

**TOWN OF MARSHFIELD**

**SUBDIVISION REGULATIONS**

**Adopted March 4, 2014**

# **Town of Marshfield**

## **SUBDIVISION REGULATIONS**

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# **Town of Marshfield, Vermont**

## **Subdivision Regulations**

### **Article I. Enactment, Purpose, Authorization, Waivers, Definitions**

#### **1010 Enactment**

In accordance with the Vermont Planning and Development Act, 24 V.S.A. Chapter 117, and the Town of Marshfield Zoning Ordinance, hereinafter referred to as the Zoning Ordinance, there are hereby enacted Subdivision, and Planned Unit Development regulations for the Town of Marshfield. No Subdivision of land or Planned Unit Development shall occur in Marshfield unless in conformity with these regulations.

#### **1020 Purpose**

It is the purpose of these regulations to provide for the orderly growth and development of the Town. It is the further purpose of these regulations to provide specific standards of administration for subdivisions.

#### **1030 Authorization**

The Development Review Board, hereinafter referred to as the DRB, is authorized and empowered to administer these subdivision regulations.

#### **1040 Waivers**

- A. Each and every request for a waiver of these regulations sought by an applicant shall be specifically applied for in writing at the time of presenting the Preliminary or Final Plans.
- B. The DRB may waive or vary such provisions and requirements of these regulations where the applicant demonstrates that unique circumstances affecting a particular plan do not require compliance with such provisions and requirements in the interest of the public health, safety and general welfare; and providing that all such modifications are justified by such physical circumstances in which the modification will enable the Subdivider to better achieve the purpose and standards of these regulations and provide an overall better subdivision design; and providing that all such modifications have the purpose of implementing the municipal plan in accordance with the policies set forth therein and shall comply with the requirements of the zoning bylaw.
- C. The DRB may waive or modify, subject to appropriate conditions, the submission requirements of these regulations where it finds that such modification or waiver will not nullify the intent or purpose of the regulations and are not in conflict with any state statutes, and provided further that such modification, or waiver, and the reasons therefore, shall be entered upon the minutes of the DRB.
- D. In granting waivers, the Development Review Board may attach such other reasonable

conditions as will, in its judgment, justify such waivers and still maintain substantially the objectives of these Regulations.

**1060 Severability**

The invalidity of any provision of these Regulations shall not invalidate any other part.

**1070 Definitions**

As used in these Regulations, all words shall have the same meaning as given in the Zoning Ordinance and the Act unless otherwise defined herein.

**The Act:** 24 VSA, Chapter 117.

**Applicant:** The party applying for the subdivision or PUD review.

**Buildable Area:** The portion or portions of a lot within which principal and accessory structures, parking areas, and associated site development (excluding road and utilities) may be built.

**DRB:** the Development Review Board of the Town of Marshfield

**Lot Line Adjustment:** The alteration, reconfiguration or relocation of existing property lines between existing parcels in a manner that does not result in any additional lots, plots, or parcels of land.

**Lot Size Averaging:** Lot size averaging allows the size of individual lots within a subdivision to vary from the zoned maximum density, provided that the average lot size in the development as a whole meets that maximum. Housing can then be developed on lots smaller than otherwise permitted in a zone, allowing for greater densities in some areas and more diversity throughout the development. The total number of lots approved for lot size averaging shall be determined by the DRB consistent with Town Plan and subdivision design review criteria set forth herein.

**Minimal Alteration:** Minimal Alteration shall mean a change to existing parcels that either 1) involve the alteration, reconfiguration or relocation of existing property lines between existing parcels in a manner which does not result in any additional lots, plots, parcels of land (also referred to as a lot line adjustment) or movement of town highway and does not result in more than a 20% change in existing area of any existing lots or 2) involves the alteration, reconfiguration or relocation of existing approved driveways and related easements or 3) involves the alteration, reconfiguration or relocation of existing approved building/clearing zones which do not change the area of the building/clearing zone by more than 10%.

**PUD:** Planned Unit Development

**PUD Developer:** the owner or agent of the owner of a Planned Unit Development

**Plan, Preliminary:** a Subdivision or PUD plan, clearly marked “Preliminary Plan,” showing in lesser detail than a final plan, the approximate proposed PUD or Subdivision.

