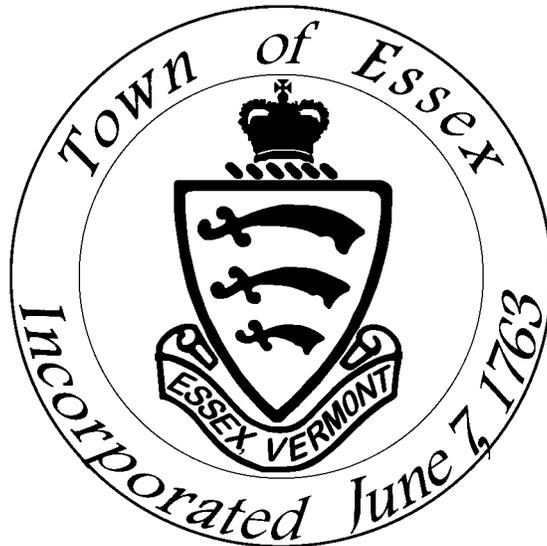


**TOWN OF ESSEX**  
***OFFICIAL SUBDIVISION REGULATIONS***



Effective November 26, 1979

As Amended & Effective On:

October 9, 1989

July 4, 1995

September 9, 1996

December 28, 1998

April 30, 2001

December 8, 2003

April 14, 2008

December 22, 2008

May 23, 2011

February 28, 2017

October 9, 2023

**Town of Essex Subdivision Regulations**  
**TABLE OF CONTENTS**

<b>ARTICLE I.</b>	<b>AUTHORITY AND PURPOSE</b>	<b>Page</b>
1.0	Enactment .....	1
1.1	Purpose .....	1
1.2	Application and Interpretation .....	1
1.3	Effective Date. ....	2
1.4	Amendments. ....	2
1.5	Severability .....	2
<b>ARTICLE II.</b>	<b>SUBDIVISION PROCEDURES</b>	<b>Page</b>
2.0	General Procedures, Waivers. ....	3
2.1	Waivers .....	3
2.2	Classification .....	3
2.3	Review Process.....	4
2.4	Application Requirements .....	6
2.5	Simple Parceling and Boundary Adjustments .....	7
2.6	Sketch Plan Approval .....	10
2.7	Master Plan .....	13
2.8	Preliminary Subdivision Approval .....	15
2.9	Final Subdivision Approval .....	19
2.10	Plat Recording Requirements .....	21
2.11	Requirements Following Approval .....	22
2.12	Modifications and Amendments .....	25
<b>ARTICLE III.</b>	<b>SUBDIVISION STANDARDS</b>	<b>Page</b>
3.0	General Standards .....	28
3.1	Standards Applicable to All Subdivisions .....	28
3.2	Standards Applicable to Minor Subdivisions .....	30
3.3	Preservation of Natural Features .....	30
3.4	Blocks and Lots – Planning and Design Standards .....	33
3.5	Streets .....	35
	Table 4.1 Urban Design Standards for Streets .....	37
3.6	Sidewalks – Planning and Construction Standards .....	38
3.7	Land for Public Open Space and Recreation Use .....	39
3.8	Utility and Access Easements and Improvements .....	39
3.9	Water Supply and Waste Water Systems .....	40
3.10	Stormwater Management and Erosion Control .....	42
3.11	Monuments and Lot Markers .....	43
<b>ARTICLE IV.</b>	<b>ADMINISTRATION AND ENFORCEMENT</b>	<b>Page</b>
4.0	Applicability .....	44
4.1	Municipal Administrative Requirements .....	44
4.2	Appeals .....	48

**Town of Essex Subdivision Regulations**  
**TABLE OF CONTENTS**

4.3	Violations and Enforcement .....	50
<b>ARTICLE V.</b>	<b>DEFINITIONS</b>	<b>Page</b>
5.0	Terms and Usage .....	51
5.1	Definitions .....	51

**OFFICIAL SUBDIVISION REGULATIONS  
OF THE TOWN OF ESSEX**

**ARTICLE I: AUTHORITY AND PURPOSE**

**1.0 Enactment:** In accordance with the Vermont Planning and Development Act (24 V.S.A. Chapter 117), hereinafter referred to as “the Act,” these subdivision regulations are established for the Town of Essex, Vermont, excluding the. These Regulations shall be known and may be cited as the “**Official Subdivision Regulations of the Town of Essex.**”

**1.1 Purpose:** These Regulations have been adopted to assure orderly growth and coordinated development in the Town of Essex, to promote the health, safety, and general welfare of the Town’s inhabitants, to implement the Essex Town Plan as most recently amended, and for the purposes set forth in of the Act [§ 4302].

**1.2 Application & Interpretation:** These Regulations are subject to all requirements of the Act as most recently amended and shall apply to all subdivisions within the Town of Essex. Before any offer to sell or contract for the sale of land in a subdivision or any part thereof is made, other than an option for the entire parcel of land to be subdivided contingent upon approval by the Town, or any grading, clearing, construction, or other improvement is undertaken herein, the subdivider shall apply to the Town of Essex for and secure approval of the proposed subdivision in accordance with these Regulations.

<p><b>Subdivision:</b> Any land, vacant or improved, which is divided or proposed to be divided into lots, parcels, sites, plots, units, or interests for the purpose of sale, lease or development, including amended subdivisions and re-subdivisions.</p>
--

- (A) The provisions of these Regulations shall not be construed to abrogate or annul the provisions of other regulations or to impair the provisions of private restrictions placed upon property. Where these Regulations impose a greater restriction upon land, improvements, or structures than is imposed by any such other provision, the restrictions of these Regulations shall prevail.
- (B) The transfer of a portion of a parcel of land to an adjoining right-of-way for a street, road, or highway, owned by a public agency, shall not require approval under these regulations.
- (C) The status of subdivision plats recorded or received for recording prior to the effective date of these regulations shall be as follows:
  - (1) Plats filed before any subdivision regulations were adopted by the Town of Essex: Plats filed before any subdivision regulations were in effect remain valid unless there were specific provisions for expiration. The land described by such plats may be developed in accordance with the plat, without additional subdivision review, and individual lots in such subdivisions may be sold and developed (but not re-subdivided) without additional subdivision review.
  - (2) Plats filed in accordance with subdivision regulations in effect prior to the effective date of these Regulations remain valid. The land described by such plats may be developed in accordance with the plat and all conditions or stipulations

attached to the approval. Individual lots may be sold and developed (but not re-subdivided) as described in the plat and approval without additional subdivision review.

- (3) The re-subdivision of a lot in a subdivision described by a plat described in either (1) or (2) above shall be treated as a new subdivision under these Regulations.

**1.3 Effective Date:** In accordance with the Act [§ 4442], these regulations shall take effect twenty-one (21) days from the date of adoption by a majority of the members of the Essex Selectboard, or immediately upon adoption as a result of a petitioned or warned town meeting vote. All subdivision regulations previously in effect for the Town of Essex are repealed as of the effective date of these regulations.

**1.4 Amendments:** Preparation and adoption of amendments to these regulations shall be in accordance with the procedures established in the Act [ §§ 4441 and 4442].

- (A) The Planning Commission may, at any time, consider proposed amendments to these Regulations which it develops on its own or which may be suggested or requested by any other person. The Planning Commission may or may not decide to proceed with such potential amendments by warning and conducting a public hearing, and following the other procedures established in the Act.
- (B) If, however, a request for an amendment to these Regulations is supported by a petition signed by not less than five percent (5%) of the voters of the Town, the Planning Commission shall correct any technical deficiencies, prepare a written report regarding conformance with the Town Plan and, without changing the amendment, promptly proceed in accordance with the Act [§ 4441] as if the proposed amendment had been prepared by the Planning Commission.

**1.5 Severability:** The provisions of these Regulations are severable. In the event that any part of these Regulations, or their application, is determined by a court of jurisdiction to be invalid, this determination shall not affect the validity of any other part of these Regulations, nor to their application by the Town of Essex.

## ARTICLE II: SUBDIVISION PROCEDURES

**2.0 General Procedures, Waivers:** The following procedures apply to all subdivisions requiring approval under these Regulations. This Article sets forth requirements for the preparation and submittal of sketch plan, master plan, preliminary and final subdivision plats, and application for acceptance of streets and other public improvements. The information called for is necessary to inform the Planning Commission and the public about the proposed subdivision. Due care in the preparation of all the maps and other information will expedite the review and approval of proposed subdivisions.

**2.1 Waivers:** Where the Planning Commission finds that extraordinary and unnecessary hardships may result from strict compliance with these Regulations, or where there are special circumstances of a particular subdivision, it may make the minimum modifications to the Regulations necessary to afford relief without nullifying or adversely affecting the intent and purpose of the Town Plan or the Zoning Regulations.

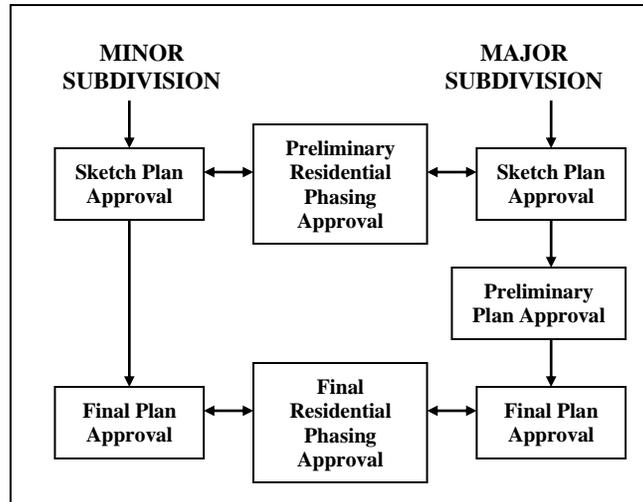
- (A) Where the Planning Commission finds that, due to special circumstances of a particular subdivision, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or that connecting facilities are not adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.
- (B) When in the opinion of the Planning Commission the number of submissions, as required by strict compliance with these regulations, seems excessive and unnecessary for full review, the Commission may waive or combine some of the submissions. In no case may it waive the Public Hearing of the final submission or recording of the subdivision plat.
- (C) In granting waivers, the Planning Commission shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.
- (D) Where the Planning Commission, after recommendation from the Town Engineer, believes a waiver from the requirements of the *Town of Essex Standard Specifications for Construction* is appropriate for a particular subdivision and such finding is in accordance with the above subsections, the Selectboard may grant such a waiver.

**2.2 Classification:** All subdivisions of land in the Town of Essex shall be classified into one of the following four categories, as defined in Article VI. Proposed subdivisions shall be classified by Staff. When classifying a subdivision containing one or more lots of a subdivision approved within the past ten years, the lots of the original subdivision shall be counted along with the proposed new lots. If an applicant disagrees with the Staff classification, staff shall forward the request for classification to the Planning Commission. The diagram below illustrates the procedures for minor and major subdivision approvals.

- (A) **Simple Parceling** (Reviewed according to the provisions of Section 2.5(A), below.)  
Note that Paragraph 2.5(A) specifies how lots created by simple parceling are to be counted for purposes of classification.

- (B) **Boundary Adjustment** (Reviewed according to the provisions of Section 2.5(B), below). Note that Section 2.5(B) limits transfer by boundary adjustment to a parcel no larger than the minimum required lot in the zoning district in which the subject property is located, or no larger than one acre if the subject property is located in a zoning district that has no minimum lot size.
- (C) **Minor Subdivision** (Requires Sketch Plan and Final Subdivision Approval in accordance with Sections 2.6 and 2.8, below.) A Master Plan may be required in accordance with Section 2.7.

- (D) **Major Subdivision** (Requires Sketch Plan, Preliminary and Final Approval in accordance with Sections 2.6, 2.8 and 2.9, below). A Master Plan may be required, in accordance with Section 2.7, below. Subdivisions for development of a mixed-use development containing housing, multi-unit housing projects, congregate housing projects, or planned developments (per Article VI of the Zoning Regulations) shall be considered as major subdivisions.



**2.3 Review Process:**

- (A) **Conceptual Discussion:** An applicant may schedule a conceptual discussion with the Planning Commission prior to developing and submitting a formal application for subdivision review. The purpose of such a discussion is to explore possible concepts for developing a site without requiring detailed surveying or engineering data. This is intended to be an informal exchange of ideas. It is not binding and is not intended to result in approvals or denials of development plans, nor does it imply approval or denial when formal application is made. Notifications to abutting landowners is required by first-class mail.
  - (1) Materials provided at conceptual discussion should include a subdivision plan drawn to scale showing major features of the site (natural and man-made), north arrow, general location of the site within the Town, the area of the site, and sketches of possible development approaches.
  - (2) The minutes of the meeting will serve as written documentation of the discussion.

- (B) **Boundary Adjustments and Simple Parceling:** Applications for Boundary Adjustments and Simple Parceling are reviewed and approved by the Planning Commission in accordance with Section 2.5 of these Regulations.
- (C) **Modification of Submitted Plans:** For minor and major subdivision applications, the applicant shall not submit revised plans or revisions to other application materials between the time of the original submission and the meeting at which the Planning Commission reviews that submission, unless specifically requested by Staff to do so. If the applicant, of their own volition, wishes to revise the submitted plans prior to Planning Commission review, the pending application must be withdrawn via a written request, a complete package of application materials must be re-submitted and the Planning Commission review will be rescheduled.
- (D) **Sketch Plan Review:** All minor and major subdivisions must go through sketch plan review. Applications shall be submitted to staff in accordance with the provisions of Section 2.6, below. Staff, upon determining that an application is complete, shall arrange to place the application on the agenda of the next Planning Commission meeting to be held at least ten (10) days hence, or as soon thereafter as the agenda will allow, and shall notify the applicant of the date of the meeting.
- (1) If review by the Conservation Committee, staff, or other advisory boards is requested under these Regulations, the Sketch Plan application shall be forwarded to those bodies and comments requested prior to the Planning Commission's review of the Sketch Plan application.
  - (2) If the sketch plan is approved, and if the proposed subdivision includes residential development, the Planning Commission shall consider a preliminary residential phasing allocation for the subdivision as set forth in Article III of these Regulations.
  - (3) For Minor Subdivisions, a complete application for Final Subdivision Approval must be submitted within twelve months of Sketch Plan approval. Upon written request received prior to the end of the twelve-month period and demonstrating reasonable cause for the delay, the Planning Commission may approve an extension of up to six months. If a complete application is not received within this time period, the Sketch Plan Approval and any preliminary residential phasing allocation shall expire and the applicant must reapply.
  - (4) For Major Subdivisions, a complete application for Preliminary Subdivision Approval must be submitted within twelve months of Sketch Plan approval. Upon written request received prior to the end of the twelve-month period and demonstrating reasonable cause for the delay, the Planning Commission may approve an extension of up to twelve months. If a complete application is not received within this time period, the Sketch Plan Approval and any preliminary residential phasing allocation shall expire and the applicant must reapply.
    - (a) If review by the Conservation Committee, staff, or other advisory board is requested under these Regulations, the application shall be forwarded to

those bodies and their reviews scheduled prior to Preliminary Subdivision Review by the Planning Commission.

- (b) If Conditional Use Approval by the Zoning Board of Adjustment is required under the Town's Zoning regulations, the applicant is urged to submit an application and request a hearing prior to Final Subdivision Review.
- (c) If the subdivision is also being approved as a Planned Unit Development under Article VI of the Town's Zoning Regulations, all application materials required for Site Plan Approval and Planned Unit Development Approval shall be submitted with the Application for Preliminary Subdivision Approval.

**(E) Preliminary Subdivision Approval:** All major subdivisions must obtain Preliminary Subdivision Approval. Applications must be submitted to staff in accordance with Section 2.8, below. Staff, upon determining that an application is complete, shall arrange to place the application on the agenda of the next Planning Commission meeting to be held at least ten (10) days hence, or as soon thereafter as the agenda will allow, and shall notify the applicant, abutters, and all other interested parties of the date of the meeting.

- (1) A complete application for Preliminary Subdivision Approval must be submitted within twelve months of Sketch Plan approval. Upon written request received prior to the end of the twelve-month period and demonstrating reasonable cause for the delay, the Planning Commission may approve an extension of up to twelve months. If a complete application is not received within this time period, the Sketch Plan approval and any preliminary residential phasing allocation shall expire and the applicant must reapply.

**(F) Final Subdivision Approval:** All major and minor subdivisions must obtain Final Subdivision Approval. Applications must be submitted to staff in accordance with Section 2.9, below. Staff, upon determining that an application is complete, shall schedule a public hearing in accordance with Article VI of these Regulations as soon as the agenda will allow, and shall notify the applicant, abutters, and any other interested parties of the date of the hearing.

- (1) A complete application for Final Subdivision Approval must be submitted within twelve months of Sketch Plan approval for minor subdivisions or within twelve months of Preliminary Plan approval for major subdivisions. Upon written request received prior to the end of the twelve-month period and demonstrating reasonable cause for the delay, the Planning Commission may approve an extension of up to twelve months. If a complete application is not received within this time period, previous approval and any preliminary residential phasing allocation shall expire and the applicant must reapply, starting again at the beginning of the process.

**2.4 Application Requirements:** At each stage of the subdivision review and approval process, the applicant shall provide to the Community Development Department a complete application including all fees and materials specified in these Regulations, information specified on the *Town of Essex Planning Commission Checklist for Subdivision*

*Applications*, and other items determined by Staff necessary for review by the Planning Commission. Incomplete applications may be held or returned to the applicant, but shall not entitle the applicant to further consideration or Planning Commission review.

**2.5 Simple Parceling and Boundary Adjustments:** Applications for simple parceling and boundary adjustments shall be approved as described in this section.

- (A) **Simple Parceling:** Simple Parceling, as defined in Article VI, must satisfy the conditions of this section, and shall require submission to the Community Development Director of a boundary plat showing the delineation of all proposed parcels and other application materials described below.
- (1) Application Materials: Technical plans, drawings, property surveys, etc., shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a written summary of the proposed project, names and addresses of all adjacent property owners (if an adjoining property is owned as common land by an owners' association, the applicant shall provide the name and address of the president of the owners' association), three (3) copies of the proposed plan(s) and supporting written materials, and the following:
    - (a) Identifying Information:
      - (i) Address of parcel being subdivided.
      - (ii) Name and address of applicant and owner.
      - (iii) Name and address of professional advisors.
      - (iv) Date.
      - (v) Zoning district(s) involved.
    - (b) A fee as may be established by the Town Selectboard; and
    - (c) A complete survey of the land to be divided, prepared as a plat, shall be submitted, in conformance with Section 4.2 of these Regulations, which shows the proposed lot configuration, significant natural features (as shown on the Significant Features, Water Features or Scenic Resources Reference Maps) and location of the 100-year flood plain (if applicable).
  - (2) Planning Standards: A proposed simple parceling must satisfy the following:
    - (a) The applicant must demonstrate that there is adequate area for primary and replacement septic areas on both lots, or that both lots are served by the municipal sewer system or other approved off-site system.
    - (b) Both lots created must meet all applicable minimum requirements of the Town Zoning Regulations.
    - (c) If the parcel to be divided contains any feature identified on the Significant Features, Water Features or Scenic Resources Reference Maps, Staff shall review and accept plans to mitigate the impact of the proposed parceling on said features (e.g., conservation easements, specified building envelopes, preservation of an open field, etc.). Staff may consult with the Conservation Committee regarding such a proposed parceling.

