TOWN OF WINDHAM

SUBDIVISION REGULATIONS

First Adopted: February 1965
Revised to: February 17, 2011

Note: Pursuant to the 2007 Charter Revisions, and an ordinance adopted by the Board of Selectmen in 2009, the separate Planning Commission and Zoning Commission were combined as the Windham Planning & Zoning Commission. Thus, wherever the term: ‘Planning Commission’ appears, it now means the Planning & Zoning Commission, and they now exercise the authority over these regulations.
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Town of Windham Subdivision Regulations Revised Effective February 17, 2011
SECTION 1. INTRODUCTION

1.1 Authority
These Subdivision Regulations are adopted by the Windham Planning Commission in accordance with Chapter 126 of the Connecticut General Statutes as amended.

1.2 Purposes
These Regulations are adopted for the following purposes:

1.2.1 To protect and provide for the public health, safety and general welfare of the Town.

1.2.2 To guide the future growth and development of the Town, in accordance with the Plan of Conservation and Development.

1.2.3 To provide for adequate light, air and privacy; to secure safety from flood hazard, and other danger.

1.2.4 To encourage the orderly and beneficial development of all parts of the Town.

1.2.5 To guide public and private policy pertaining to the proper subdivision of land so that there is adequate and efficient circulation, utilities, open space, parks and other facilities.

1.2.6 To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and highways, and to the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets.

1.2.7 To establish reasonable standards of design and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land; and to ensure proper legal descriptions and monumenting of subdivided land.

1.2.8 To ensure public facilities are available and will have a sufficient capacity to serve the proposed subdivision.

1.2.9 To prevent the pollution of streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the Town.

1.2.10 To preserve the natural beauty and topography of the Town to ensure appropriate development with regard to these natural features.

1.2.11 To provide for Open Spaces through the most efficient design and layout of the land while preserving the density of land, as established in the Windham Zoning Regulations of the Town.
SECTION 2. DEFINITIONS

For the purpose of these Regulations, certain terms or words shall be defined as below. Words in the present tense include the future, the singular number includes the plural, and vice versa. The word “lot” includes the word “plot”. The word “building” includes the word “structure”. The word “shall” is mandatory, and not directory. The word “used” shall be deemed also to include “designed, intended or arranged to be used”. Unless otherwise specified, all distances shall be measured horizontally.

Abutter: The owner of record of any property adjacent to the subject property including properties across a street or other right-of-way.

Active Recreation: Activities that require either (1) the use of a playing field or playground; (2) the installation of buildings or other structures; or (3) the substantial modification or grading of a tract of land.

Applicant, Subdivider or Developer: An individual, partnership, firm, corporation, legal entity or agent thereof, who applies to the Commission for approval of a subdivision or re-subdivision of land or any activity included in these Regulations. Written consent shall be required from the legal owner of the premises when the Applicant is other than the owner.

Application: A request for approval of a specific subdivision plan, including an application form as may be prescribed by the Commission, accompanied by all supporting information, documents, reports, and the like which may be required by these Regulations.

BMP: Best Management Practices.

Bond: A type of surety or collateral posted by the applicant which guarantees that all required improvements shall be completed as per the approved plans and these Regulations.

Bonus Lot/Lot Yield Bonus: A lot created pursuant to a Maximum Lot Yield bonus in accordance with the provisions set forth in Section 6 of these Regulations.

Bubble Diagram or Map: A generalized drawing, usually created on trace paper during a preliminary sketch meeting, indicating areas for specific uses.


Common or Shared Driveway: A driveway serving multiple residential lots.

Conservation Easement: A conservation restriction pursuant to Connecticut General Statute 47-42(a), stated in the form of an easement.

Conventional Subdivision-Residential: A subdivision based on the standards of the Windham Zoning Regulations Sections 21-27, and Section 78.