**Plan, Final:** a complete and exact PUD or Subdivision Plan prepared in accordance with Section 3030.

**Plan, Recordable:** A final plan on a Mylar, acceptable for recording in accordance with 27 V.S.A. Chapter 17, and signed by the two DRB members.

**Significant Wildlife Habitat :** Areas that have been identified and mapped as significant wildlife habitat and natural communities by the Vermont Fish and Wildlife Department including Rare, Threatened and Endangered Species & Significant Communities and Deer Wintering Areas. The maps that apply to a proposed subdivision are the maps that are in effect on the date that a complete subdivision application is filed with the Town of Marshfield.

**Subdivider:** the owner, or authorized agent of the owner, of a subdivision.

**Subdivision:** 1) A division of any part, parcel or area of land by the owner or agent into lots or parcels two or more in number for the purpose of conveyance, transfer, improvement, platting or sale. 2) A lot line adjustment, 3) A re-subdivision of land.

#### **1080 Minor and Major Subdivisions**

For the purposes of these regulations, subdivisions shall be classified as minor or major subdivisions in accordance with the following:

- A. Minor Subdivisions shall include any subdivision with fewer than four (4) lots; lot line adjustments; or amendments to an approved subdivision plan that will not substantially change the nature of any previous subdivision or conditions of approval.
- B. Major subdivisions shall include any subdivision containing 4 or more lots; any subdivision requiring any new (public or private) road greater than 800 feet in length; any planned unit or planned residential development that meets the definition of a subdivision; or any other subdivision that does not otherwise qualify as a minor subdivision.

#### **1090 Professional Advice**

The DRB may seek professional advice to review various aspects of an application. For major subdivisions only the professional fees associated with this shall be paid for by the Developer or Subdivider.

#### **1100 Coordination with Planned Unit Development (PUD) Review**

Subdivision applications for a PUD shall be reviewed as major subdivisions. Conditional use review may occur concurrently with subdivision review if all application and procedural requirements pertaining to each respective review process are met. PUDs shall meet the review standards set forth in the Marshfield Town Zoning Regulations, as well as subdivision standards defined in these regulations.

## Article II. Review and Approval Procedures

### 2010 Applicant First Point of Contact

Prior to submission of a formal subdivision application, a potential applicant and/or an authorized representative shall meet with the Zoning Administrator to discuss the subdivision application process and general requirements for submission of an application.

No testimony regarding a potential application shall be taken and no findings shall be made. No formal decision will be prepared or issued based upon the informational meeting. The applicant shall have no vested rights of approval based upon an informal meeting.

### 2020 Sketch Plan and Preliminary Plan Review [applying to MAJOR subdivisions only]

- A. **Application Requirements.** After an initial meeting with the Zoning Administrator the applicant shall submit to the Zoning Administrator a Sketch Plan that shall depict the proposed subdivision. The Sketch Plan must be depicted on, at a minimum, an 8 ½ x 11 sheet of paper and include dimensions of each new lot. The Development Review Board shall warn and hold a public hearing on the Sketch Plan in accordance with Section 2031. Following the Sketch Plan Review, the Development Review Board may issue a letter to the applicant that sets forth any questions, concerns or recommendations that the Development Review Board has about the subdivision plan or make verbal recommendations regarding the plan following the hearing. If the Development Review Board issues a written letter, the letter must be issued within two weeks from the date of the Sketch Plan hearing.

If at the Sketch Plan Review meeting, the DRB determines that the plan meets the requirements of the bylaws regarding Preliminary Plan review, the Development Review Board may waive Preliminary Plan approval requirements of the bylaws.

