

TOWN OF BERLIN, VT

SUBDIVISION REGULATIONS
(Adopted March 7, 1989)

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**TOWN OF BERLIN
SUBDIVISION REGULATIONS**

**“Planning Commission” and “Board of Adjustment” may be replaced with “Development Review Board”
Ch. 117, T.24 § 4401 (a)(1)**

ARTICLE I: TITLE, POLICY AND PURPOSE

100 TITLE

These regulations shall be known as the Town of Berlin Subdivision Regulations.

110 POLICY

110.1 It is hereby declared to be the policy of the Town of Berlin to consider the subdivision of land and the subsequent development of the subdivided plat as subject to control of the Town of Berlin pursuant to the Vermont Planning and Development Act (Act) (24 V.S.A., Chapter 117) for the orderly, planned, efficient and economical development of the Town.

110.2 Land to be subdivided must be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land may not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water supply, sewage disposal, and capital improvements such as schools, parks and recreation facilities, transportation facilities and other improvements.

120 PURPOSE

These regulations are hereby adopted for the following purposes:

- 1) To conform to or to implement the Berlin Town Plan.
- 2) To ensure conformity and compatibility with other applicable laws, as presently enacted or as from time to time hereafter enacted.
- 3) To protect and provide for health, safety, and general welfare of the Town of Berlin.
- 4) To guide the future growth and orderly development of the Town.
- 5) To encourage desirable relationships between development and the Town’s important natural features, such as topography, geology, natural drainage, surface water runoff and the ground waters.
- 6) to provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic.
- 7) To provide for the preservation, protection, and/or conservation of natural resources such as land, air, vegetation, and water, and to encourage the wise use and management of natural resources in order to preserve the integrity, stability, and beauty of the Town and the value of land.

- 8) To provide for public facilities and services such as parks, open spaces, recreation areas, schools, churches, police and fire protection, off-street parking, water supply, and sewage disposal.
- 9) To insure that existing public services and facilities are available, will be available, and will have sufficient capacity to serve any proposed subdivision, and will not be adversely affected by the subdivision.

ARTICLE II: DEFINITIONS

Certain meanings of references and words used herein are defined below. Unless the content clearly indicates to the contrary, words in the singular include the plural and those in the plural include the singular. The word “person” includes a corporation, unincorporated association, and partnership, as well as an individual. The word “building” includes structure and is to be construed as if followed by the phrase “or part thereof.” The word “road” includes avenue, boulevard, court, expressway, highway, and street. The words “may” and “should” are permissive; the words “must” and “will” are mandatory. The term “may not be” means that this regulation does not grant permission, and thus, the activity is prohibited.

ACCEPTANCE - Formal action by the Berlin Board of Selectmen, in keeping with statutory requirements, to accept a dedicated road, easement, or land.

ACT - Title 24, Chapter 117 - The Vermont Municipal and Regional Planning and Development Act as presently enacted or as from time to time amended.

ADMINISTRATOR - The Town Administrative Officer or other person(s) acting for the Board of Adjustment and/or the Planning Commission.

AUTHORIZED AGENT OR REPRESENTATIVE - A person or group of persons, who have been duly authorized in writing by the subdivider to act in his or her behalf.

BLOCK - An area bounded by roads.

BOUNDARY ADJUSTMENT - Any revision to a plat legally filed with the Town of Berlin which creates no new building lots and which will have no impact on roads, rights-of-way, or other public facilities. A Boundary adjustment is not considered a subdivision under these regulations.

COMMISSION - The Town of Berlin Planning Commission as created pursuant to Section 4322 of the Act.

COMMON SEWAGE DISPOSAL SYSTEM - Any sewage disposal system, other than a municipal sewage disposal system, that disposes of sewage for domestic, commercial, industrial or institutional uses to two (2) or more customers or users.

COMMON WATER SUPPLY SYSTEM - Any water supply system, other than a municipal water supply system, that supplies water for domestic, commercial, industrial or institutional uses to two (2) or more customers or users.

COMPLETE APPLICATION - An application is considered complete upon submission of an application form signed by the landowner and sub-divider, the required fee, and all information required by these regulations for the review applied for, or the Commission may, by vote, waive some of the required information.

CONCEPT PLAN - A plan of the proposed subdivision showing information specified in Article III of these regulations, to enable the subdivider to save time and expense in discussing the proposed subdivision with the Planning Commission.

CONSTRUCTION DRAWING/SPECIFICATIONS - Those drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground utilities, pavements (above and below grade), cross section of streets, miscellaneous structures, etc.

CORNER MARKERS - A metal pipe or rod placed in the ground to locate changes or intersections of property lines.

CUL-DE-SAC - a minor road intersecting another road at one end and terminated at the other by a vehicular turn-around.

DEDICATION - The action by a subdivider to formally offer to the Town of Berlin title to roads, easements, or land to be used for public purposes.

EASEMENT - The authorization by a property owner for the right of a specific use by another party of any designated part of his or her property.

FINAL SUBDIVISION PLAN - The final construction plans and drawings, final plat, and other information required by these regulations.

FINAL SUBDIVISION PLAT - (Final Plat) - The final drawings on which the subdivider's plan for subdivision is presented to the Planning Commission for approval, and which, if approved, is to be filed with and recorded by the Town Clerk.

FLOOD PLAIN - The land lying between a lake, river, stream or watercourse and the high water mark of the 100 year storm event as indicated on the National Flood Insurance Program (FIRM) floodway maps for the Town of Berlin.

INTERESTED PARTY - Any person who is the owner of record of any abutting property as specified in Section 300 (b) 2 of these regulations, any person residing in the surrounding neighborhood whom the Planning Commission deems will or may be affected by the Proposed subdivision.