Critical Watershed: Areas defined by possessing one or more of the following characteristics: land within 250 feet of a reservoir or public water supply diversion; land within 100 feet of a tributary stream; wetlands associated with tributary streams; land subject to stream overflow; and land with slopes 15% or greater without significant interception by wetlands, swales and natural depressions between the slope and the watercourse.

Cul-de-sac: A street, or a portion of a street, with only one vehicular outlet with a turn around of adequate dimensions at the closed end.
Date of Receipt: The day of the first regularly scheduled meeting of the Commission immediately following the day of submission of the Application to the Commission, or its agent, or thirty-five (35) days after such submission, whichever is sooner.

Development: Any man-made change to improved or unimproved land.

Disturbed Area: An area where the natural vegetative ground cover is destroyed, moved or removed leaving the land subject to accelerated erosion.

Double Frontage Lot: A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries.

Dwelling Unit: A building, or part of a building, designed for occupancy, and so occupied, by one family. A room or group of rooms located within a building forming a habitable unit for one family.

Easement: The permanent right of one party to use a designated portion of a second party’s land for a limited purpose, including the right to enter the property for maintenance.

Erosion: The detachment and movement of soil or rock by water, wind, ice or gravity.

Formal Application: A map, drawings, and all supporting data and applicable fees presented as a complete and accepted legal application package for a proposed subdivision to be acted on by the Commission.

Flexible Design Subdivisions: A method of subdivision design that allows the flexibility necessary to design a street and lot layout based on the opportunities and constraints of each unique parcel of land being subdivided, with the same number of lots as a conventional subdivision, but smaller in sizes, resulting in a significant area of open space.

Formula Method: A calculation to determine the maximum number of lots that would be permitted for a conventional subdivision in the applicable zoning district.

Grading: Any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials for a proposed development.

Impervious Surface: A surface other than a natural surface that sheds water from its surface and redirects the flow to another area. Examples are roofs, pavement and compacted surfaces.

Improvements: All things constructed or placed within the subdivision including, but not limited to, the following:

a. Roads, streets, alleys, driveways, common driveways, access ways, entrances into rights-of-way, street signs and lights.

b. Grading, slopes, retaining walls and monumentations.

c. Sidewalks, crosswalks, pedestrian paths and bicycle paths.

d. Stormwater systems.

e. Water mains, utility pipes and utility conduit lanes.

f. Loaming, landscaping, tree planting and erosion control measures.

LID: Low Impact Development.

Loam or Topsoil: A rich, easily pulverized soil, consisting of a mixture of varying proportions of clay, sand and organic matter capable of supporting cultivated vegetation.
Local Street /Neighborhood Street: A street that provides access only to homes within a single neighborhood. They may include dead-end roads without future interconnection potential and other roads that will not create inter-neighborhood shortcuts.

Loop Street: A street having only one outlet to a through State or Town road that curves back to intersect with itself.

Lot: A lot is defined as one of the following:
   a. A parcel of land which conforms to the area, shape and frontage requirements of the Windham Zoning Regulations;
   b. A building lot shown on a subdivision map approved by the Windham Planning Commission and recorded in the land records of the Town of Windham; or,
   c. A parcel of land, which is owned, separately from any adjoining lot or lots as evidenced by deed or deeds recorded in the land records of the Town of Windham.

Maximum Lot Yield: The maximum number of building lots allowed in the subdivision of a particular parcel.

Monument: A granite or reinforced concrete post used to designate the legal limits of a street right-of-way or other boundary of Town owned land.

Neighborhood Street/Local Street: see Local Street/Neighborhood Street

Open Space: Any land which may include, but not be limited to, areas left in their natural, undisturbed state; agricultural or other land for which the development rights have been assigned to the state, the town, or a land trust; area for non-commercial, non-profit recreation; scenic areas; and similar areas for wildlife habitat, passive and active recreation, groundwater recharge, or other similar purpose. Open Space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

Passive Recreation: Recreational activities that do not require either (1) the use of a playing field or playground; (2) the installation of buildings or other structures; or (3) the substantial modification or grading of a tract of land. The installation of a building or structure in connection with a particular recreational activity shall not, in and of itself, cause the activity to be classified as “active” if the building or structure was not necessary to allow the activity to occur. For example, the installation of posts, signs, or water fountains along a hiking trail will not cause hiking to be deemed an active recreational use.