- (d) If the parcel to be divided contains any non-motorized, multi-use trails/paths identified in the Town Plan, applicant shall provide easement(s) at least fifteen (15) feet in width.
- (3) Upon determining that an application for simple parceling is complete, Staff shall review the application, prepare a draft decision for the Planning Commission, and place the matter on the consent agenda (see Section 5.1(D) of these Regulations) for the Planning Commission at the next available meeting.
- (4) Staff shall notify the applicant, adjacent property owners, and other interested parties of the application for simple parceling, the draft decision, and the date on which the Planning Commission will consider the matter under its consent agenda, at least seven days prior to the meeting, in accordance with Article V of these Regulations.
- (5) Following action by the Planning Commission, the decision shall be issued in accordance with Section 5.1(E) of these Regulations.
- (6) When the proposed simple parceling has been approved by the Planning Commission, a copy of the approved survey on mylar, suitable for recording, shall be prepared showing the information from Sub-Paragraph 2.5(A)(1), above, soil test pit results (if required), bearings and distances of perimeter boundary lines, monumentation in accordance with Section 4.11 on all corners of each lot, all easements and certification by a registered land surveyor that information is based on deed research and field information. In addition, the following language shall be printed on the mylar:
 

*“Approved by the Planning Commission of the Town of Essex, Vermont, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, subject to all requirements and conditions of said approval. Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by*

\_\_\_\_\_

*Chair”*
- (7) The mylar shall be filed in accordance with the provisions of Section 2.10 of these Regulations. A fee, payable by the applicant, will be charged to file the mylar and is due at its submittal.
- (8) Any further subdivision of a lot created by the approved Simple Parceling within a period of ten years of the date of filing the parceling drawing shall require subdivision approval in accordance with these Regulations.
- (B) Boundary Adjustments:** Any boundary adjustment, as defined in Article VI, must satisfy the requirements of this section, must be approved in accordance with this section, and shall be submitted to Staff for filing with the Town Clerk.
  - (1) Application Materials: Technical plans, drawings, property surveys, etc., shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a written summary of the proposed project, names and addresses of

adjacent property owners (if an adjoining property is owned as common land by an owners' association, the applicant shall provide the name and address of the president of the owners' association), three (3) copies of the proposed plan(s) and supporting written materials, and the following:

- (a) Identifying Information:
    - (ii) Address of parcel being subdivided.
    - (iii) Name and address of owner(s).
    - (iv) Name and address of any professional advisors.
    - (v) Date.
    - (vi) Zoning district(s) involved.
  - (b) A fee as may be established by the Town Selectboard;
  - (c) A scale drawing submitted to Staff showing the existing and proposed boundaries between the relevant lots.
  - (d) An indication of whether or not either of the lots involved was part of a previous subdivision and if so, when that approval was granted.
- (2) Planning Standards: A boundary adjustment must satisfy the following:
- (a) The proposed boundary adjustment shall not create any new lots.
  - (b) No existing lot shall be made non-conforming or more non-conforming.
  - (c) The total acreage being transferred as a result of the boundary adjustment may not exceed the minimum lot size in the zoning district in which the property is located, or no more than one acre if the property is located in a zoning district that has no minimum lot size. If a larger area is being transferred, the proposal must be treated as a minor subdivision.
- (3) Upon determining that an application for a boundary adjustment is complete, Staff shall review the application, prepare a draft decision for the Planning Commission, and place the matter on the consent agenda (see Section 5.1(D) of these Regulations) for the Planning Commission at the next available meeting.
- (4) Staff shall notify the applicant, adjacent property owners, and other interested parties of the application for a boundary adjustment, the draft decision, and the date on which the Planning Commission will consider the matter under its consent agenda, at least seven days prior to the meeting, in accordance with Article V of these Regulations.
- (5) Following action by the Planning Commission, the decision shall be issued in accordance with Section 5.1(E) of these Regulations.
- (6) When the proposed boundary adjustment has been approved by the Planning Commission, a mylar suitable for recording shall be prepared showing all relevant information, bearings and distances of perimeter boundary lines, monumentation in accordance with Section 4.11 on all corners of each lot, and all easements, and certification by a registered land surveyor that information is based on deed research and field information. In addition, the following language shall be printed on the mylar:

*“This boundary line adjustment does not constitute the creation of a separate parcel of land. It only adjusts the physical location of the boundary of these adjoining parcels. Any future subdivision and/development of these new parcels must be approved by the Town of Essex Planning Commission.*

*This plan is approved, subject to all requirements and conditions of this approval, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by \_\_\_\_\_  
Chair”*

- (7) The mylar shall be filed in accordance with the provisions of Section 2.10 of these Regulations. A fee, payable by the applicant, will be charged to file the mylar and is due at its submittal.
- (8) Any further subdivision of a lot created by the approved Boundary Adjustment shall require subdivision approval in accordance with these Regulations.

**2.6 Sketch Plan Approval:** Sketch Plan approval is required for all subdivisions except boundary adjustments and simple parceling.

- (A) **Purpose:** The purpose of Sketch Plan Review is to explore the options for the overall subdivision concept and layout, including uses and open spaces, in relation to the objectives of the Town Plan, the characteristics of the site and characteristics of the surrounding area, and to determine that the proposed subdivision appears consistent with the requirements of these Regulations and the Town’s Zoning Regulations.
  - (1) When the proposed development occupies only a portion of the parcel of land being subdivided, the applicant should be prepared to discuss future plans for the remainder of the parcel. A Master Plan may be required in accordance with Section 2.7 of these Regulations.
  - (2) For large or complex subdivision projects, the applicant is urged to meet informally with Staff to discuss the project, prior to filing an application for Sketch Plan Review.
- (B) **Application Materials:** Technical plans, drawings, property surveys, etc. shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a written summary of the proposed project, names and addresses of all adjacent property owners, ten (10) copies of the proposed plan(s) and supporting written materials along with the following:
  - (1) Identifying Information:
    - (a) Address of parcel being subdivided.
    - (b) Name and address of applicant and owner.
    - (c) Name and address of any professional advisors.
    - (d) Date.
    - (e) Zoning district(s) involved.

- (f) Names, addresses, and tax parcel numbers (from Town tax records) for all adjacent parcels (if an adjoining property is owned as common land by an owners' association, the applicant shall provide the name and address of the president of the owners' association).
  - (g) Existing and proposed uses of all parcels (residential, farm, etc.).
- (2) Sketch Plan Elements: A Sketch Plan in the form of a scaled drawing, based on the best available information, of the parcel to be subdivided, and including the following information along with all information in the technical checklist approved by the Planning Commission:
- (a) Address of parcel being subdivided.
  - (b) Name/address of applicant and owner.
  - (c) Scale, preferably (1"=100') or (1 dm=100 meters).
  - (d) North arrow.
  - (e) Site location map.
  - (f) Total acreage.
  - (g) Best available property boundary information, to scale.
  - (h) Zoning district boundaries and name(s) of zoning districts in which the development is located.
  - (i) Best available topographic information (USGS Contour maps may be consulted at the Community Development Department office).
  - (j) General location of water courses, wetlands, the 100-year flood plain (if applicable), wooded areas, significant ledge outcrops, and other natural features as may be depicted on the Town's Significant Features Reference Map.
  - (k) Trails as shown in the Town Plan or other report incorporated into the Town Plan.
  - (l) Location of all adjoining properties.
  - (m) Preferred layout of lots, streets, and any area to be designated as open space.
  - (n) Proposed and/or existing easements.
  - (o) In addition to Significant Features in Subsection j, general location of other important features such as stonewalls, historic structures and sites, and large stand-alone trees and tree stands (identified as important by the Town Tree Warden or the Town Plan).
- (3) Alternative Layout Sketches: Applicants may want to explore a variety of potential layout(s) for the proposed subdivision. One or more alternatives may be submitted on tracing paper overlays of the sketch plan. The layouts should also indicate how the proposed subdivision relates to surrounding development, roads and land uses. Applicants are encouraged to present sketch layouts for Planned Unit Developments, as applicable, in addition to conventional zoning layouts.
- (4) Fees: A fee, as established by the Selectboard, plus the cost of publishing notice and notifying adjacent property owners shall be provided as described in Article V of these Regulations.

- (C) **Planned Unit Developments:** In zoning districts where Planned Unit Developments (PUDs) are permitted, they are encouraged and preferred over conventional subdivisions. When the application is for a proposed PUD in accordance with Article VI of the Town's Zoning Regulations, the applicant shall so state in the Sketch Plan Review application and shall be prepared to discuss the proposed development in view of the requirements established for Planned Unit Developments in the Town's Zoning Regulations.
- (D) **Review Procedure:**
- (1) The Community Development Director shall determine whether or not a previously approved Master Plan exists for the subject property in accordance with Section 2.7 of these regulations or any previous regulations. If so, the applicant shall be notified, and the Master Plan shall be kept as part of the current application.
  - (2) If the application is deemed complete, the Community Development Director shall schedule a hearing before the Planning Commission at the earliest available time, with notice of the hearing at least seven days prior to the hearing in accordance with Article V of these Regulations, The Community Development Director shall notify the applicant, owners of adjacent properties, and other interested parties of the date of the hearing.
  - (3) Where the proposed subdivision consists of, or has the potential of, supporting more than 10 dwelling units, Staff shall notify the Superintendent of Schools to allow potential input regarding the impact of the development on school facilities.
  - (4) Staff shall notify the applicant of the requirements for residential development phasing (Article III). Staff shall advise the applicant of the construction priority of projects with final approval and projects under review by the Planning Commission and, if available, an estimate of the earliest start date and term of construction.
  - (5) At Sketch Plan Review, Staff shall provide relevant information from the Significant Features Reference Map, aerial photographs, and other available sources. The applicant is encouraged to meet with Staff prior to Sketch Plan Review to explore this information.
  - (6) The Planning Commission shall study the Sketch Plan to determine whether it conforms to, or would be in conflict with, the General Requirements set forth in Article IV of these Regulations.
  - (7) The Planning Commission and the applicant may explore alternative layouts or arrangements during the Sketch Plan Review.

- (8) When the applicant states that the proposal is for a Planned Unit Development or Planned Residential Development, the Planning Commission shall also consider the requirements of Article VI of the Town's Zoning Regulations.
  - (9) The Planning Commission shall consider the need for and extent of open space and recreation land in the proposed subdivision in accordance with Article IV of these Regulations.
  - (10) The Planning Commission shall review the classification of the proposed subdivision as either Minor or Major, if requested by the applicant, and may confirm or revise said classification.
  - (11) Prior to granting Sketch Plan Approval, the Planning Commission shall determine whether a Master Plan shall be required in accordance with Section 2.7 of these Regulations. If a Master Plan is required, it shall be submitted prior to the next level of review of the proposed subdivision.
  - (12) The Planning Commission shall approve, modify and approve, or disapprove the Sketch Plan, including the preferred layout. If the applicant has submitted more than one plan, the Commission may take action on one of the proposed alternative layouts submitted with the application. Written comments on the Sketch Plan which clearly express the results of the Commission's review shall be sent to the applicant. Sketch Plan approval constitutes authorization to proceed to the next step in the subdivision approval process. Sketch Plan Approval is not binding in that it does not guarantee Preliminary or Final Subdivision Approval.
- (E) **Residential Phasing:** If the proposed subdivision will include residential development, residential phasing shall be reviewed in accordance with Article III of these Regulations.
- (F) **Conservation and Trails Committee Review:** The Conservation and Trails Committee is to be notified of all applications and be given the opportunity to review the application and submit comments to staff for inclusion in staff reports and/or to present comments directly to the Planning Commission.

### **2.7 Master Plan:**

- (A) **Applicability:** As determined by the Planning Commission at Sketch Plan Approval, a Master Plan shall be required for any project which is intended to be developed in phases and for which approval of only one phase is currently requested, or for any project where development of only part of the parcel is proposed and the remaining land exceeds in area three times the minimum lot size in the district in which the subdivision is located.
- (B) **Purpose:** The purpose of the preparation and review of a Master Plan by the Planning Commission is to acquaint the Commission with the entire tract of land without requiring the presentation of extensive surveying, engineering, or design data, to

identify significant features warranting future protection, and to facilitate anticipated future development in an orderly manner. Applicants are encouraged to explore different schemes by presenting alternative plans that represent thoughtful site planning and are in conformance with the Town Plan and Bylaws.

(C) Application Materials:

(1) Identifying Information

- (a) Address of parcel for which the master plan applies.
- (b) Name and address of owner.
- (c) Name and address of any professional advisors.
- (d) Date.
- (e) Zoning district(s) involved.
- (f) Names, addresses, and tax parcel numbers (from Town tax records) of all adjacent parcels (if an adjoining property is owned as common land by an owners' association, the applicant shall provide the name and address of the president of the owners' association).
- (g) Existing and proposed uses of all parcels (residential, farm, etc.).

(2) Draft Master Plan: A complete application for Master Plan approval shall include a written summary of the proposed project, names and addresses of all adjacent property owners, ten copies of the proposed plan(s) and supporting written materials along with the following:

- (a) Completed Planning/Zoning application form.
- (b) Application fee, as determined by the Selectboard.
- (c) Site location map (upper right or upper left corner of plan).
- (d) Identification and delineation of Zoning District(s) involved.
- (e) Name and address of applicant and owner.
- (f) Name of subdivision, if any, and address.
- (g) North arrow on map.
- (h) Scale - not smaller than 1"=200', preferably 1"=100'.
- (i) Date.
- (j) Property boundaries with approximate dimensions and total acreage.
- (k) Location of all adjoining properties and names of owners thereof.
- (l) Tentative arrangement of proposed streets, utilities, and facilities, including water, sewer, drainage, electric, telephone, etc.
- (m) Mapping of soil classifications as shown in the Chittenden County Soil Survey, including the delineation of prime agricultural soils as designated in Agricultural Value Groups for Soils (available at the USDA Soil Conservation Service Office) and a discussion of the capabilities and limitations of the soil types.
- (n) General location of watercourses, wetlands, the 100-year flood plains, wooded areas, significant ledge outcrops, and other natural features as may be depicted on the Significant Features Reference Map.

- (o) Tentative layout of proposed lots with approximate dimensions and areas, and approximate layout of areas to be designated as open spaces, parks, playgrounds, or other public spaces.
- (p) Open meadows.
- (q) Location of the 100-year flood plain boundaries, if applicable.
- (r) Trails, as shown in the Town Plan or other report incorporated into the Town Plan.
- (s) An assessment of areas to remain undeveloped (using information on the Significant Features Map and other available sources as a guide).

**(D) Review by Planning Commission:** The Planning Commission shall review the Master Plan as a Sketch Plan, taking into consideration the requirements of the Town Plan and the Bylaws and indicate to the applicant any changes or preferences for the overall design of the project. Master Plan review is intended to be an informal exchange of ideas between the applicant and the Planning Commission and presentations and suggestions are not binding. Approval of a Master Plan shall not constitute approval of the proposed subdivision.

**(E) Filing:** If approved as a Master Plan, the decisions of the Planning Commission and a copy of the Master Plan shall be filed in the Community Development Office. The Master Plan shall be consulted whenever future subdivision of any land included in the Master Plan is proposed. An approved Master Plan shall not constitute approval of the proposed subdivision.

**2.8 Preliminary Subdivision Approval:** All major subdivisions must go through Preliminary Subdivision Approval. This is the point where the details of the proposed subdivision are reviewed against the requirements set forth in these and other town Regulations.

**(A) Purpose:** The purpose of Preliminary Subdivision Approval shall be to compare the plan for consistency with the requirements of these Regulations, to determine that the plan addresses the issues raised at Sketch Plan Review, to ensure that all survey information, septic system and well data, required public improvements, and other data are complete, to ensure that the proposed subdivision is in compliance with all appropriate Regulations and standards, and to complete the major portion of engineering review of improvements and land alterations.

**(B) Application Materials:** Technical plans, drawings, property surveys, etc., shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a detailed written summary of the proposed project, names and addresses of all adjacent property owners, ten (10) copies of the proposed plan(s) and supporting written materials along with the following, plus all information in the technical checklist approved by the Planning Commission:

- (1) Identifying Information: All information required for Sketch Plan Approval, updated as needed, as specified in 2.6(B)(1), above.
- (2) Subdivision Plan: Detailed subdivision plan(s) shall be submitted containing all of the information required for Sketch Plan Approval, as set forth in Paragraph

2.6(B)(2), above, updated and accurate, plus existing and finished contours as described below.

- (a) Existing and finished contours with intervals of not more than five feet (5').
  - (b) Contours with intervals of not more than two feet (2') shall be shown for large portions of the site that do not contain relatively level terrain or where on-site wastewater treatment facilities are to be installed.
  - (c) General mapping of soil classifications as shown in the Chittenden County Soil Survey, including the delineation of prime agricultural soils by value groups (available at the USDA Soil Conservation Service Office) and a discussion of the capabilities and limitations of the soil types as described in the Soil Survey.
  - (d) Septic System and Well Data:
    - (i) For subdivisions not served by the municipal sewer system, Results and locations of percolation tests and soil borings, made and certified by a professional engineer (with a civil or sanitary specialty) licensed in Vermont. If State approval is required, the application shall so indicate, and certification of state approval shall accompany the application for Final Subdivision Approval.
    - (ii) For subdivisions not served by the municipal water system, water quantity and quality data from well logs of nearby wells.
    - (iii) Location of proposed septic systems and wells, including wells on adjoining properties.
  - (e) Natural Features and New Trees:
    - (i) A site resource map, at the same scale as the other land use plan maps, delineating any resources identified on the Town's Significant Features Reference Map which lie within the boundaries of the site.
    - (ii) Roadside Landscaping Plan showing proposed street trees and other landscaping features.
  - (f) Stormwater Management and Erosion Control Plan:
    - (i) All structural and non-structural measures for stormwater management and erosion control.
    - (ii) Proof that the subdivision design conforms to the Town's Stormwater Ordinance (e.g., a local stormwater management permit, a State Stormwater Management Permit, or a certification that neither is required).
- (3) Preliminary Plat Elements: A Preliminary Plan shall contain the following:
- (a) Field Survey of boundary lines of the tract giving complete description data by metes and bounds, made and certified by a registered land surveyor.
    - (i) All new subdivisions within one mile of Vermont Grid 1927 shall be tied in to those controls and converted to Vermont Grid 1983 if reasonably possible.
  - (b) Location of boundary monuments, as required by Section 4.11 of these Regulations.
  - (c) Location and width of proposed street rights-of-way.

