning permit, except for any permit that may be required for infrastructure construction, may be issued for an approved development unless the streets and other public infrastructure are satisfactorily installed in accordance with the approved decision and pertinent bylaws. [§4464(b)(4)]

In lieu of completion of the required public improvements, the DRB may require from the subdivider for the benefit of the municipality a performance bond issued

either by a bonding or surety company approved by the Selectboard or by the owner with security acceptable to the Selectboard in an amount sufficient to cover the full cost of those new streets and required improvements on or in those streets or highways and their maintenance for a period of two years after the completion as is estimated by the DRB or such municipal department or officials as the DRB designates. This bond or other security shall provide for, and secure to the public, the completion of any improvements that may be required within the period fixed for that completion and for the maintenance of those improvements for a period of two years after completion. [§4464(b)(4)]

The form, content, amount and manner of execution of such bond or surety shall be to the satisfaction of the Selectboard. The term of such bond or surety may be fixed for a maximum of three years, within which time period said improvements must be completed. The term of such bond or surety, may with mutual consent of the DRB and applicant, be extended for an additional period not to exceed three years. [§4464(b)(2), §§4464(b)(4 - 6)]

2. **Phasing:** At the time the DRB grants plat approval, it may require the plat to be divided into two or more phases to be developed at separate times. The DRB may impose specific conditions for the filing of an application for zoning permits to ensure the orderly development of the plat and coordination with the planned and orderly growth of the town as reflected in the town plan and any capital budget and program in effect. [§4422]
3. The DRB may impose other conditions of approval as necessary to protect the public safety and welfare and to ensure compliance with the Town Plan, these regulations, and other bylaws and ordinances in effect [§4464(b)(2)].

**Decision:** The DRB shall approve or disapprove such plat within 45 days after the completion of the public hearing, or any continuation of the hearing. If the DRB fails to act within 45 days the subdivision plat shall be deemed approved [§4464(b)(1)]. All decisions shall be sent by certified mail within the time period to the applicant. Copies of the decision shall also be mailed to every person appearing and having been heard at the hearing [§4464(b)(3)].

1. **Contingent approval:** The approval of any subdivision requiring a State Subdivision Permit, an Act 250 Permit, a Public Building Permit, or any other state, federal, or local permits noted by the DRB shall be classified as Contingent Approval. Such subdivision shall be considered approved contingent upon no further changes made to accommodate any other permit.
  - a. All plats granted Contingent Approval shall be submitted for review by the DRB after all other necessary permits have been received. The DRB shall review for acceptance, any changes which have been made by other permitting authorities or by the subdivider to conform to other permit requirements. If no changes have been made, or if the

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DRB deems all changes acceptable, the subdivision shall be given Final Approval.

2. **Final Approval:** The approval of any subdivision that does not require other permits shall be classified as Final Approval. The plat of such subdivision may then be recorded and filed with the town clerk as set forth in section II(H) of these regulations.
3. **Disapproval:** The disapproval of a subdivision plat shall state, in writing, the reasons for such denial and be sent along with, or as a part of, the notice of decision.

**Effect of Final Plat Approval:** The approval by the DRB of a final subdivision plat shall not be construed to constitute acceptance by the municipality of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Selectboard in accordance with state statutes. Each approval shall contain a time limit within which all improvements shall be completed, not to exceed three years unless otherwise required or extended by the DRB. [§4463(c)]

**Posting.** When a final plat is approved, notice must be posted within view of the public right of way nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period [§4449(b)] and information as to where a full description of the project and approval can be found. Within three days of following the issuance of the decision, a copy of the approval must be posted in at least one public place in the municipality until the expiration of the fifteen (15) days from the date of issuance of the approval [§4449(b)(2)].

**Appeals.** Any interested person may appeal a decision of the DRB to the environmental court by filing a notice of appeal under Section II(D) of these regulations. Final plat approval shall not be effective until the time for appeal has passed, or in the event a notice of appeal is filed with the environmental court, no such approval shall take effect until adjudication of that appeal. [§4449(a)(3)]

**Recording Requirements:** Recording of approved subdivision plats is the responsibility of the subdivider. Plats must be recorded with the Town Clerk in accordance with the requirements of section II(H) of these bylaws. Notice of final plat approval must be sent to the Listers within three days of issuance of approval [§4449(b)(1)]. A copy of the decision shall be filed with the Zoning Administrator and the Town Clerk as a part of the public record [§4464(b)(3)].

