

**Town of Marlboro**  
**SUBDIVISION REGULATIONS**

**March 4, 2010**

**Prepared by the Marlboro Planning Commission**

**Marlboro Subdivision Regulations  
Table of Contents**

<b>Article I. Authority and Purpose.....</b>	<b>3</b>
Section 1.1	Enactment and Authority .....3
Section 1.2	Purpose.....3
Section 1.3	Adoption and Amendment.....4
Section 1.4	Severability.....4
<b>Article II. Subdivision Application and Approval Procedures.....</b>	<b>5</b>
Section 2.1	Applicability, Coordination, Waiver Authority, Boundary Line Adjustments..... 5
Section 2.2	Pre-Application Meeting.....6
Section 2.3	Sketch Plan Application.....7
Table 2.1	Summary Review.....8
Section 2.4	Sketch Plan Review.....9
Section 2.5	Intermediate Plan Review.....9
Section 2.6	Final Plan Review.....10
Section 2.7	Performance and Maintenance Bonds.....11
Section 2.8	Plat Recording Requirements.....12
Section 2.9	Compliance with Subdivisions Approval.....12
Section 2.10	Revisions to Approved Plans.....13
Table 2.2	Subdivision Application Requirements.....14
<b>Article III. Planning and Design Standards.....</b>	<b>15</b>
Section 3.1	Evaluation and Application of Standards.....15
Section 3.2	General Standards.....15
Section 3.3	Protection of Natural & Cultural Resources.....16
Section 3.4	Open Space & Common Land.....17
Section 3.5	Stormwater Management & Erosion Control.....18
Section 3.6	Community Services & Facilities.....19
Section 3.7	Roads, Driveways & Pedestrian Access.....20
Section 3.8	Water Supply & Wastewater Disposal.....23
Section 3.9	Utilities.....25
<b>Article IV. Administration and Enforcement.....</b>	<b>27</b>
Section 4.1	Administration.....27
Section 4.2	Fees.....27
Section 4.3	Hearing Notice Requirements.....27
Section 4.4	Enforcement and Penalties.....27
Section 4.5	Appeals.....27
Section 4.6	Town Recording Requirements.....28
<b>Article V. Definitions.....</b>	<b>28</b>
Section 5.1	Interpretation.....28
Section 5.2	Definitions.....28

## **ARTICLE I: AUTHORITY AND PURPOSE**

**Subdivision:** Any division of land into two or more lots. It includes resubdivision and the division of a lot or parcel held in common ownership and subsequently divided into parts among the owners.

**Boundary Line Adjustment:** A realignment that does not substantially change the nature of any previous subdivision, does not create a new lot, will not adversely impact access to any parcel or any natural resource, will not result in fragmentation of agricultural land or result in development of a parcel that has been designated as open space or create a nonconforming lot.

### **Section 1.1 Enactment and authority**

A. In accordance with the Vermont Municipal and Regional Planning and Development Act [24 V.S.A., Chapter 117], hereinafter referred to as “the Act”, as most recently amended, there are hereby established subdivision regulations for the Town of Marlboro, Vermont. These regulations shall be known and cited as the “Marlboro Subdivision Regulations.”

B. It is the policy of Marlboro to regulate all subdivisions of land, and subsequent development of the subdivided plat, in accordance with these regulations and all applicable state and municipal regulations, to ensure the orderly planned, efficient and economical development of the Town. No subdivision of land shall be made and no land in any proposed subdivision shall be sold, transferred or leased until a final plat prepared in accordance with these regulations has been approved by the Development Review Board (DRB).

C. These regulations are intended to supersede the earlier Subdivision Regulations. All permits and conditions lawfully granted under previous subdivision regulations shall remain in effect as provided therein unless new application be made under these regulations.

### **Section 1.2 Purpose**

A. These regulations are adopted to further the following objectives:

1. To protect and provide for the public health, safety, and general welfare of the Town of Marlboro.
2. To guide future development in accordance with the Marlboro Town Plan, zoning bylaw, capital budget and program, and all other bylaws and regulations enacted to implement the Plan, in a manner which maintains and strengthens the traditional settlement pattern of compact villages surrounded by an open, rural landscape.
3. To ensure that land to be subdivided is of such character that it can be used safely for its intended purposes.
4. To secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.
5. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

6. To promote the conservation of energy and/or to permit the utilization of renewable energy resources.
7. To ensure that the rate of growth does not exceed the ability of the Town to provide public services and facilities, and that public facilities and services are available and will have sufficient capacity to serve any proposed subdivision.
8. To preserve natural areas, critical habitat, scenic and historic resources and productive farmland through the proper arrangement and location of uses on parcels to be developed.
9. To provide the most efficient relationship between the uses of land and buildings and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.
10. To prevent the pollution of air, streams, and ponds; to ensure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity, stability, and beauty of the community and the value of the land.
11. To preserve the natural beauty and topography of the Town and to ensure appropriate development with regard to these natural features.
12. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the zoning ordinances of the Town.
13. To minimize the fragmentation of productive resource lands, including farm and forest land, to ensure its continued use and availability for agriculture, forestry and wildlife habitat.
14. To encourage the development of affordable housing and promote economic diversity in Marlboro.

### **Section 1.3 Adoption & Amendment**

A. These regulations shall take effect immediately after adoption at a regular or special town meeting or, if adopted by a majority of the members of the Marlboro Select Board, it shall take effect twenty-one (21) days from the date of adoption at a meeting which is held after the final public hearing, in accordance with the procedures set forth in the Act.

B. Amendments to these regulations shall be enacted in accordance with the provisions of the Act.

### **Section 1.4 Severability**

If any provision of these regulations or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect or invalidate other provisions or applications.

# Article II: Subdivision Application and Approval Procedures

## Section 2.1 Applicability

### A. Subdivision Approval Required.

Whenever any subdivision of land is proposed, the landowner or authorized agent (applicant) shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth in these regulations prior to:

- Commencing any construction, land development or land clearing (excluding forestry or agricultural activities);
- The sale or lease of any subdivided portion of a property (excluding parcels leased for agricultural purposes, where all resulting parcels are at least 5 acres in size, and no new roads are created for uses other than accepted agricultural practices);
- The filing of a subdivision plat with the Town Clerk.

### B. Minor and Major Subdivisions.

For the purposes of these Regulations, subdivisions shall be classified by the DRB as minor or major subdivisions, as defined herein, following the DRB's approval of a sketch plan submitted in accordance with Section 2.3

### C. Coordination with other Regulations

#### 1. Determination of Allowable Density.

Maximum allowable development density shall be determined for all proposed subdivisions of land in accordance with the standards set forth in the Marlboro Zoning Regulations and the standards and procedures set forth in Article III of these regulations

2. Planned Unit Development Review. Subdivision applications for Planned Unit Developments (PUDs) shall be reviewed as major subdivisions under this Article. PUDs shall meet the standards set forth in the Marlboro Zoning Regulations, as well as subdivision standards included in Article III of these regulations, unless otherwise waived by the DRB.

### D. Waiver Authority

In accordance with Act, where the DRB finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations or where there are special circumstances of a particular plat, it may, subject to appropriate conditions, waive either (i) application requirements set out in Table 2.2, preliminary sketch plat review and associated public hearing requirements; or (ii) development review standards set forth in Article III.

In the case of (i), the applicant shall identify the specific requirements for which the waiver is requested and state those that are not applicable and why they are not applicable and what the basis is for the requested waiver.

**Minor Subdivision** shall, unless otherwise determined by the DRB in accordance with Section 2.3, include boundary line adjustments; amendments to an approved subdivision plan that will not substantially change the nature of any previous subdivision or conditions of approval; or the division of any parcel into not more than 3 lots over a 5 year period.  
**Major Subdivision** shall, unless otherwise determined by the DRB in accordance with Section 2.3, include the division of any parcel into 4 or more lots over a 5 year period; or a planned unit development that meets the definition of a subdivision.

In the case of (ii), the applicant shall be required to establish that due to the special circumstances of a particular site, the requirements of the development review standards for which waiver is sought will create an unreasonable hardship or adversely affect significant natural resources, rural character, or aesthetics and that granting the waiver will be consistent with the purposes of these regulations.

The request for a waiver shall be submitted in writing by the applicant with the subdivision application, and it shall be the responsibility of the applicant to provide sufficient information to justify the waiver and to enable the DRB to make the findings cited below and make a decision. The DRB may grant or deny waivers, in whole or in part. In granting waivers, the DRB shall require such conditions, as will in its judgment secure substantially the objectives of the provisions that are the subject of the waiver. Before granting a waiver to the development review standards set forth in Article III, the DRB shall make the following findings including the rationale for each finding:

- That the development review standards for which the waiver is sought will create an unreasonable hardship or adversely affect significant natural resources, the environment, rural character, or aesthetics, and
- That granting the waiver will be consistent with the purposes of these regulations, and
- That, in consultation with the fire chief, granting the waiver will not adversely affect public safety, and
- That granting the waiver will not adversely affect the character of the neighborhood.