- (d) Preliminary names of all streets for submission to the Selectboard for approval.
  - (e) Location, dimensions, area and number of lots and blocks.
  - (f) Location and dimensions of property to be dedicated for public use, or to be reserved for private open space.
  - (g) Boundaries of proposed permanent easements and conservation easements, and statement of purpose of easement.
- (4) Construction Detail Drawings: All plans shall be prepared and certified by a professional engineer (civil or related specialty) licensed in Vermont.
- (a) Plans and profiles showing existing and proposed elevations along center lines of all streets within the subdivision.
  - (b) Plans and profiles showing location of street pavements, curbs, gutters, sidewalks, manholes, catch basins and culverts.
  - (c) Plans showing proposed building locations with building envelopes.
  - (d) Plans showing the location, size and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants and location and size of water, gas, electricity and any other utilities or structures.
  - (e) Plans showing temporary and permanent procedures for erosion control, consistent with the requirements of the Town's Stormwater Ordinance.
- (5) Traffic Study: When requested by Staff, the applicant shall provide a traffic study demonstrating the ability of the surrounding street system to accommodate traffic to be generated by the proposed subdivision. If there is any question about the need for a traffic study, staff shall refer the matter to the Planning Commission.
- (a) Traffic studies shall conform to the standards set forth by the Town Public Works Department.
- (6) All information necessary to demonstrate conformance with the General Standards set forth in Article IV of these Regulations.
- (7) Fees: A fee, as established by the Selectboard, plus the cost of publishing a notice and notifying adjacent property owners shall be provided, as described in Article V of these Regulations.
- (8) A schedule for phasing of construction of streets and dwelling units within the proposed subdivision, consistent with the preliminary phasing allocation in accordance with Article III of these Regulations.

**(C) Review Procedure:**

- (1) The Community Development Director shall determine whether or not the application is complete. If so, a hearing before the Planning Commission shall be scheduled at the earliest available time, and notice shall be sent at least fifteen

days prior to the hearing, in accordance with the provision of Article VI of these Regulations.

- (2) The Community Development Director shall notify the applicant, owners of adjacent properties, and other interested parties of the date of the hearing.
- (3) The Planning Commission shall review the Preliminary Subdivision submission for conformity with the General Requirements set forth in Article IV of these Regulations, and with the standards contained in these and any other relevant regulations (such as the PUD and Site Plan requirements of the Zoning Regulations).
- (4) The Planning Commission may decide that the proposed plan does not address the comments and concerns raised at Sketch Plan Review, or that the layout is substantially different from that discussed at Sketch Plan Review and may require the applicant to resubmit it as a Sketch Plan. The Commission may choose to conduct a second Sketch Plan Review in lieu of the scheduled Preliminary Review.
- (5) The Planning Commission shall determine the water supply system and the wastewater disposal system that shall be required to serve the subdivision in accordance with Section 4.9 of these Regulations. Any subdivision to be served by the municipal sewer system shall have obtained approval of a sewer allocation from the Selectboard or the Town Manager prior to Preliminary Subdivision Approval.
- (6) The Planning Commission may require phased construction of streets and dwelling units consistent with the preliminary residential phasing allocation issued in accordance with Article III of these Regulations.
- (7) The Planning Commission shall review the classification of all existing and proposed streets within the subdivision, using the classification system in the Town's Public Works Specifications. Streets shall be constructed to the standard for each classification as set forth in the Town's Public Works Specifications.
- (8) Based on the traffic study (see Subsection 2.8(B)(5)), if applicable, recommendations of the Town Engineer, or other credible observations, The Planning Commission may require the applicant to improve any access roads and/or traffic controls to the subdivision that are found to be inadequate to accommodate the additional traffic to be generated from the proposed subdivision.
- (9) The Planning Commission shall approve subject to modifications or disapprove the Preliminary Subdivision submission. The Commission may make specific recommendations to be incorporated by the applicant in the application for Final Subdivision Approval.

- (10) Following Preliminary Subdivision Approval, the Community Development Director shall submit the list of proposed street names to the Selectboard for approval prior to Final Subdivision Approval. Submission of street names shall include preliminary assignment of street numbers by the Town according to the criteria of the E911 emergency response system.

**2.9 Final Subdivision Approval:** All major and minor subdivisions must obtain Final Subdivision Approval in accordance with this section.

- (A) **Purpose:** The purpose of Final Subdivision Review shall be to compare the plat for consistency with the approved Preliminary Plan or approved Sketch Plan, to ensure that all engineering, survey and other data are complete, and to ensure that the proposed subdivision is in compliance with all appropriate regulations and standards. Review by the Planning Commission shall include a public hearing in accordance with the provisions of Article V of these Regulations.
- (B) **Application Materials:** Technical plans, drawings, property surveys, etc., shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a detailed written summary of the proposed project, names and addresses of all adjacent property owners, ten (10) copies of the proposed plan(s) and supporting written materials along with the following, plus all information in the technical checklist approved by the Planning Commission:
- (1) Identifying Information: Everything required for Sketch Plan Approval under Section 2.6 (for minor subdivisions) and/or Preliminary Subdivision Approval under Section 2.8 (for major subdivisions), updated and current.
  - (2) Subdivision Plan: Updated and accurate. For Major Subdivisions, this material was originally submitted for Preliminary Subdivision Approval. For minor subdivisions, refer to Section 2.8(B) of these Regulations.
  - (3) Proposed Final Plat: The Final Subdivision Application must include the following:
    - (a) Preliminary Plat data updated and accurate. For Minor Subdivisions refer to 2.8(B) of these Regulations.
    - (b) Sufficient data to determine readily the location, bearing and length of all straight lines, radii, length of curves, tangent bearings, and angles of all street lines, plat boundary lines, lot lines and all other boundary lines.
    - (c) Street names.
    - (d) Location and material of all monuments and boundary markers in accordance with the provisions of Section 4.11 of these Regulations.
  - (4) Construction Detail Drawings: Updated and accurate. For Major Subdivisions, this material was originally submitted for Preliminary Subdivision Approval. For Minor Subdivisions, refer to Section 2.8(B) of these Regulations.

- (5) Endorsement Block: The following endorsement block shall be placed on each section of the final submission, to be completed by the Planning Commission Chair or designee, upon approval:

*“Approved by Resolution of the Planning Commission of the Town of Essex, Vermont, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, subject to all requirements and conditions of said Resolution. Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_  
Chair”*

- (6) Fees: A fee, as established by the Selectboard, plus the cost of publishing a notice and notifying adjacent property owners shall be provided, as described in Article V of these Regulations.
- (7) A schedule for phasing of construction of streets and dwelling units within the proposed subdivision, consistent with the phasing allocation granted to the subdivision under Article III.

**(C) Review Procedure:**

- (1) The Public Hearing shall be held at a Planning Commission meeting in accordance with the provisions of Article V of these Regulations.
- (2) Before convening the public hearing on a minor or major subdivision, the Planning Commission may decide that the proposed subdivision does not address the comments and concerns raised at Sketch Plan Review, or that the layout is substantially different from that discussed at Sketch Plan Review and may require the applicant to resubmit it as a Sketch Plan. The Commission may choose to conduct a second Sketch Plan Review in lieu of the scheduled hearing.
- (3) Before convening the public hearing on a major subdivision, the Planning Commission may decide that the proposed subdivision does not address the comments and concerns raised at Preliminary Subdivision Approval. The Commission may choose to conduct a second Preliminary Subdivision Review in lieu of the scheduled hearing.
- (4) The Planning Commission shall review the final submission for conformity with the preliminary submission, with Article I of these regulations, and with the standards of these and any other relevant Regulations (such as the PUD or Site Plan Review provisions of the Zoning Regulations).
- (5) For Minor Subdivisions, the Planning Commission shall determine the water supply and waste water systems that shall be required to serve the subdivision in accordance with Section 4.9 of these Regulations.
- (6) The Planning Commission shall act to confirm and make final the residential phasing allocation in accordance with Article III of these Regulations.

- (7) The Planning Commission may require phased construction of streets and dwelling units, consistent with the phasing allocation approved in item 6, above.
- (8) The Planning Commission may establish conditions to Final Subdivision Approval that it determines are necessary to ensure that the subdivision conforms to the requirements of these Regulations.
- (9) The Planning Commission shall review all stipulations or conditions of approval and may, at its discretion, require that some or all be recorded in the Town's Land Records as restrictions on the property affected by the subdivision.
- (10) The Planning Commission may require a performance guarantee for the construction of public improvements, as set forth in Section 2.11(B).
- (11) The Planning Commission, within forty-five (45) days of the close of the Public Hearing, shall approve, modify and approve, or disapprove the Final Subdivision submission. The decision shall be issued in writing in accordance with Article VI of these Regulations. In the event that the Planning Commission fails to act within such forty-five (45) days, the Final Plat and other final drawings shall be deemed approved, effective on the 46<sup>th</sup> day.
- (12) The Planning Commission may set a time limit for completion of required improvements, including correction of outstanding violations (if any). If improvements are not completed within the specified time period, approval for the uncompleted portion of the subdivision shall be void.
- (13) Approval of the subdivision plat shall not be deemed to constitute or imply acceptance by the Town of any street or other open space shown on the plat.
- (14) The Final Plat shall be filed in accordance with the provisions of Section 2.10 of these Regulations.

**2.10 Plat Recording Requirements:** Following Final Subdivision Approval, the applicant shall prepare a final full size mylar of the plat and any portion of the submitted plans that are required to be recorded as a stipulation of Final Subdivision Approval and submit them within 180 days of the date of approval, to Staff for signature by the Chair of the Planning Commission or his/her designee. In accordance with the Act [24 V.S.A § 4463], the Community Development Director may grant a 90-day extension if final local and state permits are pending.

- (A) Eligible Plats: No Final Plat of subdivision of land shall be received by Staff for recording in the office of the Town Clerk until approved by the Planning Commission, and the fact of such approval is endorsed thereon, except as otherwise provided by statute.
- (B) Requirements: All Plats for filing shall meet the requirements of 27 V.S.A., Chapter 17, and the requirements of the latest mylar checklist provided by staff.

- (C) The Community Development Director shall have the plat signed and shall file the signed plat with the Town Clerk's Office within 180 days of the date of approval. In accordance with the Act [24 V.S.A., § 4463] the Community Development Director may grant a 90-day extension if final local and state permits are pending.
- (D) If a plat is not filed with the Town Clerk's Office in accordance with these provisions, the subdivision approval shall become void.
- (E) The applicant shall provide three paper copies of the approved Final Plat and any portion of the submitted plans that are required to be recorded as a stipulation of the Final Subdivision Approval. All documents shall bear the endorsement specified in Section 2.9(B)(5), above. No Zoning Permit shall be issued prior to receipt and filing of the approved plat.
- (F) Staff shall retain one paper copy for the files of the Community Development Department and provide a copy to the Town Engineer, and a signed copy shall be returned to the applicant.
- (G) The plat is void if changes are made to it after the Planning Commission has endorsed it in writing, unless amended in accordance with Section 2.12 of these Regulations.
- (H) After the Zoning Administrator files it with the Town Clerk, the Final Plat shall become part of the official Town Land records and any duly adopted Official Map.
- (I) In addition to the printed mylar of the final plat, the applicant shall submit a digital version formats specified by the GIS Coordinator. If the final plat was hand drawn and not available in digital form, the applicant shall submit a signed statement to that effect by the land surveyor or engineer who prepared the plat.
- (J) The digital plat shall contain all the information on the final plat, including wetland and wetland buffer boundaries (if these have been field surveyed and verified by the State of Vermont Wetlands Coordinator or designee), and any trails, walks or bike paths constructed or designated for public use as part of the subdivision approval.
- (K) In accordance with Title 27 V.S.A. Chapter 17, the surveyor or engineer who prepared a plat filed for record with the town clerk shall submit a digital copy to the Vermont Center for Geographic Information.

**2.11 Requirements Following Approval:** Following Final Subdivision Approval and before any zoning permits may be issued for construction of or on the approved subdivision. The following data shall be submitted to Staff prior to the issuance of any Zoning Permit. Where appropriate, the Town Attorney shall certify as to the documents' sufficiency. Review of these documents as well as any documents pertaining to the performance guarantee specified in Section 2.11(B) of these Regulations shall be done at the expense of the applicant.

- (A) **Legal Data:** The following legal data shall be provided:

- (1) Deed description of tract boundary.
  - (2) Information on all proposed publicly-owned land:
    - (a) Certificate of title.
    - (b) Offer of irrevocable dedication.
    - (c) A warranty deed, free and clear of all encumbrances, to be provided to the Town prior to the issuance of any Zoning Permit and to be recorded after final acceptance of all streets, parks, or other open space by the Town.
  - (3) Copies of agreements or other documents showing the manner in which areas reserved by the applicant are to be maintained, including any conservation easements.
  - (4) Any other data, such as contracts, certificates, affidavits, endorsements, receipts, or other materials or agreements which may have been required by the Planning Commission or by the Selectboard.
- (B) Performance Guarantee:** Where public improvements are required as part of subdivision approval, a performance guarantee in the form of a Letter of Credit, an escrow account, or other security, as approved by the Selectboard shall be posted before any site modification.
- (1) When a performance guarantee is required, the applicant shall file it with the Town in an amount sufficient to provide for and secure to the public the full cost of completion of all streets and required improvements within a period of time fixed by the Selectboard, and to ensure that all improvements and construction remain in satisfactory condition for a period of three (3) years after completion of all items. This amount shall be verified by the Town Engineer. Such guarantee may consist of separate portions covering required improvements and maintenance.
  - (2) The Selectboard shall specify the time period within which the required improvements must be completed, but in no case for a longer term than three (3) years. The term of the guarantee may, with the consent of the applicant, be extended for an additional period not to exceed three years. The time period shall be expressed as part of the posting of the guarantee.
  - (3) If any required improvements have not been installed or maintained as provided within the terms of such performance guarantee, it shall be considered to be forfeited after thirty (30) days' written notice. Upon receipt of the proceeds, the Town shall establish an escrow account and draw on it to install or maintain such improvements, and in the event the proceeds are insufficient therefore, the applicant shall be liable for reimbursing the Town for the balance. Any balance remaining in the escrow account at the end of the established maintenance period may be refunded to the applicant after all expenses to the Town are paid.

- (4) The applicant may transfer his/her rights in the performance guarantee or other surety to any purchaser of the undeveloped part of the subdivision if the Selectboard approves the transfer. The Selectboard may ask the Commission for review and recommendations prior to granting approval.
- (C) **Inspection of Required Improvements:** The Town Engineer, or his/her designated representative, shall inspect all required public infrastructure and review all certificates of inspection submitted by the engineer representing the developer to ascertain whether the work has been completed in accord with relevant Town specifications.
- (1) The developer shall review the intended construction schedule with the Town Engineer to facilitate required site inspections.
  - (2) The applicant shall provide for engineering inspection of the project by a Vermont licensed professional engineer (civil or related specialty) such that the applicant can, upon completion of the project, provide the project verification of facilities as required in the Town's Public Works Specifications. The provisions of this section will be met through evidence of a contract for these services or establishment of a letter of credit or similar financial instrument as a guarantee of performance.
- (D) **Public Acceptance of Streets, Reservations, and Other Public Improvements:** Every street shown on a plat filed or recorded as provided in these Regulations shall be deemed to be a private street until such time as it has been formally accepted by the Town.
- (1) No Zoning Permit shall be issued until proof is shown of acceptance of the streets and other improvements by the Selectboard, or that an adequate performance guarantee has been agreed upon by the Selectboard.
  - (2) Paper copies of as-built drawings and digital files(s) containing public infrastructure data shall be submitted to the Town Manager prior to the acceptance of the improvements. The submission shall be in formats specified by the GIS Coordinator and shall include separate files by municipal service system (i.e. water, sewer, drainage, roads), or a signed statement by the engineer who designed the municipal improvements that the plans were hand drafted showing the location of all required improvements, and shall be certified by a Vermont licensed professional engineer (with civil or related specialty) or registered land surveyor.. Until as-built drawings are filed, the balance of the performance guarantee or other surety guaranteeing the completion of such improvements shall not be released.
  - (3) Upon satisfactory completion of improvements, as certified by the Town Engineer, submission of as-built drawings in accordance with item 2 in this subsection, and submission of legal data required under Paragraph 2.11(A) of these Regulations, the Town Manager shall recommend to the Selectboard that all security covering construction of improvements be released. Sufficient guarantee

in the form of a Letter of Credit or other security shall be retained, however, to guarantee maintenance of the streets and other public improvements, as provided for in Section 2.11(B) of these regulations.

- (4) Final acceptance of all proposed streets and utilities shall be in conformance with the steps and procedures established by the Selectboard.
- (5) Final acceptance of public lands for recreation or open space shall be in conformance with the steps and procedures established by the Selectboard.
- (6) Final approval of the subdivision plat, or filing for record thereof, shall not constitute or be evidence of an acceptance of any street, park or other open space shown on such plat. Such acceptance shall be by resolution of the Selectboard, which shall set forth the fact of such acceptance for public purposes, describing the same by reference to a warranty deed conveying the site thereof to the Town free and clear of all encumbrances, together with a designation of the name by which such street shall be known.

**2.12 Modifications and Amendments:** When a subdivision has received final approval in accordance with the provisions of this Article, the approved plans may not be amended without approval in accordance with the provisions of this section. Before granting approval it must be determined that the proposed amendments are consistent with the intent of the original subdivision approval.