### **C. Waivers**

**Applicability:** An applicant may receive relief from a provision of these subdivision regulations through the granting of a waiver by the DRB. [§§4418(2)(A)]

**Purpose:** The purpose of a waiver is to address special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety, and general welfare or because of

inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

**Application:** The Town of Hyde Park treats waivers as appeals, therefore a notice of appeal for a waiver shall be filed with the clerk of the DRB prior to or concurrent with the submission of the respective subdivision plat, in writing and include:

1. The name and address of the appellant.
2. A brief description of the property with respect to which the waiver is requested.
3. A reference to applicable regulation provisions for which relief is requested.
4. The nature of the relief requested by the appellant.
5. The alleged grounds why such relief is believed proper under the circumstances (i.e. how the proposal meets all requirements of this section).

**Public hearing:** A public hearing shall be held by the DRB at the earliest available hearing of the DRB. A hearing for an appeal for a waiver can be held concurrently with plat approval provided the waiver appears in the purpose of the hearing as warned. [§4464(a)(2)]

1. Public notice for any hearing shall be given not less than seven (7) days prior to the date of the public hearing and shall include the date, place, and purpose of such hearing. Public notice shall be: [§4464(a)(2)]
  - a. Mailed to the appellant;
  - b. Posted in three or more public places within the municipality including the town clerks office;
  - c. Written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
  - d. If any portion of the parcel lies within 500 feet of a municipal boundary, a copy shall be sent to the clerk of the adjacent municipality. [§4463(a)]
2. The applicant is required to bear the cost of the public warning and the responsibility of notification of adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last know address supported by a sworn certificate of service. [§4464(a)(3)]

3. In any hearing, there shall be an opportunity for each person wishing to establish status as an interested person (as defined in Section V) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name address, and participation of the persons [§4461(b)]. Any interested person may appear and be heard in person or be represented by agent at the public hearing [§4468].
4. Any hearing may be adjourned by the board from time to time pending submission of additional information [§4464(b)(1)] provided, however, that the date and place of the adjourned hearing is announced at the hearing.

General Standards: The DRB may waive, subject to appropriate conditions, subdivision application requirements, and subdivision standards under these regulations.

1. The conditions for a waiver of an application requirement or subdivision standard are that the request(s):
  - a. Not be requisite in the interest of the public health, safety, and general welfare; **or**
  - b. Are inappropriate due to extraordinary and unnecessary hardship may result from the strict compliance of these regulations; **or**
  - c. Are inappropriate because of inadequate or lack of connecting facilities adjacent to or within proximity of the subdivision. [§4418(2)(A)]

Conditions of Approval: In rendering a decision in favor of an applicant for a waiver, the DRB may attach such conditions to such waiver as it may consider necessary and appropriate under the circumstances to implement the Act and/or the Town of Hyde Park Municipal Development Plan as most recently adopted or these regulations or other municipal ordinances or regulations.

Decision: The DRB shall approve or disapprove the waiver within 45 days after the completion of the public hearing, or any continuation of the hearing. If the DRB fails to act within 45 days the waiver shall be deemed approved [§4464(b)(1)]. All decisions shall be sent by certified mail within the time period to the applicant. Copies of the decision shall also be mailed to every person appearing and having been heard at the hearing [§4464(b)(3)].

Posting. When a waiver is approved, notice must be posted within view of the public right of way nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period [§4449(b)] and information as to where a full description of the project and approval can be found. Within three days of following the issuance of the decision, a copy of the approval must be posted in at least one public place in the municipality until the expiration of the fifteen (15) days from the date of issuance of the approval [§4449(b)(2)].

Appeals. Any interested person may appeal a decision of the DRB to the environmental court by filing a notice of appeal under Section II(D) of these regulations. Waiver approval shall



not be effective until the time for appeal has passed, or in the event a notice of appeal is filed with the environmental court, no such approval shall take effect until adjudication of that appeal. [§4449(a)(3)]

Recording requirements: A copy of the decision shall be filed with the Zoning Administrator and the Town Clerk as a part of the public record [§4464(b)(3)]. The DRB shall meet all recording requirements of section II(H).