No such waiver or variance may be granted if it would have the effect of nullifying the intent and purpose of the Town Plan, the Zoning Regulations, the Official Map, the Capital Budget and Program, or these Subdivision Regulations.

#### **E. Boundary Line Adjustment Reviews**

1. Boundary line adjustments shall be reviewed under the same criteria and processed as a minor subdivision unless, after review of the preliminary plan, the Development Review Board determines that the proposed adjustment:

- Does not change substantially the nature of any previously approved subdivision;
- Does not result in the creation of one or more new lots;
- Will not impair access to any parcel;
- Will not impact adversely any significant natural resource or result in fragmentation of agricultural or conservation lands; and
- Will not create a nonconforming lot.
- The Deeds need to be rewritten to reflect these new boundaries and recorded.

2. A public hearing is not required in connection with a preliminary plan review of a proposed boundary line adjustment. If the DRB, at a regular meeting, determines that the proposed boundary line adjustment meets the criteria in Section 2.1 (E)(1), it shall authorize the Zoning Administrator to approve the filing with the Town of a final plat for recording in substantially the same manner as final plats for approved subdivisions under Section 2.7(E). In those instances where the DRB determines that the proposed boundary line adjustment does not meet the above criteria, it also may issue, if requested by the applicant, the findings supporting the determination.

## **Section 2.2 Pre-Application Meeting [Available to all potential applicants]**

**A. Applicability.** Any person contemplating submitting an application for subdivision in accordance with these regulations is encouraged to meet with the Zoning Administrator to discuss preliminary conceptual plans, the subdivision review process, and to review the standards set forth in Article 3. The pre-application meeting is intended to be an informal, preliminary discussion.

**B. Information.** The applicant may present any information that he or she deems appropriate at the pre-application meeting, including site information and/or conceptual subdivision design.

**C. Action of the Zoning Administrator.** The Zoning Administrator will not take formal action of any kind at the pre-application meeting. The Zoning Administrator may provide guidance as to the application and review process, and/or comment on the intent of specific planning and design standards relative to the potential subdivision or the applicant's parcel(s). No comments made at the pre-application meeting will be binding upon any future review of a subdivision application.

**D. Notification of Abutters.** All applicants for subdivision review shall notify abutting landowners prior to the sketch plan meeting with the Development Review Board to ensure that legitimate concerns of neighbors are addressed early in the subdivision design process. (see Section 4.3 D). Written notification of abutters by applicants will be required prior to any public hearings before the DRB. (see Section 4.3 E)

### **2.3 Sketch Plan Application.**

**A.** In accordance with the Act, any subdivider of land shall submit a sketch plan/location map of the proposed subdivision and/or boundary adjustment to the Zoning Administrator prior to submitting a complete application for subdivision approval. The sketch plan shall include the following information:

1. Name and Address of the owner of record and applicant
2. Name of owners of record of abutting properties; applicant notifies all abutting property owners (see Section 4.3 D).
3. Date, true north arrow, scale (numeric and graphic), date & number of sketch plan revision
4. Boundaries and area of all contiguous land belonging to the owner of record, including land separated by a public right-of-way
5. Identification of Zoning district(s) and location of existing zoning boundaries
6. A general indication of the boundaries of the following features: wetlands; flood hazard areas; slopes in excess of 15%; surface waters and associated buffer areas; prime and statewide agricultural soils and other open farmland; scenic features identified in the Town Plan, and prominent knolls and ridgelines.
7. General indication of existing roads, walls, fences, existing vegetation, driveways, property lines, easements and building sites, historic sites, drainage patterns, and location of utilities.
8. Proposed layout of property lines, type and location of existing and proposed restrictions on land, proposed roads, driveways, building envelopes, utilities including, but not limited to, water supply and septic disposal facilities, related site improvements, location of proposed open space, land to be held in common and/or other features to be preserved.

**Table 2.1 Marlboro Subdivision Regulations  
Summary of Review Process**

<b>1. Sketch Plan Review</b>	<b>Persons Responsible</b>
1. Applicant's informal meeting to review the sketch plan	Zoning Administrator reviews for completeness
2. Submission of sketch plan to Town Office (required of all subdivisions)	Applicant, so that ZA can refer to DRB within 30 days and at least 14 days prior to next DRB meeting
3. Notification of abutters	Applicant, prior to DRB review
4. Sketch Plan review at DRB meeting	DRB, at next scheduled meeting after ZA reviews plan for completeness. Applicant attendance required
5. Classification of subdivision as minor or major; DRB writes sketch plan determination and design changes needed	DRB within 30 days after meeting
<b>2A. Minor Subdivision [3 or fewer lots]</b>	
1. Submission of final subdivision plan, including any waiver requests; compliance with design changes set forth in sketch plan determination; resource protection strategies in accordance with Article III; utility and facility design; proposed plat and supporting documentation	Applicant, within 6 months of the date of sketch plan determination, at least 30 days prior to a regularly scheduled DRB meeting
2. Determination that plan is complete	DRB, within 30 days
3. Notification of interested parties of public hearing	Applicant, at least 15 days before scheduled Public Hearing
4. DRB Public Hearing	DRB, within 30 days of deeming final subdivision plan is complete
5. Subdivision/plat decision	DRB, within 45 days of the hearing adjournment date
6. Final plat recording in the town records	Applicant; submitted to Town Clerk within 90 days of the date of subdivision approval
7. Certificate of Compliance (if required)	Zoning Administrator; upon completion of improvements
<b>2B. Major Subdivision</b>	
1. Submission of intermediate subdivision plan, including any waiver requests; compliance design changes set forth in preliminary plan approval; documentation of density determination; preliminary utility and facility design and impact assessments, if required; other supporting documentation.	Applicant, within 6 months of the date of sketch plan determination
2. Determination that plan is complete	DRB, within at least 30 days
3. Notification of interested parties of public hearing	Applicant, at least 15 days before scheduled Public Hearing
4. DRB Public Hearing	DRB, within 30 days of deeming final subdivision plan is complete
5. Intermediate subdivision/plat decision	DRB; within 45 days of the hearing adjournment date
6. Submission of final subdivision plan, including final utility and facility design and measures to mitigate identified impacts; other supporting documentation.	Applicant, within 6 months of the date of intermediate plan approval, at least 30 days prior to a regularly scheduled DRB meeting.
7. Final DRB public hearing	DRB schedules within 30 days of receipt of final plan; Applicant notifies interested parties 15 days before hearing
8. Subdivision/plat decision	DRB; within 45 days of the hearing adjournment date
9. Final plat recording in the town records	Applicant; submitted to Town Clerk within 180 days of the date of subdivision approval
10. Certificate of Compliance (if required)	Zoning Administrator; upon completion of improvements

## **B. Sketch Plan Review [applying to all applications for subdivision]**

**1. Applicability.** All applicants for subdivision approval or boundary line adjustment review are required to submit a preliminary plan for DRB review, except for the following instance which is exempted from the preliminary plan review process:

Applicants for minor subdivision approval with no improvements proposed. Such applicants are encouraged to schedule a pre-application meeting with the Zoning Administrator in accordance with Section 2.2, and may submit an application for final plat review in accordance with Section 2.5.

**2. Application Requirements.** The applicant shall submit to the Zoning Administrator at least 14 days prior to a regularly scheduled DRB meeting a subdivision application and associated fee. The Zoning Administrator shall determine that the application is complete for the purposes of submission to the DRB.

The application shall include a proposed sketch and associated materials plan that include the information for Preliminary Plan Review specified in Table 2.2.

**3. Sketch Plan Review.** Upon receipt of the sketch plan and associated materials, the DRB shall schedule and hold a meeting within 30 days, usually at a regularly scheduled meeting of the Board, to review the sketch plan and accompanying information for compliance with these subdivision regulations. The applicant and/or an authorized representative shall attend the meeting with the DRB to discuss the subdivision application and proposed preliminary plan. Prior to the meeting, the applicant shall notify the owners of contiguous properties in accordance with Section 4.3. The DRB may request any additional information as needed to act on the preliminary plan and/or density determination.

**4. Action on Sketch Plan.** Within 30 days of the initial meeting, the DRB, based on the information provided, shall issue in writing:

1. a preliminary determination whether the plan conforms to, or would be in conflict with, the Planning and Design Standards set forth in Article III, the Town Plan, Zoning Bylaw, and/or any other regulation currently in effect;
2. a determination of whether the subdivision is a minor subdivision to be reviewed under Section 2.5, or major subdivision to be reviewed under Sections 2.4 and 2.5;
3. the granting or denial of requested waiver provisions;
4. recommendations for proposed changes in subsequent submissions, including any requests for additional studies or supporting documentation. The Commission also may provide specific recommendations as to the size, location and configuration of the proposed building envelope to ensure compliance with Article III.