LEGISLATIVE BODY - The Board of Selectmen of the Town of Berlin.

LOCATION MAP - a map which shows the relation of the proposed subdivision to adjacent properties and the surrounding area.

LOT - A portion of land in a subdivision or plat, separated from other portions of land by a property line.

MAJOR SUBDIVISION - Any subdivision not classified as a minor subdivision.

MINOR SUBDIVISION - Any residential subdivision containing less than four (4) lots or dwelling units.

MONUMENT - A permanent concrete (with iron rod) or stone marker, 4" x 4" x 4" placed in the ground to locate changes in property lines or intersections of property lines.

MUNICIPALITY - The Town of Berlin, or any other municipal corporation.

MUNICIPAL SEWAGE DISPOSAL SYSTEM - Any sewage disposal system owned and operated by the Municipality that disposes of sewage for domestic, commercial, industrial or institutional uses.

MUNICIPAL WATER SYSTEM - any water supply distribution system owned and operated by a municipality which provides water for residential, commercial, industrial or institutional uses.

OPEN SPACE - Land unoccupied by structures, buildings, roads, rights-of-way, or automobile parking areas.

PRELIMINARY SUBDIVISION PLAN - The preliminary drawings indicating the proposed layout of the subdivision and other information required by these regulations.

RE-SUBDIVISION - Any change in a recorded plat, if such change affects any road layout, or area reserved thereon for public use, or any lot line, or if the change affects any map or plan legally recorded pursuant to any subdivision regulations adopted by the Town of Berlin. Re-subdivision does not include boundary adjustments where no new lots are being created.

ROAD - Any road, street, highway, avenue, land, or other way between right-of-way lines, commonly used by the public for vehicular traffic.

ROAD - MAJOR - Any road which serves or is designed to serve, primarily as a route for traffic between communities or major development areas.

ROAD - MINOR - any road not identified as a major road by the Planning Commission at Concept Plan Review.

SUBDIVIDER - Any person, firm, corporation, partnership, or association which lays out for the purpose of sale or development or otherwise, any subdivision or part thereof as defined in these regulations, whether for himself/herself or for others. The term includes any applicant for subdivision approval.

SUBDIVISION - Any land, vacant or improved, which is divided or proposed to be divided into two(2) or more lots, parcels, sites, plots, units, or interests for the purpose of offer for sale, lease, or development. The term also includes the development of a parcel of land such as, but not limited to, a shopping center, multi-family housing project, elderly housing project, planned residential development, planned unit development or industrial park development.

TOWN PLAN - The Town Plan of the Town of Berlin and any amendment thereto, as defined and adopted under the provisions of the Act.

ARTICLE III: CONCEPT PLAN

300 APPLICATION AND PROCEDURE

Before submitting a formal application for subdivision approval, any subdivider must submit Concept Plans for review, discussion, and classification. Concept Plans must include the entire planned subdivision, even if approval is to be requested for only an initial phase. After the Administrator has verified that the submittal contains all information specified in Section 300, he/she is to place the concept plan on the agenda of the next Commission meeting to be held at least 10 days hence, or as soon thereafter as the agenda will allow, and is to notify the subdivider of the date of the meeting.

The purpose of the Concept Plan review is to acquaint the Planning Commission with the general concept of the subdivision without requiring the presentation of extensive surveying, engineering, or design data. Applicants are encouraged to explore different design schemes which represent thoughtful site planning and which are in keeping with the Town Plan. Applicants are expected to explain to the Commission why a particular design scheme is being

proposed. The Concept Plan review is intended to be an informal exchange of ideas between the applicant and the Commission. Presentations, and suggestions, and comments of any party are not binding.

A Concept Plan submittal must include the following:

- A. Plans and Drawings (all maps must include the date, a true north arrow, and a scale):
 - 1) A location map showing the relation of the proposed subdivision to adjacent property and the surrounding area.
 - 2) A map showing approximate boundaries and areas of the property to be subdivided and all contiguous land belonging to the owner of record.
 - 3) Sketches of the proposed subdivision at a scale of not more than 200 feet to the inch. Such sketches should show the location and size of significant natural features such as woods, swales, waterways, ledges, swamps, etc. Such sketches must include a mapping of the soil classifications on the site as shown in the Washington County Soil Survey. These sketches may be prepared on overlays to photo enlargements of aerial photographs or USGS maps.

- B. Written and other material:
 - 1) The name and address of the owner of record of the land, and of the applicant, if different.
 - 2) A list of one (1) addressed stamped envelope for each current owner of record of all abutting properties, including properties directly across any public right-of-way.
 - 3) A discussion of the soil types on the site, along with their capabilities and limitations.
 - 4) A narrative addressing how the subdivision proposal meets with the goals and objectives of the Town Plan.

310 CONCEPT REVIEW

The Planning Commission must review the Concept Plan, taking into consideration the requirements of these subdivision regulations, the Berlin Zoning Regulations, and other bylaws then in effect. The Planning Commission must also consider the Concept Plan's conformity with the Town Plan.

The Planning Commission may, where it deems it necessary, make general or specific recommendations to be incorporated by the applicant in subsequent submissions.

320 DECISION

The Planning Commission, after it has completed its review of a concept plan, is to take the following actions:

- A. Classify the subdivision as either a MAJOR SUBDIVISION or a MINOR SUBDIVISION, using the definitions given in Article II of these regulations.
- B. Determine the contour interval required of the topographic data on the preliminary plan and/or final plan.
- C. Classify any road as a Major or Minor road. Determine minor road surface required.
- D. Approval or non-approval.

330 EFFECT OF CONCEPT PLAN ACTION

Approval of a Concept Plan does not constitute approval of the subdivision plat and is merely authorization to proceed to the next step in the subdivision review process.

