



# Subdivision Regulations

## Overview

Of all the tools used by municipalities to implement their municipal plans, zoning and subdivision regulations are the most common. According to the most recent municipal survey by the Vermont Department of Housing and Community Affairs, over half of Vermont municipalities have adopted subdivision regulations.

While zoning regulations address the type and density of development allowed within a community, subdivision regulations control the pattern of development—the way land is divided up to accommodate land uses and supporting infrastructure such as roads and utilities. Subdivision regulations may be adopted in the absence of zoning, but are most effective when tied to related dimensional and density requirements typically found in zoning regulations.

In the simplest sense, subdivision regulations are meant to ensure that the division of land into smaller units results in lots or parcels that are useable and safe and reflect the physical characteristics of the site.

In practice, subdivision regulations can be used to ensure that:

- new lots are laid out according to local standards, including applicable zoning standards, to avoid the cre-



**Subdivision regulations control the pattern of development by creating rules for the way land is divided and infrastructure is provided. This subdivision sketch shows a village parcel just below the town green in Shoreham with new house lots designed to reflect historic patterns of development. In a rural setting, desired subdivision patterns might focus instead on preserving open space and natural resources.** Design and drawing by ORW Landscape Architects and Planners, for the Vermont Neighborhoods Project, courtesy of the Vermont Forum on Sprawl.

ation of nonconforming or oddly shaped lots and, where appropriate (for example, within downtown, village, or historic districts), to reflect traditional settlement patterns;

- each lot has adequate access for its intended use and, where appropriate, for emergency vehicle access;
- new roads, sidewalks, and pedestrian paths, whether public or private, effectively connect to existing and planned roads in the surrounding area;
- there is adequate provision for potable water supply, wastewater

treatment/disposal and stormwater management systems, and park or recreation areas and that these and other utilities and improvements are provided in a timely and efficient manner; and

- significant natural, cultural, and scenic features are protected.

## Application

In Vermont, subdivision regulations are authorized under Chapter 117 to implement the municipal plan as a separately adopted bylaw, or as part of a “unified development regulation” that includes zoning regula-

### Subdivision Definition

24 V.S.A. Chapter 117

**Land Development** (§4303): The division of a parcel into two or more parcels.

**Subdivision** (§4418): The division of a lot or parcel of land into two or more lots or other divisions of land for sale, development, or lease.

## Required Provisions

24 V.S.A., §4418

There are four provisions required in statute for subdivision bylaws:

- Procedures and requirements for design, submission, and processing of plats;
- Standards for the design and layout of all public facilities;
- Standards for the design and configuration of parcels or lots; and
- Standards for the protection of natural and cultural resources and open space.

tions. Given the statutory definition of land development, a few municipalities choose to regulate subdivisions under their zoning regulations as a type of land use that requires site plan or conditional use approval. Subdivision regulations in any form must conform to an adopted municipal plan. (See related topic papers.) Subdivision regulations are prepared or reviewed by the planning commission for adoption by the legislative body or municipality following warned public hearings.

**Definition.** The Chapter 117 definition of subdivision (§4418) covers more than simply the division of a parcel of land, it allows local jurisdiction over large developments that include leased space, such as apartment complexes and shopping centers. It's not uncommon for municipalities to define subdivisions to include multifamily housing developments, shopping centers, mobile home and industrial parks, or condominium developments. Subdivision review is one of the most comprehensive processes available for local permit review, so defining types of projects that require significant community impacts and public services as "subdivisions" and thus subject to subdivision review can make sense.

**Procedures.** Subdivision regulations also must establish standards and procedures for the review, approval, modification, or disapproval of proposed subdivision plats and be

administered in accordance with statutory requirements for public hearings, notice procedures, decisions, and the filing of approved plats. Regulations are administered by the appropriate municipal panel as specified in the regulations—typically the planning commission or development review board. The municipality may also authorize and assign staff to assist the commission or board in its work.

It's not uncommon for local subdivision regulations to differentiate between small or minor subdivisions (for example, of fewer than four lots) and larger, major subdivisions and to establish abbreviated review procedures for smaller projects.