However, the DRB may inform the subdivider or authorized representative verbally, in lieu of writing, at the preliminary plan meeting of specific recommendations and/or subsequent submissions. The minutes of the meeting shall indicate the recommendations of the DRB.

Any determination of the DRB at the sketch plan review meeting does not constitute approval of the proposed subdivision.

**5. Effect of Sketch Plan Determinations.** DRB determinations and associated recommendations shall remain in effect for 6 months from the date of issuance unless otherwise approved or extended in the written determinations issued by the DRB. Within 6 months of the determination by the DRB, the applicant may apply to the DRB for intermediate plan review under Section 2.4 for major subdivisions and final plan and plat approval under Section 2.5 for minor subdivisions.

## **Section 2.4 Intermediate Plan Review [applying only to major subdivisions]**

**A. Application Requirements.** Within 6 months of the date of action on a preliminary plan by the DRB, the applicant shall submit an application for intermediate plan review that shall include the information required for intermediate plan review as specified in Table 2.2, and also

1. proof of notification of abutting landowners in accordance with Section 4.3 (E), at least 15 days prior to any public hearing before the DRB. (
2. conform to the layout shown on the sketch plan except as amended as a result of recommendations made by the DRB;
3. any additional information specifically requested by the DRB as a result of the sketch plan review.

**B. Public Hearing.** Within 30 days of the DRB deeming the intermediate plan application complete, the DRB shall hold a public hearing on the intermediate plan, warned in accordance with Section 4.3. The subdivider or his duly authorized representative shall attend the hearing to discuss the preliminary plat and associated information and materials. During the course of the hearing, the DRB shall provide each person wishing to receive party status (i.e. the right to participate and appeal) the opportunity to demonstrate that they meet one of the definitions of “Interested person”. The DRB shall also keep a written record of the name, address, and participation of each of these persons.

**C. Intermediate Plan Approval.** Within 45 days of the date of adjournment of the public hearing, the DRB shall approve, approve with modifications, or disapprove the intermediate plan and associated plat based on a determination of whether or not the intermediate plan conforms to applicable subdivision review standards under Article III, or would be in conflict with the Town Plan and other municipal regulations in effect. The DRB may also require, as a condition of approval, the submission of proposed changes or modifications resulting from further study. Approval, conditions of approval, or grounds for disapproval shall be set forth in a written notice of decision. The approval of an intermediate plan shall be effective for a period of 6 months from the date of written notice of approval, unless otherwise approved or extended by the DRB in the written notice of decision.

**D. Phasing.** At the time that the DRB grants intermediate plan approval it may require that plat to be divided into two or more phases to ensure project conformity with the Town Plan and capita budget and program currently in effect. Conditions may be imposed upon the filing of application for final plat approval for each phase as the DRB deems necessary to ensure the orderly development of the plat and to avoid overburdening town facilities and services.

**E. Effect of Intermediate Plan Approval.** Approval of the intermediate plan and associated plat shall not constitute approval of the final subdivision plan and plat. Subsequent to the approval of the intermediate plan, the DRB may require the submission of all applicable approvals from local agencies having jurisdiction over the project, such as the Select Board or Health Officer, and such state and federal agencies as may be required by law. Upon receipt of evidence of approval of the intermediate plan by said agencies, if required, and the expiration of all relevant appeal periods, the applicant may apply to the DRB for final plan approval under Section 2.6.

## **Section 2.5 Final Plan Approval [applying to all applications for subdivision]**

**A. Application Requirements.** Within 6 months of the date of sketch plan determination for minor subdivisions, or intermediate plan decision for major subdivisions, unless otherwise waived by the DRB, the applicant shall submit a final subdivision plan to the Town Clerk for final subdivision plan approval, including plat approval. If the applicant fails to do so, s/he will be required to resubmit for minor subdivisions a new sketch plan, or for major subdivisions a new intermediate plan, for approval subject to any new zoning and subdivision regulations. The application for final subdivision plan and plat approval shall include unless otherwise specified or waived by the DRB, four copies of the information for final plan and plat review specified under Table 2.2. The application shall contain those items set forth in Article III of these regulations,

shall include proof of notification of the application submitted to abutting landowners, and shall conform to the layout shown on the preliminary or intermediate plat except as amended as a result of recommendations made by the DRB. If phasing was a requirement of the preliminary plan approval, a separate final plat application shall be filed for each section within the time periods imposed in the preliminary or intermediate subdivision approval.

**B. Public Hearing.** In accordance with the Act, within 30 days of the date that the DRB deems that a final application is complete, (or at the earliest available regularly scheduled DRB meeting but within 65 days) the DRB shall hold a public hearing on the final plan and associated plat, warned by applicant to abutters in accordance with Section 4.3. Copies of the hearing notice shall also be sent by the Town Clerk at least 15 days prior to the hearing date, to the regional planning commission, and to the clerk of an adjacent municipality in the case of a plat located within 500 feet of a municipal boundary. The subdivider or his/her duly authorized representative shall attend the hearing to discuss the preliminary plat and associated information and materials. During the course of the hearing, the DRB shall provide each person wishing to receive party status (i.e. the right to participate and appeal) the opportunity to demonstrate that they meet one of the definitions of “Interested person”. The DRB shall also keep a written record of the name, address, and participation of each of these persons.

**C. Final Plan Approval.** In accordance with the Act, within 45 days of the date of adjournment of the public hearing, the DRB shall approve, approve with conditions, or disapprove the final subdivision plan, based on a determination of whether or not the land and associated plat conform to subdivision review standards under Article III, or would be in conflict with the Town a plan and other municipal regulations in effect. Failure to act within such 45 day period shall be deemed approval, as certified by the Town Clerk. Approval, conditions of approval, or grounds for disapproval and provisions for appeal under Section 4.5, shall be set forth in a written notice of decision. Copies of the notice of decision shall be sent to the applicant and any other interested parties appearing at the public hearing within the 45 day period.

**D. Effect of Final Plan Approval.** The approval by the DRB of a final subdivision plan and associated plat shall not be construed to constitute acceptance by the town of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Selectboard, in accordance with state statute. The DRB may impose a time limit for the start and completion of site improvements, such as roads, erosion control measures, and bridges, which are an integral part of the subdivision approval.

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

## **Section 2.6 Performance and Maintenance Bonds**

The DRB may, as a condition of subdivision approval, require from the applicant a performance bond or comparable security in a form approved by the Marlboro Selectboard in an amount sufficient to cover the full costs of new streets and/or other required improvements and their maintenance for a period of not greater than 3 years from the date of completion. With the mutual written consent of the DRB and applicant, such bond or security may be extended for an additional period not to exceed 3 years. If any required improvements have not been installed or maintained as provided within the term of the performance bond or other security, such bond or other security shall be forfeited to the Town. The Town shall, if necessary, install or maintain such improvements to the extent of the proceeds from such bond or other security.

## Section 2.7 Plat Recording Requirements [applying to all approved subdivisions]

**A. Applicant Filing.** In accordance with the Act, within 180 days of the date of receipt of final plan approval under Section 2.5.C, the applicant shall file two copies of the final subdivision plat, for recording with the Town in conformance with the requirements of 27 V.S.A., Chapter 17. Approved plats not filed and recorded within this 180 day period shall expire.

**B. Signature by DRB.** Prior to plat recording, the plat must be signed by the DRB Chair or Vice-Chair. All final plats must include a notation to include the following statement:

*“The subdivision depicted on this plat was duly approved, as conditioned, by the Marlboro Development Review Board in accordance with the Marlboro Subdivision Regulations and all other applicable laws and regulations on the \_\_\_\_ day of \_\_\_\_ 2 \_\_\_\_ . [Subdivision Permit # \_\_\_\_].*

*Signed: \_\_\_\_\_ [DRB Chair or Vice-Chair]*

The DRB may, as a condition of final plat approval, require that other notations pertaining to conditions of subdivision approval also be included on the final plat.

**C. Performance Bond.** For any subdivision which requires the construction of roads or other public improvements by the applicant, the DRB may require the applicant to post a performance bond or comparable security in accordance with Section 2.6.

**D. Municipal Filing.** The municipality shall meet all recording requirements for final subdivision plan approval as specified for municipal land use permits under Section 4.6.

**E. Filing for Boundary Line Adjustment.** A final plat for a Boundary Line Adjustment not deemed a Subdivision in accordance with Section 2.1.E and approved by the Zoning Administrator shall be filed for recording with the Town in conformance with the requirements of 27 V.S.A., Chapter 17. Approved plans not filed and recorded within this 90 day period shall expire.