ARTICLE IV: MINOR SUBDIVISION APPLICATION AND PROCEDURE

400 APPLICATION

Within six (6) months of receiving Concept Plan approval and classification as a minor subdivision, the subdivider must submit a complete application for final approval of the subdivision plan to the Administrator. If the application is not submitted within six (6) months, a new Concept Plan must be submitted for review in accordance with Article III of these regulations. The application for final approval must contain those items set forth in Section 610 of these regulations, and must conform substantially to the layout approved by the Planning Commission during the Concept Plan review.

410 PUBLIC HEARING

A public hearing must be held by the Commission after submission of a complete application for final approval. Said hearing is to be warned in accordance with the public notice provisions of the Vermont Planning and Development Act, and notice of the meeting is to be sent to abutting property owners as identified in Section 300 (B)(2) of these regulations, and to those required to receive notice under the provisions of the Act.

420 DECISION

The Commission must within forty-five (45) days after the completion of the public hearing, or any continuation thereof, approve, modify and approve, or disapprove such subdivision plan. The grounds for any modifications and the grounds for disapproval must be set forth in a written notice of decision. In the event that the Commission fails to act within such 45 days, the plan is deemed approved. Copies of the notice of decision of the Planning Commission (which may be minutes of the meeting at which the decision was rendered) are to be sent to the applicant. In addition, copies of the notice of decision are to be available at the Town Office.

ARTICLE V: MAJOR SUBDIVISION APPLICATION AND PROCEDURE

500 PRELIMINARY PLAN APPLICATION

Within six (6) months of receiving Concept Plan approval and classification as a major subdivision, the subdivider must submit a complete application for preliminary approval of the subdivision plan to the Administrator. If the application is not submitted within six (6) months, a new Concept Plan must be submitted for review in accordance with Article III of these regulations. The application for preliminary approval must contain those items set forth in Section 600 of these regulations, and must conform substantially to the layout approved by the Planning Commission during the Concept Plan review.

510 PUBLIC HEARING

A public hearing must be held by the Commission after submission of a complete application for preliminary approval. Said hearing is to be warned in accordance with the public notice provisions of the Vermont Planning and Development Act, and notice of the meeting is to be sent to abutting property owners as identified in Section 300 (B)(2) of these regulations, and to those required to receive notice under the provisions of the Act.

520 ACTION ON PRELIMINARY PLAN

The Commission must, within forty-five (45) days after the completion of the public hearing, or any continuation thereof, approve, modify and approve, or disapprove such plan. The grounds for any modifications and the grounds for disapproval must be set forth in a written notice of decision. In the event that the Commission fails to act within such 45 days, the plan is deemed approved. Copies of the notice of decision of the Planning Commission (which may be minutes of the meeting at which the decision was rendered) are to be sent to the applicant. In addition, copies of the notice of decision are to be available at the Town Office.

530 PHASING

At the time that the Commission grants preliminary plan approval, it may require that the Subdivision be divided into phases, and may impose such conditions upon the filing of applications for Final Plan approval for each phase as it deems necessary to assure the orderly development of the entire subdivision. The number and content of the phases are to be subject to approval by the Commission.

540 EFFECT OF PRELIMINARY PLAN APPROVAL

Approval of the Preliminary Plan does not constitute approval of the final subdivision plan. Prior to approval of the final subdivision plan, the Commission may require additional changes as a result of further study. The approval of a Preliminary Plan is effective for a period of one year. Any plan not receiving final approval prior to the expiration of one year from Preliminary Plan approval is null and void, and the subdivider must submit a new plan for preliminary plan approval, subject to all current zoning and subdivision regulations. The Planning Commission may, upon written request by the applicant, waive the one year deadline if the final plan approval is in process but not complete when the deadline is reached.

550 FINAL PLAN APPLICATION

Within six (6) months of Preliminary Plan approval, the subdivider must submit a complete application for approval of a final subdivision plan. The application must contain those items set forth in Section 610 of these regulations, and must conform to the layout shown on the Preliminary Plan, with any modifications recommended by the Commission.

560 FINAL PLAN HEARING

A public hearing must be held by the Commission after submission of a complete application for final approval. Said hearing is to be warned in accordance with the public notice provisions of the Vermont Planning and Development Act, and notice of the meeting is to be sent to abutting property owners as identified in Section 300 (B) (2) of these regulations, and to those required to receive notice under the provisions of the Act.

570 DECISION

The Commission must, within forty-five (45) days after the completion of the public hearing, or any continuation thereof, approve, modify and approve, or disapprove such plan. The Commission may attach such reasonable conditions to any approval as may be necessary to protect the public health, safety and welfare, or to implement the purposes of 24 V.S.A. Ch. 117 or these regulations. Such conditions must be noted on the Final plat. The grounds for any modifications and the grounds for disapproval must be set forth in a written notice of decision. In the event that the Commission fails to act within such 45 days, the plan is deemed approved. Copies of the notice of decision of the Planning Commission (which may be minutes of the meeting at which the decision was rendered) are to be sent to the applicant. In addition, copies of the notice of decision are to be available at the Town Office.