- (A) Development on individual lots that would normally only require issuance of a zoning permit under Section 7.1 of the Zoning Regulations (e.g., sheds, decks, additions, etc.) shall not require subdivision amendment.
- (B) Minor Final Plan Amendments: Minor amendments are those which do not involve changes to curb-cuts, exterior lighting, internal circulation patterns, pedestrian circulation patterns, screening, or which do not include boundary line adjustments involving the transfer of an acreage of land exceeding the minimum lot size of the district in which the property is located. Minor amendments may be approved by the Administrative Officer, who shall notify the Planning Commission of all such approvals.
  - (1) The Administrative Officer shall review the proposed minor amendment, prepare a draft decision for the Planning Commission, and place the matter on the consent agenda for the Planning Commission at the next available meeting.
  - (2) The Administrative Officer shall notify the applicant, adjacent property owners, and other interested parties, of the proposed amendment, draft decision, and the date on which the Planning Commission will consider the matter under a consent agenda, at least seven days prior to the meeting, in accordance with Article V of these Regulations.
  - (3) Following action by the Planning Commission, the decision shall be issued in accordance with Section 5.1(E) of these Regulations.

- (4) When the proposed minor amendment has been approved by the Planning Commission, a copy of the approved survey on mylar, suitable for recording, shall be prepared showing the information from Sub-Paragraph 2.5(A)(1), above, soil test pit results (if required), bearings and distances of perimeter boundary lines, monumentation in accordance with Section 4.11 on all corners of each lot, all easements and certification by a registered land surveyor that information is based on deed research and field information. In addition, the following language shall be printed on the mylar:

*“Approved by Resolution of the Planning Commission of the Town of Essex, Vermont, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, subject to all requirements and conditions of said approval. Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_  
Chair”*

- (5) An amended mylar shall be filed in accordance with the provisions of Section 2.10 of these Regulations.

**(C) Major Amendments:** All amendments other than those identified in paragraphs (A) and (B), above, i.e., those that involve significant changes to the road layout and/or the overall layout of the subdivision, or revisions to curb-cuts, utility/pedestrian easements, or pedestrian circulation patterns, or which include boundary line adjustments involving the transfer of an acreage of land exceeding the minimum lot size of the district in which the property is located, shall be considered major amendments and shall require approval by the Planning Commission.

- (1) Major Amendments shall be treated as Final Subdivision Approvals in accordance with the provisions of Section 2.9 of these Regulations. The usual per lot fee shall apply based on the categorization of the subdivision proposed for amendment as Minor or Major. Fees shall be required for advertisement of a Public Hearing notice and notification of adjacent property owners of both the original subdivision and new property owners within the subdivision, in accordance with the provisions of Article VI of these Regulations. It, along with any other fee for this review as may be established by the Selectboard, shall be payable at the time of application.
- (2) If the amendments involve changes to the overall layout of the subdivision, the Planning Commission may require the application be reviewed as a new subdivision (Minor or Major) according to these Regulations.

**(D) Amendments to Final Plat:**

- (1) If an amendment to a subdivision is approved prior to the filing of the Final Plat for the original subdivision, the amendment shall be incorporated into the Final Plat before it is filed.
- (2) If an amendment to a subdivision is approved after the original Final Plat has been filed, an Amended Plat shall be prepared and submitted in accordance

with Section 2.10 of these Regulations. An Amended Plat shall carry a notation to the effect that it supersedes the previously filed original plat, giving the date and recording information of the original plat.

## **ARTICLE III: SUBDIVISION STANDARDS**

**3.0 General Standards:** The Planning Commission shall evaluate any proposed subdivision according to the following general standards. In light of findings made regarding these standards, the Commission may require modification or phasing of the proposed subdivision.

### **3.1 Standards Applicable To All Subdivisions.**

- (A) The applicant shall be guided by the minimum planning, design and construction standards contained in these Regulations and the *Town of Essex Standard Specifications for Construction* as most recently amended and shall provide all of the improvements specified in this Article. As specifications for alternative technologies become available and incorporated into the Town's Public Works Specifications, they shall also become incorporated into review under these Regulations.
- (B) Where the Planning Commission finds that, because of exceptional and unique conditions of topography, location, shape, size, drainage or other physical features of the site, or because of the special nature and character of surrounding areas, the minimum standards specified herein would not reasonably protect or provide for public health, safety or welfare, a higher standard may be required.
- (C) Land to be subdivided for building purposes shall be of such character that it can be used safely without danger to health or peril from flood or other menace.
- (D) To ensure adequate access, any subdivision or combination of proposed and previously approved or built subdivisions containing fifty (50) or more dwelling units shall include a street system that has two separate permanent connections to the existing street system. Such connections shall be open to public motorized vehicular traffic and shall be proposed as Town streets for acceptance by the Town. Notwithstanding the above regulation, with Planning Commission and Selectboard approval, one of the street connections may be limited to emergency and pedestrian access only. Prior to granting such limitation, the Town Engineer, Community Development Director, Fire Chief, and Police Chief shall be consulted for their recommendation(s).
- (E) The subdivision plan must contain adequate provisions for pedestrian traffic and connections with pedestrian ways on adjoining properties by sidewalks, paths, and/or trails.
- (F) Any major subdivision fronting on a major street or collector street, as defined in Article VI of these Regulations, shall be laid out so that all lots created have access from new minor roads rather than directly from the major or collector street. (See also Street Planning Standards in Section 4.3).
- (G) All lots created by any proposed subdivision shall conform to the Town's Zoning Regulations.

- (H) The proposed subdivision shall demonstrate a desirable relationship to the landform, its topography and geology, to natural drainage and surface water runoff, to the ground water table, and to other natural features.
- (I) The proposed subdivision shall provide adequate access to all of the lots in the subdivision by streets that are designed to current safety standards under existing and future traffic conditions and designed to meet appropriate standards based on the functional characteristics of the type of street. The four functional types of streets are: major (arterial) road, collector road, minor (local through) road, and minor dead-end road.
- (J) The proposed subdivision shall make adequate provisions for water, sewage, drainage, stormwater management, and other requirements where necessary, in accordance with the health and safety of the community.
- (K) The proposed subdivision shall include provisions for safety in the case of fire, flood, panic and other emergencies.
- (L) The proposed subdivision shall include provision for such facilities as are desirable adjuncts to the contemplated use, such as parks, recreation areas, pedestrian ways and off-street parking.
- (M) The proposed subdivision shall include preservation of natural assets such as streams, ponds, trees, agricultural land, attractive scenic areas, and historic sites.
- (N) The proposed subdivision shall promote variety and flexibility in residential development including clustering of lots under provisions of the Act [§4417], and the Town Zoning Regulations.
- (O) The proposed subdivision shall include appropriate utilization of municipal services and avoidance of adverse effect on the Town's ability to maintain facilities and to provide public works and educational services.
- (P) The proposed subdivision is in conformance with the Town Plan.
- (Q) Where an existing home(s) exists within a proposed subdivision the Town shall be informed of any apartment(s) within said home(s).
- (R) The proposed subdivision shall provide adequate landscaping and screening to ensure an aesthetically pleasing development while screening undue adverse impacts of the proposed subdivision on adjacent properties.
- (S) Over-Sized Improvements and Provisions for Future Expansion:
  - (1) In conformance with the Town Plan or as otherwise determined by the Town, the applicant may be required to install storm drainage, stormwater management, water supply, or sewage disposal facilities of a size adequate to accommodate anticipated needs of future developments.

- (2) The Town may require the applicant to provide easements, in combination with anticipated street connections or at other necessary locations, to allow future extension of facilities and/or street or walkway access to adjacent undeveloped properties.
  - (3) The Town, with Selectboard approval, may reimburse the applicant for the difference in cost between the facilities actually needed in the subdivision and the cost of facilities necessary to provide for future development.
  - (4) When further development occurs, the Town may charge the appropriate portion of the additional cost to that subsequent subdivider.
- (T) Development within an approved subdivision shall be subject to any impact fees that the Town may enact in accordance with 24 V.S.A., Chapter 131. However, if the subdivision developer is required to provide land or construct facilities explicitly included in the calculation of the impact fees, the developer may apply for a credit against the impact fees in an amount equal to the cost of such construction, but not exceeding the amount of the impact fee.

**3.3 Standards Applicable to Minor Subdivisions:** In general, Minor Subdivisions shall be subject to the standards listed above and required improvements as specified in the following sections of this Article. The Planning Commission may, however, require that a particular Minor Subdivision meet any additional standards and required improvements specified under this Article, if it deems that necessary to achieve the purposes of these Regulations.

- (A) Depending on the size and layout of the minor subdivision, the requirements of the following sections may also apply:
- (1) Section 4.3 Preservation of Natural and Significant Features
  - (2) Section 4.4 Lots – Planning and Design Standards.
  - (3) Section 4.5 Streets – Construction Standards
  - (4) Section 4.6 Sidewalks – Planning and Construction Standards
  - (5) Section 4.7 Open Space
  - (6) Section 4.8 Utility Easements and Public Utility Improvements
  - (7) Section 4.9 Water Supply and Waste Water Systems
  - (8) Section 4.10 Stormwater Management and Erosion Control
  - (9) Section 4.11 Monuments and Lot Markers

**3.4 Preservation of Natural and Scenic Features:**

- (A) Scenic Features: Subdivisions within the Scenic Protection Resource Overlay District (SRPO) shall be subject to the review process established in Table 2.20 of the *Official Subdivision Regulations of the Town of Essex*. All subdivisions located in this district shall be reviewed according to the process and standards laid out in the *Views to the Mountain: Scenic Protection Manual*. These standards include site development,

building envelopes, building design and massing, access roads and driveways, dimensional requirements, landscaping, signs, and lighting.

- (B) Natural Features: Outstanding natural features of the site, including groves of trees, watercourses and falls, historic sites, exceptional views, and similar irreplaceable assets, shall be preserved. The Planning Commission may require building envelopes to be specified for some or all buildings where it is necessary to carefully define building locations and heights in order to protect the natural features listed in this section or identified on the Significant Features Reference Map.
- (1) The subdivision shall be planned so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. No topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs of that particular subdivision unless special approval is obtained from the Zoning Board of Adjustment.
  - (2) Where subdivision improvements will occur on slopes, in un-vegetated areas, or in other areas with fragile soil conditions, plans shall be submitted to ensure adequate erosion and stormwater control in conformance with the Town's adopted Stormwater Ordinance. Where necessary, the Planning Commission shall require temporary measures to protect areas exposed during the development, consistent with the requirements of the Town's Stormwater Ordinance.
  - (3) Topsoil removed in the process of grading the subdivision site shall be replaced to an average depth of four (4) inches (10 cm) with a minimum depth of two (2) inches (5 cm) and the site seeded in accordance with Soil Conservation Service recommendations and the Town's Public Works Specifications.
  - (4) No building, building envelope, road, sidewalk or utility shall be located within wetlands (as defined in Article VI of these Regulations) and associated buffers, except as specified in Section 3.11(F) of the Town's Zoning Regulations.
    - (a) Establishment of Wetland Buffer Boundaries: The location of wetlands and associated buffers may be identified initially from one or more of the following sources:
      - (i) The Significant Features Reference Map as included in the Essex Town Plan.
      - (ii) The Water resources Map as included in the Essex Town Plan.
      - (iii) Current Vermont Significant Wetland Inventory (VSWI) Maps.
      - (iv) Current National Wetland Inventory (NWI) Maps.
      - (v) Vermont Base Maps (orthophotos).

For the purposes of Sketch Plan review, these references shall be used as an indication of the boundary of possible wetlands and associated buffers, in the absence of field derived information.

The boundary of the wetland and associated buffers shall be field delineated by the applicant either at their discretion or as may be directed by the

Planning Commission as a condition of Sketch Plan approval. Boundaries of wetlands shall be delineated on the basis of the presence of hydric soils, vegetation and the hydrology of the site according to the current requirements of the ANR and verified by a field inspection by a representative of the ANR, as appropriate.

Field delineations of wetlands and associated buffers must be performed by a wetlands biologist, soils scientist or other land use professional (civil engineer, landscape architect, planner) with recognized expertise in field delineation of wetland areas. The Planning Commission reserves the right to require the applicant to provide documentation regarding the expertise of the person who has performed the field delineation. The Planning Commission may also require that the field delineation be reviewed by staff from the ANR or Army Corps of Engineers, as they may be available, or an expert of the Planning Commission's own choosing.

Such a field delineation, upon approval by the Commission, shall supersede the boundaries shown on the Significant Features Reference Map.

- (b) **Review Process and Waiver Based on a Conditional Use Determination:** Because subdivision applications can differ dramatically with respect to the amount of impact they may propose on wetlands or wetland buffer areas, the Planning Commission may choose to require that all applicable wetland permits be obtained prior to Preliminary Plan approval if it finds that either:
- (i) The wetland impact is extensive in area; or
  - (ii) There is a likelihood that the wetland permitting agencies will require significant changes in the proposed subdivision layout or extent of development prior to issuing permits.

At the Final Plan approval, the Planning Commission may formally waive the limitation on development within the wetland and its buffer established by this section if the applicant has obtained a Conditional Use Determination from the ANR which approves development within the wetland and/or associated buffer.

- (5) Lot sizes should be encouraged to be the minimum possible to site the primary use, accessory buildings, on-lot water, on-lot sewer and access driveways in order to maximize the area of protected open space.
  - (6) Where the subdivision occurs in a forested or partially forested area, the subdivider shall submit recommendations from a professional forester regarding placement of subdivision improvements and removal of trees.
- (C) **New Trees:** New street trees shall be provided in areas where no trees presently exist or where existing trees would suffer life-shortening construction damage. One street tree shall be provided for each fifty feet (50') of frontage along a public or private road,

provided that at least two street trees shall be provided on each lot.

- (1) Street trees shall be planted in the public right-of-way, either between the sidewalk and the curb or no more than five feet (5') inside of the front property line, at the discretion of the Planning Commission.
  - (2) Street trees shall be of a size and species identified as appropriate on any Site Plan or Landscape Guidelines adopted by the Planning Commission, or as approved by the Commission. Street trees shall be planted on the property side of the sidewalk when the green space between the curb and the walk is less than or equal to five feet in width.
  - (3) Street Trees will be guaranteed for a period of five (5) years from the date the Town takes over the road as a public road.
- (D) **Floodplain:** All areas identified as areas of special flood hazard are included in the FLOODPLAIN OVERLAY (C2) DISTRICT as described in the Town's Zoning Regulations. No development on such lands may be approved except in conformance with the provisions set forth in Table 2.19 (FLOODPLAIN OVERLAY (C2) DISTRICT) of the Town's Zoning Regulations. Where such development requires Conditional Use Approval by the Board of Adjustment, an application for Conditional Use Approval must be filed prior to filing an application for Final Subdivision Approval. Floodplain lands not used for development may be offered as a gift to the Town for use as open space or for passive recreational purposes.
- (E) **Water Bodies and Adjacent Buffer Areas:**
- (1) No natural watercourse shall be piped, dammed or altered without the approval of the Town and, where applicable, the State Department of Environmental Conservation.
  - (2) Construction and site modifications to streams, lakes, ponds and associated buffers may be allowed only in conformance with the provisions of Section 3.11 (Surface Water and Wetlands Protection) of the Town's Zoning Regulations. If construction is approved within these areas, construction shall also conform to the applicable requirements of the Town's Stormwater Management Ordinance.

### **3.5 Blocks And Lots - Planning and Design Standards:**

(A) **Blocks:**

- (1) The length, width and shape of blocks shall be determined with due regard to:
  - (a) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  - (b) Zoning requirements as to lot sizes and dimensions.
  - (c) Need for convenient access, circulation, control and safety of vehicular and pedestrian traffic.

- (d) Limitations and opportunities of topography.
  - (e) Impacts on resources identified on the Significant Features Reference Map.
- (2) Irregularly shaped blocks shall be wide enough to allow two (2) rows of lots except where limited by unique or extreme topography. The minimum block width for two tiers of lots shall be 300 feet (91.5 meters), or twice the minimum depth as specified in the Zoning Regulations, whichever is larger.
  - (3) Generally, the length of a block should be three (3) times the width.
  - (4) Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.
- (B) Lots:
- (1) Minimum lot and yard requirements shall be those of the Zoning Regulations and be appropriate for the proposed type of development. Where lots are more than double the minimum required area for the zoning district, the Planning Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots.
  - (2) In addition to the minimum requirements of the Zoning Regulations, lots shall be of sufficient size to provide an adequate building site and suitable areas, with adequate isolation distances from neighboring properties, for sewage disposal and water supply.
  - (3) Each lot shall be provided with satisfactory access to a public street. Driveway grades shall not exceed three percent (3%) within 20 feet (6.1 meters) of the edge of the traveled way. Driveway aprons shall be constructed to at least the same standard as the adjacent street. For paved streets, aprons must be paved, by the applicant, to the sidewalk/path or to the limit of the right-of-way in the absence of a sidewalk/path and completed prior to the three-year warranty period covered by the project's Highway Agreement. Construction of the aprons is the responsibility of the applicant. Waivers to these standards may be issued, with the approval of the Town Engineer, when such waivers are in the best interests of the Town.
  - (4) Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated by the applicant with the stormwater management plan for the subdivision. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.
  - (5) The ratio of the average depth to the average width of any lot shall not exceed 5:1.

**3.5 Streets:**

## (A) Planning Standards

- (1) Streets shall be suitably located, of sufficient width, and adequately constructed to accommodate the prospective traffic and to afford satisfactory access to fire fighting and other emergency vehicles, snow removal and road maintenance equipment, and school buses.
- (2) The arrangement of streets shall be coordinated with existing and planned major and collector streets so as to provide convenient access to places of employment, shopping areas, schools and recreational areas.
- (3) To ensure adequate access, as described in 4.5(A)(1) and 4.5(A)(2), and connectivity between neighborhoods, the Planning Commission shall require the continuation of existing streets from adjacent properties. Where the adjacent property is undeveloped, the Commission shall require new streets to be constructed to property lines prior to the completion of the warranty period set forth in the project's Highway Agreement
- (4) Minor streets shall be planned so as to discourage their use by through traffic.
- (5) The location of streets shall conform to the Town Plan.
  - (a) Where the Town Plan indicates plans for realignment or widening of a street that would require reservation of some land of the subdivision, the Planning Commission shall require that such areas be shown and marked on the Subdivision Plat "Reserved for Street Realignment (or widening) Purposes".
  - (b) Where the Town Plan indicates plans for a new street or highway on land within the subdivision, the Planning Commission may require reservation of a right-of-way of sufficient width and of suitable location to conform to the proposed Town street or highway plans.
- (6) Where existing access roads are inadequate to handle traffic to be generated by the proposed subdivision, the Planning Commission may require the subdivider to improve existing access roads, affected intersections and pedestrian facilities, or provide additional access roads, intersection improvements, or pedestrian facilities. If adequate access cannot be provided, the Commission may limit the number of buildable lots approved.
- (7) Streets shall be planned in relation to existing topographic conditions with grades that conform to design standards set forth later in this Section and in the Town's Public Works specifications.
- (8) Intersections of major streets with other streets shall be held to a minimum and shall be at least 750 feet (228.7 meters) apart. Where necessary to accommodate additional traffic flow from proposed subdivision, the Planning Commission may

require the applicant to construct turning lanes or other appropriate road improvements in existing major streets.