1. Prior to plat recording for a Boundary Line Adjustment, the plat must be signed by the DRB Chair or Vice-Chair. All final plats must include a notation to include the following statement:

*“The boundary line adjustment depicted on this plat was duly approved, by the Marlboro Development Review Board in accordance with the Marlboro Subdivision Regulations and all other applicable laws and regulations on the \_\_\_\_ day of \_\_\_\_ 2 \_\_\_\_ . [Boundary Line Adjustment Permit # \_\_\_\_].*

*Signed: \_\_\_\_\_ [DRB Chair or Vice-Chair]*

**F. Fees.** Fees for the recording of the final plat and related documents shall be paid by the subdivider.

## Section 2.8 Compliance with Subdivision Approval

**A.** Prior to any development of an approved subdivision that requires the issuance of a zoning permit, the applicant shall demonstrate that public and private improvements have been installed in accordance with the conditions of subdivision approval, and that all other applicable conditions have been met. In establishing conditions of subdivision approval, the DRB may provide for a phased schedule of completion of improvements, The Zoning Administrator may rely on any information contained in the zoning permit application regarding the location of parcel boundaries. In the event that there is a discrepancy between the information provided by the applicant and the true facts, the Town does not waive future enforcement authority with the issuance of a zoning permit.

**B.** To assist the Zoning Administrator to determine whether public or private improvements have been met, the DRB may, as a condition of subdivision approval, require the submission of “as-built drawings”, which shall indicate by dimensions, angles and distances the location of all utilities, structures, roadways, easements,

landscaping and other improvements as installed. The Zoning Administrator shall rely upon any information submitted as part of the applicant's application for associated conditions. In the event of any discrepancies between the approved subdivision and the as-built drawings, the Zoning Administrator shall be entitled to initiate enforcement action pursuant to Section 4.4.

**C.** The DRB may also require, as a condition of final subdivision plan approval, that the applicant apply for a certificate of compliance to ensure that specified public or private improvements have been accomplished in accordance with the conditions of subdivision approval. When so conditioned, the issuance of a certificate of compliance is required before the applicant will be issued zoning permits for the future development so specified in the approved subdivision. For example, a certificate of compliance as to completion of a particular road or certain utilities in one section of the subdivision might be required prior to granting permits for the construction of residences in that section of the subdivision.

When a certificate of compliance is required, the applicant shall submit an application containing the information identified in (B) above and any additional information that the Zoning Administrator reasonably may require. Within 30 days of receipt of a complete application, the Zoning Administrator will inspect the subdivision to ensure that all required work has been completed in accordance with the appropriate condition(s) of subdivision approval, and act to grant or deny the certificate of compliance. If the certificate of compliance is denied by the Zoning Administrator, no zoning permits may be issued for the future development specified. If the Zoning Administrator fails either to grant or deny the certificate of compliance within 30 days of submission of a completed application, the certificate of compliance shall be deemed issued on the 31<sup>st</sup> day.

**D.** The DRB may, as a condition of subdivision approval, require the applicant to fund the cost of any review or inspections performed by an appropriate professional retained by the Town (e.g., civil engineer) to determine whether improvements were installed in accordance with the subdivision approval.

### **Section 2.9 Revisions to an Approved Plat**

No changes, erasures, modifications or revisions shall be made on any subdivision plat after final approval, including any amendment or revision of a condition of final plat approval, unless said plat as modified is first resubmitted to the DRB as a minor subdivision and approved by the DRB after a public hearing. In the event that such subdivision plan revisions are recorded without complying with this requirement, the revisions shall be considered null and void.

**Table 2.2  
Subdivision Applications Requirements**

	<b>Sketch Plan</b>	<b>Intermediary Plan</b>	<b>Final Plan</b>
<b>A. Application Information</b>	(if required)	(if required)	(if required)
Application Form (number of copies)	6	6	6
Application Fee	√	√	√
Name of Project, if any	√	√	√
Name and address of applicant and landowner	√	√	√
Written description of proposed development plans, including number and size of lots; general timing of project	√	√	√
Waiver request in writing (optional)	√	√	
Evidence of written notification to abutters of intent to subdivide; to include copies of any waiver request if any	√		
Written request for modification of dimensional requirements or other standards in zoning bylaws in instances involving applications for a Planned Unit Development (PUD) or a brief statement explaining why a PUD is not appropriate for site	√	√	√
<b>B. Plan/Plat Mapping Requirements</b>			
Materials (number of copies)	6	6	6
Date, North arrow, Legend	√	√	√
Preparer information, Certifications	√	√	√
Scale (not less than 1 inch =200')	√	√	√
Project boundaries and property lines	drawn	drawn	surveyed
Existing and proposed lot lines, dimensions	drawn	drawn	surveyed
Adjoining land uses, roads and drainage	√	√	√
Zoning district designations and boundaries	√	√	√
Special features as identified in Section III	√	√	√
Existing & proposed elevations, contour lines to be developed		5' interval	5' interval
Existing and proposed roads, paths, parking areas, utilities, water and wastewater systems and associated rights-of-way or easements	drawn	drawn	surveyed
Proposed development envelopes		√	√
Road profiles, road, intersection and parking area geometry and construction schematics		√	√
Proposed landscaping and screening		√	√
Proposed conservation buffer and/or easement areas		√	√
Reduced (11"X17") copies of proposed plan	1	1	1
<b>C. Supporting Information &amp; Documentation</b>			
Site location map showing proposed subdivision in relation to major roads, drainage ways, and adjoining properties	√	√	√
Engineering reports (water and wastewater systems)		√	√
Off-site easements (e.g. for water, wastewater, access)	description	draft	final
Proposed covenants, deed restrictions, agreements	description	draft	final
<b>D. As may be required by the Development Review Board</b>			
Proposed bond or surety		as required	as required
Proposed phasing schedule		as required	as required
Other environmental plans		as required	as required
Other local permits and consultation with Marlboro Fire Dept.		as required	as required

## Article III. Design Development Standards and Required Improvements for Subdivision of Land

### Section 3.1 Evaluation and Application of Standards

A. The DRB shall evaluate any applicable subdivision of land as defined in Section 5.2, Definitions, in accordance with the standards set forth below.

B. The DRB may require the subdivider to submit data addressing impacts related to the following standards. In light of findings made on these standards, the Board may require modification and phasing of the proposed subdivision or measures to avoid or mitigate any adverse impacts.

C. Where the DRB 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 development, the minimum standards specified herein would not reasonably protect or provide for public health, safety, or welfare, a higher standard shall be required.

### Section 3.2 General Standards

A. **Character of the Land.** Prior to the approval of a subdivision plat, the subdivider has the responsibility to satisfy the DRB that the land to be subdivided is of such a character that it can be used for the intended purpose and density of use without undue adverse impact on public health and safety, the environment, neighboring properties, or the rural character and natural beauty of the community. The development design shall be compatible with adjacent uses, and shall provide sufficient open space for the recreation, visual and aural privacy and other domestic needs of the areas inhabitants.

B. **Conformance with the Town Plan and Other Regulations.** Subdivision plats shall conform to the Town Plan and Zoning Bylaw, capital budget and program, and all other bylaws, ordinances and regulations of the Town of Marlboro currently in effect.

C. **Lot Layout.** The layout of lots shall conform to the Town's Zoning Bylaw. The following standards shall apply to all subdivisions:

1. **Lot Shape.** Lot size and shape shall comply with the Zoning Regulations, and be appropriate for the type of use proposed, and shall be arranged so that there will be no foreseeable difficulties in securing building permits and gaining access to buildings from streets. Lots with irregular shapes (curves, jogs, dog-legs, etc.) should not be created unless warranted by conditions of topography, the location of natural features or existing road conditions.
2. **Street Access.** Subdivision plan shall provide each lot with satisfactory access to a public street. Wherever possible, common driveways shall be utilized for adjacent lots.
3. **Side Lots.** Side lot lines shall be at right angles to straight streets, or radial to curved street centerlines, unless a variation will give a better street or lot plan.
5. **Corner lots.** Corner lots shall have sufficient width to permit a front yard setback on each street.
6. **Lot Size and Density.** Lot sizes and densities in the Zoning Bylaw are a minimum standard; lower densities and/or larger lot sizes may be required by the DRB based on prevailing site conditions and the potential impact on Primary and Secondary Conservation Resources, including floodplain, wetlands, areas of steep slope, significant wildlife habitat and primary agricultural soils.
7. **Energy Conservation.** Lot layout shall, wherever feasible, make optimum use of solar orientation and vegetation control for building energy conservation.

**D. Monuments and Lot Corner Markers.** Permanent monuments and corner markers shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying. Monuments shall be indicated on the Final Plat.