ARTICLE VI: APPLICATION SUBMISSION REQUIREMENTS**600 PRELIMINARY PLAN - MAJOR SUBDIVISION**

A preliminary plan is to consist of plans and drawings, plus written and other material as follows:

- A. Plans and drawings: (all plans and maps must be 24" x 36" in size and must include date, scale and true north arrow, name of the owner of the proposed subdivision, and name of the proposed subdivision). Where feasible, the information required below may be combined on the maps, provided that the maps are clear and legible. The scale of all plans is to be not more than 100 feet to the inch.
 - 1. A location map showing proposed roads and the relation of the proposed subdivision to adjacent property and the surrounding area. This is to be shown on an area map drawn to a scale of two and one half (2 $\frac{1}{2}$) inches to the mile.
 - 2. A complete perimeter survey of the proposed subdivision by a licensed surveyor. Such survey must show the names of all abutting property owners.
 - 3. A plan showing existing and proposed contour lines at the contour interval determined by the Planning Commission at the Concept Plan Review.
 - 4. A plan showing all lots numbered consecutively, and indicating the land area in each lot.
 - 5. Sketches from Concept Review showing the location and size of significant natural features such as woods, swales, waterways, ledges, swamps, etc.
 - 6. A map showing the natural features and site elements to be preserved as well as all existing roads and utilities that will serve the subdivision.
 - 7. Preliminary drawings of all proposed public improvements (roads, water systems, sewage systems, bridges, culverts, etc.).
 - 8. A map showing the location of all test pits and soil borings, along with an indication of where the data from such tests are presented.
- B. Written and other Material:
 - 1. The name and address of the owner of record of the land, and of the applicant, if different.

2. A list of one (1) addressed stamped envelope for each current owner of record of all abutting properties, which includes properties directly across any public or private right-of-way.
3. A list of waivers from these regulations, if any, requested of the Planning Commission.
4. Drafts of any covenants or other legal devices, used to preserve open or public lands, or to restrict the use of any lots.
5. Drafts of the charters of property owners' or tenants' associations, if any.
6. Documentation from the following Town departments that the subdivider's plans have been reviewed and are deemed acceptable. If additional improvements are required, they should be described in the documentation from the relevant department.
 - a) Police.
 - b) Fire
 - c) Roads
 - d) Sewer
 - e) Water
 - f) School (for residential subdivisions)
 - g) Recreation (for residential subdivisions)
7. Other materials and information as specified in any Subdivision Review Procedures adopted by the Planning Commission.

C. Staking out the Site.

The subdivider will be prepared, at the request of the Planning Commission, to stake out the property in such a manner that the Commission, on a site visit, can perceive and understand the layout and organization of the proposed subdivision.

610 FINAL PLAN - MAJOR AND MINOR SUBDIVISION

Final Plan submittal must include construction plans, drawings, written materials, and the final plat as follows:

- A. Plans and drawings: (all plans and maps must be 24" x36" in size and must include date, scale and true north arrow, name of the owner of the proposed subdivision, and name of the proposed subdivision.) Final plans and drawings must show all required improvements identified in Section 700 of these regulations. Where feasible, the information required below may be combined on the maps, provided that the maps are clear and legible. The scale of plans is to be not more than 100 feet to the inch.

- B. The final subdivision plat must consist of one or more sheets of drawings which conform to the following requirements: they must be clearly and legibly drawn on mylar or linen, on standard sheets of 18" by 24," suitable for recording under Vermont Statutes. Each sheet must have a margin of two (2) inches outside of the border lines on the left side for binding, and a one (1) inch margin outside the border on the remaining sides. The final plat must carry the following endorsement on the copy to be filed with the Town Clerk:

- N ***Approved by Resolution of the Development Review Board of the Town of Berlin, Vermont, on the day of , 20..... , subject to the requirements and conditions of said resolution.***

***Signed this day of , 20..... , by
Chairman.***

The final plat must conform to the preliminary plan (for major subdivisions) or concept plan (for minor subdivisions) as approved by the Planning Commission, with revisions requested by the Planning Commission. The final plat must show:

- a) Proposed subdivision name.
- c) The boundaries of the subdivision and its general location in relation to existing roads and other landmarks.
- d) Road names and lines, pedestrian ways, lots, reservations, easements and area(s) to be dedicated to public use.
- e) The length of all straight lines, the deflection angles, the radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each road.
- f) By proper designation on the Plan, all public open space for which offers of dedication are made, and all spaces for which title is reserved by the subdivider.
- g) Lots within the subdivision numbered consecutively, and indicating the land area in each lot.

b

- h) Corner Markers at all lot corners which are not required to have monuments.
- I) Monuments which are to be set at all corners and angle points of the boundaries of the subdivision, all road intersections, angle points in road lines, points of curve and such intermediate points as required by the Town.
- j) The location of all public improvements referred to in Section 610, plus the location of all devices or methods used for draining the subdivision.

C. Written and other materials:

- 1. The name and address of the owner of record of the land, and of the applicant, if different.
- 2. An appropriate performance bond, or other satisfactory security, to guarantee the completion of all public improvements and their maintenance for a period of two (2) years. In addition, the applicant must provide a certificate from the Board of Selectmen, or its designee, indicating that it is satisfied with the security proposed by the subdivider.
- 3. A Certificate of Title showing ownership of all property and easements to be dedicated to or acquired by the Town. In addition, a copy of a certificate of title insurance regarding said properties is required. Offers of Dedication, deeds and easements to the Town must also accompany the final application.
- 4. Final copies of any covenants or other legal devices used to preserve open or public lands, or to restrict the use of any lots.
- 5. Final copies of the charters of property owners' or tenants' associations, if any.
- 6. Minor subdivisions not required to go through preliminary approval must include documentation from the departments listed in Section 600 (B)(6) as may be requested by the Administrator.
- 7. Other materials as specified in any Subdivision Review Procedures adopted by the Planning Commission.

ARTICLE VII: REQUIRED IMPROVEMENTS

700 LIST OF REQUIRED IMPROVEMENTS

A. Improvements required for all subdivisions:

- 1. Monuments
- 2. Corner Markers

3. Roads, where new roads are included in the subdivision.
4. Road name signs, where new roads are to be provided.
5. Water mains, if the subdivision is to be served by the Town water supply system or by a common water supply system as defined in Article II of these regulations.
6. Sanitary sewers, if the subdivision is to be served by the Town sewage disposal system or by a common sewage disposal system as defined in Article II of these regulations.
7. Fire hydrants, if the subdivision is to be served by the municipal water supply system.
8. Storm drainage.