- B. **Preliminary Plan Approval.** Within 45 days of the date of adjournment of the public hearing, the Development Review Board shall approve, approve with modifications, or disapprove the preliminary plan based on a determination of whether or not the preliminary plan conforms to applicable subdivision review standards, or would be in conflict with the Town Plan and Zoning Regulations. The DRB may grant or deny requested waiver provisions at this time. 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 a preliminary plan shall be effective for a period of 12 months from the date of written notice of approval, unless otherwise approved or extended by the Development Review Board in the written notice of decision.
- C. **Effect of Preliminary Plan Approval.** Approval of the preliminary plan shall not constitute approval of the final subdivision plan. Subsequent to the approval of the preliminary plan, the Development Review Board may require the submission of reviews

by applicable municipal or state officials and/or agencies (e.g. Select Board, Fire Department). Upon receipt of evidence of review of the preliminary plan by said agencies, if required, and the expiration of all relevant appeal periods, the applicant may apply to the Development Review Board for final plan approval.

### **2030 Final Plan Approval [applying to ALL subdivision applications]**

- A. **Application Requirements:** The applicant shall submit a Final Plan that shall include, unless otherwise specified or waived by the Development Review Board, one full size copy, 6 copies no smaller than 11" x 17" inches of the information required for final plan review, the original application, and 6 copies of the application. If a discrepancy should exist between the Preliminary and the Final Plan, the data contained in the Final Plan shall take precedence. Within 12 months of the date of preliminary plan approval for major subdivisions, unless otherwise waived by the Development Review Board, the applicant shall submit a Final Plan for approval. If the applicant fails to do so, s/he will be required to resubmit a new preliminary plan, with associated fees, for approval subject to any new zoning and subdivision regulations.
- B. **Public Hearing:** The Development Review Board shall warn and hold a public hearing on the plan in accordance with Section 2031.
- C. **Final Plan Approval:** The Development Review Board shall approve, approve with conditions, or disapprove the final subdivision plan, based on a determination of whether or not the plan conforms to subdivision review standards, or would be in conflict with the Town Plan and Zoning Regulations, within 45 days of the date of adjournment of the public hearing. 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 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:** Each approval for a final plan shall contain a time limit within which all public improvements shall be completed, as per Section 4035. The approval by the Development Review Board of a final subdivision plan 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 plan. Such acceptance may be accomplished only by a formal resolution of the Select Board, in accordance with state statute.

### **2031 Public Hearing Requirements**

- A. **Public Notice:** A warned public hearing shall be required for preliminary and final subdivision review. Any public notice for a warned public hearing shall be given not less than fifteen (15) days prior to the date of the public hearing by all of the following:

1. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality.
  2. Posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made.
  3. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
  4. For hearings on subdivision plans located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.
- B. **Applicant's Responsibilities:** The applicant shall be responsible for the posting of the notice within view from the public right-of-way and notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant is required to submit to the DRB evidence that notice was provided to the abutters either by certified mail, return receipt requested, or by a signed statement that written notice was hand delivered or mailed to the last known address.
- C. **Defect in Notice:** No defect in the form or substance of any required public notice under this section shall invalidate the action of the DRB where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content.
- D. **Recesses of Hearing:** The DRB may recess a hearing on any application pending the submission of additional information or to allow for a site visit, provided that the next hearing date and place is announced at the hearing. No additional warning or notice is required for a recessed hearing.

#### **2040 Plan Recording Requirements (applying to ALL approved subdivisions)**

- A. Within 180 days of the date of receipt of final plan approval, the applicant shall file three copies of the final subdivision plan, one 18" x 24" mylar copy and two 18" x 24" paper copies (one for the Listers and one for the zoning files), for recording with the town in conformance with the requirements of 27 V.S.A., Chapter 17. An electronic copy of the plan in a format acceptable to the town must also be submitted. Approved plans not filed and recorded within this 180-day period shall expire at that time.
- B. Prior to plan recording, the plan must be signed by at least two members of the Development Review Board who voted on the application.

- C. For any subdivision, which requires the construction of roads or other public improvements by the applicant, the DRB may require the Subdivider to post a performance bond or comparable surety in accordance with Section 4035 to ensure completion of the improvements in accordance with approved specifications. Such a bond or surety is required before the plan is recorded.
- D. No person may sell, transfer, or enter into an agreement to sell any land in a subdivision until a final plan has been recorded. In addition, no structure can be erected on that land until a final plan has been recorded.

### **2050 Certificate of Compliance**

The DRB may require certification by the Zoning Administrator that an applicant has met the subdivision requirements and any conditions of approval.

