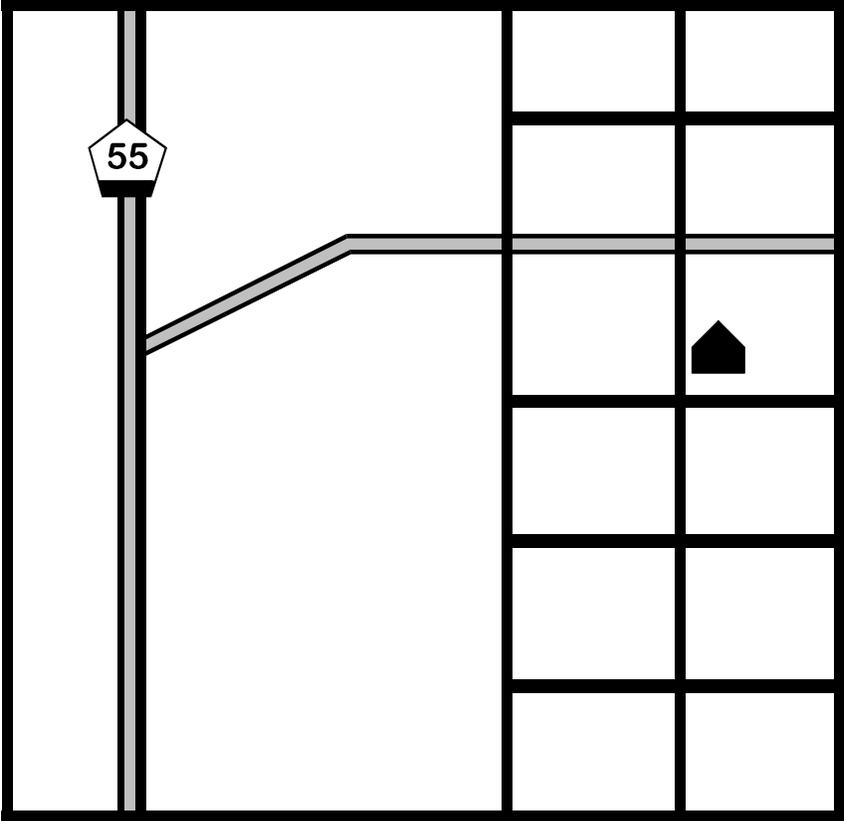


approved by Town vote on 3-5-96

# NEWBURY SUBDIVISION REGULATIONS



## **1 TITLE**

This ordinance shall be known and cited as Subdivision Regulations of the Town of Newbury, Vermont.

## **2 PREAMBLE, AUTHORITY, PURPOSE AND GENERAL PROVISIONS**

1. It is the intent and purpose of these regulations to encourage the appropriate development of all lands in the Town of Newbury by the action of its Town Planning Commission, with the aid and assistance of the State, in a manner which will promote the public health, safety, morals, prosperity, comfort, convenience, efficiency, economy and general welfare, and to provide means and methods for this municipality, and any region of which it is a part, to plan for the prevention, minimization and future elimination of such land development problems as may presently exist or which may be foreseen, and to implement those plans when and where appropriate. In addition, these regulations shall further the specific aims set forth in Title 24, V.S.A., Section 4302.
2. No subdivision of land, as defined in paragraph 4.2, shall be sold or any portion thereof, nor shall any building permit be granted within said subdivision, until the subdivision plan shall have been approved by the Planning Commission of Newbury, Vermont.
3. Land to be subdivided shall be of such character and in such location that it can be used for building purposes without danger to health or public safety.
4. All subdivision plans shall conform to the zoning regulations of the town, if there are such, and to the subdivision regulations herewith prescribed; and they shall be guided in their layout by any comprehensive plans the Planning Commission may have adopted covering the area involved, before receiving final approval.
5. The Planning Commission shall prescribe the extent to which and the manner in which streets shall be improved and other utilities provided. In lieu of the completion of such construction and installations prior to receiving final approval of the subdivision plan, the Planning Commission may accept a bond or escrow agreement with surety and conditions satisfactory to it, securing to the town the actual construction and proper installation of such improvements and utilities.
6. Proposed streets shall be in harmony with existing or approved (i.e. shown on the town's official map) thoroughfares, especially in regard to safe intersections with such thoroughfares, and so arranged and of such width as to provide an adequate and convenient system for present and prospective traffic needs.
7. Open spaces for proposed schools, parks and/or playgrounds, in places deemed proper by the Planning Commission shall be indicated on the preliminary