Subdivision regulations must define the local review and approval process, including the timing and sequence of subdivision review in relation to other applicable review procedures (for example, site plan, conditional use, or planned unit development review). Subdivision review must include at least one fully noticed public hearing, but may include additional steps, as specified in the regulations.

For example, many regulations call for a two- or three-step process to include:

- *Sketch plan review*, which is an informal, conceptual, or preapplication review that allows the subdivider and review panel to explore different approaches to subdivision design, and offer some indication that a proposal can be developed in conformance with applicable local regulations. This step is often used to classify a subdivision as major or minor.
- *Preliminary subdivision review*, which is intended to provide the review panel with more specific information to determine conformance with local regulations and to provide additional guidance to the subdivider before the submission of a final application. This step generally applies only to major subdivisions, which tend to be more complex, and includes a warned public hearing. In practice,

most of the work involved in developing the subdivision design takes place in preparation for preliminary review. At this point, the reviewing body will generally approve, approve with conditions, or deny the proposed subdivision. If the development is not denied, the next step is to finalize all the plans and supporting materials and submit them for final approval.

- *Final subdivision review*, which includes a final subdivision plan and plat approval to ensure that the proposed subdivision conforms to all applicable regulations and which, where applicable, adequately addresses issues raised during preliminary review. This applies to both minor and major subdivisions and must include a warned public hearing.

In all cases, the subdivision regulations must specify exactly what must be submitted for each step in the review process and what effect related board or commission determinations will have for the next stage in the review process.

**Standards.** The decision to approve, approve with conditions, or deny a proposed subdivision must be based on clear standards included in the bylaws. In addition to administrative procedures and requirements, local subdivision regulations often include the following sections, in some form:

- *General planning standards*, which are intended to ensure that the pro-

### A Look Back at Land Subdivision in Vermont

Most municipal charters in Vermont, when initially granted, subdivided towns into "divisions" and "draughts" (or lots) of generally equal proportion, with no consideration for local topography. They also set aside land for public and religious use, including church and school lots and, in some cases, timber stands or other resource lands that were reserved for the crown.

posed subdivision conforms to the municipal plan and local zoning regulations and is consistent with traditional or anticipated development patterns. Planning standards often address such issues as the protection of scenic and natural features, relationship to topography and waterways, access and connection to local road systems, provision for and connection to local and regional trail systems, and so on. These may also include density reductions or bonuses, for example, to limit adverse impacts to designated conservation or resource lands, to encourage or require the set aside of open space, to promote the development of affordable housing, or to provide incentives for the dedication of land for public access and use.

- *Specific design standards*, which may include detailed requirements for the layout of lots, blocks, roads, and pathways; the placement of lot markers and survey monuments; the construction and installation of roads, curbs, sidewalks, utilities, and water, wastewater, and stormwater management facilities; the layout of recreation, common, or open space areas; and landscaping.
- *Alternative design standards*, which, for example, may include requirements for “cluster” or “open space design” to protect natural resources and open space in rural zoning districts; traditional neighborhood design to require more compact, higher-density development within downtowns, villages, and new town centers; or transit-oriented design to allow for higher densities around designated public transit centers. These types of standards are often, but not necessarily, applied in conjunction with the review of planned unit developments. Alternative subdivision designs are covered in more detail in related topic papers.

**Recording Requirements.** The regulations should clarify that subdivisions must satisfy all applicable standards to be approved and recorded in the land records of the community.

The decision to approve or deny a subdivision must be made within 45 days of the date of final hearing adjournment. Subdivision approvals are a type of “municipal land use permit,” as defined under Chapter 117, which must be recorded in the municipality’s land records within 30 days of the date of approval. Under Chapter 117 (§4463), however, subdivision approval, once granted, expires unless the final subdivision plat is filed in the municipality’s land records within 180 days of approval. The regulations may allow the administrative officer to grant a 90-day extension if other local or state approvals are still pending.

Subdivision plats must meet both state survey plat recording requirements (under 27 V.S.A. Chapter 17) and any local requirements specified in the regulations. For example, most municipalities require one or more signatures of the review panel to indicate that the plat has been recorded as approved. Some municipalities also require the submission of plats in a compatible digital format for use in updating their tax maps or official maps.