- (9) Within 100 feet (30.5 meters) of an intersection right-of-way, the intersecting streets shall be at approximately right angles.
  - (10) Privately owned reserve strips, or other means of controlling access to streets or adjacent property, shall be prohibited.
  - (11) A circular turn-around meeting the Town's Public Works Specifications shall be provided at the end of a permanent dead-end street. A temporary turn-around shall be provided on all temporary dead-end streets. An alternative to a circular turn-around may be approved if recommended by the Town Engineer.
  - (12) Where the subdivision borders on a major street or road, driveway entrances shall not be permitted on the major street or road unless the Town Engineer determines that no safe access can be created from the minor road, and the Planning Commission determines that it is in the best interests of the Town to allow a driveway entrance on a major street. Access to individual lots shall be from minor streets within the subdivision.
  - (13) As specified in Section 4.1(D), the Planning Commission shall require the subdivision to have more than one entrance.
  - (14) All street names shall be approved by the Selectboard in accordance with all applicable E-911 requirements.
  - (15) The Planning Commission may require easements for future public transit facilities (e.g., bus shelters) and for future sidewalks and walkways.
- (B) Design Standards: All roads shall be designed in conformance with the standards set forth in this Section.
- (1) Type I Urban Design Standard
    - (a) The characteristics of this type of street are a 30-foot-wide paved road, with partial or full curbs, a collected storm drainage system and concrete sidewalks and/or paved walkways, streetlights and other amenities as set forth in the Town's Public Works Specifications.
    - (b) This type of street is the required street design for all new development roads, except for new streets in the AR, R1, C1, C2, or O1 Districts where a Type II Paved Road standard may be used, when recommended by the Town Engineer and approved by the Planning Commission.
    - (c) The design standards for Type I Urban roads are set forth in table 4.1.

<b>Table 4.1 Type I Urban Design Standards for Streets</b>				
<b>Standard Description</b>	<b>Standard Requirement, by Street Type</b>			
	<b>Major</b>	<b>Collector</b>	<b>Minor</b>	<b>Dead End*</b>
Minimum Right-of-Way Width	66 FT (20.1m)	60 FT (18.3m)	60 FT (18.3m)	60 FT (18.3m)
Minimum Pavement Width	32 FT (9.76m)	30 FT (9.15m)	30 FT (9.15m)	30 FT (9.15m)
Maximum Grade	6%	8%	10% **	6%
Minimum Grade	0.5%	0.5%	0.5%	0.5%
Minimum Radius of Curves, Center Street Line	750 FT (228.5m)	350 FT (106.7m)	200 FT (61.0m)	150 FT (45.7m)
Minimum Tangent Length Between Reverse Curves	200 FT (61.0m)	100 FT (30.5m)	50 FT (15.2m)	50 FT (15.2m)
Maximum Grades within 100' of Center Line Intersections	2%	3%	3%	3%
Minimum Stopping Sight Distance	350 FT (106.7m)	240 FT (73.2m)	200 FT (48.8m)	200 FT (48.8m)
Minimum Distance Between Center Line Offsets	750 FT (228.7m)	300 FT (91.5m)	200 FT (61.0m)	-----
Minimum Angle at Intersections of Street Center Lines	90°	85°	80°	-----
Minimum Curb Radius at Intersections	30 FT (9.1m)	20 FT (6.1m)	15 FT (4.5m)	15 FT (4.5m)

\*Dead End Street:

Maximum Length = 900' (274.5m)

Turn-around Diameter – Outside Edge of Pavement = 100' (30.5m)

Turn-around Diameter – Right-of-Way = 120' (36.6m)

\*\*No grade greater than 8% may be continued for a distance of more than 300' (91.5m)

\*\*\*Determined on a case-by-case basis reflecting the speed limit set for the roadway. At 25 mph, the lowest allowable speed limit under state law, the minimum stopping sight distance is 200 ft.

Note: 1' = .305m

(2) Type II Paved Rural Road

- (a) The characteristics of this roadway are a 24-foot-wide paved width, four (4) foot gravel shoulders on each side, deep drainage ditches fed by overland flow, paved paths or trails and other amenities as set forth in the Town’s Public Works Specifications.
- (b) This type of road is intended for use in the rural areas of Town, where the density of development is low and will remain low for an extended period of time, and for reconstruction/upgrade of existing gravel roads.
- (c) Its use is permitted in the AR, R1, C1, C2, or O1 Districts where, in the opinion of the Planning Commission, with input from the Town Engineer, the density of development will remain low.
- (d) The design standards for a Type II Paved Rural Road are the same as set forth in the Table for Type I Urban Roads, except that the paved road width for a collector, minor or dead-end road shall be 24 feet.

- (3) Private Roads.
  - (a) The creation of new private or gravel roads shall not be allowed, except in the case of a specific allowance for paved private roads under a Planned Unit Development as set forth in the Town's Zoning Regulations, when recommended by the Town Engineer and approved by the Planning Commission.
  - (b) The construction of all private roads shall meet the technical requirements of the Town's Public Works Specifications with respect to materials, adequacy of pavement depth, drainage, and other related features.

(C) Construction Standards:

- (1) The applicant shall install street improvements in accordance with the requirements of the Town's Public Works Specifications.
- (2) For all new streets, preparation of sub-grade, paving and installation of other improvements shall be in accordance with details in the Town's Public Works Specifications.
- (3) Standards for improvements on existing streets or intersections shall be as required by the Planning Commission after recommendation from the Town Engineer.
- (4) Where the Planning Commission deems necessary, based on engineering input, other standards in excess of those of the Town's Public Works Specifications may be required.

(D) Curbs - Planning and Construction Standards:

- (1) The applicant shall install curbs and storm drainage on all new streets where required by the Town's Public Works Specifications, based on the Planning Commission's classification of streets under Paragraph 2.8(C)(7) and the design standards of Section 4.5(B) of these Regulations.
- (2) The applicant shall also install curbs, combined with storm drainage improvements, along existing streets adjacent to the subdivision where the Planning Commission determines that existing drainage will not be adequate to serve the proposed subdivision.

**3.6 Sidewalks - Planning and Construction Standards:**

- (A) The applicant shall install sidewalks or a combination of sidewalks and paved paths on both sides of new streets within a subdivision, on all major collectors and minor roads. Sidewalks and/or paths may be installed on one side for dead-end roads or roads with low anticipated traffic volumes.

- (B) The applicant shall also install sidewalks along the adjacent side of an existing street where the street is located in a high or medium density residential zone or when the Planning Commission determines that a significant volume of pedestrian traffic will exist.
- (C) Installation of sidewalks and paved paths shall be in accordance with the requirements of the Town's Public Works Specifications.

### **3.7 Land for Public Open Space and Recreational Use:**

- (A) In lieu of all or part of recreation impact fees as may be established by the Selectboard under Chapter 3.04 of the Essex Municipal Code, the Town may accept land reserved for recreation purposes:
  - (1) Reserved sites shall have suitable public access. While some of the reserved land may remain as undeveloped open space, at least some of the area shall be suitable for development for active recreational use.
  - (2) Where necessary to assure suitability for recreational use, the Planning Commission may require sites to be graded.
  - (3) Areas for public open space and recreational use shall be dedicated to the Town subject to approval by the Selectboard.
  - (4) Open space and recreational sites shall be reserved after consideration of the resources identified on the Significant Features Reference Map and trails identified in the Town Plan in order to create an integrated system of public or protected spaces and trail networks.
- (B) Trails and conservation greenways identified on the Significant Features Reference Map and in the Town Plan and located within the parcel must be accommodated within the open space and recreational areas.

### **3.8 Utility and Access Easements and Improvements:**

- (A) Easements for Utilities, Drainage and Access:
  - (1) Where conditions make it impracticable to include utilities or drainage facilities within street rights-of-way, perpetual, unobstructed easements shall be provided to the Town, centered on rear or side lot lines, with satisfactory access to the street.
  - (2) Permanent utility or drainage easements shall be at least 30 feet (9.2 meters) in width for pipelines buried 10 feet or less in the ground and shall be indicated on the plat. Pipelines buried at greater depths shall require easements in excess of 30 feet as recommended by the Town Engineer. Lesser easement widths may be permitted with approval from the Town Engineer.

- (3) The Planning Commission may require perpetual, unobstructed easements to facilitate non-motorized, multi-use facility user access to schools, public open space, streets or adjacent properties as part of a proposed contiguous access plan.
- (4) Non-motorized, multi-use access easements shall be at least 15 feet (4.8 meters) in width and shall be so indicated on the plat. The Planning Commission may require construction of a concrete or paved walk/path to be installed within the easement.

(B) Utility Improvements:

- (1) Public utility improvements, including electric and telephone cables, and, where accessible, gas lines and television cables, shall be installed in accordance with the Town's Public Works Specifications.
- (2) All utility lines shall be underground except where the Planning Commission, upon recommendation of the Town Engineer, determines that ledge, underground water or other conditions make underground installation economically infeasible.
- (3) Location of utility lines shall be shown on a map submitted to the Public Works Director. Record drawings of all utility locations shall be provided to the Town upon completion of the subdivision and acceptance of the roads and easements within it.
- (4) Underground siting of distribution transformers is preferred. If above grade, distribution transformers are used, they shall be provided with adequate safety covers, and shall be landscaped and sited in unobtrusive locations.

**3.10 Water Supply and Waste Water Systems:**

- (A) **Water Supply:** Whenever a public water supply is reasonably accessible or required in the interest of public health or safety, and where connection to the public water supply is consistent with the Town Plan, the Town Water Ordinance, and any applicable Town policies, the applicant shall install a complete water distribution system with adequate connections to the public water supply system according to the standards set forth in this Section, the Town's Public Works specifications, and the Town's Water Ordinance. Where connection to the public water supply is not appropriate as described in Item (2) of this sub-section, an alternative system shall be provided. As a condition of subdivision approval, any connection to any municipal or non-municipal water system shall require all applicable State approvals and permits.

- (1) Connection to the public water supply shall be guided by the following:
  - (a) The applicant shall install a complete public water system, including mains, fire hydrants, valves, services to the property lines and all other appurtenances to the approval of the Town Engineer.
  - (b) Construction procedures and materials and location of improvements shall

- conform to the standards of the Town's Public Works Specifications and the Town's Water Ordinance.
- (c) The system shall be designed in conformance with the standards of the State Department of Environmental Conservation, with sufficient capacity to provide adequate fire protection for the entire development without degrading fire protection for other users.
  - (d) The system shall be of a size adequate to accommodate anticipated water supply needs of potential development beyond the property being subdivided in accordance with sub-section 4.1(T) of these Regulations.
- (2) Alternative Water Supply: The Planning Commission may allow an alternative water supply, consisting of individual wells and/or a community water system, only if all the following conditions are met:
- (a) Proposed or potential development for the subdivision and surrounding area is limited.
  - (b) Extension of the public water system, in relation to the existing capability or potential expansion of the system, is not feasible or is not consistent with the Town Plan, as determined by the Town Engineer or Staff.
  - (c) Acceptable evidence has been submitted by the applicant establishing adequate quality and quantity of water for domestic purposes. The Planning Commission may require the applicant, prior to Final Approval of a Minor Subdivision or Preliminary Approval of a Major Subdivision, to make one or more test wells if additional evidence is deemed necessary.
  - (d) Where a subdivision consists of substantial development as determined by the Planning Commission based on density or total volume of dwelling units, acceptable evidence must be submitted by the applicant establishing ability to provide adequate fire protection.
  - (e) The water supply system shall be designed and installed in conformance with standards and procedures of the State Department of Environmental Conservation.
  - (f) The burden of proof for establishing infeasibility of connection to a public water supply system lies with the applicant. If unsatisfactory information has been provided, the Planning Commission shall require connection to a public water supply system or deny or limit the proposed development.
  - (g) A homeowners' association or other organization shall be established with full responsibility for maintaining the community water system, and the covenants establishing that responsibility shall be reviewed and approved by the Town's attorney.
  - (h) The applicant shall provide a bond or other form of security to cover repair or maintenance costs, and/or costs of connecting to the public system should that become necessary in the future. The security shall be in an amount determined by the Town's Public Works Director.

(B) Waste Water Systems:

- (1) Public Sewage Disposal: When the proposed development is located within the sewer core area as delineated on the map entitled "Town of Essex Sanitary Sewer

Core Area”, and wherever a public sewage disposal system is reasonably accessible within the designated sewer core area, and where connection to the public sewage disposal system is consistent with the Town Plan and any other applicable Town policies, the applicant shall install a complete sanitary sewer system with adequate connections to the public system designed to meet the standards set forth in this Sub-Section. As a condition of subdivision approval, connection to any proposed wastewater collection, treatment and disposal systems must be approved and permitted under all applicable state law.

- (a) The applicant shall install a complete public sanitary sewer system, including mains, manholes, services to the property lines and all other appurtenances, separate from the storm water drainage system, to the approval of the Town Engineer.
  - (b) Construction procedures and materials shall conform to the standards of the Town’s Public Works Specifications and the Town’s Wastewater Ordinance.
  - (c) The system shall be designed in conformance with the applicable standards of the State Department of Environmental Conservation.
  - (d) The system shall be of a size adequate to accommodate anticipated sewage disposal needs of potential development beyond the property being subdivided in accordance with sub-section 4.1(T) of these Regulations.
  - (e) If the sewer capacity required for the development exceeds the current allocation for the parcel(s) as noted on the approved “Town of Essex Sanitary Sewer Core Area” map, the applicant shall be required to obtain additional wastewater allocation from the Selectboard in accord with the Town’s Sewer Allocation Ordinance.
- (2) The Planning Commission may approve subdivisions that are not connected to the public sewage disposal system if the development is located outside of the sewer core area as delineated on a map entitled “Town of Essex Sanitary Sewer Core Area”, or if the Planning Commission determines that service to each lot by a public sanitary sewer system is not feasible or is not consistent with the Town Plan and applicable Town policies.

**3.9 Stormwater Management and Erosion Control:** All proposed subdivisions shall include a stormwater management and erosion control plan in accordance with the Town’s Stormwater Management Ordinance (Chapter 10.20 of the Municipal Code).

- (A) The plan shall address stormwater management and erosion control during construction as well as permanent provisions for after construction.
- (B) The plan may utilize any of a number of appropriate management techniques, provided that they conform to the Town’s regulations. Techniques may include but are not limited to swales, infiltration basins, sedimentation basins, retention ponds, as well as manufactured systems such as filters and treatment chambers.
- (C) A homeowners association or other organization shall be established with full

responsibility for maintaining the permanent stormwater management system.

**3.10 Monuments and Lot Markers:**

- (A) Concrete monuments shall be set at all street intersections and points of curvature and tangency. Their location, size and type shall be shown on the Final Subdivision Plat.
- (B) Concrete monuments shall conform to the requirements of the Town's Public Works Specifications.
- (C) Lot markers, consisting of metal pipes or rebar with a minimum outside diameter of three-fourths inch and at least three feet (9.1 dm) long, shall be set at all un-monumented corners and a minimum of four of the subdivision's perimeter points.
- (D) If placement of a concrete monument along street intersections and points of curvature and tangency is not feasible due to ledge or other obstacle, the surveyor shall submit an alternate method of monumentation to the Town Engineer for approval.

## **ARTICLE IV: ADMINISTRATION AND ENFORCEMENT**

**4.0 Applicability:** Administration and enforcement of these Regulations are subject to all applicable provisions of the Act [24 V.S.A, Chapter 117] and the Essex Town Charter now in effect or as hereafter amended.

### **4.1 Municipal Administrative Requirements:**

(A) Appointments: The following municipal appointments shall be made as required for the administration and enforcement of these regulations, and as provided for in the Act and the Essex Town Charter:

- (1) Administrative Officer(s): The Town Manager may appoint the following Administrative Officer(s) as required for the administration and enforcement of these regulations. An Administrative Officer shall be a regular Town employee subject to all rules and regulations applicable to Town employees and may be discharged by the Town Manager for cause at any time.
  - (a) A Zoning Administrator shall be appointed for a term of three (3) years. It shall be the duty of the Zoning Administrator to assist the Planning Commission in administering these Regulations. The Zoning Administrator shall inspect development, maintain records, and perform other tasks as necessary for subdivision administration and enforcement, in accordance with the Act [§4448] and these Regulations.
  - (b) An Assistant Zoning Administrator also may be appointed, who shall have the same duties and responsibilities as the Zoning Administrator only in the Zoning Administrator's absence.
  - (c) For the purposes of administering these Regulations, the Town Manager may also appoint the Community Development Director, or other staff as appropriate, to conduct administrative reviews as specified in these Regulations, in accordance with the Act [§4464(c)].
- (2) Planning Commission: The Planning Commission shall be appointed by the Selectboard for specified terms in accordance with the Act [§§4322, 4323]. A majority of members shall be residents of the Town of Essex. All members shall serve without compensation. Members may be removed at any time by unanimous vote of the Selectboard. The Commission shall adopt rules of procedure and rules of ethics with regard to conflicts of interest to guide its official conduct. The Planning Commission shall have the authority under these Regulations to hear and act upon matters including but not limited to:
  - (a) Simple Parceling.
  - (b) Boundary Adjustments.
  - (c) Sketch Plan Review.
  - (d) Master Plan Approval.
  - (e) Preliminary Subdivision Approval.
  - (f) Final Subdivision Approval.