Performance Bond: A bond, furnished to the Town by the developer, to be used to complete subdivision improvements if the developer does not complete the improvements as promised, as required and/or as indicated in the application.

Plan: The subdivision plan including maps, profiles and all supporting documents.

Pre-Application Review: An optional, but strongly encouraged, preliminary step in the subdivision process that includes a sketch plan followed by a preliminary layout.

Preliminary Layout /Plan: Any plan prior to the formal application.

Private Way: A right of way for access to individual house lots that does not serve the public as a whole nor function within the Town’s overall comprehensive transportation policy.

Rear Lot: A lot or parcel of land that does not have adequate frontage on a street or road and is accessible only by a permanent, unobstructed right of access.
Recreational Corridor: A network of existing and future trails which may connect and/or be part of existing and proposed Open Space lands including those trails shown in the Windham 2008 POCD map 18, or in the Windham Resource Inventory maps.

Reserve Strip: Land set aside for dedication to the public upon further development. Reserve strips may include land to be used for streets, street connections, pedestrian ways, parks, or other land dedicated to public use.

Resubdivision: A change in the map of an approved or recorded subdivision or re-subdivision that:
   a. Affects any street layout shown on such map;
   b. Affects any area reserved for public use; or,
   c. Diminishes the size of any lot shown and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of such map.

Right-of-way: A strip of land occupied or intended to be occupied, now or in the future, by a street, driveway, common driveway, private way, walk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or other special use.

Road/Street: A term used interchangeably.

Sediment: Solid material, either mineral or organic, that in suspension is transported, or has been moved, from its site of origin by erosion.

Sketch plan: An initial plan, usually in the form of a bubble diagram, that would describe, in general, the proposed areas for development, open space and roads.

Slope: A deviation from a true horizontal plane.

Standard Specifications and Details: Those specifications and details contained in these Regulations, the Windham Zoning Regulations or in the Windham Public Improvement Specifications.

Starter Home: A dwelling built or renovated to accommodate a single household so as to be affordable to Windham’s working residents at a price that will require no more than (3) times Windham’s working family annual median income as reported by the State of Connecticut Department of Economic and Community Development or its successor.

Stormwater: The runoff after a storm caused by changes to the natural systems in place prior to the proposed development.

Street: A term used interchangeably with road and highway; Street shall mean any public or private street or private way permanently dedicated to movement of vehicles and pedestrians and providing the principal means of access to abutting property. The word shall not include private driveways and rights-of-way.

Street Line: A street line is either: a) the right-of-way, easement or taking line of any public street or highway, other than a limited access highway, or any private street, easement or access or private right-of-way; or, b) a line twenty-five (25) feet from and parallel to the center line of any such street, highway, easement of access or private right-of-way if such street, highway, easement of access or private right-of-way has a width of less than fifty (50) feet, or c) thoroughfares and collector streets may have a right-of-way width of sixty (60) feet.

Subdivision: The division of a tract or parcel of land into three or more parts or lots made subsequent to the adoption of Subdivision Regulations by the Commission, for the purpose, whether immediate or future, of sale or building development expressly excluding development for municipal, conservation or agricultural purposes, and includes re-subdivisions.
Subdivision Phase: The development of a subdivision in stages as requested by the applicant in the Formal Application, and approved by the Commission.

Subdivision Plan: The map, drawings, and all supporting data as approved by the Commission, containing all modifications and revisions required by such approval, and ready for endorsement by the Commission and for filing with the Town Clerk pursuant to Connecticut General Statutes Section 8-25.

Through-Road: A road that connects on each end to other roads with both ingress and egress and that functions within the Town’s comprehensive transportation policy.