**E. Establishment of Building Envelopes.** The DRB shall require the designation of building envelopes to limit the location of structures and associated site development to one or more portions of a lot. The size and shape of each building envelope shall be established in accordance with the standards set forth in these regulations. The DRB may require the identification of specific building footprints if, in their judgment, such information is required to meet the standards set forth in these regulations.

**F. Landscaping and Screening.** The preservation, planting and maintenance of trees, ground cover or other vegetation, of a size and type deemed appropriate by the DRB, may be required in the following instances:

1. to preserve existing specimen trees, tree lines, wooded areas of particular natural or aesthetic value to the site, or critical wildlife habitat, and to maximize the preservation and establishment of indigenous plant species;
2. to provide an undisturbed vegetated buffer between developed and undeveloped portions of the site to protect water quality and/or other natural features. At a minimum, a 50 feet deep buffer shall be established from the mean water level of any stream or lake and/or the delineated boundary of an identified wetland.
3. to provide screening of development to increase privacy, reduce noise and glare, or to otherwise soften and/or lessen the visual impacts of development;
4. to establish street trees along public or private roads to establish a canopy effect and/or maintain a pedestrian scale where the DRB deems it appropriate, including within the Village District;
5. to establish a naturalized, vegetative barrier between incompatible land uses.

**G. Energy Conservation.** To conserve energy, all subdivisions shall use the least amount of area for roadways and the least length of sewer, water and utility lines within environmentally and economically sound limits. Clustered development (e.g., planned unit development) should be considered wherever feasible, desirable and allowed. The siting of buildings should maximize solar access where feasible, and landscaping should be effectively used to provide wind barriers and reduce heat loss or gain.

**H. Disclosure of Subsequent Development Plans.** Whenever a subdivider submits a proposal for development on a minor portion of a parcel the DRB may require a general indication of the intended uses of the remaining portion of land. Such an indication should include access, type of use, intensity of use, and phasing.

**I. District Settlement Patterns.** Subdivisions shall be designed to achieve the purpose and desired settlement pattern of the zoning district within which they are located, as defined in the *Marlboro Zoning Regulations*.

### **Section 3.3 Protection of Natural & Cultural Resources**

**A. Primary Conservation Resources.** Subdivision boundaries, lot layouts and building envelopes shall be located and configured to avoid any adverse impact to Primary Conservation Resources. For the purposes of these regulations, Primary Conservation Resources shall include wetlands, flood hazard areas, steep slopes in excess of twenty-five percent (25%); and surface waters and associated buffer areas.

Methods for avoiding such adverse impacts include but may not be limited to the following:

1. Building envelopes shall be located and sized to exclude these features.

2. Undisturbed buffer areas sufficient in width to protect the identified feature(s) shall be designated.
3. Identified features and adjacent buffer lands should be designated as open space.

**B. Secondary Conservation Resources.** Subdivision boundaries, lot layout and building envelopes shall be located and configured to minimize adverse impacts to Secondary Conservation Resources. For the purposes of these regulations, Secondary Conservation Resources shall include slopes between fifteen percent (15%) and twenty-five percent (25%) gradient, critical wildlife habitat, scenic features, historic spots, and prominent knolls and ridgelines.

Methods for avoiding such adverse impacts include but may not be limited to the following:

1. Building sites shall be located to avoid and/or exclude these features. In the event that no other land is practical for development, the building sites and subsequent development shall be designed to encroach upon the identified feature to the minimum extent feasible.
2. Subdivider may be required to develop and maintain management plans and/or establish appropriate buffers to protect significant wildlife habitat.
3. Roads, driveways and utilities shall be designed to avoid and/or prevent the fragmentation of identified features and minimize adverse visual impacts to the extent feasible.
4. Identified features should be included in designated open space.

**C. Farm Land.** Subdivision boundaries, lot layout and building envelopes shall be located and configured to avoid adverse impacts to primary agricultural soils and other open farm fields. Methods for avoiding such adverse impacts include but may not be limited to the following:

1. Building envelopes shall be located at field and orchard edges or, in the event that no other land is practical for development, on the least fertile soils in order to minimize the use of productive agricultural land, impacts on existing farm operations, and disruption to the scenic qualities of the site.
2. Vegetated buffer areas may be required between agricultural and other uses to minimize land use conflicts.
3. Access roads, driveways and utility corridors shall be shared to the extent feasible; and, where sites include linear features such as existing roads, tree lines, stone walls, and/or fence lines, shall follow these to minimize the fragmentation of productive agricultural land and minimize visual impacts.
4. Intact parcels of productive farmland shall be designated as open space; conservation easements, limitations on further subdivision, or comparable site protection mechanisms may be required.

### **Section 3.4 Open Space & Common Land**

**A. Purpose.** Subdivisions shall be designed to preserve open space areas for recreation, shoreland protection and the preservation of primary and secondary conservation resources and farmland. Common land shall be designed to achieve these objectives and to facilitate the maintenance of community facilities.

**B. Preservation of Open Space.** Provision shall be made for the preservation of open space. The location, size and shape of lands set aside to be preserved for open space shall be approved by the DRB, in accordance with the following:

1. Open space land shall include and provide for the protection of primary and secondary conservation resources, productive farmland (to the extent practical), forest resources, recreation areas and facilities, including trails, and historic resources.
2. Designated open space may include the portion of a single lot outside of the building envelope which is characterized by one or more of the above referenced features and/or may encompass the contiguous boundaries of the above referenced feature located on multiple lots.
3. The location, shape, size and character of the open space shall be suitable for its intended use.
4. Provisions should be made to enable open space designated for agriculture and forestry to be used for these purposes. Management plans for forests, wildlife habitat, and shorelands may be required by the DRB as appropriate. Areas preserved for agricultural or forestry use should be of a size that retains their eligibility for state and town tax abatement programs.
5. Open space shall be located so as to conform with and extend existing and potential open space lands on adjacent parcels.
6. Sewage disposal areas and utility and road rights-of-way or easements, access and parking areas shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the Board, that they will in no way disrupt or detract from the values for which the open space is to be protected.

**C. Creation of Common Land.** Land held in common for the preservation and maintenance of open space; the maintenance and protection of shared facilities, such as community wastewater systems, community water supplies, recreation or community facilities, or recreation, including lake access and shoreline and road and trails rights-of-way, may be held under separate ownership from contiguous parcels and shall be subject to the legal requirements set forth below.

**D. Legal Requirements.** To ensure that open space and common land is maintained for its intended purposes, the DRB shall determine that appropriate legal mechanisms are in place. To this end, open space may be dedicated, either in fee or through a conservation easement approved by the DRB, to the Town, if approved by the Town Selectboard, a community association comprising all of the present and future owners of lots in the subdivision, or a non-profit land conservation organization. At a minimum, designated open space shall be indicated with appropriate notation on the final plat. Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of applicant and subsequent land owners.

### **Section 3.5 Storm Water Management, Erosion Control, and Flood Hazard Areas**

#### **A. Storm Water Management.**

1. Storm water drainage systems shall be provided sufficient to accommodate the 25- year return period storm runoff from all streets, lots, and upstream drainage areas, whether inside or outside the development, designed by a licensed engineer. All drainage system easements shall be shown on the Final Plat.
2. Rights of way for storm water drainage must be sufficient for facilities to handle not only the anticipated discharge from the property being subdivided but also the run-off that will occur when a property at a higher elevation in the drainage basin is developed, based on a twenty-five year storm under conditions of total potential development.

3. The subdivider's engineer shall study the effect of the subdivision on existing drainage facilities downstream. Where it is anticipated that run-off incident to the development of the subdivision will overload *existing* downstream drainage facilities, or cause flooding on other lands, or result in increased public expenditure, as the result of a ten year storm, the DRB shall not approve the subdivision unless proper provision has been made for the improvement of such conditions.
4. Where a subdivision is traversed by a water course or drainage way, there shall be provided a storm water drainage easement of such width as to encompass the 25-year flood area of such water course, which easement shall be indicated on the Final Plat.
5. The storm water drainage system shall be designed in accordance with Best Management Practices (BMPs) for managing stormwater and controlling erosion, as defined by the Vermont Agency of Natural Resources. The storm water drainage system shall be constructed by the subdivider in accordance with procedures and standards of the State Agency of Natural Resources, if such drainage system is to be connected to or served by other municipally-maintained drainage systems.
6. Land subject to flooding or unsuitable for residential occupancy due to flood hazard shall be set aside for such uses as are not endangered by periodic inundation.

#### **B. Erosion Control**

1. Reasonable care will be exercised during construction to prevent undue erosion of soil from the construction site and roads, in accordance with the standards of the Vermont Agency of Natural Resources.
2. Topsoil removed in the process of grading the subdivision site shall be replaced, except in proposed street, driveways, and building locations.

#### **C. Flood Hazard Areas**

1. Where a subdivision is proposed in an area of special flood hazard, the provisions of Article VII (Flood Hazard Area Regulations) of the Marlboro Zoning Regulations shall apply.