#### **D. Minor Boundary Line Adjustment Approval**

Applicability: Minor boundary line adjustment approval is required for all applications for minor boundary line adjustment.

Plat - Application requirements: The applicant shall submit to the Zoning Administrator a permit application, fee and other supporting documentation sufficient to determine compliance with these regulations.

Application deemed received: The Zoning Administrator shall, upon receipt, review the application to determine completeness. A complete application will include sufficient information for the Zoning Administrator to make a determination of compliance and any applicable fees.

1. If the Zoning Administrator finds the application incomplete, the Administrator shall within five days after receipt, notify the applicant in writing of all additional information or fees required.
2. If the Zoning Administrator finds the application complete, the Administrator shall record on the application the date on which the application was received.

Zoning Administrator Action: Within 30 days after the submission of a completed application and fees, the Zoning Administrator must act on the permit [§4448(d)]. Acting on the permit involves a documented action on the proposal. The Zoning Administrator may:

1. Decide to approve or deny the permit based on Section IV General Regulations and Review Criteria, and other criteria as authorized in the Act.
2. If the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day [§4448(d)].

General Standards for Boundary Line Adjustments: When determining the appropriateness of a proposed boundary line adjustment, the Zoning Administrator shall determine:

1. That the proposed boundary line adjustment meets the dimensional requirements [Subsection IV-A(A)], meets access requirements [Subsection IV-A(B)], and useable

lot requirements [Subsection IV-A(C)].

2. That water system [Subsection IV-A(D)] and wastewater disposal requirements are met [Subsection IV-A(E)].

**Decisions:** A permit shall be issued by the Zoning Administrator only in accordance with the Act [§4449(a)(1)] and these regulations.

1. If in the opinion of the Zoning Administrator, the proposal as set forth in the application is in conformance with the provisions of these regulations, the Zoning Administrator shall approve the permit. If the permit is approved, the Zoning Administrator shall notify the applicant, in writing, of the approval stating the effective date of the permit.
2. If in the opinion of the Zoning Administrator, the proposal as set forth in the application is not in conformance with the provisions of these regulations, the Zoning Administrator shall deny the zoning permit. If the permit is denied, the Zoning Administrator shall notify the applicant in writing, stating the reasons for denial and shall contain a statement of the period of time within which an appeal may be taken.
3. No zoning permit shall be issued by the Zoning Administrator until all local permits and required approvals from the DRB, Selectboard, Health Officer, and/or any other local approval has been properly decided.

**Effective Date:** No permit shall take effect until the time for appeal has passed. In the event an appeal is filed, the permit shall not take effect until the DRB has heard the appeal and decided that the permit should be issued, whereupon it shall take effect after final adjudication of said appeal [§4449(a)(3)].

1. The effective date of minor boundary line adjustment applications is 15 days from the date of issuance of the approval.

**Posting.** When a minor boundary line adjustment is approved, notice must be posted within view of the public right of way nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period [§4449(b)] and information as to where a full description of the project and approval can be found. Within three days of following the issuance of the decision, a copy of the approval must be posted in at least one public place in the municipality until the expiration of the fifteen (15) days from the date of issuance of the approval [§4449(b)(2)].

**Appeals:** Appeals from the decisions of the Zoning Administrator may be made to the DRB, as per section II(C) of these bylaws, within 15 days of the decision or act.

**Posting and Recording Requirements:** The Zoning Administrator shall meet the posting and

recording requirements of section II(H).

## **Section IV. General Regulations and Review Criteria**

### **SUBARTICLE IV-A. SUBDIVISION PLAT REVIEW CRITERIA**

#### **A. Dimensional Requirements**

No lot shall be created that does not meet the minimum area, dimensional, and frontage requirements of the district in which it is located unless approved as a part of a Planned Unit Development (PUD).