Total Area: The total area of the proposed subdivision, re-subdivision, expressed in square feet or acreage.

Town: The Town of Windham, Connecticut

Travel-Width: The distance between curb faces, or the width of the pavement, measured in a direction perpendicular to the street.

Unbuildable Area: The area, expressed in square feet or acreage, within the proposed subdivision which is comprised of wetlands, watercourses, flood zone A (per FEMA maps), exposed ledge, existing and proposed streets and highways, easements and rights-of-way for vehicular access and utilities, and slopes that exceed 20%. Easements and rights-of-way of an undefined width shall be deemed to be twenty-five (25') feet in width.

VPPP: Vegetation Preservation/Planting Plan.

WPCA: Windham Water Pollution Control Authority.

Yield Plan: A conceptual subdivision plan depicting conventional subdivision plan to be used to determine the maximum lot yield for a Flexible Design Subdivision.
SECTION 3. PRE-APPLICATION REVIEW PROCESS

3.1 Pre-application Review, Two-step Process.
The purpose of pre-application review meetings is to provide initial guidance to the applicant on the compatibility of the proposal with adopted Windham growth management policies, such as the Windham Plan of Conservation and Development, the Windham Open Space Plan, and the Windham Natural and Cultural Resource Inventory prior to developing the subdivision plan; so as to minimize delay, expense and inconvenience to the applicant, the public, and the Commission.

3.1.1 Pre-application review is an optional, but strongly encouraged, preliminary step in the application and review process. It is solely at the discretion of the applicant, and is preferably a two-step process: a review of a sketch plan followed by a review of the preliminary layout.

3.1.2 It should be clearly understood that pre-application review meetings enjoy no official legal status. Consent with regard to feasibility of any pre-application plans on the part of the Commission in no way implies approval of, nor intent to approve, a Formal Application for subdivision under Section 4 of these Regulations.

3.1.3 These public meetings will be with the applicant, landscape architect and/or engineer, Commission, or its designee(s), and Town staff. The review may also include preliminary input from relevant commissions and officials including, but not limited to, the Conservation Commission, Commission’s legal counsel, Town Engineer, Zoning Enforcement Official, Public Works Director, Fire Marshal, Inland Wetlands Commission, and Building Official.

3.1.4 The Pre-application review early in the planning stage is called the Sketch Plan Pre-Application Meeting. The second review is later in the development planning process and is called the Preliminary Layout Plan Pre-Application Meeting.

3.2 Sketch Plan Pre-Application Meeting.
The following information is required at the time of Formal Application and would facilitate discussion during preliminary review:

3.2.1 Pre-Application Form and Checklist. The Pre-Application form and checklist shall be completed in the form provided in Appendix A and available in the Planning Department Office at Windham Town Hall.

3.2.2 Site Context Map. A map at a working scale of 1"=400' showing the location of the proposed subdivision within its neighborhood context of a 3000' radius shall be submitted. The features that shall be shown on the Site Context Maps include topography (from U.S.G.S. maps), inland wetlands and watercourses, floodplains, contiguous forest areas over one hundred acres, ridge lines, public roads, parcel boundaries with ownership of abutting properties noted, existing private streets and private ways, public land, and land protected for conservation or agricultural purposes, designated Historic Districts and notable historic and archeological sites and graves. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies, and from aerial photographs. To facilitate future road planning, the Site Context Map shall include potential road access points for any undeveloped abutting properties, including those across any street from the site.