B. Improvements which may be required by the Planning Commission.

1. Sidewalks and pedestrian walkways, in accordance with Section 910 of these regulations.
2. Curbs and gutters, when underground storm drainage is to be provided.
3. Outdoor lighting, in accordance with Section 960 of these regulations.
4. Landscaping, in accordance with Section 810 of these regulations.

710 INSTALLATION AND DESIGN STANDARDS

All required improvements must be designed and installed in accordance with the design standards, development requirements, specifications and procedures set forth in these regulations and other applicable Town and/or State regulations and standards.

720 MODIFICATION OF DESIGN OF IMPROVEMENTS

Any changes or modifications made as a result of other regulatory reviews or made during construction must be resubmitted for review.

730 INSPECTION OF IMPROVEMENTS

At least seven (7) days prior to commencing construction of any required improvements, the subdivider must advise the Administrator in writing of when the construction is to begin. The Town may, at any time during construction, perform inspections to ensure that construction is completed in accord with all specifications and conditions required by the Commission's approval or other Town regulations. All improvements to be dedicated to a municipality must be certified as to satisfactory completion by a professional engineer. The Selectmen will not accept improvements which have not been so certified.

740 FINAL PLANS

Prior to the beginning of construction, the subdivider must provide to the Town one complete set of certified copies of State approved plans for the subdivision and all improvements. Such plans must include all changes made subsequent to review and approval by the Planning Commission.

750 MAINTENANCE OF IMPROVEMENTS

The subdivider is required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the Board of Selectmen, or until a homeowners' or tenants' association or other approved organization is established and assumes the maintenance responsibilities.

ARTICLE VIII: PLANNING STANDARDS

800 GENERAL STANDARDS

The Planning Commission must evaluate any major or minor subdivision in accordance with the following standards:

- A. Whether the land is unsuitable for subdivision due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding area.
- B. Whether the proposal includes due regard for the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources and historical resources.
- C. Whether the proposal includes sufficient open space for active and passive recreation designed in conjunction with the natural features identified in paragraph B, above, and which includes provision for elements of a community wide trail and walkway systems, where appropriate.
- D. Whether the proposal includes adequate provision for the control of runoff and erosion during and after construction.
- E. Whether the proposed development is in compliance with the Berlin Town Plan, Zoning Regulation, and any other bylaws in effect.
- F. Whether any portion of the proposed development is located in a flood plain.
- G. Whether the proposed development is compatible with surrounding properties.
- H. Whether the site is suitable for the proposed density.
- I. Whether the proposal contains adequate provision for pedestrian traffic in terms of safety, convenience, access to points of destination and attractiveness.

- J. Whether the proposed development, when viewed in the context of other development in the town, will place an unreasonable burden on the ability of the Town to provide municipal, educational, or governmental services and facilities.
- K. Whether there is sufficient water available for the reasonably foreseeable needs of the proposed development.
- L. Whether the proposed development will cause unreasonable highway congestion or unsafe conditions with respect to the use of roads and highways in the Town.

810 SITE PRESERVATION, LANDSCAPING, GRADING AND EXCAVATING

- A. **Existing Features** - The preservation of site amenities such as trees, brooks or drainage ways, historic sites, unique geologic features or any other unusual features which the Planning Commission feels are assets to the site and/or the community, must be accomplished, insofar as possible, through harmonious design and appropriate methods of construction.
- B. **Natural Cover** - Land must be subdivided and improved in reasonable conformity to existing topography in order to minimize grading and cut and fill, and to retain, to the degree possible, the natural contours so as to limit stormwater runoff and conserve the natural cover and soil.
- C. **Erosion and Sediment Control** - The smallest practicable area of land is to be exposed at any one time during development. The exposure shall be kept to the shortest practicable period of time. Land should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required by the Planning Commission to protect exposed areas. Sediment basins (debris basins, desalting basins or silt traps) must be installed and maintained during development to remove sediment and control runoff during construction. Permanent vegetation and erosion/runoff control structures must be installed as soon as practicable. Adequate permanent measures must be taken at culvert outfalls to prevent erosion and disruption of drainage ways.
- D. **Landscaping** - The Planning Commission shall require a detailed landscape plan. This plan shall address project screening and aesthetic considerations.
- E. **Excavation and Grading** - All excavation, filling and grading required for construction of improvements must be as specified by the Town. The entire area of work must be brought to the required elevations by excavation or filling. A minimum of four (4) inches of topsoil must be provided to cover finished grades and slopes. All roads must be graded from property line to property line to approved grades and cross sections.

- F. **Fill** - No stumps, wood, roots or other fibrous materials or refuse may be used as fill except in an area stipulated for no development. The Planning Commission may require the subdivider to submit evidence of boring and/or other soil investigations to determine the depth, composition and stability of the subgrade within road sections or where homes are to be located.