1. **Area**. No new lot created shall have an area less than the minimum area as required of the district in which it is located. Zoning rules and provisions are used to calculate areas.
2. **Dimensions**. No new lot shall have a minimum width or depth dimension less than 75 feet.
3. **Frontage**. All new lots created shall either have a frontage on a public or private road or an easement or permanent right of way providing access to the lot. The minimum frontage required is established by the district in which it is located. Zoning rules and provisions are used to measure frontage.
  - a. **Easement requirements**. An easement may be permitted to provide access for no more than 3 parcels. The permanent easement or right of way may be granted by the DRB provided [§4418(1)(B)]:
    - i. The right of way is at least 50 feet in wide;
    - ii. Is suitable to be developed as a driveway;
    - iii. Meets access location requirements;
  - b. Where an easement is intended to provide access to four (4) or more lots a private road is required and each lot must meet the required frontage on the private road for the district in which it is located.
4. **Shape**. Dogleg lots, bowling alley lots, and lots otherwise contorted in order to get around these bylaws are not permitted. Lot lines may be designed to follow existing land characteristics such as land contours, fence lines, roads, and paths, as well as to protect significant natural resources or to avoid excessively steep slopes, water courses, or wetlands, and where no other form of subdivision or PUD is possible.
5. New or adjusted lot lines cannot cause an existing structure to become a non-complying structure. If the structure was already non-complying then the new or adjusted lot line cannot increase the degree of non-compliance as defined in the Town of Hyde Park Zoning Bylaws.
6. **Monuments & Lot Corner Markers**. Permanent monuments and corner markers

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shall be placed on all subdivided parcels in conformance with the Rules of the  
Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

## **B. Access to lots- Location**

1. **Purpose.** The purpose of the access requirements is for the Town to ensure safe and efficient entrance and exit from public roadways, to reduce damage from flooding events, to mitigate erosion and stormwater runoff impacts, and to ensure quality construction of driveway accesses. All proposed subdivision plats must provide locations for access. No lot shall be created which does not have legal access onto a public highway.
2. **Coordination with other local and state permits.** The DRB, Selectboard, and VTrans have separate authorities in approving accesses.
  - a. Through these subdivision regulations, the DRB has all authority (layout and design) of accesses onto private roads.
  - b. The Selectboard has all authority over layout and design of accesses onto public highways.
  - c. VTrans requires a state highway access permit prior to any subdivision of land abutting a state highway. VTrans has full authority over these accesses although the DRB will provide comment and recommendations to VTrans.
3. **Site layout.** Parcels should be subdivided into lots that minimize the number of new accesses onto class 1 and 2 highways. On class 1 and 2 highways, access should be provided through a shared driveway or new street.
4. **Access location.** All new lots must have locations suitable to meet access location requirements of the zoning bylaws.
5. **Access design.** All new lots must have locations suitable to meet access design requirements of the zoning bylaws.
6. **Alignment with opposing driveways.** All new lots must have locations suitable to meet access-offset requirements of the zoning bylaws.
7. **Sight distance.** All new lots must have locations suitable to meet sight distance requirements of the zoning bylaws.

## **C. Usable lot requirement**

1. **Purpose:** The purpose of this provision is to ensure that no lots that are created are unusable. The review and approval in this provision is no guarantee of zoning approval. The property owner gains no vested right to develop the lot based on the subdivision approval. Permission to develop and use a lot is only granted through the

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issuance of a zoning permit. Therefore, it is recommended that a zoning permit is pursued at the same time as subdivision plat approval - but it is not required.

2. New lots must have some potential permissible use. The DRB will not allow the creation of an unusable lot. No lot shall be approved until it is determined that the lot can meet the requirements of the Town of Hyde Park Zoning Bylaws for that use. The property owner does not need to obtain the zoning permit to receive plat approval but may apply for both plat approval and zoning permit approval simultaneously.
3. In order for the DRB to approve a residential lot, for instance, the applicant must prove a location for wastewater disposal (sewer hookup or on-site), water supply, other utilities, a building envelope where a structure could be located that meets all slope, setback and buffer requirements, and any zoning or other ordinance requirement which the DRB determines to be appropriate.
4. Building envelope lines are non-binding and are intended to demonstrate the usability of the lot. An amended subdivision plat is not necessary for future development outside of the building envelope. Also, the building envelope does not vest any rights to construct within that area.
5. The DRB may require an applicant to obtain a permit before approving a subdivision if, in the opinion of the DRB, the approval of such permit is in doubt or question.
6. Where a parcel in a subdivision is not intended for future development (e.g. sale to a land trust for conservation purposes) the subdivision may be permitted provided the plat clearly reflects the lot is for conservation purposes only. The DRB may require the sale of development rights to a conservation organization for such a lot as a condition of approval.