3.2.3 Site Resource Assessment. A Site Resource Assessment shall be prepared to provide the developer and the municipality with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the parcel boundaries. The following information shall be included in the Site Resource Assessment at a scale of 1"=200' or "=100":

a. Topography, the contour lines of which shall generally be at two-foot intervals, (although 10-foot
intervals are permissible beyond the parcel boundaries, interpolated from U.S.G.S.
published maps). Slopes above 20% should be clearly indicated. Topography shall be prepared
by a professional land surveyor verified by an actual field survey of the site or from
stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.
Ridge lines and watershed boundaries shall be identified.

b. The location and delineation of ponds, streams, ditches, drains, and drainage swales, direction
of surface runoff, as well as the 100-year flood zones and all wetlands.

c. General vegetative cover conditions on the property including cultivated land, meadow,
pasture, old field, hedgerow, wetland and woodland canopy, and any significant or special trees
noted. Significant Natural Communities defined by the Connecticut Department of
Environmental Protection shall be indicated if present.

d. Areas with potential State and Federally-listed endangered, threatened or special concern
species as per the current State and Federal Listed Species and Significant Natural
Communities Map published by the Connecticut Geological and Natural History Survey of the
Connecticut Department of Environmental Protection shall be indicated.

e. Soil series, types and phases, clearly identifying Prime Farmland and Farmland of Additional
Statewide Importance as defined and mapped by the U.S. Department of Agriculture, Natural
Resources Conservation Service for the most recent soil survey data, including any
accompanying data for each soil relating to its suitability for septic system leaching.

f. Significant geologic formations on the proposed development parcel, including major ledge and
rock outcroppings and cliffs, potential aquifers and locations of any Critical Watershed Lands.

g. All existing man-made features, including, but not limited to public and private streets,
privateways, cart paths, driveways, structures, foundations, walls, wells, drainage fields and
swales, dumps, utilities, fire hydrants, and storm and sanitary sewers and septic systems.

h. Structures and features listed on the National or State Register of Historic Places, or designated
as a Historic Property by the Town, and known or suspected archeological sites or graves.

i. Existing national, state or locally-designated scenic roads and byways.

j. All easements, rights-of-way, and other encumbrances of property which are or have been filed
with the Windham Town Clerk.

k. A vertical aerial photograph current to within five years enlarged to a scale not less detailed
than 1" = 400', with the site boundaries clearly marked.

3.2.4 Total acreage of the parcel to be subdivided.

3.2.5 Estimate of the maximum lots permitted under these regulations and the Windham Zoning
Regulations.

3.2.6 Development Bubble Map. Drawn at the same scale as the Site Resource Assessment Map
showing, in very general terms, the proposed development of the parcel. This drawing is
preferred to be on trace paper as an overlay to the Site Resource Assessment Map with pen,
pencil or marker lines depicting proposed roads and development areas.

3.3 Preliminary Layout Plan Pre-Application Meeting.
In addition to the above information,

3.3.1 Preliminary Layout Map showing proposed lot location, sizes, and streets, and any other pertinent
information at the same scale as the Site Resources Assessments.
4.1 **Formal Application:**
The submission requirements for all Formal Applications for proposed subdivisions shall consist of the following documents, and shall be prepared in accordance with the drafting standards and all other requirements described below.

The Formal Application shall include the following items/information, assembled in a set of documents and maps that clearly describe the proposed subdivision, of sufficient copies shall be submitted to the Commission, along with all required supplementary information and required fees:

- **4.1.1 Application Form:** The Application form shall be completed in the form provided in Appendix A and available in the Planning Department Office at Windham Town Hall.
  - A brief history of the parcel, including any changes in ownership of the parcel from at least February 1965 to the present and shall appear on the Formal Application.

- **4.1.2 Formal Application Checklist (see Appendix A)**

- **4.1.3 Site Context Map (described in Section 3.2.2)**

- **4.1.4 The Site Resource Assessment (described in Section 3.2.3)**

- **4.1.5 Location Map**

- **4.1.6 Survey.** Overall boundary survey to a stated accuracy according to accepted standards for a "Subdivision or Resubdivision Map" as defined by the regulations of the State of Connecticut.

