



TOWN OF RUTLAND SUBDIVISION BYLAWS

DRAFT

Town of Rutland Municipal Town Hall
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**HISTORY OF THE
SUBDIVISION BYLAWS**

AMENDED

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EFFECTIVE

ADOPTED

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EFFECTIVE

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Section 1: Definitions

Applicant - Landowner, developer, or authorizing agent.

Administrative Officer - The person appointed by the Rutland Town Selectboard to administer and implement the provisions of these Bylaws.

Agricultural Soils - Sites that are mapped by the National Resources Conservation Service (NRCS) of the US Department of Agriculture that have "prime", "statewide", or "local" importance.

Boundary / lot line adjustment – A process where no additional lot is created and no more than one-half (0.5) total acre is transferred.

Building Envelope - Includes all the building components that separate the indoors from the outdoors.

Certificate of subdivision compliance - A form issued to the applicant by the Administrative Officer stating, once filled out, the required improvements have been installed in accordance with the approved plat and any conditions of subdivision approval.

Complete application - A subdivision application submitted by the applicant and contains all the contents outlined in Section 4 and Section 6, as determined by the Administrative Officer.

Conformance with the Rutland Town Municipal Plan - A subdivision regulation, or proposed subdivision, in accord with the municipal plan in effect at the time, including all the following:

- A. Makes progress toward attaining, or at least does not interfere with, the goals and policies contained in the municipal plan.
- B. Provides for proposed future land uses, densities, and intensities of development contained in the municipal plan.
- C. Carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the municipal plan.

Flood hazard area - Those lands subject to flooding from the 100-year flood, as defined in the existing or subsequently revised Flood Insurance Rate Map (FIRM), published by the Federal Emergency Management Agency.

Interested Person – Shall have the meaning set forth in 24 VSA §4465(b).

Lot – A tract or portion of land with defined boundaries created by the act of subdivision. A deed may describe one or more lots. Multiple lots described in a single deed remain separate lots provided that they are described as having separate and distinct boundaries and that any subsequent deed describing the lots does not specifically eliminate the separate and distinct boundaries.

Minor subdivision - As defined in Section 3.

Major subdivision - As defined in Section 3.

Non-Exempt Proposed Subdivision - A subdivision of land that does not qualify for an exemption under Section 2 of these bylaws.

Planning Commission - Rutland Town Planning Commission.

Primary agricultural soils – A farmland map unit the National Resources Conservation Service (NRCS) of the US Department of Agriculture identifies as primary, statewide, or local importance.

Road - The word road shall include the entire associated right-of-way to the road.

Surface water - All rivers, streams, creeks, brooks, reservoirs, ponds, lakes, and all bodies of surface waters that are contained within or flow through Rutland Town.

Subdivide – to divide land by sale, gift, lease, mortgage foreclosure, court-ordered partition or decree, or filing of a plat, plan, or deed in the town records where the act of division creates one or more lots. Subdivision shall be deemed to have occurred on the conveyance of the first lot or the filing of a plat, plan, or deed in the town records, whichever first occurs. Municipal boundaries and public highways do not create a subdivision. A mortgage deed does not create a subdivision unless a foreclosure occurs that results in the division of land. A lease will not be considered a subdivision unless the term of the lease is equal to or exceeds 50 years or the lease has a term of less than 50 years, but includes a right to extend the term by renewal or otherwise to a duration equal to or in excess of 50 years.

Subdivision - The division of a lot into two or more lots or other division of land for sale, conveyance, development, or lease.

Tract of Land – One or more physically contiguous lots of land owned or controlled by the same person or persons.

Wetland - Class I or Class II Wetlands depicted on the Vermont State Wetland Inventory.

Section 2: General Provisions

Enactment. These Bylaws shall be known and cited as the “Town of Rutland Subdivision Bylaws”. These subdivision Bylaws have been prepared and adopted pursuant to 24 V.S.A. Chapter 117, Subchapter 9.

Applicability. The applicant for a non-exempt proposed subdivision shall apply for and receive a subdivision permit in accordance with these Bylaws prior to commencing any construction, development, or land clearing, or prior to the sale, lease, or conveyance of any subdivided portion of a property.

Purpose. The purpose of these Bylaws are to guide settlement patterns in conformance with the Rutland Town Municipal Plan, ensure the efficient extension of services, utilities, and facilities as land is developed, and protect natural resources, cultural features, and open spaces.