#### **D. Water systems**

1. Municipal Systems. For subdivisions utilizing any public water supply system, the subdivider shall provide evidence that the existing system will adequately meet the needed demand, or if the system will not meet the demand, the subdivider will provide a plan for upgrading the system to meet the expected demand and provide a bond or security (to the satisfaction of the Selectboard or Trustees) to cover all or part of the costs of the necessary improvements. Applicant must also be able to demonstrate the ability to obtain all permits necessary to extend utilities, if necessary.
2. Community Systems. Community water systems shall be designed and installed in accordance with all applicable municipal and state regulations and standards. Community systems may be required to be designed in such a way that they may eventually be connected to a municipal water supply system. Articles of association

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3. Individual Water Supplies. If the proposed development is to be serviced by individual wells, the applicant shall provide evidence of the location of all proposed wells and evidence that these locations will meet Town of Hyde Park Zoning Bylaws for water supply.
4. Standards. The following standards shall be met for developments being serviced by either a community water system or individual wells:
  - a. Proposed well site(s) must be identified on plat including any associated well shield. All well(s) must meet *water supply-well shields and isolation distances* provisions described in the Town of Hyde Park Zoning Bylaws.
5. Fire Hydrants, Fire Ponds & Dry Hydrants. Where a subdivision is greater than 1 mile from a dry hydrant or other water source, the DRB may require the developer to install or contribute to the installation of a hydrant or fire pond. All hydrants must be installed to the specifications of the Hyde Park Fire Department or North Hyde Park Fire Department as appropriate. Fire ponds and/or dry hydrants may be required for subdivisions remote from existing water sources adequate for fire fighting. Fire ponds and dry hydrants shall be accessible for use in an emergency on other nearby properties. No fire ponds may be developed on lands designated as a wetland by the state or National Wetland Inventory.

#### **E. Wastewater Disposal**

1. Municipal Systems. For subdivisions that will connect to a municipal sewage disposal system, applications for extensions and hookups shall be approved by the officers and agents of the Selectboard entrusted with the care and superintendence of the municipal sewage disposal system. Applicant must also be able to demonstrate the ability to obtain all permits necessary to extend utilities, if necessary.
2. Community Systems. Community wastewater disposal systems shall be designed and installed in accordance with all applicable municipal and state regulations and standards. Community wastewater disposal systems may be required to be designed in such a way that they may eventually be connected to a municipal wastewater disposal system. Articles of association or similar arrangements are required to address long-term care and maintenance of these systems by the users.
3. Individual Septic Systems. Individual septic systems shall meet the requirements of the town's applicable subsurface disposal ordinance and all other applicable municipal and state regulations and standards.

4. Standards. Identification of sites for wastewater treatment and any backup sites shall be shown on the plat. Where a new parcel is proposed for a use not requiring a wastewater permit, the plat shall clearly identify the parcel as not having an approved wastewater site. Should the commission determine that the proposed individual septic systems are not subject to any applicable municipal or state regulations, it may require the subdivider to make percolation tests and test holes as directed by the Vermont Department of Environmental Conservation, or determined by a qualified engineer or site technician, with the results thereof being submitted to the commission. The proposed individual disposal system, including the size of septic tanks and leach fields or other secondary treatment device shall be approved by the Vermont Department of Environmental Conservation, or by a qualified engineer or site technician, at the commission's discretion.

### **E. Utilities**

1. Locations: All proposed utilities and associated rights of way shall be shown on the final plat and be located as follows:
  - a. The subdivider shall coordinate subdivision design with utility companies to insure adequate and suitable areas for under and above ground installation, both for the proposed subdivision, and areas adjacent to the subdivision.
  - b. Utility corridors shall be shared with other utility and or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, forest and conservation lands, and any adverse impacts to natural, cultural or scenic resources, and to public health.
2. Utility easements: Utility easements of sufficient width shall be provided so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision. Such easements shall be shown on the final plat.
3. Coordination with Selectboard. Where a subdivision will require the construction of utilities within the right of way of public highway, approval of the Selectboard is required prior to final plat approval.