subdivision plan in order that it may be determined when and in what manner such areas may be dedicated or otherwise conveyed to the town.

8. Reserve strips controlling access to land dedicated or to be dedicated to public use will not be permitted, nor will reserve strips of land which may prove to be nontaxable for improvements be permitted.
9. Status of Plats Approval: Every plat approved by the Planning Commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the official map thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the municipality or the public of the dedication of any street or other ground or open space shown upon plat.
10. Larger lot sizes than the minimum under the zoning regulations may be required by the Planning Commission in areas to be served by private sewage disposal systems and/or private water supply systems where adverse soil or topographic conditions make such necessary.

### **3 JURISDICTION**

1. This ordinance shall pertain to all land within the boundaries of the Town of Newbury, Vermont.
2. This ordinance shall be in effect from the time of its adoption.
3. If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and for this purpose the provisions of this ordinance are severable.

### **4 DEFINITIONS**

1. Commission means the Planning Commission of the Town of Newbury, Vermont.
2. Subdivision shall mean the division of a parcel of land into two or more lots for the purpose, whether immediate or future, of sale or building development.
3. Re-subdivision shall mean a change in a plat of an approved or recorded subdivision or re-subdivision, if such change accomplishes any of the following:
  1. changes any street layout shown on such map,
  2. effects any area thereon reserved for public use,
  3. diminishes the size of any lot shown thereon, if any of the lots have

been conveyed after the approval of such map

4. Revision of a subdivision shall mean a minor change in size of a lot or in property lines inside a subdivision provided no street entrance or future public property is changed and no affected part of the tract has been sold.
5. Street shall mean and include any street, avenue, boulevard, road, alley and nay other right-of-way excluding private driveways.
6. Engineer means the duly designated engineer of the Town of Newbury, or if there is no such official, the qualified person or official assigned by the Newbury Planning Commission.
7. Parcel means the total adjoining land holdings of any person.
8. Person means an individual, a corporation, a partnership, an association, or any other incorporated or unincorporated organization or group.
9. Legislative body means the Board of Selectmen.
10. Agricultural use means land containing at least two acres which is used for raising livestock, or agricultural or forests products, including farm structures and the storage of agricultural equipment, riding and boarding stables; and as an accessory use the sale of products raised on the property.

## **5 ADMINISTRATIVE REGULATIONS**

1. The Planning Commission of the Town of Newbury, hereinafter called the Commission, shall administer this ordinance. Subdivision applications shall be in a form satisfactory to the Commission, and shall conform to the specifications contained herein.

2. Any person desiring to subdivide a parcel of land shall submit a preliminary application to the Planning Commission. This preliminary application shall contain the following:

1) Name and address of the owner of record of the parcel to be subdivided.

2) A brief description of the total parcel and the proposed subdivisions thereof, including locations or property lines and appropriate dimensions. The property descriptions shall be accurate and the maps to scale so the property tax maps can be revised.

- 3) Location of any new street to be built.
- 4) Means of providing water supply and disposal of sewage.

3. The Commission shall, within 30 days after submission of a preliminary application, notify the applicant that a waiver or variance has been granted as per section 5.4 or that the applicant must submit a preliminary layout as described in Section 7.