### **Section 3.6 Community Services & Facilities**

**A. Public Facilities and Services.** The proposed subdivision will not create an undue burden on public facilities or create an unreasonable demand for public services. The DRB will consider whether the anticipated tax return from the proposed development is equal to or exceeds the cost of anticipated municipal services and facilities directly attributable to the proposed development, and whether the proposed development will place an unreasonable burden on the ability of local governmental units to provide municipal, governmental, or educational services and facilities. A fiscal impact analysis and/or the phasing of development in accordance with a duly adopted capital budget and program may be required as appropriate, the cost of which is to be borne by the applicant.

**B. Fire Protection Facilities.** Adequate water storage or distribution facilities for fire protection within the subdivision shall be provided to the satisfaction of the DRB. Where practicable, or where required by the Board, fire hydrants or ponds shall be installed by the subdivider. To assist the DRB in determining the adequacy of fire protection facilities the applicant shall consult with the fire chief from the fire department responsible for providing coverage for the subject property.

#### **C. School Sites**

1. Where a development composed of one or more plats will accommodate more than one hundred dwelling units, the DRB may require the designation of a public school site or a payment in lieu thereof.

2. Upon receipt of a letter from the School Board declaring interest in a school site of a specific size and location within a proposed subdivision, the DRB shall require a subdivider to set aside such site and designate it on the Final Plat.
3. Upon failure of the School Board to accept the site within three years after Final Plat approval, the DRB may relieve the subdivider of the responsibility of reserving the site for school use, and the site may be developed upon the approval of the DRB.

### **Section 3.7 Roads, Driveways & Pedestrian Access**

**A. Applicability of Road Standards.** The standards contained herein shall apply to all proposed public roads and to private roads serving more than three lots. In addition, these standards may be applied to private roads serving three or fewer lots when the DRB determines such standards are necessary to provide suitable access to, or accommodate, anticipated future subdivision. Acceptance of private roads by the Town is subject to the approval of the Selectboard pursuant to state law for the laying out of public rights-of-way. Construction of a road(s) to these standards in no way ensures such acceptance.

**B. Traffic on Affected Roads.** Traffic to be generated by the proposed subdivision will not create unreasonable traffic congestion or cause unsafe conditions on public roads in the vicinity of the subdivision. The DRB may request the preparation of a traffic impact study to identify impacts and mitigation measures necessary to ensure road safety and efficiency, the cost of which is to be borne by the applicant. The implementation of mitigation, including road improvements, necessitated by the subdivision shall be the responsibility of the applicant.

**C. Upgrades to Existing Roads.** Where an existing public or private road is inadequate or unsafe, the DRB may require the subdivider to upgrade the access road to the extent necessary to serve additional traffic resulting from the subdivision and to conform to these standards. In situations where a development may require realignment, widening or otherwise increasing the capacity of an existing road, or where the Town Plan or duly adopted capital budget and program indicates that such improvements may be required in the future, the subdivider may be required to reserve land for such improvements. Where a subdivision requires expenditures by the Town to improve existing road(s) to conform to these standards, the DRB may disapprove such subdivision until the Selectboard shall certify that funds for the improvements have been ensured. The subdivider may be required to contribute to any or all of the expenses involved with road improvements necessitated by the project.

**D. Design Standards for New & Improved Roads.** All roads serving proposed subdivisions shall generally conform to the dimensional and geometric design standards for local roads and streets contained within the Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets, dated October, 1997, or as subsequently amended. Minimum design standards include the following:

1. Rights-of-way for all roads shall be a minimum of fifty (50) feet in width.
2. To ensure adequate safety and service, the width of travel lanes and shoulders shall be based on average daily traffic (ADT) and design (anticipated posted) speeds shown in Table 4.1, and the following:
  - a) Lower design and posted speeds may be considered to avoid and/or minimize impacts to historic, architectural, scenic, natural or other resources; to avoid excess costs of construction; or to better comply with the town plan.
  - b) Wider travel lanes and/or shoulders may be required as appropriate to road function (i.e., for collector and arterial roads), or to safely accommodate shared use by bicycles.

Table 3.1 Minimum Lane and Shoulder Widths for Rural Roads							
Design Volume (ADT)	0-25	25-50	50-100	100-400	400-1500	1500-2000	2000+
Design Speed (mph)	Width of Lane/Shoulder (ft)						
25	7/0	8/0	9/0	9/2	9/2	10/3	11/3
30	7/0	8/0	9/0	9/2	9/2	10/3	11/3
35	7/0	8/0	9/0	9/2	9/2	10/3	11/3
40	7/0	8/0	9/2	9/2	9/2	10/3	11/3
45	---	---	9/2	9/2	9/2	10/3	11/3
50	---	---	9/2	9/2	10/2	10/3	11/3

Source: Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets, October 1997.

3. Roads shall be arranged as to cause no undue hardship to adjoining properties, and shall be coordinated so as to compose a logical and interconnected system.
4. Dead end roads are specifically discouraged. No dead end road shall be permitted without a suitable turn around at its terminus. This may consist of a cul-de-sac with a radius of not less than thirty-five (35) feet, or a "T" or other configuration suitable to topography and adequate for emergency vehicles to turn around efficiently. Dead end roads in excess of nine hundred (900) feet in length are prohibited
5. Roads shall logically relate to topography to minimize site disturbance, including the amount of cut and fill required, and to produce usable lots, reasonable grades and safe intersections in relation to the proposed use of the land to be served by such roads. Road grades should be consistent with local terrain. Maximum road grade shall not, in any fifty feet (50') section, exceed an average grade of 12%.
6. Roads shall be designed and laid out to avoid adverse impacts to natural, historic, cultural and scenic resources, and to enhance the vitality of village areas. Roads should follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines, and should avoid fragmentation of agricultural land and open fields. Techniques for the preservation of scenic views and cultural features should be employed for the construction and maintenance of roads within scenic or village areas, including but not limited to the selection of visually compatible materials, the preservation of existing features, and the management of vegetation within the road corridor.
7. Roads shall be reviewed for approval by the Marlboro Volunteer Fire Company.

**E. Road Construction Standards.** Road construction, including specifications relating to the crown, grade, sub-base and surfacing, shall conform to the Vermont Agency of Transportation's *Standard A-76*, as amended, except as specified below:

1. Base course. Road beds shall be gravel at least eighteen inches in depth.
2. Surface course. Surface course shall be three inches of bituminous asphalt or 6" of crushed gravel.
3. Curb and gutter. Curbs and gutters shall be installed where required by the DRB. They shall be granite or concrete.

**F. Drainage and Storm Water.** A storm water system shall be provided which is designed to control and accommodate storm water collected on all proposed roads and/or parking areas in accordance with these

regulations. Generally, roadbeds, shoulders, ditches and culverts shall be designed and maintained in conformance with the *Vermont Better Backroads Manual*, as most recently amended.

**G. Coordination with Adjoining Properties.** The arrangement of roads in the subdivision shall provide for the continuation of roads of adjoining subdivisions and for proper projection of roads through adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when later required of needed utilities and public services. Where, in the opinion of the DRB, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

**H. Accesses & Intersections.** All road access shall be subject to the approval of the Vermont Agency of Transportation in the case of state highways and the Selectboard in the case of Town roads. Access to all lots created by subdivision of any such parcel and to all buildings or other land development located thereon shall be only from such permitted access road or driveway. A new or relocated road or driveway shall be located so that:

1. a safe sight stopping distance is provided, as determined by probable traffic speed, terrain, alignments and climatic extremes. Generally, sight distance should be eleven (11) times the speed limit (e.g., a curb cut on a road with 40 mph speed limit would require a minimum sight distance of 440 feet which provides a gap of 7.5 seconds of travel time);
2. it is directly opposite an existing road or driveway to form a four-way intersection wherever feasible. Intersections creating centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted;
3. it intersects the existing road at an angle of between seventy (70) and ninety (90) degrees;
4. the grade within 100 feet of a centerline intersection does not exceed plus or minus three-percent (3%) and;
5. no structure or planting is situated to impair corner visibility.

**I. Access Management.** To better manage traffic flow and safety, avoid congestion and frequent turning movements, preserve the carrying capacity of important travel corridors, and to avoid strip development, the following access management standards shall apply:

1. Subdivision lots shall be served by shared driveways and/or internal development roads providing access to multiple lots. With the exception of accesses (curb-cuts) used solely for agricultural or forestry purposes, no lot in existence as of the effective date of these regulations may be served by more than one access. The Board may approve additional accesses in the event that:
  - a) the additional access is necessary to ensure vehicular and pedestrian safety; or
  - b) the strict compliance with this standard would, due to the presence of one or more physical features (e.g., rivers and streams, steep slopes, wetlands), result in a less desirable site layout and design than would be possible with the allowance of an additional access; or
  - c) a traffic management plan is developed and implemented which will improve vehicular and pedestrian safety and result in a traffic circulation and parking arrangement within the site that better achieves the standards set forth under Section 3.7 than would be possible with a single access.
2. If a subdivision has frontage on primary and secondary roads, access shall be from the secondary road unless the Board determines that topographic or traffic safety conditions make such an access unpractical.