### **G. Private Road Design and Layout**

1. Applicability of road location and design. The Standards contained herein shall apply to all proposed highways. All new roadways are considered private for purposes of subdivision regulations. Acceptance of private roads by the municipality is subject to the approval of the Selectboard and applications can only be made following the completion of construction. Location and design of roads to these standards in no way ensures acceptance by the Selectboard. These standards do not apply to driveways or shared driveways up to three lots.



2. Road Design. All roads proposed and constructed under these regulations shall be designed in accordance with the Town of Hyde Park Road guidelines and the following standards:
  - a. All rights of way shall be a minimum of 50 feet in width.
  - b. Private roads shall not have slopes greater than eight (8) percent so as to accommodate fire and rescue access. Roads with grades up to ten (10) percent may be allowed provided they are paved and ditched to prevent erosion.
  - c. Private roads should also maintain a width of not less than 18 feet wide (including travel-way and shoulders) and a minimum 100-foot turn radius (measured at the centerline).
  - d. No dead end roads shall be approved without a suitable turn around at its terminus. This may consist of a cul-de-sac with a radius of not less than thirty-five feet or a “T” or other configuration suitable to the topography and adequate for emergency vehicles to turn around.
3. Surface. Except as provided in section (G)(2)(b), new roadways are not required to be paved but if roads are proposed to be paved they must meet standards established by the Town of Hyde Park.
4. Intersections. A new or relocated road shall be located so that:
  - a. A safe sight stopping distance is provided as determined by probable traffic speed, terrain, alignments and climatic extremes. Generally, sight distance should be eleven (11) times the speed limit (e.g. a curb cut on a road with 25 mph speed limit would require a minimum sight distance of 275 feet).
  - b. It is directly opposite an existing road or driveway to form a four-way intersection wherever feasible. Intersections creating centerline offsets of less than 125 feet shall not be permitted.
  - c. It intersects the existing roadway at an angle between 70 and 90 degrees.
  - d. The gradient within 100 feet of an intersection shall not exceed 3 percent.
  - e. No structure or planting is situated to impair corner visibility.
5. Coordination with adjoining properties. The arrangement of roads in the subdivision shall provide for the coordination of roads of adjoining subdivisions and for proper projection of roads through adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when later required of needed utilities and public services. The DRB may require the set aside of rights-of-way for future development on the lot or adjacent properties. Where, in the opinion of the DRB, topographic or other conditions make such continuance undesirable, or

impracticable, the above conditions may be modified.

6. Upgrade to Existing Roads. Where an existing road is inadequate or unsafe, the DRB, in consultation with the Selectboard, may require the subdivider to upgrade the road to the extent necessary to serve emergency vehicles and additional traffic resulting from the subdivision, and to conform to these standards. In situations where a development may require realignment, widening or otherwise increasing the capacity of an existing road, or where municipal plan or capital program indicates that such improvements may be required in the future, the subdivider may be required to reserve land for such improvements. Any existing road that provides either frontage to new lots or access to new roads also shall meet these requirements. Where a subdivision requires expenditure by the municipality to improve existing roads to conform to these standards, the DRB may disapprove such subdivision until the Selectboard certifies that funds for the improvements have been ensured; or the subdivider may be required to contribute to any or all of the expenses involved with road improvements necessitated by the project.
7. Road Names & Signs. Roads shall be named in accordance with any municipal road-naming ordinance or policy currently in effect, and shall have specific historic, cultural, or geographic relevance. Said named shall be identified on signs designed and located in accordance with municipal policy and shall be clearly depicted on the final plat.

#### **H. Curbs, Sidewalks, Gutters & Pedestrian Access**

Curbs, sidewalks, gutters, and pedestrian access are not required in any subdivision. Where these amenities are proposed, the amenity must meet town standards, if applicable, as established by the Selectboard.

#### **I. Street & Sidewalk Lighting**

Street and sidewalk lighting are not required in any subdivision. Where these amenities are proposed to appear in the public right of way, the amenity must meet town standards as established by the Selectboard.

Any outdoor lighting must also meet exterior lighting requirements in the Town of Hyde Park Zoning Bylaws.