Exemptions. These Bylaws apply to any subdivision, except for any of the following:

- A. A boundary or lot-line adjustment where no additional lot is created and no more than one-half (0.5) total acre is transferred;
- B. The combination (or recombination) of portions of lots where the total number of lots is not increased;
- C. The public acquisition of strips of land for the widening or opening of streets or utility-related activities;
- D. Lots leased for agricultural purposes (as defined by the State of Vermont Agency of Agriculture’s Required Agricultural Practices), or for forestry purposes, where no construction, establishment, installation, or extension of any public or private road or utility, or any public improvement will occur;
- E. A court order directing the partition of land be divided among owners.

Severability. If any part of these Bylaws are ruled unconstitutional or otherwise invalid, such as by a superseding Vermont statute, such decisions shall not affect the validity of the remaining portions of these Bylaws, which provisions shall remain in full force and effect.

Section 3: Subdivision Types (Major vs. Minor)

For the purposes of these Bylaws, all non-exempt subdivisions of land shall be officially classified by the Administrative Officer as “Major Subdivision” or “Minor Subdivision”.

A. **Minor Subdivision.** Any subdivision which meets all the following criteria:

- i. Results in four or fewer lots;
- ii. Does not result in the construction of a public road or private road;
- iii. Does not contain a lot that has been subdivided or experienced a boundary / lot line adjustment in the last three hundred sixty-five (365) days.

B. **Major Subdivision.** Any subdivision that is not a minor subdivision.

Section 4: Application Requirements

All subdivision applicants shall submit to the Administrative Officer the following (unless granted a waiver by the Planning Commission in accordance with this Article):

- A. Applicant name & address (including all landowners and any consultants involved in the application); project name (if any); written description of proposed development plans including number and size of lots, the anticipated schedule of development, date of submission or any resubmission of application;
- B. Adjoining property owner names and tax lot numbers;
- C. Application fees as determined by the Rutland Town Selectboard;
- D. Waiver request in writing (if any) listing the specific provisions of these Bylaws for which the waiver is requested and sufficient information to justify the waiver;
- E. Copies of all existing municipal and state permits issued for the lot;
- F. Written statement on conformance with the Rutland Town Municipal Plan;
- G. Whenever a proposed subdivision is adjacent to a State highway, the application for subdivision approval shall include a letter from the Agency of Transportation confirming the agency has reviewed the proposed subdivision and determined whether a permit is required under 19 V.S.A § 1111. The letter from the Agency shall set out any conditions the agency proposes to attach to the permit required under 19 V.S.A § 1111.
- H. All the following supporting documents:

- i. Road profiles, road, intersection, and parking area geometry and construction;
- ii. Off-site easements (water, wastewater, access, etc.);
- iii. Proposed phasing schedule and subsequent development plans, if applicable;
- iv. Proposed covenants, deed restrictions, homeowner/tenant association agreements, private roadway language and maintenance agreements, if any;
- v. Subdivision plats or plans of the original lot over the last five (5) years, if any;
- vi. Engineering Reports on the ability to connect to public water/wastewater system, if applicable.

I. A plat that adheres to all applicable requirements as outlined in Section 6.

Section 5: Subdivision Application Procedures

1. Preliminary Plan. All subdivision applicants shall submit a preliminary plan for review prior to submission of a subdivision application. A preliminary plan should contain sketched drawn plat and preliminary written description relating to the requirements found in this Article. For major subdivisions, the Planning Commission to the degree possible given the information presented in the preliminary plan, shall provide interpretation and guidance to the applicant relating to conforming with these Bylaws during an informal public meeting. The intent of this meeting is to provide the applicant with early feedback on the proposed subdivision and to identify potential issues or constraints before preparing a surveyed plat of the proposed subdivision.
 - A. The preliminary plan shall not be formally approved or denied and is not binding on the applicant. Any representation made prior to submission of a complete subdivision application shall have no standing relating to the subdivision application. Preliminary plan materials shall not be considered a subdivision application. An incomplete preliminary plan shall not require resubmission of the preliminary plan. A major subdivision application that does not submit a preliminary plan and/or have a Planning Commission hearing on the preliminary plan ahead of submission of the major subdivision application shall be deemed an incomplete application.