### **2060 Revisions to an Approved Plan**

No changes, modifications, or other revisions that alter the plan or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the Development Review Board as a minor subdivision and the Board approves such revisions after 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.

### **2070 Deferral of Design Review**

The Board has the right to waive design review (sections 4021-4032 herein) when a subdivision applicant does not have plans to develop all or some of the lots. Deferral of design review is available for all minor subdivisions or for proposed lots over 25 acres. No development requiring zoning review shall occur on a deferred lot without further review and approval by the Development Review Board. A note shall be included on the recorded plan stating that the deferred lots shall not be developed without review and approval by the Development Review Board in accordance with the Subdivision and Zoning Regulations.

## **Article III. Application Information Required**

### **3020 Applicant Information Required for PRELIMINARY PLAN for Major Subdivisions only (including PUD)**

The following information is required on preliminary plans unless waived by the DRB:

#### **A. Plans and Specifications:**

1. Contours of the land around buildings and the developed areas, before construction, drawn on a scale of the most recently available contours on GIS maps, with any proposed modifications to existing contours
2. The existing and proposed roads, paths, parking areas, associated rights-of-way or easements
3. Existing and proposed utilities locations
4. Existing and proposed lot lines
5. Scale, north arrow, legend, location map, buildable areas

**B. Optional information as requested by the DRB:**

1. Road profiles: road, intersection and parking area geometry and constructions schematics
2. Proposed landscaping and screening
3. An effective plan for managing stormwater during the construction and operational phase of the project, including an erosion control plan
4. Grading plan (showing proposed areas of cut and fill)
5. Site reclamation plan (for subdivisions involving extraction)
6. Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)
7. For any project consisting of ten or more lots, a fiscal impact analysis (analysis of fiscal costs and benefits to the town)
8. Environmental impact assessment (analysis of potential environmental impacts, proposed mitigation measures)
9. Phasing plan
10. Where applicable, a copy of: restrictive covenants to be used in deeds, restrictive provisions set forth in leases, by-laws of condominium association, or any other restrictions, such as campground or mobile home park regulations, etc.
11. Any additional information requested by the DRB in their decision about the type of subdivision that followed the initial meeting at the Sketch Plan Review.

**C. Additional Information specific to PUD applications:**

1. Any additional information requested by the DRB in their decision about the type of subdivision that followed the initial meeting

**3030 Information Required for FINAL PLAN for ALL applications (unless otherwise noted below)**

The following information is required on final plans unless waived by the DRB:

**A. Plans and Specifications:**

1. All information required on the preliminary plan if a Major Subdivision.
2. Recordable plan on paper in a format that will be acceptable for recording.
3. Project boundaries, property lines, existing and proposed lot lines, and metes and bounds, which shall be surveyed
4. Contours of the land around buildings and the developed areas, before construction, drawn on a scale of 5 foot contour intervals, with any proposed modifications to existing contours;
5. Existing and proposed roads, paths, parking areas, associated right-of-ways or easements
6. Proposed landscaping and screening
7. Existing and proposed utility locations
8. Scale, north arrow, legend, location map, and buildable areas

**B. Optional information as requested by the DRB:**

1. Where applicable, a copy of: restrictive covenants to be used in deeds, restrictive provisions set forth in leases, by-laws of condominium association, or any other restrictions, such as campground or mobile home park regulations, etc.
2. Any additional information requested by the DRB in their decision about the type of subdivision that followed the initial meeting

**3031 Minimal Alterations**

- A. **Minimal Alterations:** Minimal alterations may be approved by the Zoning Administrator and are not required to follow the notice and hearing requirements for proposed subdivisions requiring DRB approval.
- B. **Minimal Alteration Application:** All minimal alterations require approval of the Zoning Administrator. The application shall be submitted to the Zoning Administrator by the owner of record, an optionee, or by their agent. The application shall include a preliminary layout and information set forth in these regulations, and shall be accompanied by a fee for processing, payable to the Town, in an amount established by the Selectboard. The Zoning Administrator shall review the plan in accordance with the General Standards for Subdivision in lieu of the DRB. The Zoning Administrator shall refer a minimal alteration application to the DRB for review and approval where it is found that the proposed alteration will substantially alter the most recent DRB approval, or where it is found that the proposed alteration will result in a substantial impact under the General Standards for Subdivision Review. The approved plan shall be recorded in accordance with Section 2040.
- C. **Public Notice:** A notice of approval shall be posted within view of the nearest public right-of-way until a 15-day appeal period has expired.