3. Where extensions of new roads could provide future access to adjoining parcels, a right-of-way shall be provided. The creation of reserved strips shall not be permitted adjacent to a proposed road in such a manner as to deny access from adjacent property to such road.

**J. Road Names and Signs.** All streets shall be named subject to the approval of the DRB. Street name signs shall be furnished and installed by the subdivider. The type, size, and location shall be subject to the approval of the DRB. Street names shall be clearly depicted on the Final Plat.

**K. Driveways.** Driveways serving individual lots generally shall comply with the Vermont Agency of Transportation's *Standard B-71* for residential and commercial driveways, as most recently amended. In addition:

1. Driveways shall be accessible by emergency service vehicles, and shall logically relate to topography so as to ensure reasonable grades and safe intersections with public or private roads. Maximum grade should not exceed 15% average grade within any 50 foot segment. For driveways in excess of five hundred (500) feet in length, a 10' x 30' turnout may be required.
2. Driveways should be laid out to follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines; to avoid the fragmentation of agricultural land and open space; and to avoid adverse impacts to natural, cultural and scenic features.
3. The use of common or shared driveways is encouraged and may be required to in order to minimize the number of access points in accordance with Subsection I.

**L. Pedestrian Access.** The DRB may require pedestrian rights-of-way to facilitate pedestrian circulation within the subdivision and to ensure access to adjoining properties or uses or public facilities. The DRB may require, in order to facilitate pedestrian access from a subdivision to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the Final Plat.

**M. Modification of Road Standards.** In the case of unusual topographic conditions or other circumstances which would make the strict adherence to these standards a substantial hardship, the DRB may modify the strict application of one or more of these standards providing the applicant can demonstrate that the proposed road is accessible by emergency response vehicles, does not pose any threat to the safety of motorists or pedestrians, will not result in unreasonable maintenance requirements for landowners, and is designed in a manner that is consistent with other applicable standards of these regulations.

#### **N. Legal Requirements.**

1. Every subdivision plat shall show all proposed road and pedestrian rights-of-way, as required under this bylaw, regardless of whether the proposed right-of-way is intended to be accepted by the Town. In the event that the right-of-way is not intended for acceptance by the Town, the mechanism by which the right-of-way is to be maintained, owned and/or conveyed shall be clearly documented.
2. Documentation and assurance shall be provided that all proposed roads and rights-of-way will be adequately maintained either by the subdivider, a homeowners' association or through other legal mechanism. Such documentation shall be in a form approved by the DRB and filed in the Marlboro Land Records.

### **Section 3.8 Water Supply & Wastewater Disposal**

**A. Water Supply.** Water supply systems shall be designed and built to meet all applicable state and local requirements. The DRB may require evidence that adequate water supply is available through an existing or proposed system prior to granting final approval. The DRB may require as a condition of approval, or as a

condition of issuing zoning permits, that the subdivider provide the results of water samples tested by the Vermont Agency of Natural Resources. The following standards shall be met for subdivisions being serviced by a public or private water system, or individual wells:

1. Due consideration shall be given to drainage patterns in the area.
2. Building envelopes and new roads shall be located to avoid groundwater or surface water contamination as a result of leachate run-off.
3. Buildings and septic systems shall be located sufficiently above flood water levels and high groundwater areas to prevent chronic dampness in basements and the pollution of surface water.
4. There shall be no adverse impact on existing water supplies from the proposed water supply for the subdivision.
5. **Additional Design Standards for a Public Water Supply System.** A public water supply system shall be installed at the expense of the subdivider to approval of the Town and State, as follows:
  - a) Cast iron water mains at least six inches in diameter laid out at least five feet below finished grade. Larger pipes may be required where needed to provide an adequate system.
  - b) The system shall be designed and installed to standards and procedures of the State Agency of Natural Resources.
  - c) Appropriate action shall be taken by the subdivider to enable the Town to create or extend a water supply district.

**6. Additional Design Standards for Individual Wells.** If, in the opinion of the DRB, service at each lot by a public water supply system is not feasible, the DRB may allow individual wells to be used, which shall be installed at the expense of the subdivider to approval of the Town and State, as follows:

- a) Minimum lot sizes shall be in accordance with the Zoning Ordinance.
- b) The water supply system shall be designed and installed to standards of the State Agency of Natural Resources.

**B. Wastewater Disposal.** The applicant shall demonstrate that soil conditions on-site are adequate to accommodate the installation of a wastewater disposal system designed in accordance with state and municipal requirements, of sufficient capacity for the intended density and types of use; or that an alternative, off-site disposal location, secured through an easement or other form of legal conveyance, is similarly suitable and available.

1. **Design Standards for Sanitary Sewer Systems.** A sanitary sewer system shall be installed at the expense of the subdivider to approval of the Town and State, as follows:
  - a) Cast iron or approved tile pipes, minimum internal diameter of eight inches, laid at such depths below finished grade to provide adequate sewage facilities to every dwelling and other structure. Larger pipes may be required where needed to provide adequate systems.
  - b) The system shall be designed and installed to the standards of the State Agency of Natural Resources.
  - c) Action shall be taken by the subdivider to enable the Town to create or extend a sanitary sewer district.

**2. Design Standards for Individual Septic Systems.** If, in the opinion of the DRB, service to each lot by a sanitary sewer system is not feasible, the DRB may allow individual septic tanks to be used, which shall be installed at the expense of the subdivider to approval of the Town and State, as follows:

- a) Minimum lot size shall be in accordance with the Zoning Ordinance.
- b) The sewage disposal system shall be approved by the State Agency of Natural Resources.
- c) Leaching fields shall be located in areas for which percolation tests have been conducted and reported.

**C. Individual Systems.** Individual water and wastewater systems shall meet all local and state regulations for design, installation and maintenance. The DRB may require copies of all applicable municipal or state on-site wastewater disposal permits.

**D. Connection to Existing Water System.** Where connection to an existing water system is proposed, the subdivider shall provide evidence as to the adequacy of the system to meet the needs of the proposed development. The subdivider will be required to provide such pumping and other facilities as may be necessary. The DRB also may require that the subdivider provide, or to have installed, at his expense, larger lines, pumping, storage and other facilities outside of the subdivision, if required specifically to meet the requirements of the proposed development.

**E. Separation Distances.** Minimum isolation distances shall be maintained between wells and sources of pollution as published in the State's Wastewater System and Potable Water Supply Rules.

### **Section 3.9 Utilities**

**A. Required Utilities.** The following public utility improvements shall be installed:

1. Fire Protection: Hydrants and water supply to be of size, type, and location approved by the DRB in consultation with the Marlboro Volunteer Fire Company.
2. Street Lights: Poles, brackets, and lights to be of size, type, and location approved by the DRB and the local power company.
3. Electricity: Poles and power lines to be approved by the local power company.

**B. Location.** All utilities systems, existing and proposed, throughout the subdivision shall be shown on the final plat, and be located as follows:

1. All utilities systems, including but not limited to electric, gas, telephone, and cable television, shall be located underground throughout the subdivision, unless deemed unreasonable and prohibitively expensive by the DRB.
2. The subdivider shall coordinate subdivision design with the utility companies to insure adequate and suitable areas for under or above ground installation, both for the proposed subdivision, and areas adjacent to the subdivision.
3. Utility corridors shall be shared with other utility and/or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, conservation and shore lands, any adverse impacts to natural, cultural or scenic resources, and to public health.

**C. Easements.** Easements of sufficient width shall be provided so as to serve both the proposed subdivision and anticipate development outside the subdivision. Where conditions are such as to make impractical the inclusion of utilities or drainage facilities within street right of way, easements shall be provided centered on the rear or side lot lines with access to the street. Such easements shall be shown on the final plat.

#### **Article IV. Administration and Enforcement**

##### **Section 4.1 Administration**

**A.** These regulations shall be administered by the Marlboro Development Review Board, as authorized by the Act.

**B.** Any person who violates any of the provisions of these regulations shall be fined pursuant to the Act for each offense; and each day that a violation continues shall constitute a separate offense.

**C.** Any person who sells, transfers, or agrees to sell or transfer any land in a subdivision or land development or erects any structure without first having recorded a duly approved final plat under these regulations shall be fined pursuant to the Act; and each lot, parcel, or unit so sold, transferred, or agreed to be sold or transferred shall be deemed a separate violation.