2. Application Submission. All non-exempt proposed subdivisions shall submit a subdivision application to the Administrative Officer containing all requirements in Section 5 and Section 6 unless seeking a waiver from the Planning Commission.
 - A. Waiver. The Planning Commission may waive one or more application requirements or standards in Section 6 or Section 7 if the Planning Commission determines that it is not requisite in the interest of public health, safety and general welfare and will not conflict with the Rutland Town Municipal Plan, or other bylaws and ordinances in effect.
 - B. Administrative Review. The Administrative Officer shall review all subdivision applications for completeness. The Administrative Officer shall document the date of determining if an application is complete or incomplete.
 - i. Incomplete Application. For an application deemed incomplete, the Administrative Officer shall notify the applicant of what action is necessary to make an incomplete application deemed complete. The applicant must take appropriate action to complete the application.
 - ii. Administrative Action on Complete Application.
 1. Minor Subdivision. The Administrative Officer shall act on the application within thirty (30) days by issuing a decision to approve, approve with conditions, deny the minor subdivision application based on a determination of whether or not the minor subdivision conforms to applicable standards as set forth in Section 7, or referral to the Planning Commission. Approval or grounds for denial shall be set forth in a written decision. The Administrative Officer may, at their discretion, refer the application to the full Planning Commission for review and decision.
 2. Major Subdivision. The Administrative Officer shall submit a complete major subdivision application to the Planning Commission.
3. Planning Commission Responsibility. The Planning Commission shall be responsible for approval, modification, or disapproval of all major subdivision or referred minor subdivision applications.
 - A. Public Hearings. A major subdivision shall require a Public Hearing noticed in accordance with 24 V.S.A. §4464(a)(1).
 - B. Approval. The Planning Commission shall approve, approve with conditions pursuant to 24 V.S.A §4464(b)(2), or disapprove the major subdivision or

- referred minor subdivision application based on a determination of whether or not the subdivision conforms to applicable standards as set forth in Section 7. Approval, conditions of approval, or grounds for disapproval, shall be set forth in a written decision.
4. Site Visit. The Planning Commission may schedule a site visit prior to approving or denying a subdivision application. Any site visit attended by a quorum of the Planning Commission shall be warned in accordance with 24 V.S.A. Chapter 117. The Planning Commission may require temporary field markers to be placed on site for the site visit to depict proposed lot boundaries, building footprints, or other information in the subdivision application.
 5. Subdivision Permit Issued. The Administrative Officer shall issue a subdivision permit upon approval of a minor or major subdivision.
 6. Certificate of Subdivision Compliance. For any subdivision, minor or major, with infrastructure improvements, including but not limited to roads, utilities, drainage, or shared/public recreation facilities, a Certificate of Subdivision Compliance shall be a condition of subdivision approval to ensure that required improvements have been installed in accordance with the conditions of subdivision approval.
 - A. Request for Certificate. An application for a Certificate of Subdivision Compliance shall be submitted by the applicant to the Administrative Officer together with:
 - i. A certification from a licensed professional engineer stating they have inspected the completed project and the required infrastructure improvements were constructed in compliance with the conditions and requirements of subdivision approval;
 - ii. As-built plans drawn to scale indicating any monuments, utilities, structures, roadways, easements, and other improvements as constructed.
 - B. Site Visit. The Administrative Officer may inspect the subdivision to ensure all improvements have been completed as approved.
 - C. Issuing Certificates. The satisfactory completion of any improvements shall be determined by the Administrative Officer. A Certificate of Subdivision Compliance shall not be issued for any subdivision the Administrative Officer is unable to certify is in compliance with the conditions of subdivision approval.

7. Performance Bonding. The Planning Commission may condition the approval of a major or minor subdivision, on the submission of a bond, escrow account, or other surety in a form acceptable to the Selectboard to ensure one or more of the following: the completion of the project, adequate stabilization, or protection of public facilities that may be affected by the project. The estimated cost shall be prepared by a licensed professional engineer prior to final plat approval. The Planning Commission shall verify the bond provided conforms to the terms established by the Selectboard. The term of the bond or surety may be fixed for a maximum of three (3) years, within which time all improvements must be completed. The three-year term of the bond may include time after the completion of construction to ensure that the integrity and durability of the improvements and to protect public facilities that the project may affect. The Planning Commission shall establish an inspection fee to cover the costs of inspection, to be paid for by the applicant. Extension of the bond for an additional three (3) years requires the consent of the owner.
 - A. Bond Release. The Planning Commission shall release the bond or surety once all specified improvements have been completed in accordance with the project plans, permit conditions and performance bond conditions. In no event will a performance bond be released unless and until any required Certificate of Subdivision Compliance is issued, or the subdivider provides written notice to the Town of Rutland the subdivider is not proceeding with the project, and all application actions are being ceased.
8. Limitations of Subdivision Approval. Subdivision approval or issuance of subdivision permit shall not be construed as acceptance by the Town of Rutland for ownership or maintenance of any street, easement, utility, park, recreation area, or other space shown on the plat. Such acceptance may only be authorized by the Rutland Town Selectboard.
9. Right to Appeal. Any interested person, as defined in 24 V.S.A. §4465(b), may appeal a decision of the Administrative Officer to the Planning Commission within fifteen (15) days of the date of the decision. A decision by the Planning Commission may be appealed to the Environmental Court within thirty (30) days of the date of their decision.
10. Enforcement. 24 V.S.A. §§4451 and 4452 will govern the enforcement of these bylaws.