- (g) Amendments of previously approved subdivisions.
- (3) Advisory Committees: The Selectboard may appoint one or more advisory committees to advise the Planning Commission, applicants and interested persons in the subdivision review process, in accordance with the Act [ §§4433, 4464(d)]. Advisory committees shall have the authority to:
- (a) Review applications and prepare findings and recommendations on each of the review standards under these Regulations that are within the committee's purview for consideration by the Planning Commission at public hearing.
  - (b) Meet with the applicant and interested parties, conduct site visits, and perform other fact-finding as needed to make recommendations.
  - (c) Inform applicants of any negative recommendations prior to the public hearing and suggest remedies to correct identified deficiencies in applications.
- (B) Fee Schedule: The Selectboard shall establish a schedule of fees to be charged in administering these Regulations, which may be amended from time to time. Fees shall be payable upon submission of an application, as established in the fee schedule. The Selectboard may also establish procedures and standards for requiring an applicant to pay for reasonable costs of an independent technical review of an application.
- (C) Public Notice: Public hearings shall be warned in accordance with the Act [§4464]) and the requirements of these Regulations.
- (1) Public notice for public hearings for Preliminary and Final subdivision Approval shall be given not less than fifteen (15) days prior to the date of the public hearing by *all* of the following:
- (a) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the town.
  - (b) Posting of the same information in three (3) or more public places within the municipality in conformance with the requirements of state statute [1 V.S.A., §312(c)(2)], including the posting of a hearing notice within view of the public right-of-way nearest to the property for which the application is being made.
  - (c) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
  - (d) For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.
- (2) Public notice for Planning Commission meetings to consider Sketch Plan Review, Boundary Adjustments, Simple Parceling, and Master Plan Approval,

shall be given not less than seven (7) days prior to the date of the public meeting, and shall at minimum include the following:

- (a) Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality in conformance with the requirements of state statute [1 V.S.A., §312(c)(2)], and
  - (b) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
- (3) Applicants are required to provide the names and mailing addresses of all adjoining landowners.
- (a) In cases where an adjoining property is owned as common land by an owners' association, the notice shall be sent to the president of the owners' association.
- (4) No defect in the form or substance of any required public notice under this section shall invalidate any action taken where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content.
- (5) Public hearings concerning proposed amendments to these regulations shall be noticed and warned in accordance with the Act [ §§ 4441, 4444].

(D) Meetings and Hearings.

- (1) Planning Commission: Pursuant to the Act [ §§4461–4464] and Vermont's Open Meeting Law, all meetings and hearings of the Planning Commission, except for deliberative and executive sessions, shall be open to the public.
  - (a) In any hearing under these Regulations there shall be an opportunity for each person wishing to achieve status as an interested person, for purposes of participation or appeal under Section 5.2, to demonstrate that the criteria for achieving interested person status have been met. The Commission shall keep a written record of the name, address, and participation of each of these persons.
  - (b) The Commission may recess the proceedings on any application pending submission of additional information and should close evidence promptly after all parties have submitted requested information.
  - (c) Consent Agenda: The Planning Commission may act on proposed decisions for Simple Parceling, Boundary Adjustment, Minor Subdivision Amendments, and other procedural matters, as a consent agenda. The Planning Commission may approve the consent agenda as a whole, without

discussion. However, if a majority of members of the Planning Commission, the applicant, or an interested party present at the meeting requests a more complete hearing on an item in the consent agenda, that item shall be withdrawn from the consent agenda and a hearing scheduled on that item, either later in the meeting or at a subsequent meeting, if necessary.

- (2) **Advisory Committees:** In accordance with the Act [§4464(d)], meetings of an Advisory Committee to review an application under these Regulations shall comply with Vermont's Open Meeting Law and the committee's adopted rules of procedure but shall not be conducted as public hearings before a quasi-judicial body. Committee recommendations may be presented in writing prior to the Planning Commission hearing or may be presented orally at the public hearing.
- (E) **Decisions.** In accordance with the Act [§ 4464], a decision by the Planning Commission must be made by the concurrence of a majority of the members of the Planning Commission. Decisions of the Planning Commission shall be issued within forty-five (45) days of the date of public hearing adjournment. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46<sup>th</sup> day.
- (1) All decisions, whether for approval or denial, shall be issued in writing and include stated findings of fact, stated conclusions based on the findings, and a statement of the time within which appeals may be taken under Section 5.2. Meeting minutes may suffice provided they meet these requirements.
    - (a) In rendering a decision in favor of an applicant, the Commission may attach additional reasonable stipulations, condition, or other safeguards as it deems necessary to implement the purposes of the Act, these Regulations, and the Essex Town Plan then in effect. This may include, as a condition of approval:
      - (i) A requirement for the submission of a three (3)-year performance bond, escrow account, or other form or surety acceptable to the Essex Selectboard, in accordance with Section 2.11(B) of these Regulations.
      - (ii) A requirement that no certificate of occupancy be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.
      - (iii) A requirement for the execution of a development agreement acceptable to the Essex Selectboard that governs the timing, financing, and coordination of private and public facilities and improvements in accordance with the terms and conditions of approval, provided that the agreement complies with all applicable municipal bylaws and ordinances then in effect.
    - (b) In rendering a decision against the applicant, the written decision shall include, in addition to the material required by Paragraph 5.1(E)(1), a statement of the applicant's option of appealing the decision in accordance with the provisions of Section 5.2 of these Regulations.

- (2) Any decision that includes as a condition of approval a requirement that the applicant deed land or easements to the Town (or other public entity) shall also include a full justification for said condition to ensure that the required dedication is reasonably related in both extent and nature to the impact of the proposed development.
  - (3) All decisions shall be sent by certified mail, within the required 45-day period, to the applicant or to the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing and filed with the Zoning Administrator and Town Clerk as part of the public record of the municipality, in accordance with Subsection (F) of this Section.
- (F) Recording Requirements:
- (1) Within thirty (30) days of the issuance of a municipal land use permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the municipal land use permit or notice of violation to the Town Clerk for recording in the land records of the Town generally as provided in 24 V.S.A. §1154(c), and file a copy in the Town Office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.
    - (a) For development within the Floodplain (C2) District, the Zoning Administrator shall also maintain a record of all permits, elevation certificates, elevations, flood-proofing certifications and variance actions issued for development within the district.
- (G) Availability & Distribution of Documents. Copies of these Regulations, other related municipal regulations and ordinances, and the Essex Town Plan shall be made available to the public during normal business hours in the Town Clerk's Office, in accordance with the Act [§4445].

## **4.2 Appeals:**

- (A) Administrative Acts: Any interested person, as defined under the Act [§4465(b)], and who has participated in the local proceeding, including the applicant, may appeal an act or statutory inaction of an Administrative Officer, including the Zoning Administrator or Community Development Director, to the Board of Adjustment in accordance with the provisions of the Act [§§ 4465, 4466, 4469].
- (1) Notice of Appeal: The Notice of Appeal shall be filed with the Secretary of the Board of Adjustment, or Town Clerk if no Secretary has been elected, within fifteen (15) days of the date of the administrative act. A copy of the notice of appeal shall be filed with the Administrative Officer. The Notice of Appeal shall include all of the following:

- (a) The name and address of the appellant.
  - (b) A brief description of the property with respect to which the appeal is being taken.
  - (c) References to applicable provisions of these Regulations.
  - (d) The relief requested by the appellant, including any requests for variances from the provisions of these Regulations.
  - (e) The alleged grounds why such relief is believed proper under the circumstances.
- (2) Hearing: The Board of Adjustment shall warn and conduct a public hearing within sixty (60) days of the date of the filing of a notice of appeal in accordance with Section 5.2. A copy of the hearing notice shall be mailed to the appellant at least fifteen (15) days prior to the hearing date.
- (a) In accordance with the Act [§4470], the Board may reject an appeal or request for reconsideration without hearing, and render a decision within ten (10) days of the filing of a notice of appeal if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based substantially or materially on the same facts by or on behalf of the appellant.
  - (b) All appeal hearings shall be open to the public and the rules of evidence applicable at the hearings shall be the same as the rules of evidence applicable in contested cases before administrative agencies [3 VSA §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing.
- (3) Decision: The decision shall be issued in writing, to include findings of fact, within forty-five (45) days of the date of hearing. The decision shall be sent to the appellant by certified mail, and to all others appearing and having been heard at the hearing. Copies shall be filed with the Zoning Administrator and Town Clerk as part of the public records of the municipality.
- (B) Planning Commission Decisions: Any interested person as defined under the Act [§4465(b)] who has participated in a proceeding before the Planning Commission may appeal a decision made by the Commission to the Vermont Environmental Court in accordance with the Act [§4471].
- (1) “Participation” for these purposes shall consist of having offered, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
  - (2) The notice of the appeal shall be filed by certified mailing to the Environmental Court, and by mailing a copy to the Essex Town Clerk, within thirty (30) days of the date of the issuance of a decision by the Planning Commission, in conformance with Vermont Environmental Court Rules.
  - (3) The Town Clerk or Zoning Administrator, if so designated, shall supply a list of interested persons to the appellant within five (5) working days of receipt of the

Notice of Appeal. The appellant is required to notify every interested person of the appeal by certified mail.

**4.3 Violations and Enforcement:** The construction or other implementation of a subdivision that is not in accordance with an approved subdivision plan, or the sale or offer for sale of a lot that is in a subdivision not approved in accordance with these Regulations or not exempted from these Regulations in accordance with Paragraph 1.2(C), shall constitute a violation. Each day that a violation continues shall be considered a separate offense. All violations shall be pursued in accordance with the Act [ §§4451, 4452].

- (A) The Zoning Administrator is authorized to institute or cause to be instituted, in the name of the Town of Essex, any and all actions, legal or equitable that may be appropriate or necessary for the enforcement of these Regulations.
- (B) No action may be brought under this section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists. The notice of violation shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within seven (7) days, and that the alleged offender will not be entitled to an additional warning notice. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the succeeding twelve (12) months.
- (C) Any enforcement action relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action is instituted within fifteen (15) years of the date that the alleged violation first occurred. The burden of proof regarding the date that the alleged violation first occurred is on the person against whom the enforcement action is initiated.
- (D) All fines imposed and collected for violations shall be paid over to the Town.

## ARTICLE V: DEFINITIONS

### **5.0 Terms and Usage:**

- (A) Unless otherwise defined herein, definitions of words used in the Act [24 VSA § 4303], and definitions used in the Town Zoning Regulations shall apply. All other words shall carry their customary meanings.
- (B) For the purposes of these Regulations, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words used in the plural include the singular, and words used in the singular include the plural. The word “shall” is always mandatory and not merely discretionary.

### **5.1 Definitions:**

**Abut:** Refer to Adjacent Lot/Land.

**Accepted Agricultural Practices (AAPs):** Accepted practices for agriculture, including farm structures other than dwellings, as currently defined by the Secretary of the Vermont Agency of Agriculture, Food and Markets (see exemptions under Table 1.1). See also Agriculture, Farm Structure.

**Accepted Management Practices (AMPs):** Accepted practices for silviculture (forestry operation) as currently defined by the Commissioner of the Vermont Department of Forests, Parks and Recreation (see exemptions under Table 1.1). See also Forestry Operation.

**Accessory Dwelling Unit:** A distinct unit that is clearly subordinate to a single-unit dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation (see Section 4.1 of the Official Zoning Regulations). See also Caretaker Apartment.

**Accessory Use:** A use customarily incidental and subordinate to the principal use and located on the same lot as the principal use.

**Accessory Structure:** A structure on the same lot with, and of a nature customarily incidental and subordinate to the principal structure, such as a garage, patio, tool shed, carport, satellite dish antenna, etc. Structures attached to the principal structure shall be considered as part of the principal structure. A structure used for dwelling purposes shall not be considered an accessory structure.

**Act, the:** The Vermont Planning and Development Act [24, V.S.A. Chapter 117].

**Adjacent Lot/Land:** A lot or parcel of land that shares all or part of a common lot line

with another lot or parcel of land or is separated by a highway, street, right-of-way, railroad, river, stream or dedicated public easement. The terms adjoining and abut shall carry the same meaning as adjacent.

**Adjoining:** Refer to Adjacent Lot/Land.

**Administrative Officer:** For the purpose of these Regulations, the Administrative Officer shall include the Zoning Administrator or Administrative Officer appointed by the Town Manager.

**Affordable Housing:** As defined by 24 V.S.A §4303(1),(A) Owner-occupied housing for which the total annual cost ownership, including principal, interest, taxes, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following: the county median income, as defined by the U.S. Department of Housing and Urban Development, the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, or the statewide median income, as defined by the U.S. Department of Housing and Urban Development; or (B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following: the county median income, as defined by the U.S. Department of Housing and Urban Development, the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, or the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

**Affordable Housing Development:** As defined by 24 V.S.A §4303(2), a housing development in which at least twenty percent (20%) of the units, or a minimum of five (5) units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years, unless a longer period of time is specified by the Regulations.

**Agriculture:** As defined by the Vermont Secretary of Agriculture, Food and Markets to include the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; the raising, feeding or management of livestock, poultry, equines, fish or bees; the operation of greenhouses; the production of maple sap; the on-site storage, preparation and sale of agricultural products principally produced on the farm; and the on-site production of fuel or power from agricultural products or wastes produced on the farm. The term shall include commercial greenhouses and riding stables, but specifically excludes the slaughtering of animals or poultry for commercial purposes.

**Alteration:** A change or rearrangement to a structure or building which involves a change of the structural parts of the building or its entry or exit facilities, an enlargement of the building (either by extending on one or more sides or by increasing the height), or

the moving of the building from one location to another.

**Apartment:** Any dwelling unit which is located in a structure which contains two or more dwelling units.

**Applicant:** Any person, firm, corporation, partnership, association, or their authorized agent, who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein.

**Area of Special Flood Hazard:** The land in the flood plain within the community subject to a one percent (1%) or greater chance of flooding in a given year. The area includes all "A" zone designations on the Flood Insurance Rate Maps (FIRM). It does not include the "B" and "C" zones.

**Assisted Living Residence:** A program or facility that combines housing, health, and supportive services to support resident independence and aging in place. Assisted living residences shall offer a private bedroom, private bath, living space, kitchen capacity, and a lockable door. An Assisted Living facility is subject to the provisions of 33 V.S.A. Chapter 71. The Agency of Human Services has designated the Department of Aging and Disabilities, Division of Licensing and Protection, as the licensing and regulatory agency for assisted living residences as defined at 33 V.S.A. §7102(11). This use is classified as both commercial and residential and is subject to Recreation Impact Fees. (Also See Residential Care Facility).

**Automobile Sales and Rental Establishment:** Any lot or area of land, including the building or buildings thereon, which is used primarily for the sale or rental of motor vehicles, and including any ancillary service, repair or office facilities associated with the sale or rental of motor vehicles.

**Automobile Service Station:** Any lot or area of land, including the building or buildings thereon, which is used for the sale of any motor vehicle fuel or lubricant, or which has facilities for lubricating, washing, servicing, or repairing motor vehicles by any means, but not including major body repairs.

**Automobile Service Station, Existing:** An automobile service station, not located in any of the B1, B3 or MXD Districts, which was in existence as of February 7, 1972, and has been in operation continuously since that time.

**Automotive Repair Shop:** Any lot or area of land, including the building or buildings thereon, which is used for the purpose of making major or minor repairs for hire to motor vehicles, including painting, body work, and the sale of automotive parts, and provided that all motor vehicles located on the premises are for repair or rebuilding and not for salvage.

**Bank:** An establishment which provides and/or administers the receipt or lending of money, either via walk-in tellers and offices, drive-through tellers, or automated tellers. A bank shall include office space associated with banking activities if located in the same

building as the tellers or offices used for receipt or lending of money.

**Barns Used as Commercial Storage Establishments:** An existing barn used for the storage of goods and/or materials in accordance with Section 4.3 of these Regulations.

**Base Flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE):** The elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

**Bed and Breakfast:** Any establishment, including a tourist home, operated on a commercial or profit basis, where sleeping accommodations of no more than four bedrooms for hire are provided and where meals are provided incidental to the provision of accommodations.

**Bedroom:** A private room with a closet(s) planned and intended for sleeping, physically separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

**Block:** An area bounded by streets.

**Board, Board of Adjustment:** The Board of Adjustment established by these Regulations, in accordance with the Act [24 V.S.A. Chapter 117] as amended.

**Boundary Adjustment:** A division of land for the purpose of adjusting boundaries between adjacent lots or parcels where no new lot is created.

**Board, Board of Adjustment:** The Board of Adjustment established by these Regulations, in accordance with the Act [24 V.S.A. Chapter 117] as amended.

**Buffer:** Unless otherwise defined elsewhere in these Regulations, the required minimum distance from the front, side, or rear boundary lines inward toward the center of a property for the purpose of separating two or more abutting properties, inside of which buildings shall not be located. Subject to the appropriate approving board's discretion, a buffer may contain a variety of appearances. A buffer measured from a property line or right-of-way may include, or extend beyond, a required setback (yard) area; where a required buffer distance exceeds the required setback distance, the buffer distance shall define the setback distance. See also Setback.

**Buffer, Riparian, Shoreland, Wetland:** The width of land measured horizontally from the mean water level for lakes, from the top of bank or top of slope for streams, and from delineated wetland boundaries to the edge of other land uses. Buffers that protect surface waters and wetlands are typically undisturbed areas, consisting of trees, shrubs,

groundcover plants, duff layers, and naturally vegetated, uneven ground surface. See also Setback.

**Building:** Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, vehicles, machinery, or materials including shipping or storage containers, and trailers or other roofed structures on wheels. For the purpose of this definition “roof” shall not include an awning or other similar covering, whether or not permanent in nature. For purposes of flood hazard area regulation only, this definition also includes gas or liquid storage tanks that are principally above ground.

**Building Coverage:** The portion of the area of a lot (measured in square feet) which is covered by buildings and/or accessory structures.

**Building Envelope:** A three-dimensional volume within which all structures must be contained. A building envelope shall be defined by building lines on the ground and one or more maximum height limitations. Where building envelopes are prescribed for a site, all buildings on that site must be entirely contained within the prescribed envelope.

**Building Footprint:** A horizontal projection, on the ground, of the outer-most perimeter of a building, including all projections, overhangs, chimneys, porches, stoops, etc.

**Bylaws:** The duly adopted Zoning Regulations, Subdivision Regulations, and Official Map of the Town of Essex.

**Camp:** Land on which is located one or more noncommercial cabins, trailers, shelters, or other accommodations suitable for seasons or temporary living purposes, excluding mobile homes.

**Campground:** An area or place of business providing accommodations for tents, recreation or camping vehicles on a commercial basis, including travel trailer parks and the like.

**Car Wash:** A site with a building designed to allow washing of automobiles and trucks through automated or manual equipment.

**Caretaker Apartment:** A dwelling unit that is accessory to the principal use of a property that is intended as living or sleeping quarters for occupancy only by persons employed to take care of the property.

**Cemetery:** Land used for the burial of the dead, and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of a cemetery. Cemetery shall also include land used for and dedicated to the burial of animals.

**Church:** See Religious Institution.

**Civic Organization:** A general membership, social or fraternal organization, not organized for profit and operated to promote social welfare through benefit to the community.

**Clinic:** A facility for human ailments operated by a group of physicians, dentists, or other licensed practitioners for the treatment and examination of out – patients who have their offices in a common building. A clinic may include laboratory facilities in conjunction with normal services but shall not include in – patient care.