4. The Commission may waive or vary, subject to appropriate conditions, the provisions of any or all improvements and requirements as in its judgement of the special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety and general welfare, or which in its judgement are inappropriate because of inadequacy of lack of connecting facilities adjacent or in proximity to the subdivision, or where no new street or streets are required, or where agricultural use is involved. The requirement for a public hearing shall not be waived if the proposed subdivision would result in 3 or more lots, or requires a new road or a right-of-way which, in the opinion of the Planning Commission, might become a future road.

5. Where necessary a paper print of the preliminary layout and three similar prints of proposed street and utility profiles as described in Section 7 shall be filed with the Newbury Planning Commission. The Commission shall consider such preliminary plat within thirty days and indicate its approval or disapproval within ninety days. The Commission will then review the profiles in connection with topography of the area, the existing requirements of the zoning ordinance if there is such, and shall take into consideration the general requirements of the community and those of adjoining areas.

6. The Commission before taking formal action may hold a hearing with the subdivider or his agents and may hear and confer with other parties whose interest may be affected by the proposed layout. After such discussion, the Commission shall communicate in writing to the developer the specific changes, if any, which it will require as a prerequisite to the subsequent approval of the subdivision plan. The Commission may disapprove of the preliminary layout in its entirety, but shall state its reasons for such disapproval.

7. The subdivider, after official notification by the Commission with respect to the preliminary plan and the changes, if any, to be made therein, shall within six months thereafter file with the Commission drawings of the final plat and street and utility profiles as required in Section 8. The subdivider shall tender offers of cession, in a form certified as satisfactory by the town attorneys of all land included by him for streets, parks, or other public lands, but approval of the plat by the Commission shall not constitute an acceptance by the town of any land offered for dedication.

Before the final plat shall have been approved or disapproved, the Commission shall afford the developer a hearing on the plan. Notice thereof shall be sent to the subdivider by registered mail, with return receipt requested, stating the time and place of such hearing, not less than five days before the date fixed therefor.

8. The Commission shall consider the final plat within 30 days from the date of its submission. The Commission shall approve or disapprove the plat within 45 days, in accordance with Chapter 91. If the Commission approves the plat, the Chairman or Secretary of the Commission shall indicate such approval on the copy of the final plat to be filed with the Town Clerk of Newbury.

9. The Town Clerk is hereby specified as the municipal officer who shall issue a certificate of failure on the part of the Planning Commission to take action on approval or disapproval of a plat submitted to it, as provided by Chapter 91, Section 4414, of the Vermont Development Act.

10. Application for preliminary or final approval shall be filed not more than five days before any regular meeting with the Chairman or the Secretary of the Commission, who shall furnish the applicant with a receipt for same.

11. Before any plat is approved, a public hearing on such plat shall be held by the planning commission after public notice. A copy of such notice shall be sent to the regional planning commission, and to the clerk of an adjacent municipality in the case of a plat located within five hundred feet of a municipal boundary at least fifteen days prior to the public hearing.

## **6 PENALTIES**

1. Any person who violates this ordinance after it has been adopted shall be fined not more than fifty dollars for each offence. No action may be brought under this section unless the alleged offender has had at least seven days notice by certified mail that a violation exists. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double the amount of such fine. Each day that a violation is continued for the violation of by-laws shall be paid over to the town.

2. Any person who, being the owner or agent of the owner of any lot, tract or parcel of land, lays out, constructs, opens or dedicates any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel or other purposes or for the common use of occupants of buildings abutting thereon, or sells, transfers or agrees or enters into an agreement to sell any land in a subdivision or land development or otherwise, or erects any structure thereon, unless a final plat has been prepared in full compliance with this ordinance shall be fined not more than fifty dollars and each lot or parcel so transferred or sold or agreed or included

in a contract to be sold shall be deemed a separate violation. All fines collected for such violations shall be paid over to the town. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferred from such penalties or from the remedies herein provided.