ARTICLE IX: DEVELOPMENT REQUIREMENTS AND DESIGN STANDARDS

900 ROADS

- A. In general, all roads are to be built to Town road standards and dedicated to the Town upon completion. If private roads are to be included in the subdivision, they must also be approved in writing by the Board of Selectmen prior to submission of the final subdivision plan.
- B. **Arrangement** - The arrangement of roads in the subdivision must provide rights-of-way for the continuation of roads on adjacent subdivisions and for proper extension of roads through adjoining properties which are not yet subdivided. Such layout must facilitate the provision, now or in the future, of fire protection and emergency services, smooth and efficient traffic movements, and public facilities such as sewers, water lines and drainage. Where, in the opinion of the Planning Commission, topographic or other conditions make such continuation or extension undesirable or impracticable, the above requirements may be modified.
- C. **Topography** - Streets must be logically related to the topography so as to produce usable lots, reasonable grades, and safe intersections in appropriate locations to serve the proposed uses of the land. Provisions must be made to control drainage from any road by an adequate storm water system.
- D. **Intersections** - Road intersections must be as nearly at right angles as possible, and no intersection may be at an angle of less than 80 degrees. Intersections must have applicable traffic signs (stop, caution, yield, etc.) Where required by the Planning Commission.
- E. **Road Jobs** - Four way intersections, with opposing legs more than ten (10) degrees from parallel, or with centerline offsets of less than 200 feet, are not allowed.
- F. **Road Names** - Roads must be identified by name on the proposed plan. Proposed roads which are obviously in alignment with existing roads are to bear the names of the existing roads. In no case may names of proposed roads duplicate names of existing roads within the Town of Berlin, irrespective of suffix, be it street, road, avenue, boulevard, drive, place court, or any other.
- G. **Road Name Signs** - Road name signs are required on all roads, public or private. For public roads, road name signs and posts are to be provided and installed by

the Town at the expense of the subdivider. For private roads, road name signs and posts are to be provided by the Town at the expense of the subdivider and installed by the subdivider.

- H. **Cul-de-Sacs** - Cul-de-Sacs, as defined in Article II, are permitted. The length of the road may not exceed ten (10) times the minimum required lot frontage for the district involved. The turnaround is to have a minimum right-of-way diameter of one hundred fifty (150) feet.
- I. **Temporary Dead End Roads** - Temporary dead end roads which are necessary due to construction phasing may be permitted, but may not exceed in length ten times the required minimum lot frontage for the relevant district, or 1,600 feet, whichever is shorter. Such roads must be equipped with a temporary turnaround which conforms to the standards for Cul-de-sacs. A temporary turnaround must be shown on the plan with a notation that the land outside of the normal road right-of-way will revert to the abutting property owners when the road is continued.
- J. **Access** - Adequate provision shall be made for general traffic access to the proposed subdivision. Entrances and exits for vehicular traffic must be designed to accommodate the expected traffic flows, and to provide smooth flows, controlled and coordinated turning movements, and minimal hazards to pedestrians. Paved access for emergency vehicles must be provided to within one hundred (100) feet of a principal entrance of multiple family dwellings, commercial, industrial, or institutional structures.
- K. **Two connections to public road system** - any subdivision expected to generate daily traffic of 500 trip-ends or more must have at least two connections with existing public roads. Any road with an average daily traffic of 500 trip-ends per day or more, must have at least two road connections leading to existing public roads. Any road with an average daily traffic of 250 trip-ends or more may be required to be paved.
- L. **Through Traffic** - Minor streets must laid out so that their use by through traffic is discouraged.
- M. **Access Roads** - Where a subdivision abuts or contains, a major road as defined in Article II, the Planning Commission may require frontage or service access roads to provide road frontage while minimizing access points to the major road.
- N. **Future Development** - Where a subdivision includes lots of at least twice as large as the minimum size allowed in the zoning district in which it is located, the Planning Commission may require roads and lots to be laid out so as to permit future re-subdivision in accordance with these regulations.
- O. **Road Design** - The following design standards apply to all roads.

Description	Type of Road	
	Major	Minor
Minimum Right-of-way width	70'	60'
Minimum Pavement width	34'	30'
Sidewalk width	5'	5'
Esplanade width	5'	5'
Maximum Centerline Grade	8%	10%
Minimum Centerline Grade	.5%	.5%
Minimum Centerline Radius	250'	125'
Minimum tangent between curves of reverse alignment	200'	100'
Roadway Crown	1/4" per ft	1/4" per ft
Minimum angle of street intersections	80 degrees	80 degrees
Maximum Grade at Intersection (within 75' of intersections)	2%	3%
Minimum ROW radius at intersection	20'	15'

Minimum safe sight-distances for Roads and driveways as required by the Berlin Zoning Regulations.

P. **Road Construction** - The following construction standards apply to all roads:

Road Materials	Minimum Thickness of Material After Compaction		
	Major Road	Minor Road (paved)	Minor Road (gravel)
Aggregate Subbase Course (Maximum sized stone - 6")	18"	18"	As required by current State of VT Act A-76 Standards
Crushed Aggregate Base Course	3"	3"	"
Hot Bituminous Pavement			"
Total Thickness (after compaction)	4"	3"	"
Surface Course (after compaction)	1 _ "	1"	"
Base Course (after compaction)	2 _ "	2"	"

910 SIDEWALKS AND CURBS

A. **Sidewalks** - Sidewalks or other pedestrian walkways may be required by the Planning Commission where it is deemed necessary to safely accommodate pedestrian circulation within the subdivision or from the subdivision to other points of interest such as schools, parks, shopping areas, etc. When located in the Town Right-Of-Way, construction of sidewalks or walks must meet the following minimum standards:

1. Bituminous Sidewalks.
 - a. The crushed aggregate base course not less than eight inches thick.
 - b. The hot bituminous pavement surface course not less than two inches after compaction.

2. Portland Cement Concrete Sidewalks.
 - a. The sand base not less than six inches thick.
 - b. The Portland Cement concrete must be reinforced with six inch square, number 10 wire mesh and may be no less than four inches thick.

B. **Curbs** - In general, curbs and gutters must be provided where sidewalks are provided with road rights-of-ways. However, if stormwater drainage from the road is not accommodated by underground drainage, curbs and gutters may not be required, and adequate provision must be made to protect the sidewalks from surface drainage and runoff.