**Commission, Planning Commission:** The Planning Commission of the Town of Essex appointed in accordance with the provisions of 24 V.S.A. Chapter 117, as amended.

**Community Development Director:** The director of the Community Development Department as appointed by the Town. See also Administrative Officer.

**Condominium:** A form of ownership of real property, applicable to structures containing one or more units, consistent with 27 VSA § 1301, in which individual owners have title to individual dwelling units to the center lines of boundary walls, and/or the land under buildings (e.g., “footprint lots”), and where a condominium association consisting of all dwelling owners holds title to the balance of all buildings, land and other facilities for the common use of all owners. Condominium ownership may also apply to non-residential properties.

**Congregate Housing:** A type of housing for seniors or persons with disabilities in which each individual or household has a private bedroom or living quarters but shares with other residents a common dining room, recreational room, or other facilities as regulated under Section 4.4, consistent with state and federal fair housing laws. This use is classified as both commercial and residential and is subject to Recreation Impact Fees. This definition does not include other types of residential care facilities (see Assisted Living and Residential Care Facility).

**Construction Detail Drawings:** Drawing(s) showing the details for the construction of improvements, and containing the information listed in Paragraph 2.8(B)(4) of these Regulations.

**Contiguous:** Land abutting or other land which is not separated by streets.

**Contractor’s Yard:** A lot or parcel, or portion thereof, used by a contractor for storage of material, equipment and vehicles used as part of the contractor’s business.

**Convenience Store:** A retail store selling groceries and sundry necessary items, designed primarily to serve the immediate neighborhood. Such store may include the selling of gasoline, oil, and related products.

**Convenience Store, Existing:** A convenience store, which was in existence as of February 7, 1972, and has been in operation continuously since that time.

**Correctional Facilities:** A state owned or contracted facility for the confinement of people who are awaiting trial or who have been convicted of a crime. Also includes jails, penitentiaries, reformatories, or any state or federally owned facility which provides living quarters under secure conditions.

**Creative Design:** An imaginative plan or conception that preserves or promotes the visual quality or maintains the integrity of the surrounding area, of a land development idea to be carried into effect subject to approval by the Planning Commission and/or Board of Adjustment, as applicable.

**Cultural Facilities:** Establishments such as libraries, museums, art galleries, interpretive centers, botanical or zoological gardens, etc. which are of historic, educational, or cultural interest, and which are not operated for profit.

**Day Care Facility, Adult:** A State of Vermont certified facility which includes programs, services, and facilities designed to assist physically or mentally impaired adults to remain in their communities. Adult day care services also provide respite, support and education to household members, caregivers, and legal representatives.

**Day Care Facility, Child:** Any place operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care and supervision of more than ten (10) children (the ten (10) children include six (6) full-time pre-school and four (4) part-time school age children) under sixteen (16) years of age outside their homes for periods of less than twenty-four (24) hours a day by a person other than the child's own parent, guardian or relative.

**Day Care Home:** A State registered or licensed day care facility which provides for care on a regular basis, in the caregiver's own single-unit residence, for not more than six (6) children "full time pre-school and four (4) part time school age children" as per the State of Vermont Day Care Registration regulations at any one time, not including children who reside in the residence of the caregiver. No more than twelve (12) children including the caregiver's and staff's own children are allowed in a day care home. Notwithstanding the above, any day care facility defined by 24 V.S.A. § 4412(5), as it may be amended in the future, shall be defined as a "Day Care Home" for the purposes of these Regulations.

**Dedication:** An intentional donation of land or an easement for public use that is accepted by the Town of Essex or other proper public authority.

**Density Bonus:** An increase in the number of dwelling units authorized for a particular parcel of land beyond the otherwise maximum allowable residential density allowed by these Regulations.

**Development:** The division of a parcel into two (2) or more parcels, 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 purposes of these regulations, subdivisions of land shall be regulated only under these Regulations, except within a planned unit development.

**Development, in the Flood Hazard Area:** Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Dust:** Any light particulate emission, created, generated, or dispersed by any activity, which can cause any damage to health to humans or animals, vegetation or other forms of property, or which can accumulate or cause any excessive soiling at any point on the property of others.

**Dwelling:** Any structure designed or used as the living quarters for one (1) or more families.

**Dwelling, Accessory:** See Accessory Dwelling Unit.

**Dwelling, Single Unit:** A building, or portion thereof, used or designed to be used as a residence for one (1) household.

**Dwelling, Duplex:** A residential building that has two dwelling units in the same building and neither unit is an accessory dwelling unit.

**Dwelling, Multi Unit:** A building, or portion thereof, used or designed to be used as a residence for three (3) or more households with each occupying a dwelling unit separate and independent of the others.

**Dwelling Unit:** A building, or entirely self-contained portion thereof, containing complete housekeeping facilities for a single unit. A recreational vehicle, room in a boarding house, rooming house, convalescent home, fraternity or sorority house, hotel, inn, lodging or nursing home shall not be considered a dwelling unit.

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

**Electrical Disturbance:** Any continuous or repetitive electrical emission which causes an abnormal degradation in performance of other electromagnetic radiators or receptors, of quality and proper design, in the vicinity.

**Equipment Sales, Rental, or Repair:** Any lot or area of land, including the building or buildings thereon, which is used primarily for the sale or rental of equipment, tools, etc., not including motor vehicles, and including any ancillary service, repair or office facilities associated with the sale or rental of equipment.

**Essential Services:** The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of "local consumer" underground

or overhead gas, telephone, electric, steam, water or sewer collection, distribution or transmission systems, equipment and accessories in connection therewith, including buildings, reasonably necessary for the furnishing of adequate services, consistent with the public health, safety or general welfare of the community, and consistent with other applicable provisions of state law.

**Estimated Population Equivalent:** An estimate of the population that will reside in a proposed residential development, based on the number of dwelling units proposed and the number of bedrooms in each unit.

**Existing Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is *completed before the effective date of the initial floodplain management regulations* adopted by the Town.

**Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Extraction of Earth Resources:** The removal of sod, loam, sand, gravel, or quarried stone except when incidental to or in connection with the construction of a building on the same lot.

**Facade:** The principal face of a building, generally facing the street and/or containing a public entrance. A building having more than one side fitting this definition, as determined by the Zoning Administrator, may be considered to have more than one facade. The area of a facade shall not include any projection of roof area.

**Family:** See Household.

**Farm Market:** A market for selling farm produce and farm products.

**Farm Produce Stand:** A small stand used for the seasonal sales of farm produce and farm products.

**Farm Structure:** A structure used for or in association with agricultural uses, i.e., the cultivation of the soil, production of crops and/or the raising of livestock, but not including structures used for the slaughter of animals. A roadside stand used for the seasonal sale of agricultural produce grown on the premises shall be considered a farm structure. In accordance with the Act [§ 4413(d)], this definition includes farm buildings, silos, enclosures, and fences, but specifically excludes dwellings for human habitation.

**Fence:** An assemblage, regardless of material used, designed, and erected for the purpose of restricting visual or physical access to or from an area, not including terraces, steps or

similar features of less than three feet (3') in height above grade or the floor level of the ground story of an associated structure.

**Final Plat:** Final survey of all street, boundary and lot lines of a Major or Minor Subdivision, or boundary adjustment, to be filed with the Town Clerk containing all information required by these Regulations and prepared in conformance with 27 VSA §§ 1401-1406.

**Final Plat Amendment:** A change to the approved Final Plat of a subdivision requiring preparation and approval of a new plat.

**Final Submission:** Submission of all information required for final review of a Major or Minor Subdivision and Final Plan Amendment.

**Firewood Processing and Sales:** Any activity including the storage, cutting, splitting, or otherwise processing firewood for the purpose of sale and distribution to users other than the owner of the property on which the activity takes place.

**FIRM, Flood Insurance Rate Map:** An official map of the community, on which the Federal Insurance Administrator has delineated both areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study:** An examination, evaluation, and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

**Flood Protection or Flood Proofing:** Any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities or structures and their contents.

**Footprint Lot:** A parcel of land which consists solely of the area directly under a structure.

**Forestry Operation:** Any activity involving the maintenance and/or management of an area of trees for any of the following purposes: to produce commercial timber and/or other forest products; to provide good forest cover for water shed protection; to protect and preserve open land; or to maintain wildlife habitat. This definition specifically excludes Firewood Processing and Sales, and Lumber Processing Operations, which are separately defined and regulated under these Regulations.

**Funeral Home:** A structure used and occupied by a professional licensed mortician for

burial preparation and funeral services.

**Funeral Home, Existing:** A funeral home, which was in existence as of May 22, 1995, and has been in operation continuously since that time.

**Garage, Private:** A building or a portion thereof, accessory to a main building, whether attached or independent, providing for the storage of automobiles, in which no occupation or business for profit is carried on, and in which space for not more than one automobile is leased to a non-resident of the premises.

**Garage, Public:** Any building or area, or portion thereof, other than a private garage, used for the storage or servicing of vehicles for profit.

**Garden Center:** An establishment primarily engaged in the retail sale of plant materials such as trees, shrubs, flowering plants, seeds, bulbs, or sod that are primarily grown off site, and associated lawn and garden supplies such as bagged or bulk mulch, topsoil, fertilizer, or pots, landscaping materials, and gardening equipment. A garden center may include, as incidental or accessory to the principal use, both indoor and outdoor storage and display areas, including greenhouses, and the sale of a limited amount of product grown or prepared on-site.

**Glare:** Illumination beyond property lines caused by direct rays from incandescent, fluorescent or arc lighting, or from such high temperature processes as welding or petroleum or metallurgical refining, or by diffuse reflection from a surface such as a wall or roof of a structure.

**Greenhouse:** A structure, frequently with a transparent or translucent roof, designed and used for the planting, breeding, growing, care and display of plants, flowers, and vegetables (of whatever type) for sale to others on a retail basis. See also Agriculture, Farm Structure.

**Gross Leasable Area:** The total floor area designed for the tenant's occupancy and exclusive use.

**Group Home:** See Residential Care Home and Section 4.8.

**Backlit Lighting: Also known as Halo Lighting/Reverse Channel Lighting/Silhouette Lighting:** A channel letter, with an open or translucent back, that is illuminated. Light is directed against a surface behind the letter, producing a halo effect. Also known as a silhouette or halo lighted.

**Hazardous Materials:** (1) Any material or combination of materials which may be explosive, flammable, toxic, acidic, corrosive, an etiologic agent, caustic, pathogenic, or radioactive, either when in fluid or solid form, or which may become so when acted upon by heat or radioactivity, and any material which, when present in sufficient quantity or combination, may be reasonably assumed to constitute a peril for health and safety of

employees, nearby residents, firefighters and/or others who may be or become exposed to them, or (2) as otherwise defined by a state or federal agency.

**Heat, Excessive:** Heat which causes a temperature increase on any adjacent property, whether such change occurs in the air or on the ground, in a natural stream or lake, or in any structure on such adjacent property.

**Height:** The vertical dimension measured from the average elevation of the finished lot grade at the base of the structure, to the highest point of the structure.

**Historic Structure:** Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

**Home Occupation:** An occupation carried on within a residential property by residents, which is incidental and secondary to the residential use of the property, which is customary in residential areas, and which does not change the character thereof (see Section 4.9). See also Home Business.

**Home Business:** An expanded home-based business conducted by one or more residents of a single unit dwelling which is carried on within the principal dwelling and/or an accessory structure and meets all applicable requirements of these regulations (see Section 4.9). See also Home Occupation.

**Hospital:** An institution for the medical or surgical care of sick or injured persons, or for the care of contagious or infectious diseases. A hospital may provide care on both an out-patient basis and on an in-patient basis where patients are admitted overnight.

**Hotel, Motel:** Any building other than a boarding house or tourist home where sleeping accommodations are provided for compensation. Included are motels, cabins, tourist courts, motor lodges and similar uses.

**Household:** One or more persons occupying a premise and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel. A household may also include a group of not more than five (5) persons not related by blood, adoption, marriage, or civil union living as a single housekeeping unit.

**Junk:** Any worn-out, cast-off, or discarded article or material, including motor vehicles, which is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

**Junkyard:** Any place of outdoor storage or deposit, which is maintained, operated, or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. "Junkyard" also means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping one or more non-operative, non-inspected, or non-registered vehicles, or junk as defined herein, all of which are visible from any portion of a public highway or within 300 feet of lands of others, public or private. However, the term does not include a private garbage dump or a sanitary landfill which is in compliance with 24 V.S.A. § 2202 and the regulations of the state secretary of human services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than ninety (90) days for inspection or repairs.

**Kennel:** Any premises in which caring, breeding, housing, or keeping of four (4) or more dogs, cats, or other domestic animals is done for monetary purposes. Kennel may include doggie daycare and/or schooling.

**Lake:** A body of standing water, including bodies named lake, pond, and reservoir, that may have natural or artificial water level control. For purposes of this regulation, off-stream reservoirs specifically constructed for the following purposes are not considered lakes: snowmaking water storage; golf course irrigation; stormwater management; and fire suppression.

**Landfill, Sanitary:** A land disposal site employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume, and applying and compacting cover material at the end of each operating day [10 V.S.A. § 6602(11)].

**Licensed Amateur Radio Station Operator:** Any individual defined and licensed by the Federal Communications Commission (FCC) to operate any apparatus capable of performing the transmission and reception of voice via radio signals.

**Light Manufacturing:** The processing and fabrication of certain materials and products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties. Light Manufacturing includes the production of the following goods: home appliances; electrical instruments; office machines; precision instruments; electronic devices; timepieces; jewelry; optical goods; musical instruments; novelties; wood products; printed material; lithographical plates, type composition, machine tools, dies and gages; ceramics; apparel; lightweight non-ferrous metal products; plastic goods; pharmaceutical

goods; and food products, but not animal slaughtering, curing, nor rendering of fats.

**Lot:** A definable parcel of land occupied or capable of being occupied by one or more structures or uses.

**Lot Area:** The area within the property lines of a lot, calculated from dimensions derived by horizontal projection of the boundaries of the lot, exclusive of any portion of the lot contained within the boundaries of a street, proposed street, right-of-way, or public thoroughfare.

**Lot, Corner:** A lot at the point of intersection of or abutting on two (2) or more intersecting streets, the angle of intersection being not more than 135 degrees.

**Lot Coverage:** The portion of the area of a lot (measured in square feet) which is covered by buildings, accessory structures, parking areas, walkways, trails/paths, loading areas, access drives, outside service areas and outside storage areas, divided by the total lot area and expressed as a percent.

**Lot Depth:** The mean distance between the front and rear lot lines, measured at right angles to the front lot lines.

**Lot, Frontage:** The horizontal distance measured along the property line which separates the lot from a public or private street. No newly created lot(s) shall be permitted unless the minimum lot frontage is contiguous along a public highway.

**Lot Line, Side:** Any lot line other than a front or rear lot line.

**Lot of Record:** Any lot which individually, or as part of a subdivision, has been recorded in the office of the Clerk of the Town of Essex.

**Lot, Width:** The mean distance between the side lines of a lot, measured at right angles to its depth.

**Lot Width to Depth Ratio:** The mathematical ratio of lot width to lot depth, including consideration of any calculated average to determine lot depth and lot width.

**Lowest Floor:** The lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

**Lumber Processing Operation:** A business involving ten (10) or more contiguous acres of land within the Town of Essex and engaged in one or more of the following uses: preparation of timber and related by-product processing for the market including lumber mills and lumberyards; establishments primarily engaged in the gathering of forest

products; tree nurseries; outside storage of materials, products, by-products, machinery, and apparatus related to any of the uses described herein; and, maintenance, repair shop, and business and sales office facilities related to any of the uses described herein.

**Machinery Repair Shop, Major:** Any lot or area of land, including the building or buildings thereon, which is used for the primary purpose of making major or minor repairs to machinery, such as tractors, power mowers, snowmobiles, etc. and including the sale of parts.

**Machinery Repair Shop, Minor:** Any lot of land, including the building or buildings thereon, which is used for the primary purpose of making major or minor repairs to small machinery (such as bicycles, clocks, electric motors) and household appliances, and where the amount of noise generated will be minimal.

**Manufactured Home (or Mobile Home):** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Manufacturing:** The process whereby the nature, size or shape of articles or raw materials are changed, or where articles are assembled and packaged.

**Marquee Sign:** Any canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building. Marquee signs are identifiable by a surrounding cache of light bulbs, usually yellow or white. No flashing lights shall be allowed.

**Massage Therapy:** The scientific manipulation of the soft tissues of the body for the purpose of normalizing those tissues. Consists of manual techniques that include applying fixed or moveable pressure, holding, and/or causing movement of, or to, the body to enhance health and healing when undertaken by a Massage Therapist who is certified or registered through the National Certification Board for Therapeutic Massage and Bodywork’s certification program, or an approved alternative certification body, for example AMA-VT.

**Mean Water Level:** The normal summer (June 1 –September 15) water level, measured in feet above sea level, of lakes as determined by an average of water level readings available over time or as established by the Vermont natural Resources Board.

**Metes and Bounds:** The boundary lines of land, with their measurements and angles or bearings.

**Mobile Home:** A residential structure, constructed at a separate manufacturing facility,

designed to be transported on its own permanent chassis, designed to be used with or without a permanent foundation, and which, when connected to appropriate water supply and sewage disposal systems, contains all necessary elements for a dwelling unit.

**Mobile Home Park:** A parcel of land under single or common ownership or control, which is used, or is designed to be used, to accommodate two or more mobile homes.

**Motel:** A hotel, for purposes of these Regulations.

**Multi-Unit Dwelling:** See “Dwelling, Multi-Unit.”

**Municipal Land Use Permit:** As defined in the Act [§ 4303] to include, as issued by the municipality: (1) final zoning, subdivision, site plan or building permits or approvals relating to subdivision and land development; (2) septic or sewage system permits; (3) final official minutes of meetings which relate to permits or approvals, which serve as the sole evidence of such permits or approvals; (4) certificates of occupancy, compliance or similar certificates; and (5) any amendments to the previously listed, permits, approvals and/or certificates.

**Municipal Facilities:** The erection, construction, alteration, or maintenance of municipal services or facilities such as governmental offices, a library, building for fire, police or rescue, water supply or sewage treatment facilities, garage, recreation facilities, and power generating facilities primarily for “local consumers.”

**Necessary Wildlife Habitat:** Concentrated habitat that is identifiable and is demonstrated as being decisive to the survival of a species of wildlife at any period in its life.