**Article IV. Subdivision Review**

**4010 Requirements by the Development Review Board**

The Development Review Board may require as a condition to the approval of any subdivision plan:

- A. That all land designated for subdivision shall be of such character that it can be used for its intended purpose without danger to public health, the environment or neighboring properties. The land designated as flood hazard areas or characterized by poor drainage, inadequate capability to support structures, roads or utilities or subject to other hazardous conditions shall not ordinarily be subdivided.
- B. That the subdivision plots will conform to all applicable requirements of these regulations, the Marshfield Zoning Ordinance and the Marshfield Town Plan.
- C. That any new roads and streets shall be of sufficient width and suitable grade and shall be

so located to facilitate fire protection, school bus circulation, summer and winter maintenance, and meet the requirements of Section 4032 below.

## **4020 General Standards for Subdivision and PUD Review**

### **4021 Lots and Buildable Areas**

#### **Lot Layout**

The layout of the lots shall conform to the Zoning Ordinance and be appropriate for the intended construction. Corner lots should have extra width to permit a setback on each road. Side lot lines should generally be at right angles to roads. The DRB may require lower densities of development based on physical or other limitations of the site. Lots with irregular shapes such as curves, jogs or dog-legs should be avoided unless warranted by conditions of topography, the location of natural features or existing roads. All subdivided lots must include suitable permanent survey monuments placed at street intersections and other necessary points as may be required, and the location thereof must be shown on the map of such plan.

#### **Buildable Areas**

All lots shall have a designated buildable area designed to meet the criteria of the Zoning and Subdivision Ordinances. Buildable areas shall be designated to identify the location of principal and accessory structures, parking areas, and associated site development (excluding road and utilities) on one or more portions of a lot. The size and shape of the buildable area shall, at a minimum, be determined by district setback requirements.

#### **Lot Size Averaging**

The DRB, at its discretion, may waive the minimum lot size requirement in favor of Lot Size Averaging in order to better comply with the goals set forth in the Town Plan. The minimum lot size allowable in a subdivision designed using Lot Size Averaging shall be one half acre. The setbacks from abutting properties and abutting public roads shall not be reduced. See Lot Size Averaging, in the Definitions section.

**Protection of Conservation Areas:** DRB approval of a final lot size averaging subdivision plan shall result in the creation of a conservation restriction incorporating the conditions of approval, including the maximum number of lots and the location, size and permissible uses of the land area that is to remain undeveloped. The recorded plan shall clearly mark the conservation area and note any development restrictions.

### **4022 Roads and Traffic**

For the purpose of this section a road is defined as either a public road or a private driveway/road shared by more than three lots. The applicant shall notify the Town Road Foreman and the Selectboard regarding any proposed new road or street. All roadways and intersections with roads shall be designed to ensure the safe and efficient movement of vehicles. Roads shall be designed so as to be logically related to topography and to produce useable lots and reasonable road grades. No road grades shall exceed 15%. All new private roads shall be built, as a minimum, to the Vermont Agency of Transportation Class 3 road standards, as amended. A registered engineer shall certify that any new private roads were constructed in accordance with

the Development Review Board approval. The DRB may modify these standards if the applicant can document that the road, as designed, is readily accessible to emergency response vehicles and provides safe access for the anticipated traffic on the road. Such certification shall be required for any section of road serving a new development before a Certificate of Occupancy is issued for said development. All new public roads shall be built, as a minimum, to the Vermont Agency of Transportation road standards, as amended, for the class of road proposed.

Intersections with existing roads shall be located as to provide a minimum sight stopping distance in accordance with the latest Vermont Agency of Transportation standards.