**3.** If any street, building, structure, or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this ordinance the administrative officer shall institute in the name of the municipality any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate such construction or use, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

## **7 THE PRELIMINARY LAYOUT**

Sub-dividers shall file with the Commission three copies - black and white paper prints - of: (a) the preliminary layout at a scale of not more than 100 feet to the inch; and, (b) profiles of proposed streets, and utilities to scale and on a grid indicating gradients as percents; showing or accompanied by the following information:

- 1.** Proposed subdivision name, name and address of owner of record; subdivider; date; north point; scale; and space for signature.
- 2.** Names of owners of record of abutting properties, abutting subdivision names, streets, easements, building lines, alleys, parks, and public open spaces and similar facts regarding abutting property.
- 3.** Location of property lines and their approximate dimensions; existing easements, buildings, water courses, ponds or other standing water, rock ledges and other essential features.
- 4.** Existing water mains, sewers, culverts, drains, and proposed connections or alternative means of providing water supply and disposal of sewerage and surface drainage.
- 5.** Location, name and widths of existing and proposed streets and highways with their grades and profiles and the elevations of sufficient points on the property to indicate the general topography of the property.
- 6.** Where the topography is such a to make difficult the inclusion of any facilities mentioned above, within the public area so laid out, the preliminary layout shall show the boundaries of proposed permanent easements over or under private property. Such easements shall be not less than 20 feet in width and shall have satisfactory access to existing or proposed public ways.

7. Location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication, and a copy of such private deed restrictions as are intended to cover part or all of the tract.
8. Preliminary designs of any bridges or culverts which may be required.
9. Where the preliminary layout submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future street system of the un-submitted part shall be furnished, and the street system of the un-submitted part will be considered in the light of adjustments and connections with the street systems of the part not submitted.
10. All boundaries, lot lines and street lines must be certified by a surveyor licensed in the State of Vermont; designs for all proposed improvements must be certified by an engineer licensed in the State of Vermont.

## **8 FINAL PLAN**

1. A request for final approval of a subdivision shall be accompanied by a Final Plan of such subdivision, legibly and clearly drawn on mylar and accompanied by three paper prints. The mylar shall be the size required by the Town Clerk for recording. A Final Plan shall show:
  - 1) the name of the subdivision, location and boundaries of the land to be subdivided, scale, north arrow, name and address of the record owner, subdivider and designer; space for signatures;
  - 2) street lines, lot lines and reservations for public purposes, including public utilities and drainage easements;
  - 3) all dimensions in feet and decimals of feet;
  - 4) lot numbers and lot letters in accordance with the prevailing policy on existing tax maps;
  - 5) permanent concrete or granite reference monuments on all street corners and angles and street lines wherever, in the opinion of the Commission, such monuments are necessary to properly determine the location on the ground;
  - 6) designation of the location, size, planting and landscaping of such parks, esplanades and open spaces required by the Commission;

7) the seal of an engineer operating in Vermont and certification by a land surveyor licensed in Vermont attesting that such Final Plan is Substantially correct.

2. A Final Plan shall be accompanied by certification, either by a duly authorized engineer or, by the administrative officer of the Town of Newbury or by both, as required by the Commission that the design of sewer and water facilities and streets and utilities in the proposed subdivision conform to the requirements of these regulations and other state and local standards. The costs incident to this requirement shall be borne by the developer or subdivider.

3. Before any plat is approved; a public hearing on such plat shall be held by the planning commission after public notice. A copy of such notice shall be sent to the regional planning commission and to the clerk of an adjacent municipality in the case of a plat located within five hundred feet of a municipal boundary at least fifteen days prior to the public hearing. Before holding such public hearing on a plat, the planning commission may hold one or more preliminary hearings and grant preliminary approval to authorize the preparation of the plat for such public hearing.

4. The planning commission shall within forty-five days after the public hearing held under section 8.3 approve, modify and approve, or disapprove, such plat. Failure so to act within forty-five days shall be deemed approval.

5. The approval of the planning commission, or certification by the clerk of the municipality of its failure to act within forty-five days, shall expire ninety days from such approval or certification unless, within such ninety-day period, such plat shall have been duly filed or recorded in the office of the town clerk. No plat showing a new street or highway may be filed or recorded in the office of the town clerk until it has been approved by the planning commission and such approval is endorsed in writing on such plat, or the certificate of the town clerk showing the failure of the planning commission to take action within the forty-five day period is attached thereto and filed or recorded with said plat. After such filing or recording, the plat shall be a part of the official map of the town.