**Neighborhood Shopping Center:** A shopping center containing several convenience retail establishments (e.g., supermarkets, hardware stores, pharmacies, gift shops, etc.), personal service facilities (e.g., barbershops or beauty parlors, and food service establishments), and which is designed and sized to serve primarily the residential development surrounding it.

**New Construction:** For regulation under this bylaw, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the Town and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the Town.

**Nonconforming Lots or Parcels:** Lots or parcels that do not conform to these Zoning Regulations covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of these Zoning Regulations, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.

**Nonconforming Structure:** A structure or part thereof not in conformance with the provisions of these Zoning Regulations but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of these Zoning Regulations, including a structure improperly authorized as a result of error by the Zoning Administrator.

**Nonconforming Use:** A use of land that does not comply with all the provisions of these Zoning Regulations but did conform to all applicable laws, ordinances, and regulations prior to the enactment of these Regulations including a use improperly authorized as a result of error by the Zoning Administrator.

**Nonconformity:** A nonconforming use, structure, lot, or parcel.

**Office:** Facilities occupied by consulting firms, clerical services, real estate or insurance agencies, doctors, lawyers, architects, engineers, accountants, government offices, travel agencies, financial institutions (excluding banks and drive-up window establishments), and establishments providing similar services, but not including manufacturing, repairing, processing, or fabrication of any article, substance or commodity, or the retail sale of goods.

**Office, Major:** Establishments not requiring regular and frequent access by non-employees including corporate offices, laboratories, industrial support offices, consulting firms, clerical services, government offices, financial institutions (excluding banks and drive-up window establishments) and establishments providing similar services but not including manufacturing, repairing, processing, or fabrication of any article, substance or commodity, or the retail sale of goods. Any establishment included in this definition must be at least fifteen thousand gross leasable area (15,000 GLA) in size.

**Off-Site:** Not located on the same lot on which the principal use or structure being served is located. This is particularly relevant to sewage disposal, water supply systems, and signs.

**On-Site:** Located on the same lot as the principal use or structure being served. This is particularly relevant to sewage disposal, water supply systems, and signs.

**Open Land:** A parcel of land which was created by subdivision of a larger parcel. The development rights of the open land will have been used for the creation of the other lots subdivided from the larger parcel.

**Outstanding Built Landscape:** Traditional features constructed in the local vernacular – such as barns, farmhouses, silos, and town greens – that contribute significantly to the

overall quality of a view. The Scenic Resources Protection Overlay map identifies documented instances of the Outstanding Built Landscape.

**Parking Facility:** A lot or garage or portion thereof, used for the temporary storage of motor vehicles in association with uses or activities which may or may not be located on the same lot. A parking facility may be the principal use of a lot.

**Parking Space:** An off-street area, other than a loading space, of not less than nine feet (9') by eighteen feet (18') in size, exclusive of access or maneuvering area, ramps, columns, etc., to be used exclusively as a temporary storage space for a single motor vehicle.

**Personal Services Establishment:** An establishment for the provision of direct services to other individuals or businesses. Such establishments include barbershops, hairdressing shops, beauty parlors, shoe repair shops, shoeshine stands or shops, laundries, laundromats, dry cleaners, photographic studios, and businesses providing similar services of a personal nature on a commercial or profit basis.

**Planning Commission:** The Planning Commission of the Town of Essex appointed in accordance with the provisions of the Act [24 VSA Chapter 117].

**Planned Unit Development Residential (PUD-R):** A residential development, approved by the Planning Commission in accordance with Article VI of these Regulations, designed and planned as an integral unit which may contain various types of residential structures and which may consist of individual lots which do not satisfy all of the requirements otherwise contained in these Regulations. A planned residential development is a type of Planned Unit Development.

**Planned Unit Development (PUD):** A planned development, approved by the Planning Commission in accordance with Article VI of the Zoning Regulations, designed and planned as an integral unit, and which may contain various commercial, industrial, and residential uses and which may consist of individual lots which do not satisfy all of the requirements otherwise contained in these Regulations.

**Preliminary Plat:** Preliminary survey of all boundary lines and location of all street and lot lines of a Major Subdivision.

**Preliminary Submission:** Submission of all information required for preliminary review of a Major Subdivision.

**Principal Building:** A building or structure in which is conducted the main or principal use of the lot on which said building is located.

**Private Club:** A building and related facilities owned and/or operated by a corporation, association or group of individuals established for the fraternal, social, educational, recreational, or cultural enrichment of its members.

**Public Facilities:** Pursuant to the Act [24 V.S.A. § 4413], state or community owned and operated institutions and facilities; public and private schools and other educational institutions certified by the Vermont Department of Education; churches and other places of worship, covenants and parish houses; public and private hospitals; regional solid waste management facilities certified under 10 V.S.A Chapter 159; and hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

**Public Hearing:** The duly warned hearing as required by these Regulations, held by the Planning Commission or Board of Adjustment after public notice in accordance with the Act [24 V.S.A. § 4464] and Section 7.7 of the Zoning Regulations.

**Public Improvements:** Capital improvements necessary for the safety, health and welfare of the public and which will subsequently be owned and maintained by the public and which will subsequently be owned and maintained by the public. Examples include, but are not limited to, streets, sidewalks, sewers, storm drains, and water lines.

**Public Works Specifications:** “*Town of Essex Standard Specification for Construction, January 2017,*” as the same may be from time to time amended, and any successor or replacement, which is incorporated herein by reference.

**Recreation, Indoor:** Recreation facilities and activities made available on a commercial profit or non-profit basis, which are located inside of a structure or building. Indoor recreation facilities include indoor bowling alleys, theaters, table tennis and pool halls, skating rinks, gymnasias, swimming pools, hobby workshops, and similar places of indoor recreation.

**Recreation, Private Outdoor:** Outdoor recreation facilities which are privately owned, and which may be made available on a members only basis or to paying customers. Outdoor recreation facilities include but are not necessarily limited to golf courses, golf driving ranges, trap, skeet, and archery ranges, swimming pools, skating rinks, riding stables, parks, beaches, tennis courts, recreation stadia, skiing areas and similar facilities.

**Recreation, Public Outdoor:** Outdoor recreation facilities which are publicly owned and operated, such as playgrounds, playfields, parks, open spaces, swimming pools and similar facilities.

**Recreational Vehicle:** A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designated primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**Recycling Establishment:** An establishment which provides for the collection, storage, and processing of secondary materials in preparation for their sale for ultimate reprocessing into new materials. A secondary material is a material which has served its

initial purpose, or waste or scrap from a manufacturing process. Examples of such secondary materials are paper, metals, plastics, textiles, and glass. Processing may include sorting, shredding, crushing, and bailing.

**Regional Solid Waste Disposal Facility:** A lot or parcel of land or portion thereof used in accordance with State and Federal regulations, for the disposal of trash, refuse, junk discarded machinery, vehicles, or parts thereof, or waste material of any kind. A Regional Solid Waste Disposal Facility may also include a recycling transfer station.

**Religious Institution:** A building or structure, together with any accessory structures, used for the regular assembly for religious worship, and which is maintained and controlled by a religious body organized to sustain such worship. Such uses are subject to the provisions of 24 V.S.A. § 4413(a)(1)(C).

**Renewable Energy Resources:** Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat and geothermal sources.

**Research and Testing Laboratory:** A private commercial enterprise engaged exclusively in the pursuit of scientific research and development, including research related to and development of manufactured, processed, or compounded products.

**Residence:** See Dwelling.

**Residential Care Home:** (See Section 4.8) A State licensed facility that provides care to persons in a home-like environment to individuals unable to live wholly independently but not in need of the level of care and services provided in a nursing home. Residential care homes are licensed as either Level IV or Level III. Both levels must provide room and board, assistance with personal care, general supervision and/or medication management. Level III homes also must provide the additional service of nursing overview. This use is classified as both commercial and residential and is subject to Recreation Impact Fees.

**Residential Care Facility:** (See Section 4.8) Any type of residential care facility, including convalescent, rehabilitation, or nursing home facility other than a residential care home.

**Restaurant:** An establishment whose primary operation accommodates food and drink preparation, service, and consumption primarily in designated locations on premises. A deli in a grocery store, convenience store, supermarket, or free-standing structure serving food or beverages for off-premises consumption only shall not be considered a restaurant.

**Re-subdivision:** Change in a plat which was approved or recorded after November 16, 1976.

**Retail Store:** An establishment consisting of an enclosed shop or store for the sale of

retail goods or personal services, including a department store but excluding any free-standing retail stands, gasoline services, motor vehicle repair services, new and used car sales and service establishments, and trailer and mobile home sales and service establishments.

**Reverse Channel Lighting/Halo Lighting:** A sign lighting technique where the sign has individual cutoff letters and/or symbols and the light is located behind them. The light does not shine through the letters and/or symbols and the light sources are not visible.

**Revetment:** A facing or veneer of stone (riprap), concrete, or other materials used to support a sloping embankment or dike to protect it against erosion caused by waves or current.

**Roadside Stand:** An outside structure or structures (temporary or permanent) used for the display and retail sale of agricultural produce, and such locally produced products as honey, cider, maple syrup or plants. See also Farm Produce Stand.

**School, Certified:** Any establishment certified by the Vermont Department of Education, including parochial; private; public and nursery schools; colleges; universities and accessory uses and excluding Technical/Vocational Schools. A school serving one certified classroom, serving a maximum of 20 pupils, can be considered an Instructional Classroom and categorized as an 'Office'.

**School, Non-Certified:** A commercially operated establishment for the teaching of professional trades and occupations not certified by the Vermont Department of Education such as schools of beauty culture, business, dancing, driving, music, culinary arts, and other similar establishments. A school serving one non-certified classroom, serving a maximum of 20 pupils, can be considered an Instructional Classroom and categorized as an 'Office'.

**Self Service Machine:** A stand alone machine at which customers can transact various types of business without assistance from any staff, including but not limited to automatic bank teller machines, postal or shipping drop off machines, or other similar units.

**Setback:** The required minimum horizontal distance from a road right-of-way, property line, or other delineated feature (e.g., a stream bank, shoreline, or wetland) to the nearest point of a building or structure. A setback (yard) area can incorporate a required buffer area or, where a required buffer distance exceeds the required setback distance, the buffer distance shall define the setback distance. See also Buffer.

**Setback Line:** A line, parallel to a property line, road right-of-way, or other delineated feature (e.g., a stream bank, shoreline, or wetland area), which defines the required minimum setback where buildings shall not be located. For purposes of these Regulations, the setback line also defines yard areas.

**Shopping Center Complex:** Any structure or structures developed as a single entity,

containing two (2) or more separate commercial establishments and containing 15,000 square feet or more of gross floor area.

**Short-Term Rental:** A residential property that rents on a short-term basis (less than 30 days) which can include a house, room(s), or an accessory apartment.

**Sign:** Any device affixed to, painted, or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but excluding any flag or insignia of a government, government agency, school or religious group, and any official traffic control device.

**Simple Parceling:** Division of any parcel of land, including footprint lots, with the exception of a boundary adjustment into two lots or parcels for the purpose of conveyance or transfer of ownership of either lot.

**Significant Features Reference Map(s):** One or more maps incorporated by reference or appended to the Essex Town Plan which depicts important features in the Town.

**Sketch Plan:** A drawing containing sufficient information, as specified in these Regulations, to allow initial review of a subdivision in relation to the Town Plan and Bylaws and to other land uses.

**Small Production and Sales Establishments:** Small establishments such as woodworking shops, craft shops, print shops, etc., which include space for retail sales of the goods produced, and which do not sell goods not produced on the premises. Establishments with more than 1,000 square feet of floor space devoted to production shall be deemed manufacturing uses.

**Special Flood Hazard Area:** The floodplain within the Town subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area.” This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](https://msc.fema.gov). Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

**Start of Construction:** For purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The

actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless of whether that alteration affects the external dimensions of the building.

**Storage, Warehouse and Distribution Establishments:** Establishments used primarily for storing, warehousing and distribution of goods, wares and merchandise, and which do not involve retail sale of such goods, wares or merchandise on the premises.

**Street:** Any road, highway, thoroughfare, avenue, land or right-of-way, whether public or private, used for vehicular circulation and/or to provide access to individual properties.

**Street, Collector:** A street which is being used or will be used to carry a substantial volume of traffic from a minor street(s) to a major street or community facility, and normally including the principal entrance street to a large subdivision or group of subdivisions, and the principal circulation streets within such subdivisions.

**Street, Major:** A street which is being used or will be used primarily as a street between different communities or portions of the Town, or which will otherwise carry a heavy volume of traffic.

**Street, Minor:** A street which is being used or will be used primarily to provide access to adjacent properties, and which does not provide for use by through traffic.

**Stream:** The full length and width, including the bed and banks, or any watercourse, including rivers, creeks, brooks, and branches. Streams include intermittent streams that have a defined channel and evidence of sediment transport, even if such streams do not have surface water flow throughout the year or throughout the channel. For purposes of these Regulations, constructed drainage ways including water bars, swales, and roadside ditches, are not considered streams.

**Stream Section:** A portion of a stream with similar features such as the same relative geometry of cross section, similar side slopes and soils.

**Structure:** Any assembly of materials for display, use or occupancy, that has a value of \$1,000.00 or more, including but not limited to buildings, mobile homes, shipping and storage containers, carports, porches, swimming pools, or walls, and other building features but not including sidewalks, driveways, patios or recreational vehicles, trailers

or other vehicles on wheels if regularly used for their manufactured purpose and not for housing or storing animals or materials. For purpose of flood hazard area regulations only, this definition also includes gas or liquid storage tanks that are principally above ground.

**Subdivider:** See “Applicant.”

**Subdivision:** Any land, vacant or improved, which is divided or proposed to be divided into lots, parcels, sites, plots, units, or interests for the purpose of sale, lease or development, including amended subdivisions and re-subdivisions. Subdivisions are further divided into four categories as defined in this Article: a) Boundary Adjustments; b) Simple Parceling; c) Minor Subdivision; d) Major Subdivision. The term “subdivision” shall mean the act of dividing a parcel of land as described above and shall also include the development of a parcel as a mixed-use development that includes housing. Development of a shopping center complex that does not involve the subdivision of land shall not be considered a subdivision.

**Subdivision Plan:** Drawing(s), as required by these Regulations, containing the information listed in Section 2.8 (B) of these Regulations.

**Subdivision, Major:** A subdivision containing six (6) or more lots or any subdivision requiring a new street or extension of public water or sewage facilities.

**Subdivision, Minor:** A subdivision containing three (3), four (4) or five (5) lots, all of which front on an existing street and not requiring a new street or extension of public water or sewage facilities.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three (3) years, or over the period of a common plan of development, cumulatively equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure

**Swimming Pool:** Any pool or structure used primarily for swimming, whether installed above or below the ground, which contains two (2) or more feet of water, at its deepest,

and whether for public, private, or commercial use.

**Technical/Vocational School:** An establishment certified by the Vermont Department of Education for teaching of technical and vocational courses for secondary education and above. These courses include but are not limited to auto mechanics, building trades, electronics and culinary arts.

**The Act:** Vermont Planning and Development Act [Title 24, VSA, Chapter 117].

**Tiny House:** See “Dwelling Size” definition.

**Top of bank:** The point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high-water stage.

**Top of slope:** A break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut channel meet floodplains that have been abandoned or are undergoing abandonment.

**Town Engineer:** A Vermont licensed professional engineer (in civil engineering or other directly related specialty) appointed by the Town Manager or under contract to the Town.

**Town Health Regulations:** “*Health Regulations Relating to Permissible Means of Individual Subsurface Sewage Disposal Systems*,” as adopted by the Town of Essex in November 1972, and as subsequently amended, or their successor, and which are incorporated herein by reference.

**Townhouse:** A type of dwellings unit, located in a structure containing at least two (2) dwelling units, arranged so as to include room son two or more contiguous floors.

**Town Plan:** The duly adopted plan for development of the Town prepared by the Planning Commission, as it may be amended from time to time, pursuant to the Act [24 VSA § 4385].

**Trucking Terminal:** A site including buildings where the primary use is storage and housing of trucks and related equipment. A business office and minor repair facilities are allowed.

**Trailer:** A mobile vehicle, with wheels, capable of being towed by a motor vehicle, and having an overall length of less than twenty-five feet (25') and an overall width of less than eight feet (8'). This shall include trailers designed for overnight living or camping purposes.

**Truck Farm:** A farm devoted to the raising of vegetables and other small food crops for sale.

**Undevelopable Lot:** A lot (as defined in these Regulations) for which the capability of supporting structures has not yet been proven.

**Undue Adverse Effect (Impact):** An adverse effect or impact which either (1) violates a clear, written community standard, including a provision of these Regulations, or a specific policy of the Essex Town Plan; or (2) which cannot be avoided through mitigation, design modifications, or conditions or approval.

**Use:** The specific activity or function for which land or a structure is arranged, designed, or intended, or for which either land or a building is or may be occupied or intended.

**Veterinary Clinic:** An establishment which provides veterinary care of animals, including surgery, examination, treatment, medication, etc., and also including any facilities for caring, breeding, housing or keeping animals in conjunction with the provision of veterinary care.

**Violation, In the Flood Hazard Area:** The failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

**Wall:** An assemblage of material which is solid and opaque, and which is designed and erected for the purpose of restricting visual or physical access to or from an area.

**Waterbody:** A lake or stream.

**Wetlands:** Lands that are inundated or saturated by surface water or groundwater with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities. For the purposes of these Regulations, these include wetlands that meet state requirements for Class I and II wetlands.

**Wholesale Establishments:** Establishments primarily engaged in selling merchandise to retailers, or industrial, commercial, or professional business uses, or which acts as agents in buying and selling merchandise to such companies. Wholesale establishments are not structures used primarily for storage of goods, wares, and merchandise although wholesale functions may include the maintenance of substantial inventories.

**Yard:** An open space on a lot, defined by a setback line, that is unoccupied and unobstructed from the ground upward, except as otherwise provided in these Regulations.

**Yard, Front:** A yard on the same lot with a principal building, extending the full width of the lot and situated between the street line and the front setback line extended to the

side lines of the lot. Corner lots shall have front yards facing both streets.

**Yard, Rear:** A yard on the same lot with a principal building between the rear setback line and the rear line of the lot extending the full width of the lot.

**Yard, Side:** A yard on the same lot with a principal building between a side setback line of the lot and extending from the front yard to the rear yard.

**Zoning Administrator:** An official appointed by the Town Manager to carry out the duties set forth in these Regulations and the Town's Zoning Regulations.

**Zoning Permit:** A permit issued under the Town Zoning Regulations in accordance with the provisions of the Act [24 VSA §4449].