Projects that are determined to generate traffic that exceeds the existing capacity of adjacent roadways or intersections shall be phased in a manner that allows the improvement of the capacity. In a situation where a development, including subdivision, may require realignment, widening or otherwise improving the capacity of an existing road, the Subdivider may be required to reserve land for such improvements. The Subdivider may be required to contribute to any and all of the expense involved with road improvements necessitated by his or her project based upon the anticipated traffic impact of the development..

### **Cul de Sac**

Permanent dead-end roads and cul-de-sacs shall be discouraged unless deemed necessary by the Board due to physical limitations or safety considerations. All dead end roads shall terminate in a turn-around having a minimum inside radius of 30 feet and a travel lane width of 20 feet. The DRB may waive this requirement where it can be demonstrated that adequate access by emergency vehicles is available.

### **Maintenance**

The maintenance of all roads not designated as Class 3 Town Highways or higher shall be the responsibility of the Subdivider. The Subdivider shall provide evidence and assurance that the roads will be adequately maintained by the Subdivider or by an owners association.

### **Traffic**

Traffic to be generated by the proposed subdivision will not create unreasonable traffic congestion or cause unsafe conditions regarding use of existing roadways. To satisfy this standard, the DRB is authorized to request the preparation of a traffic impact study to address all concerns relative to traffic impact and safety. The DRB shall use nationally accepted traffic engineering standards when evaluating the impact of traffic.

### **Curb Cuts**

If a curb cut is proposed as part of a proposed subdivision, the applicant shall notify the Town Road Foreman for a curb cut proposed on a Town Road, and the Vermont Agency of Transportation for a curb cut proposed on a state road.

## **4023 Utilities**

### **Water Supply**

The DRB shall require evidence that adequate water supply is available prior to granting final approval if a connection to a public water system is proposed.

## **Sewage Disposal**

Where a connection to a pre-existing community sewage disposal system is proposed, the Subdivider shall provide evidence as to the adequacy and availability of such a system. Where a connection to a septic disposal system is proposed, the DRB may require evidence that adequate sewage disposal is available prior to granting final approval which shall include perk tests for each lot but shall not require final design of the system.

## **Power and Telecommunications**

The DRB may require an applicant to address the impact of primary power and overhead telecom lines on the visual character of the area, including considering alternate siting of poles and underground installation of lines.

## **4024 Drainage and Erosion Control**

The DRB may require such temporary and permanent drainage and erosion control techniques as may be necessary to control surface runoff. Factors to be considered in determining the types of necessary controls include but not be limited to vegetation, ground cover, slopes, soil types, percentage of land covered by impermeable surfaces, distances to streams and impact on adjacent property. All major subdivisions and all subdivisions proposing over one acre of disturbed land shall submit an effective plan for managing stormwater.

Subdivided land should be improved in reasonable conformity to existing topography to minimize grading, cutting and filling, and to retain where possible natural contours, ground cover and soils. The DRB may require subdivided land to minimize grading, cutting and filling and retain natural contours.

For effective stormwater management, improved land should minimize the length, width and paved areas of roads, driveways and parking areas, in accordance with approved standards, and should maximize the use of impervious materials, including natural vegetative cover within road rights of way where topography, soils and slopes permit.

All stormwater management activities during construction shall adhere to current State of Vermont erosion prevention and sediment control standards.

The DRB may stipulate specific deadlines for the installation of erosion control or soil stabilization measures. The DRB may require the submission of data reflecting the effect of the subdivision on the existing downstream drainage capacity areas. The DRB may require the delay of construction where it is determined that the increased runoff may overload the capacity of the downstream system, and may require the Subdivider to install and/or pay for capacity improvements deemed necessary.

If a subdivision will result in changes in flow type, flow channel, increased stormwater discharge or flooding in areas not owned by the applicant, then the applicant must obtain easements for all areas of flow on affected properties.

#### **4025 Parcels Split by Town Boundary**

When a parcel is split by a town boundary, the total parcel shall be considered when determining if a proposed development meets the requirements of this ordinance. This includes, but is not limited to:

- A. Required setbacks shall be measured from any structure to the parcel boundary in the adjoining municipality.
- B. Any new lot created shall meet the required lot size regardless of the town boundary.
- C. Other dimensional requirements, such as density and building coverage, shall consider the complete parcel.