#### **J. Recreation areas**

1. Applicability. Subdivisions of greater than 10 lots shall be required to provide some recreational areas for use by residents of the subdivision. The nature of the recreational areas (e.g. playground, ball field, trails, swimming pool, tennis courts) shall be at the discretion of the developer with input from the DRB.

2. Recreation area requirements. All recreation areas shall meet the following requirements:
  - a. The DRB may require the dedication of up to 15% of the total land area of the proposed subdivision for recreation purposes. Such area, to be set aside as common land unless otherwise approved by the commission, shall be of suitable character to serve as parkland, a playground or recreation trail network. [§4417]
  - b. The location, shape, and character of the common land shall be suitable for its intended use.

## **K. Common Land**

1. Applicability. Common land is any area within a subdivision owned in common among the members of the subdivision. Common land may be set aside for the placement and maintenance of community facilities including, but not limited to, recreation areas, wastewater treatment sites, pedestrian walkways, parking lots, and private roads.
2. Common land requirements. All common land shall meet the following requirements:
  - a. The location, shape, and character of the common land shall be suitable for its intended use.
  - b. Land held in common shall be subject to appropriate deed restrictions, stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship.
  - c. Common land is generally managed and maintained through articles of association, or similar arrangements, among the members of the subdivision. All costs associated with administering and maintaining common land shall be the responsibility of applicant and/or subsequent landowners.
3. Articles of association. Articles of association and related arrangements are contracts within the members of the association, they are not a substitute nor do they supercede these subdivision regulations. Where appropriate, these associations must abide by the conditions established in the permit but neither the Town of Hyde Park nor the Zoning Administrator is responsible for mediating disputes within the association.
4. Legal review. The DRB reserves the right to have any articles of association or similar arrangement reviewed by an attorney, at the expense of the developer, to ensure basic standards are met-
  - a. Proper establishment of association;
  - b. Long-term care and maintenance of common land including costs are

- addressed;
- c. Protection of the municipality in the event of legal challenges.

#### **L. Meadowland**

1. **Applicability.** Subdivisions shall be designed to allow the conservation of meadowland for open space and scenic values. Meadowland shall be defined as land, at least four (4) contiguous acres in size, not occupied by structures, roads, driveways or parking lots and generally remaining in an open, non-forested or agricultural condition.
2. **Preservation of Meadowland.** Within any subdivision, provisions shall be made for the preservation of meadowland. The location, size and shape of lands set aside to be preserved for open space shall be approved by the DRB, in accordance with the following:
  - a. Lot lines shall be configured to minimize the fragmentation of meadowlands.
  - b. Roads and utility corridors shall, to the extent feasible, be located to follow existing linear features (e.g. farm roads, stone walls, tree and fence lines), and to avoid significantly subdividing open space.
  - c. Provisions should be made to enable open space designated for agriculture and forestry (silviculture) to be used for these purposes.
  - d. Where meadowland is also productive farmland greater than 25 acres, section M of this Article also applies.
  - e. Open space areas may be protected through the creation of common land.
  - f. Open space areas shall be configured to be contiguous with existing open space lands on adjacent parcels.
3. **Protection of Open Space.** Meadowland may be held as common land or as a part of one of the lots within the subdivision. Where meadowland is held in common, appropriate articles or association or similar arrangements are required to address future use and maintenance of the area.
4. It is not the intent of these provisions to reduce the overall level of development but to require clustering (through the use of PUDs) or other design tools to limit or reduce the impact of the development on the meadowland.

#### **M. Protection of Farm & Forestland**

1. Where a subdivision includes 25 acres or more of prime agricultural, and/or prime forest soils, the applicant must create subdivision boundaries configured to avoid adverse impacts on prime and statewide agricultural soils and other productive farmland. Methods for avoiding such adverse impacts include but may not be limited

to the following:

- a. Where marginal soils also exist on the site, the creation of a PUD where the developable lots are clustered away from the farmland. Lot lines shall be located at field and orchard edges or, in the event that no other land is practical for development, on the least fertile soil in order to minimize the loss of productive agricultural land, impacts of existing farm operations, and disruption to the scenic qualities of the site.
  - b. Contiguous patches of agricultural resources identified above shall not be fragmented. The resource should, wherever possible, remain in parcels of not less than 25 acres.
  - c. Vegetated buffer areas may be required between agricultural and other uses to minimize land use conflicts.
  - d. Access roads, driveways, and utility corridors shall be shared to the extent feasible; and where sites include linear features such as existing roads, tree lines stonewalls, and/or fence lines, shall follow these to minimize the fragmentation of productive agricultural land and minimize visual impacts.
2. It is not the intent of these provisions to reduce the overall level of development but to require clustering (through the use of PUDs) or other design tools to limit or reduce the impact of the development on the soil resources