920 LOT LAYOUT

- A. Lots must be laid out in such a way that they can be developed in full compliance with the Town's Zoning Regulations giving consideration to topography, soils and drainage conditions, unless otherwise permitted by these regulations or by the Zoning Regulations.
- B. The Planning Commission may require lots larger than specified in the Zoning Regulations where it deems necessary because of conditions affecting drainage, sanitary sewage disposal, water supply, or access.
- C. Corner lots must be of sufficient dimensions so that any structure placed thereon conforms to the front yard setbacks required on each street by the Zoning Regulations.
- D. Reserve strips controlling access to road and other utility rights-of-way are prohibited except where their control is placed in the Town under conditions approved by the Planning Commission.
- E. Lots without required frontage on a public road, waterway or approved private road are not permitted. However, easements may be approved by the Commission to serve no more than two lots where the shape of the original parcel makes the provision of public or private roads impracticable.
- F. All lots must be suitable for the purpose for which they are intended to be used, and no area which is dangerous or injurious to health, or which is subject to periodic inundation, may be subdivided into lots for residential purposes.
- G. Side lot lines, insofar as practical, must be at right angles to the road on which the lot faces, or radial to curved road lines. When such an arrangement is not possible, the angle between the side lot line and the road line shall be shown on the plan.

930 PEDESTRIAN ACCESS

- A. The Planning Commission may require permanent pedestrian easements ten (10) feet in width in locations as follows:
1. Through blocks 600 feet or more in length.
 2. As continuations of cul-de-sacs.
 3. In conjunction with utility easements where such will facilitate pedestrian circulation within the subdivision.
 4. Where appropriate to facilitate pedestrian access to other points of interest such as schools, parks, shopping areas, etc.
 5. Where appropriate to become elements in a larger pedestrian walkway network.

940 WATER SUPPLY

- A. Off-Site - If the subdivision is to be served by a Municipal Water supply system, the subdivider must design and install the system in accordance with all applicable Town and State regulations, and must dedicate the system to the Municipality.
- B. On-Site - On site water supply systems are to be either individual systems or a private common water supply system if feasible. Due consideration in the location of either is to be given with respect to building sites, roadways, septic systems, floodwater levels or other factors affecting the potability of the water supply. Where a private common water supply system is to be built, it must be designed and installed in accordance with all applicable Town and State regulations, and must be designed in such a way that it may eventually be connected to the Municipal water system and dedicated to the Municipality.
- C. FIRE PROTECTION - The subdivider is responsible for providing fire hydrants or other adequate protection in all subdivisions served by a municipal water supply systems or by a private common water supply system. The location and spacing of hydrants, water pressure levels and all other aspects of the fire protection system must be designed and installed in accordance with all applicable codes.

950 SEWAGE DISPOSAL

- A. Off-Site - When the subdivision is to be connected to the Town's sewage disposal system, the subdivider is required to provide all connections, collection lines, pumping and other facilities as may be necessary. The Planning Commission may require the subdivider to install, at no expense to the Town, larger lines, pumping and other facilities outside of the subdivision if the sewer service would otherwise be inadequate to serve the subdivision. All facilities must be designed and constructed in conformance to applicable Town and State codes, and must be approved by the Sewer Commission, and must be designated as public sewers, and must be dedicated to the Town.
- B. On-site - On-site sewage disposal systems are to be either individual systems or a private common sewage disposal system. Due consideration in the location of either is to be given with respect to building sites, roadways, septic systems, floodwater levels or other factors affecting the ability of the system to function satisfactorily or the probability that it will contaminate potable water supplies. All on-site sewage disposal systems are to be built, and installed in accordance with all applicable Town and State regulations. On-site common sewage disposal systems must be designed in such a way that they may eventually be connected to the Town sewage disposal system, if feasible.

960 STORM DRAINAGE

- A. Removal of Surface Water - The subdivider is to remove, either by pipe or by open ditch, any surface water that may exist as a result of the subdivision. However, substantial alterations to existing surface water drainage systems simply for the purpose of development may not be undertaken. Such drainage facilities must be located in road rights-of-way where feasible, or in perpetual unobstructed easements not less than twenty (20) feet in width, and must be designed to standards approved by the Town. Natural waterways and drainageways must be incorporated into the design or drainage systems to the fullest extent possible.
- B. Responsibility for Downstream Drainage - The subdivider's engineer must provide such information as the Planning Commission deems necessary to determine the effect of the subdivision on the existing downstream drainage facilities outside of the area of the subdivision. Where the Commission anticipates that the additional runoff incident to the development of the proposed subdivision will overload an existing downstream drainage facility so that there will be damage to private property or an increase in the expenditure of public funds, the subdivider must make the improvements necessary to prevent such overload. Such required improvements may be on or off the subdivision site.

970 MONUMENTS AND CORNER MARKERS

- A. Permanent right-of-way monuments must be set at all road intersections and at all angles and curves or other critical points in road lines as will enable a land surveyor to stake out correctly any lot in the subdivision. Each monument is to be a precast concrete (containing an iron rod) or stone post, 4" x 4" at the top, by 48" long. The top must have a center mark which shall be the point of reference. The monuments are to be set in place after all other road improvements are completed.
- B. Lot corner markers must be set at corners and angle points of all lots, plots or parcels, and must be located in the ground at finished grade.

980 PARKLAND AND SCHOOL SITES

- A. The Planning Commission, pursuant to Section 4417 of the Act, may require as a condition to subdivision approval, the dedication of land (or payment of a fee in lieu thereof) for public recreation and school purposes. In making its determination, the Commission shall consider the following:
 - 1. The size of the proposed subdivision.
 - 2. The physical suitability of the subdivider's land for use as parkland or a school site.
 - 3. The minimum area required for such purpose.
 - 4. Whether use of the subdivider's land for such purposes would conform to the Town's recreation plans or the School District's school facility plans.
 - 5. The need for school sites or parkland created by the proposed subdivision.