**D.** Nothing herein contained shall be deemed to bar any other legal or equitable remedy provided in the Act as presently enacted and as hereinafter amended, or otherwise to restrain, correct or prevent any violations or these regulations or prosecute violators thereof except as provided below.

##### **Section 4.2 Fees**

**A.** Application fees for minor subdivision approval, major subdivision preliminary approval, or major subdivision final approval shall be established by the Selectboard. Such fees(s) shall include the costs for publishing hearing notices, and conducting public hearings, administrative review and for periodic inspections by Town retained consultants during the installation of public improvements.

**B.** Should the DRB deem it necessary to employ an engineer, attorney, design professional or other consultant to review any subdivision plans or portion thereof, and/or any associated legal documentation, all costs of such review shall be paid by the applicant.

##### **Section 4.3 Hearing Notice Requirements**

**A.** All public hearings required under these regulations shall be warned in accordance with the Act.

**B.** Notice shall be given not less than 15 days prior to the date of the public hearing by the publication of the date, place, and purpose of the hearing in a newspaper of general publication, and by the posting of the same information in one or more public places within the town.

**C.** A copy of such notice shall be sent at least fifteen days prior to the public hearing to the regional planning commission, and to the Clerk of the adjacent municipality in the case of a plat located within 500 feet of a municipal boundary.

**D.** Applicant shall notify abutters and owners of property within 500 feet of the parcel to be subdivided prior to any sketch plan review meeting scheduled in accordance with Section 2.3.

**E.** Applicant (or the DRB, at its discretion) shall notify abutters and owners of property within 500 feet of the parcel to be subdivided, by written notice, hand delivered or sent via US Mail, at least 15 days prior to any public hearing scheduled in accordance with Section 2.4 and/or Section 2.5. Such notice shall include a

general description of the proposed subdivision, including the number of new lots to be created, and any other information deemed relevant by the DRB and/or Town staff.

**F.** A public hearing may be recessed and continued to a specific time, date and place within 60 days by the DRB, or if requested by the applicant and approved by the DRB. For purposes of public notice, the continuation of the public hearing shall not be required to be re-warned in accordance with 4.3 (A)(B)(C)(D)(E) if the time, date and place of that later session is announced prior to the end of the public hearing.. If for any reason the hearing is not continued at the announced time, date, and place, including a lack of quorum or further continuation without substantial addition, the subsequent hearing or continuation shall be warned in accordance with 4.3(A)(B)(C)(D)(E).

#### **Section 4.4 Enforcement and Penalties**

**A.** The enforcement of these regulations shall be the responsibility of the Zoning Administrator in accordance with the Act.

**B.** Any person who violates any of the provisions of these regulations shall be fined pursuant to the Act for each offense; and each day that a violation continues shall constitute a separate offense.

**C.** Any person who sells or transfers any land in a subdivision or land development or erects any structure thereon without first having recorded a duly approved final plat under these regulations shall be fined pursuant to the Act; and each lot, parcel, or unit so sold or transferred shall be deemed a separate violation.

**D.** The Town shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act. Nothing in this section shall prevent any action, injunction, or other legal or equitable remedy provided in the Act as presently enacted and as hereinafter amended, or otherwise to restrain, correct or prevent any violations of these regulations or prosecute violators thereof except as provided below.

#### **Section 4.5 Appeals**

**A.** Pursuant to the Act, an interested person who has participated in a DRB Hearing to consider an application for subdivision review held in accordance with Section 2 may appeal a decision rendered by the Board to the Vermont Environmental Court. Such an appeal must be filed within 30 days of the decision. "Participation" in a hearing of the DRB shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

**B.** A notice of appeal shall be filed by certified mailing, with fees, to the Environment Court and by mailing a copy to the Town Clerk, or the Zoning Administrator if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

#### **Section 4.6 Town Recording Requirements**

In accordance with the Act, within 30 days after the issuance of a municipal land use permit, including subdivision approval, or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Town Clerk for recording in the land records of the town as provided in 24 V.S.A. §1154, and file a copy in the offices in a location where all municipal land use permits shall be kept. The applicant may be charged recording fees as allowed by law.

## **Article V. Definitions**

### **Section 5.1 Interpretations**

**A.** Unless otherwise defined herein, the definitions contained in the Act and the Marlboro Zoning Bylaw shall apply to these regulations.

**B.** Words, phrases, and terms neither defined herein nor elsewhere in these regulations shall have their usual and customary meanings except where the context clearly indicates a different meaning.

**C.** Any interpretation or clarification of words, phrases, or terms contained herein by the DRB or other jurisdiction shall be based on the following definitions, state statute, and the need for reasonable and effective implementation of these regulations.

### **Section 5.2 Definitions**

*Act:* The Vermont Municipal and Regional Planning and Development Act, Title 24, Chapter 117, Vermont Statutes Annotated.

*Building envelope:* A specific area delineated on a lot within which all structures are to be located.

*Boundary Line Adjustment:* A minor realignment that does not substantially change the nature of any previous subdivision, does not create a new lot, will not adversely impact access to any parcel or any natural resource, will not result in fragmentation of agricultural land or result in development of a parcel that has been designated as open space or create a nonconforming lot.

*Buffer:* A designated strip or area of land intended to visibly and/or functionally separate one use from another; to shield or block noise, lights or other nuisance from neighboring properties; and/or to lessen the visual or physical impact of development on surface waters, wetlands and other natural and scenic areas.

*Community Sewage Disposal system:* Any wastewater disposal system other than a municipal sewage system, owned by the same person or persons, that disposes of sewage for domestic, commercial, industrial or institutional uses to two or more users or customers.

*Community Water System:* Any water system owned by the same person or persons that supplies water for domestic, commercial, industrial, or institutional uses to two or more users or customers.

*Driveway:* See Section 3.7.K

*Development envelope:* Area delineated within which all development activities will take place.

*Final Plat:* The final drawings on which the subdivision is presented to the DRB for approval and which, if approved, shall be filed for record with the Town Clerk.

*Interested Person:* An interested person, defined in the Act as having the right to appeal a decision of the DRB to the Vermont Environmental Court, includes the following:

1. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
2. The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.
3. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or

environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.

4. Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
5. Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

*Lot:* A parcel of land occupied or intended to be occupied by only one principal use, and accessory structures or uses customarily incidental to the principal use (unless otherwise approved as part of mixed use or Planned Unit Development). A lot shall have sufficient size to meet the zoning requirements for use, area, setbacks, density, and coverage, and to provide such yards, and other open areas as herein required. Such lot shall have frontage on a maintained public road or other legal access as approved by the DRB. For the purposes of these regulations, Town Road rights-of-way shall not be considered lot boundaries unless approved as such by the DRB.

*Open Space:* The undeveloped portion of any development parcel(s) which is not occupied by buildings, streets, right-of-ways, driveways, parking spaces, commercial recreation facilities, or yard (setback) areas, and which is set aside, dedicated, or designated for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, or for the preservation and continued use of agricultural land, or for the protection of natural areas.

*Person:* Any individual, partnership, corporation association, unincorporated organization, trust, or any other legal or commercial entity, including a joint venture or affiliated ownership which owns or controls land or other property to be subdivided and/or developed under the provisions of these regulations. The word "person" shall also include any municipality or other government agency.

*Primary Agricultural Soils:* Soil types designate as "prime" or "statewide" by the United States Natural Resource Conservation Service.

*Resubdivision:* Any change in a recorded subdivision plat, if such change affects any street layout on such plat, or area reserved thereon for public use, or any lot line; or if the change affects any map, plan or conditions recorded in association with the subdivision plat.

*Road:* Any road, highway, avenue, street, land or other way between right-of-way lines, commonly used for vehicle traffic and serving three or more lots.

*Sketch Plan:* An informal sketch of the proposed subdivision, the purpose of which is to enable the subdivider to reach general agreement with the DRB as to the form of the subdivision, the objectives and requirements of these regulations.

*Subdivider:* Any person, firm, corporation, partnership or association or any of these entities working in cooperation, who shall lay out for the purpose of sale or development or otherwise any subdivision or part thereof as defined in these regulations, either for himself or others. The term shall include an applicant for subdivision approval.

*Subdivision:* Division of any lot or parcel of land, after the effective date of these regulations, into two or more lots of any size, including all lots created from a single parcel within the past five (5) years, for the purpose of

conveyance, transfer of ownership, improvement, building, development or sale. The term subdivision includes re-subdivision.

*Town Plan:* The Marlboro Town Plan as most recently adopted.

*Wetlands:* To include all wetlands identified on Vermont Wetland Inventory (VWI) maps, wetland areas identified as “Ecologically Significant Wetlands” by the Vermont Nongame and Natural Heritage Program, and/or Class 3 wetland areas identified through site analysis to be inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction pursuant to the Vermont Wetland Rules.