Section 6: Procedures and Requirements for Plat Design, Submission and Processing

1. Submission of Final Plat. The applicant shall provide one full-size plat which shall address and include all subdivision and final submission requirements established in this Article, prepared by a licensed professional engineer or licensed land surveyor.
 - A. Copies of Final Plat. In addition to the full-size plat, the applicant shall submit eight (8) 11"x17" paper copies, and one (1) digital copy.
2. Subdivision Plat Requirements. Any subdivision final plat shall be made from mylar material, depict all mapping requirements as surveyed by a licensed land surveyor, and contain:
 - A. Name of subdivision, name and address of the owner of record, applicant, licensed land surveyor, and any other consulting design professionals involved in the preparation of the application;
 - B. Boundaries and area of the entire lot (whether or not all land therein is to be subdivided), north point, scale, date (and dates of any revisions);
 - C. Building Envelopes (proposed or existing);
 - D. Adjoining property lines; adjoining property owner names; adjoining properties tax lot numbers; adjoining land uses, roads, drainage infrastructure and pathways;
 - E. Existing and proposed lot lines, acreage, and dimensions; proposed lot numbers & clearing limits;
 - F. Existing and proposed roads, infrastructure, easements serving the land to be subdivided, including roads, utilities, and stormwater/drainage infrastructure;
 - G. Existing and proposed utilities: power, water, gas, wastewater, drainage, stormwater systems, and associated rights of way or easements;
 - H. Existing site conditions including watercourses, wetlands and associated buffers; rock outcroppings; flood hazard areas; areas of slopes greater than 20%, and forest type;

- I. Deed description and boundary survey of tract boundary made and certified by a licensed land surveyor tied into established reference points, and any existing deed restrictions;
 - J. Certification block and associated plat recording requirements;
 - K. License number/seal of the licensed land surveyor or licensed professional engineer;
 - L. A vicinity map to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The vicinity map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision.
3. Minor Subdivision Plat Requirements. A minor subdivision plat shall contain all the information in Section 6 part 2 and have contours and a vicinity map in sufficient detail to evaluate the proposed subdivision. The Administrative Officer may require a vicinity map or plat contours to be a specific scale to sufficiently evaluate the proposed subdivision but not to an extent exceeding what's required for major subdivisions.
 4. Major Subdivision Plat Requirements. A major subdivision plat shall contain all the information in Section 6 part 2, and shall contain the following:
 - A. Local names and present widths of existing and proposed streets, intersections, easements, buildings, sidewalks, and public open spaces;
 - B. Information, including street names, widths, and highway intersections, regarding access to adjacent property;
 - C. Width, location, grades and street profiles of all streets or other public way proposed;
 - D. Existing and proposed contours at intervals of ten (10) feet;
 - E. Connections with existing sanitary sewer systems or proposed alternative means of septic treatment and disposal;
 - F. Connections with existing water supplies or proposed alternative means of providing water to the subdivision;
 - G. Preliminary design of any bridges/culverts and other drainage structures or facilities.
 5. Final Plat Submission. The approval of the Administrative Officer or Planning Commission shall expire 180 days from subdivision approval unless, within the

one hundred eighty (180) day period, the final plat has been filed with the Town Clerk. After an approved final plat is filed, no expiration of the approval shall be applicable. The Administrative Officer may extend the date for filing the final plat by an additional ninety (90) days if final local or state permits or approvals are still pending. The final plat shall be filed after approval by the Administrative Officer or Planning Commission.