#### **N. Planned Unit Developments (PUD)**

**Applicability:** No subdivision plat shall be approved for a PUD without meeting the provisions within section III(J) of the Town of Hyde Park Zoning Bylaws and all other applicable subdivision requirements. The DRB shall regulate individual lots through the standard lot approval. It is recommended but not required that an application for plat approval be conducted simultaneous to any approvals for the use of said lots.

**Purpose:** Planned Unit Developments (PUDs) are permitted in order to provide for flexibility in site and lot layout, building design, placement and clustering of buildings, and use of open areas; to promote efficient use of land; to facilitate the efficient and economical provision of streets and utilities; and to conserve the natural resources and scenic qualities of the Town. Accordingly, the DRB may modify the area and dimensional requirements of these regulations simultaneously with site plan approval. Such modifications shall be subject to the general and specific conditions and standards in this section and in the district regulations, where applicable. [§§4417]

## **Section V. Definitions**

For the purpose of these bylaws, the terms below shall have the following meanings unless a different meaning clearly appears from the context:

1. Acre means a parcel of land with an area, measured on a horizontal plane, of 43,560 square feet.
2. Act means the Vermont Planning and Development Act 24 V.S.A., Chapter 117.
3. Adjoining Landowner means any person owning land contiguous to the proposed land development including land separated by a road or road right of way.
4. Boundary Line Adjustment is any subdivision where one or more boundary lines are moved and does not result in the creation of any new lots.
5. DRB is abbreviation for the Town of Hyde Park Development Review Board.
6. Frontage is the length of the front lot line for a single parcel of land as measured from the public right-of-way or private street that it borders.
7. Interested Person means anyone meeting the definition of the term as set forth in the Act [§4465(b)]. The definition includes the following:
  - a. A person owning title or property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw who alleges that the bylaw imposes on such property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
  - b. The Town of Hyde Park or any municipality that adjoins it.
  - c. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaws of the Town of Hyde Park.
  - d. Any ten persons who may be in any combination of voters or real property owners within a municipality listed in subdivision (b) of this subsection who, by signed petition to the DRB, the bylaws of which is at issue in any appeal brought under this title, allege that the relief requested by a person under this title if granted will not be in accordance with the policies, purposes or terms of the plan or bylaw of the Town of Hyde Park. This petition to the DRB must designate one person to serve as the representative of the petitioners regarding all matters relating to the appeal.
  - e. Any department and administrative subdivision of the state owning property

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or any interest therein within a municipality listed in subdivision (b) of this  
subsection, and the agency of commerce and community development.

8. Land Development means 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 the use of land.
9. Minor Boundary Line Adjustment is any boundary line adjustment where no development is required to any private roads, common land, or conditions of prior approvals in order for the application to be approved.
10. Major Boundary Line Adjustment is any boundary line adjustment not meeting the requirements of a minor boundary line adjustment.
11. Private road means a minor travel way under private ownership serving more than three adjoining parcels which provides vehicular access from an adjoining road to a parcel.
12. Public Highways means any state or town highway.
13. Public water systems means any system, or combination of systems owned or controlled by a person, which provides piped drinking water to the public and which:
  - (A) has at least 15 service connections; or
  - (B) serves an average of at least 25 individuals for at least 60 days a year.
14. PUD is abbreviation for Planned Unit Development.
15. Survey plat shall mean a map or plan drawn to scale of one or more parcels of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights (27 V.S.A. §1401).
16. Structure means an assembly of materials for occupancy or use, including but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence.
17. Town means the Town of Hyde Park.
18. V.S.A. is abbreviation for Vermont Statutes Annotated.
19. Zoning Administrator shall mean the administrative officer, or the assistant administrative officer appointed in accordance with the provisions of Section II(A) of these bylaws.