- **4.1.7 Calculation of**
  - a. Total parcel acreage
  - b. Total acreage of wetland soils, and as a percent of total parcel
  - c. Total unbuildable acreage
  - d. Total Open Space acreage
  - e. Percent of Open Space with wetland soils, and as a percent of total Open Space
  - f. Total acreage of all building lots
  - g. Percent impervious surfaces after development
  - h. Total acreage of roads

- **4.1.8 Proposed Subdivision Layout showing:**
  - a. Existing and proposed lot lines, lot areas, and lot numbers.
  - b. Location, alignment, width and tentative names of all proposed roads, road extensions and rights-of-way.
  - c. Layout of proposed septic systems, including, but not limited to, the tentative locations of septic leaching fields and reserve areas, showing the size and capacity of facilities.
  - d. Location of all percolation tests, including all approved and failed test sites or pits and including an approved reserve site for each lot. All approved sites shall be clearly distinguished from failed sites.
  - e. Location of all proposed monuments and lot markers.
  - f. Where the Applicant proposes to install the improvements in phases, a delineation of the proposed sections and a schedule for completion of each section.
g. Locations of existing and proposed utility easements.
h. Location of proposed trees and other major landscape features, and locations of existing vegetation to be retained outside of Open Space lands, including a line-of disturbance indication.

4.1.9 Proposed Vegetative Preservation/Planting Plan (described in Section 5.4.1)

4.1.10 Proposed Stormwater Systems (see Section 8 for Standards)

   a. Location of proposed drainage swales, drainage easements, culverts, stormwater and related management facilities

4.1.11 An Improvements Construction Plan for public or private improvements, including all related specifications prepared by a qualified professional registered with the State of Connecticut setting forth the precise nature and exact location of the improvements, all subject to approval by the Town Engineer. The Improvements Construction Plan shall contain the following information:

   (i) Detailed plan and profile sheets for all proposed streets, common driveways and Private Ways within the subdivision. (see Section 7 for Standards),

   (ii) Detailed plans and specifications for all electric utilities and street lights to be installed,

   (iii) Detailed plans and specifications for any drainage and stormwater management facilities. (see Section 8 for Standards),

   (iv) Detailed designs for all other public improvements,

   (v) Layout of proposed water facilities including fire hydrants, storage tanks, wells, ponds and other water sources.

4.1.12 Grading Plan

   a. Proposed building and driveway locations with associated grading information. All regrading and tree removal necessary to address driveway drainage and sightline issues shall be depicted. Length of sightline shall be shown using sightline criteria outlined in the most current Connecticut Department of Transportation Highway Design Manual, that exists or will be achieved for each existing and proposed driveway, and shall demonstrate that each driveway will not exceed a slope of fifteen percent (15%).

   b. All grading, fill and removal activity associated with a proposed subdivision, including, but not limited to, road construction, drainage, Open Space/recreation improvements, driveway, foundation, building and septic system construction. Where existing topography is proposed to be altered, the volumes of material to be removed from, or brought onto, the site; areas of proposed blasting, and the estimated volume thereof; the location at which excavated material being removed from the site will be deposited. The grading/fill/removal plan shall be prepared by a qualified professional engineer, landscape architect or professional surveyor registered in the State of Connecticut.

4.1.13 Soil Sediment & Erosion Control Plan. Prepared in accordance with the requirements of the Connecticut General Statutes, the Windham Zoning Regulations and these Regulations, to be reviewed, and if acceptable, approved by the Commission upon the recommendation of the Town Planner and Town Engineer, or their designees. (see Section 9 for Standards)

4.1.14 Open Space Land Ownership and Management Plan. The Applicant shall submit a proposed Open Space Land Ownership and Management Plan based upon the requirements of Section 5 and including the following documents:
a. A map showing the precise boundaries, exact acreage, and proposed ownership of all proposed Open Space Land. All proposed conservation or agricultural easements shall also be indicated.

b. Complete copies of all proposed conservation or agricultural easement documents and a signed letter from the organization or entity indicating acceptance and willingness to assume responsibility for management of such easement.

c. The Open Space Ownership and Management Plan and all related documents shall be in form and substance acceptable to the Commission and its legal counsel.