6. No plat may be approved unless the streets and other required public improvements have been satisfactorily installed in accordance with the plat and the subdivision regulations. In lieu of the completion of the required public improvements, the planning commission may require from the owner for the benefit of the town, a performance bond issued either by a bonding or surety company approved by the legislative body or by the owner with security acceptable to the legislative body, in an amount sufficient to cover the full cost of said new streets and required improvements on or in said streets or highways and their maintenance for a period of two years after completion as is estimated by the planning commission or such town departments or officials as the commission may designate. Such

bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required within the period fixed in the subdivision regulations for such completion, and for the maintenance thereof for a period of two years after completion.

7. The performance bond required by section 8.6 shall run for a term to be fixed by the planning commission, but in no case for a longer term than three years. However, the term of such bond may, with the consent of the owner, be extended for an additional period not to exceed three years. If any required improvements have not been installed or maintained as provided within the term of such performance bond, such bond shall be forfeited to the town and upon receipt of the proceeds thereof the town shall install or maintain such improvements as are covered by such performance bond.

## **9 REQUIREMENTS FOR THE CONSTRUCTION OF ROADS AND STREETS IN THE TOWN OF NEWBURY**

### **1. Clearing and Grubbing**

- 1) The entire right-of-way will be cleared and grubbed and all stumps and debris disposed of outside the right-of-way.
- 2) Selected shade trees in the right-of-way will be preserved when so indicated by the engineer.
- 3) Stone walls will be retained if possible, if such walls will not interfere with the purpose of such proposed roads.

### **2. Sub-grade Preparation**

- 1) The sub-grade of the road bed shall be constructed to the required width, grade, and crowned section.
- 2) In general, slopes will be constructed so that maximum cut slopes will be 2:1 and maximum fill slopes will be 4:1.
- 3) The sub-grade shall be prepared for inspection and cross-sectioning by the engineer.

### **3. Drainage**

- 1) Adequate cross pipes and ditches to maintain existing surface drainage shall be constructed.

2) Additional drainage to accommodate conditions caused by or found to exist in new roads, such as catch basins and cross pipes at intersections, under-drain where needed, drive pipes, and proper drainage of swampy areas, shall be constructed.

**4. Gravel**

1) Width of gravel shall be established, according to the town transportation plan requirements.

2) In addition, depth of gravel shall be 12 inches except where extreme subsoil conditions require additional amounts in the opinion of the engineer.

3) Gravel shall be good bank run gravel meeting Vermont Department of Highways specifications for gradation.

4) No stone larger than 6 inches shall be placed in a 12 inch depth of gravel, and no stone larger than 2 inches shall be placed in the top 3 inches of the gravel.

5) Gravel surface shall be fine graded and compacted to the required grade with grader, roller, and hand labor.

**5. Discontinued Street**

All such roads, presently unused for normal travel, shall be improved by the applicant, if a subdivision is located on such a road. The above minimum standards shall apply to any such road to be reopened and the cost for such improvements shall be borne by the applicant.

**6. Signs**

Sign with name of street conforming to standards of the Town of Newbury shall be erected on required metal post.

**7. General Information**

1) Roads will not be accepted by the Town of Newbury for two years after construction. Repairs to roads in this period will be accomplished by person or persons offering road for acceptance by town.

2) The Commission may require that streets be improved with pavements, curbs and gutters, sidewalks, drainage facilities, water mains, sewers, street lights, street trees, landscaping, fire hydrants and public

utilities, including underground installation of telephone and electrical conduit. If any of the above improvements are required they shall be installed in accordance with town and state specifications.

## **10 AMENDMENTS**

These regulations may be amended or rescinded only by vote of the town by ballot at a regular or special meeting, duly warned and held.