## Related Considerations

**Administrative Review.** The regulations may provide for review by the administrative officer of exemptions from the regulations, as noted below, or minor amendments to approved subdivisions that do not have the effect of altering the findings or conditions of approval. The regulations must specify the thresholds and conditions under which administrative review will be allowed, as required under Chapter 117 (§4464).

**Exemptions.** There are some land transactions that technically involve the division of land, but are often exempted by municipalities from subdivision review. For example, these may include:

- a boundary or lot line adjustment where a small portion of land is

## What about Public Works Standards?

Other applicable local design standards for new development—for example road standards, or the more comprehensive public works standards adopted by larger municipalities—should be referenced in the subdivision regulations and care taken to avoid conflicts between any standards in the subdivision regulations and other town requirements. All local design requirements for development should be reviewed and updated periodically to conform to municipal plan recommendations for access and safety, relative cost, and their affect on community and neighborhood character.

transferred from one parcel to the adjoining parcel by simply moving the interceding lot boundary, but no new lot is created, or

- the subdivision of a large tracts of farm- or forestland only to allow for the transfer of ownership and facilitate continued agricultural or forestry use.

Such adjustments or subdivisions can either be excluded from the definition of subdivision or addressed through an administrative review process. In either case, provision should be made for some type of review to make sure that local requirements are met and no nonconforming lots are created and for filing new lot boundaries in the land records.

**Optional Provisions.** Chapter 117 (§4418) lists a number of optional provisions that may be included in local subdivision regulations, including:

- provisions for the review panel to waive preliminary review procedures and some or all required improvements,
- standards to promote energy conservation, and
- the incorporation of state Act 250 review standards.

**Phasing.** As authorized under Chapter 117 (§4422), subdivision regulations also may include requirements that development be phased in

## Official Map in Subdivision Review

24 V.S.A., §4421

Municipalities can map the locations of future roads, parks, schools, and other public facilities through an official map. If subdivision is proposed on a parcel with a mapped facility, the applicant must demonstrate that the mapped public facility, such as a trail or a through road, will be accommodated by the project, or the project may be denied.

This is a powerful tool for municipalities to use in ensuring that the roads, trails, drainage, and other corridors that are created as part of new development eventually interconnect in a logical way. (See topic paper, Official Map.)

If the municipality has adopted an official map, a plat automatically becomes part of the official map through the recording process, and the official map should be updated accordingly.

over time as needed to avoid or mitigate undue impacts to existing or planned community facilities and services. The phasing of development must be tied to the timing of construction or installation of necessary public facilities or services, in conformance with an adopted capital budget and program.

**Performance Bonds and Development Agreements.** Many subdivisions require the construction of substantial improvements such as streets, water and sewer lines, and so on. It is often unreasonable to require that these be constructed prior to actual approval. As an alternative, many communities allow the posting of performance bonds or other forms of surety that cover the full cost of required improvements and maintenance for up to two years after installation—in the event that they aren't completed by the developer. Chapter 117 (§4464) sets a three-year limit on performance bonds, unless the owner

agrees to extend the period for up to three more years. A few municipalities also use development agreements—entered into between the developer and the legislative body—that more specifically govern the timing, financing, and coordination of public and private improvements in accordance with the terms of subdivision approval.

### Planned Unit Development.

Subdivision regulations typically refer to applicable zoning standards to regulate lot size and density. In some cases, however, a municipality will decide that effective implementation of its municipal plan calls for more flexibility in the design of subdivisions, for example, to conserve open space, protect natural or scenic resources, or allow for higher densities of development to make affordable housing, walkability, or public transit viable. Chapter 117 allows local zoning to include provisions for planned unit developments, which, when applied concurrently with subdivision regulations, allow for the modification or waiver of applicable dimensional requirements. (See topic paper, Planned Unit Development.) Planned unit development provisions are especially useful for clustering development on the most buildable portions of the site and may include additional density and design standards that vary by the type(s) of development proposed, or the zoning district(s) in which developments are located.

**Summary.** Subdivision regulations are a very effective tool for both implementing various aspects of the municipal plan and for ensuring the creation of safe, useable lots that are adequately documented in local land records.

There are many examples of local subdivision regulations available online. Follow links at [www.vpic.info](http://www.vpic.info) or contact your regional planning commission for assistance.