An applicant that utilizes this provision shall be required to maintain the acreage in a neighboring town that is necessary to meet the dimensional requirements of the Town of Marshfield Zoning and Subdivision Bylaws.

#### **4030 Fire Protection and Emergency Service Access**

The DRB may require documentation from the local fire company or other appropriate municipal officials as to the adequacy of emergency access for fire, police, ambulance, or other emergency services. All lots shall be designed to allow for reasonable access by emergency vehicles to the buildable areas. The DRB may also require the provision of facilities necessary for adequate fire protection where none exists. Such facilities shall be designed in consultation with the local fire department. This provision does not apply to lots created to construct a camp as defined in the Zoning Ordinance.

#### **4031 Pedestrian Access**

The DRB may require rights-of-way to facilitate pedestrian circulation within the subdivision and to ensure access to adjoining properties or uses. Within the Marshfield Village, or where the DRB finds highway traffic conditions to be specifically hazardous to pedestrians, the DRB may require rights-of-way or sidewalks for pedestrian travel and access between subdivisions or community facilities, such as a school, park or playground. The DRB may require the construction of walks in such rights-of-way or of sidewalks along streets where it deems it desirable in the interests of public safety and convenience.

#### **4032 Natural Resource Protection**

Subdivision boundaries, lot lines, and buildable areas shall be located and configured to avoid adverse impacts to significant natural features identified through site investigation. For purposes of these regulations, these shall include wetlands as defined by the Vermont wetland rules, surface waters, and associated buffer areas; flood hazard areas; slopes in excess of 25%; significant wildlife habitat areas as defined herein. Accordingly:

- A. Lot lines and buildable areas shall be configured to avoid development on, or the fragmentation of, significant natural features as defined above.

- B. Roads, driveways and utility corridors, to the extent feasible, should be located to follow existing linear features (e.g., farm roads, stone walls, tree and fence lines), and to avoid significant natural features;
- C. Lot lines and buildable areas shall be located to ensure that no buildings are placed on steep slopes (in excess of 25%), in wetlands or in flood hazard areas;
- D. Subdividers may be required to incorporate buffers, landscaping or screening in subdivision design, and/or submit management plans to protect significant natural features.

#### **4033 Landscaping and Screening**

The DRB may require the preservation, planting of noninvasive species and maintenance of trees, ground cover, or other vegetation in order to:

- A. Preserve existing trees, tree lines, and wooded areas of particular natural or aesthetic value.
- B. Provide screening to increase privacy, reduce noise or glare, or establish a barrier between incompatible land uses.
- C. Preserve existing tree canopy along roads or pedestrian walkways.

#### **4034 Protection of Farmland and Open Fields**

The applicant shall avoid unnecessary adverse impacts to prime and statewide agricultural soils and open fields, by considering the following guidelines:

- A. Locate buildable areas 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.
- B. Cluster buildings and associated building lots to avoid the fragmentation of productive farmland.
- C. Require vegetated areas to buffer agricultural operations from other uses to minimize land use conflicts.
- D. Require access roads, driveways and utility corridors, to the extent feasible to follow existing roads, tree lines, stone walls, and/or fence lines to minimize the fragmentation of agricultural land and visual impacts.
- E. Designate intact parcels of productive farmland as open space, conservation easements, or comparable site protection mechanisms.

#### **4035 Protection of District Settlement Patterns**

All subdivisions shall be designed and configured to reflect the desired settlement pattern for the respective district in which the subdivision is located, as defined by the Marshfield Zoning Regulations and the Marshfield Town Plan.

- A. Subdivisions within the Village Residential District shall be designed to reflect the historic character of the surrounding area. Lot sizes should be consistent with traditional densities within the Village, and buildable areas should be located to maintain a consistent building line and streetscape along public roads. Sidewalks and other pedestrian facilities may be required where appropriate.
- B. Subdivisions within the Agricultural and Rural District shall be designed and configured to reinforce the district's rural character (as defined by the Town Plan) and historic working landscape, characterized by wooded hillsides and knolls, open fields, and a visual and functional relationship of structures to the surrounding landscape.
- C. Subdivisions within the Forest and Conservation District should preserve vital wildlife habitat, opportunities for outdoor recreation, and forest resources.
- D. Subdivisions within the Flood Hazard District should only allow limited expansions of existing development and should preserve the value of flood hazard areas as defined in Zoning Ordinance.