A. The final plat shall meet all recording requirements for subdivision approvals as specified under 24 V.S.A. §4463.

B. New Street or Highway Recording. Prior to recording a final plat showing a new street or highway, the final plat must be signed and dated by the Planning Commission. All final plats must include a notation to include the following statement: *“The subdivision depicted on this final plat was approved by the Rutland Town Planning Commission Chair on the ___ day of ___, 20___, subject to the requirements and conditions of said resolution. Signed _____, Planning Commission Chairperson.”*

6. Boundary / Lot Line Adjustment. A lot line adjustment (boundary line adjustment) is where no additional lots are created, and no more 0.5 acre is transferred. Lot line adjustments meeting this definition shall be approved as an administrative boundary adjustment by the Administrative Officer, provided the applicant submits a surveyed plat containing existing and proposed lot lines, total acreage of each lot before and after adjustment, names of adjoining landowners, and any survey markers, and a brief written description of the transfer. Plats for lot line adjustments shall be filed and recorded in accordance with Section 6 part 5 of these regulations.

Section 7: Subdivision Application Standards & Design Requirements

1. Standard Evaluation. The Administrative Officer and Planning Commission shall evaluate any application for subdivision approval using the standards set forth in this section (unless granted a waiver by the Planning Commission in accordance with this Article). The Administrative Officer or Planning Commission may require the applicant to submit additional materials, data, or information to evaluate compliance with the standards. The Planning Commission or Administrative Officer may accept the certification of a professional expert licensed by the State of Vermont as presumptive the subdivision as proposed shall meet the criteria of this section, provided the certification relates to matters within their areas of specialization and the expert

has no personal interest in the project. Such experts may include local and state officials or those retained by the Town or the applicant.

2. Standards and Design Requirements (All Subdivisions). All subdivisions shall be evaluated against the following standards:

A. The subdivision shall be in conformance with the Rutland Town Municipal Plan.

B. Land Areas Unsuitable for Development. For any proposed lot, any proposed building envelope shall exclude all areas deemed unsuitable for development. Land considered unsuitable for development shall mean surface waters; wetlands; Flood Hazard Areas; and areas of land with slopes in excess of 20%.

C. Roads.

- i. Unless otherwise determined by the Planning Commission, the design of streets and roads, curbs, gutters, and sidewalks shall conform to the standards incorporated in VTrans A-76 Standards for Development Roads and B-71A and B-71B Standards for Residential and Commercial Drives.
- ii. The arrangement of roads in the subdivision shall provide internal and external connections unless allowed by the Planning Commission due to physical site limitations or safety considerations.
- iii. Roadbeds, shoulders, ditches and culverts shall be designed and maintained in conformance with the State of Vermont Municipal Roads General Permit (MRGP) to ensure adequate stormwater management.
- iv. Road names shall be approved by the Town of Rutland, in accordance with road naming ordinances and policies currently in effect. Approved road names shall be clearly depicted on the final plat. Road name signs shall be installed by the subdivider. In no case shall a proposed road name have a duplicate existing name, irrespective of the suffix. A proposed road or road extension in alignment with existing or proposed roads shall bear the name of that road.

D. Utilities.

- i. The applicant shall coordinate subdivision design with the utility companies to ensure adequate and suitable areas for installation, both for the proposed subdivision and any anticipated development on land

adjacent to the subdivision. This includes conformance with utility easements of sufficient width to serve the proposed subdivision.

- ii. Utility corridors shall be shared with existing utility and/or transportation corridors, where applicable, to minimize site disturbances.

E. Major Subdivisions. For major subdivisions, where necessary, in the judgement of the Planning Commission, the applicant may be required to:

- i. Limit the number of access points onto public highways to better manage traffic flow and safety.
- ii. Locate and configure subdivision boundaries, lots, building sites, and utility corridors to avoid undue impacts to critical wildlife habitat or natural resources, provided the Planning Commission consults a state wildlife or natural resource expert when requiring such measures from the applicant.
- iii. Take action to ensure that the proposed subdivision of land conforms to any requirements of these Bylaws, the Municipal Town Plan, the capital budget and program, and all other municipal ordinances currently in effect.

F. Vital and valuable resources and other assets of a community nature shall be identified and protected by the Planning Commission. These include:

- i. Hillsides, Mountains, and Ridgelines: Development shall be carefully planned through proper siting of structures to minimize environmental damage and visual impacts, particularly in areas where natural slopes exceed 20%.
 1. Subdivision boundaries, lot lines and layout, and building sites shall be located and configured to minimize adverse impacts to slopes in excess of 20%.
- ii. Agricultural land is an important component of the working landscape of the Town of Rutland. To promote agricultural uses and the retention of productive farms and agricultural land, the subdivision boundaries, lot lines and layout, should be configured to minimize the encroachment on agricultural land by following existing natural divisions such as fence lines and streams.