ARTICLE X: GENERAL PROVISIONS

1000 FEES

Upon submission of an application for minor subdivision approval, major subdivision preliminary approval, or major subdivision final approval, the subdivider must pay an application fee as established by the Board of Selectmen for the administration of subdivision review.

1010 NUMBER OF COPIES

Four (4) copies of all application materials required under these regulations shall be submitted.

1015 ATTENDANCE AT PUBLIC MEETINGS

The subdivider, or the subdivider's duly authorized representative, must attend all public meetings and hearings required under these regulations for the purpose of reviewing the subdivider's application. This includes any public meetings or hearings which are continued to a specified time and date. The Commission may disapprove the subdivider's application in the absence of such attendance.

1020 ACCEPTANCE OF ROADS AND OPEN SPACE

The approval of the final Plat, or the filing for record of the final plat does not constitute evidence of acceptance of any road, park, or other open space shown on such plan. Such acceptance may only be by resolution of the Board of Selectmen.

1030 FILING OF APPROVED PLAT

Filing of the approved Final Plan must be in accordance with the provisions of the Act.

1040 PLAT VOID IF REVISED AFTER APPROVAL

No changes, erasures, modifications, or revisions may be made on any subdivision plan or plat after it has been given final approval by the Planning Commission, and such approval has been endorsed in writing on the final plat, unless said final plan and plat are resubmitted to the Commission and the Commission approves such modifications after public hearing. In the event that a final plat is recorded without complying with this requirement, said final plat is null and void.

1045 APPLICATION FORMS

All applications required under these regulations must be submitted on forms furnished by the Administrator.

1050 SUBDIVISION WAIVERS

A. The Planning Commission may waive or vary, subject to the appropriate conditions, the provision of any or all improvements and requirements if, in its judgement, the special conditions of a particular subdivision make the said improvements or requirements unnecessary in the interests of public health, safety, and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities near or adjacent to the subdivision.

- B. In granting such waiver, the Commission must require such conditions as will, in its judgement, secure substantially the objectives of the requirements so waived.
- C. It is the responsibility of the subdivider to meet the requirements of these regulations or to provide such information as may be necessary for the Commission to reach a decision regarding proposed waivers of such requirements.
- D. In no case may waivers approved under this section constitute a waiver of the provisions of the Berlin Zoning Ordinance or any other bylaws or ordinances in effect, with the exception of these Subdivision regulations.

1065 APPROVAL CONDITIONS

Orders and findings by the Planning Commission which contain stipulations and/or conditions affecting approvals pertaining to any lot, tract or parcel of land must be entered on the original mylar recording the subdivision and indexed to the record owner of said parcel. Recording fees must be paid by the subdivider.

ARTICLE XI: ADMINISTRATION AND ENFORCEMENT

1110 APPEALS

Appeals from decisions of the Commission are in accordance with the provisions of Section 4475 of the Act.

1120 ENFORCEMENT AND PENALTIES

- A. No land development, improvements, additions, buildings, structures, or changes of use may be undertaken on any lot, tract, or parcel of land subdivided out of a larger parcel, and no zoning permit or occupancy permit may be issued therefore, until said subdivision has been approved by the Planning Commission under these regulations.
- B. Any person who violates any of the provisions of these regulations, or fails to construct an approved subdivision according to the approved plan, is to be fined not more than fifty dollars (\$50.00) for each offense; and each day that the violation continues is 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 thereon without first having recorded a duly approved final plan under these regulations is to be fined not more than fifty dollars (\$50.00) per offense, and each lot, parcel or unit so sold or transferred; and each day that such violation continues is a separate offense.

- D. Nothing herein is deemed to bar any other legal or equitable remedy, provided in the Act or otherwise, to restrain, correct or prevent any violation of these regulations or to prosecute violators thereof.

1130 EXPIRATION OF APPROVAL

- A. The Planning Commission, in granting final approval, may include an agreed upon phasing plan. Such phasing plan can be amended only on approval of the Commission after a public hearing.
- B. If the roads (except for final paving), utilities or any other improvements required for any phase are not completed by the completion date specified in the agreed upon phasing plan, the final plan approval becomes null and void. In such an event, all work on the project must cease until such time as a new subdivision application has been submitted and has received final plan approval from the Commission.
- C. If good cause is shown for the delay of the project, an extension of up to one year in the completion dates specified in the agreed upon phasing plan may be granted by the Planning Commission.

1140 SAVING PROVISION

These regulations may be construed as abating any action now pending under or by virtue of prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the Town under any section or provision of regulations existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm or corporation by lawful action of the Town, except as expressly provided for in these regulations.

1150 SEVERABILITY

The invalidity of any provision of these regulations does not invalidate any other part of these regulations.

1160 AMENDMENTS

Amendments to these Subdivision Regulations are to be made in accordance with the Act.

1170 IMPLEMENTATION

- A. These regulations take effect according to the Act.

- B. All subdivision regulations and interim subdivision regulations heretofore in effect in the Town of Berlin are deemed repealed upon the effective date of these regulations.

Clerk's Certification

I, Dorothy B. Hartman, Town Clerk of Berlin, Vermont, do hereby certify that the attached is a true copy of the Berlin subdivision Regulations duly published, posted, considered, and adopted. Said subdivision regulations were adopted by a vote of the Town on March 7, 1989.

Berlin Town Clerk

Date

(s /Dorothy Hartman, March 24,1989)