#### **4036 Protection of Rural Character Outside of Village Areas**

All subdivisions shall be designed to protect the rural character of Marshfield as defined by the Town Plan. Individual lots and buildable areas shall be delineated so as to mitigate the visual impact of new development on views from existing roadways, adjacent properties, and offsite vantage points. Methods for preserving rural character include, but may not be limited to, the following:

- A. Minimize development including buildings and driveways within open fields. If development must be located within open fields due to constraints elsewhere on the site, buildable areas should be located at the edges of the field to the maximum extent possible. Additional landscaping may be required to provide a sufficient visual buffer for new development.
- B. Buildable areas shall be delineated to maximize the privacy afforded to each dwelling unit, by, for example, positioning homes to eliminate direct sight lines to neighboring homes and to prevent a building from being positioned directly above (or "perched" above) another building on a vertical slope, unless an adequate separation distance and vegetated buffer exists or is provided.
- C. Locate a vegetated buffer to provide screening between developments and public roadways
- D. Lots that do not have frontage on an existing public road shall be laid out to minimize the

number of curb cuts onto the existing road through the use of shared or common driveways or other methods.

E. Consider using Lot Size Averaging to achieve the above.

#### **4040 Certification of Information Required**

All technical information required to be submitted shall be certified as to its correctness by architectural, engineering, or surveying professionals unless waived by the DRB. The DRB may require the submission of certified copies of any computations, field notes, and supporting data used in the preparation of any plan.

#### **4050 Acceptance of Data, Testimony, Decisions**

The Development Review Board may, with respect to any application or plan, accept or reject, in whole or in part, testimony, data, or decisions by any other Town, State, or Federal regulatory agency, or any public or private agency concerned with the establishment of codes for health, safety, or welfare.

#### **4060 Performance Bonding**

Conditions may require that no zoning permit, except for any permits that may be required for infrastructure construction, may be issued for an approved development unless the streets and other required public improvements have been satisfactorily installed in accordance with the approval decision and pertinent bylaws. In lieu of the completion of the required public improvements, the DRB may require from the owner for the benefit of the municipality 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 those new streets and required improvements on or in those streets or highways and their maintenance for a period of two years after completion as is estimated by the appropriate municipal panel or such municipal departments or officials as the panel may designate. This bond or other security shall provide for, and secure to the public, the completion of any improvements that may be required within three years for that completion and for the maintenance of those improvements for a period of two years after completion.

The legislative body may enter into an agreement governing any combination of the timing, financing, and coordination of private or public facilities and improvements in accordance with the terms and conditions of a municipal land use permit, provided that agreement is in compliance with all applicable bylaws in effect.

The performance bond required by this section shall run for a three-year term. However, with the consent of the owner, the term of that bond may 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 the performance bond, the bond shall be forfeited to the municipality and upon receipt of the proceeds of the bond, the municipality shall install or maintain such improvements as are covered by the performance bond.

#### **4070 Penalties**

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 whether by reference to or by other use of a plat of that subdivision or land development or otherwise, or erects any structure on that land, unless a final plat has been prepared in full compliance with this chapter and the bylaws adopted under this chapter and has been recorded as provided in this chapter, shall be fined not more than \$100.00, 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 these violations shall be paid over to the municipality whose bylaw has been violated. 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 transferor from these penalties or from the remedies provided in this chapter.

If any street, building, structure, or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of any bylaw adopted under this chapter, the administrative officer shall institute in the name of the municipality any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate that construction or use, or to prevent, in or about those premises, any act, conduct, business, or use constituting a violation. A court action under this section may be initiated in environmental court, or as appropriate, before the judicial bureau, as provided under section 1974a of this title.

#### **4080 Other Required Permits**

The issuance of any Planned Unit Development or Subdivision permit under these Regulations shall not relieve the applicant from responsibility for obtaining any other required Town, State, or Federal permits. It shall be the applicant's responsibility for determining and obtaining other required permits. Copies of said permits shall be filed with the Development Review Board for its records.