4.1.15 Additional Approvals, Certificates and Documents. The Formal Application shall include the following:

a. A description of any existing deed restriction, covenant, easement, right-of-way, or similar encumbrance that runs with the land, including the identity of the dominant and servient estates, the volume and page of the Windham Land Records where the same are recorded, and the date upon which they will expire, if any.

b. A copy of such deed restrictions, easements, covenants and declarations that are to be imposed upon the property to comply with the Formal Application as approved by the Commission. All such documents shall be in such form satisfactory to the Commission and its legal counsel.

c. The name and signature of a soil scientist whenever wetlands or watercourses exist within one hundred fifty feet of proposed building areas or, additionally, if the Commission determines that a soil scientist is needed to address requirements of these Regulations. If there is any proposed activity within the upland review area, the prior approval of the Windham Inland/Wetland Commission is required.

d. An estimate of cost of construction of all public improvements satisfactory to the Town Engineer, Town Planner, and the Commission.

e. Approval by the Connecticut Department of Transportation when a proposed street or storm drain joins with a state highway.

f. A statement regarding the considerations that have been made to address solar access and energy-efficient design.

g. Statements from the Town Engineer, Water and Sewer Authorities, and public utility companies as appropriate, approving public improvements, utilities and private roads and ways.

h. A final report from the Health Department, regarding the adequacy of individual subsurface sewage disposal systems and water supply. Such report shall contain the results of soil tests (including both percolation and deep hole tests for both primary and reserve leaching areas) which shall be performed under the supervision of the Health Department on each proposed building lot not having an approved sewage disposal system and any other information necessary for compliance with these Regulations.

i. If the Commission so requests, a report from the Connecticut State Archeologist or proof that said report was requested and 30 days has elapsed without response.

j. If the Commission so requests, one or more graphical renderings of the proposed development showing the subdivision with proposed improvements, buildings on all proposed building sites, and any proposed grading, clearing and landscaping as viewed from one or more adjacent streets.
k. Any other certifications as required by any law or regulation, including approvals or waivers from any federal, state, regional, county, or local agency having jurisdiction over any matters related to the legal subdivision or land development. These agencies may include:

- Connecticut Office of State Archaeology.
- Connecticut Department of Transportation
- Connecticut Department of Environmental Protection
- Connecticut Department of Public Utility Control
- U.S. Army Corps of Engineers
- Department of Agriculture
- Eastern Connecticut Conservation District
- Historic District Commission
- Windham Inland Wetlands Agency
- Windham Water Pollution Control Authority

l. Proposed deeds and easements, and any community development documents.

4.1.16 Submission of an Application, including all applicable fees, shall represent the Initial Formal Application under Connecticut General Statutes Sec.8-25; and the Formal Application under these Regulations shall constitute authorization for the Commission to enter upon the property to obtain additional information or to inspect proposed improvements.

4.1.17 It is the Applicant’s responsibility to submit a complete Formal Application and to demonstrate compliance with all criteria and requirements of these Regulations and, accordingly, the Applicant may submit such additional reports or information as may be required to satisfy that responsibility. Any Formal Application not completed in full, including submission of all required documentation and payment of required fees, is subject to denial.

4.2 Drafting Standards and Plan Details
The Formal Application shall include the information in the form listed below. Such plans shall be based on a survey drawn by a land surveyor registered in the State of Connecticut which shall conform to the "Subdivision or Resubdivision Map" standards of accuracy of the Connecticut General Statutes.

4.2.1 Name and address of the legal owner, the equitable owner, and/or the Applicant, and the date.

4.2.2 Name, address, seal and signature of each professional engineer, surveyor, planner, architect, soil scientist, landscape architect, and site designer responsible for preparing the plan.

4.2.3 The Map/Block Lot Number of the parcel as identified on the records of the Assessor of the Town.

4.2.4 Horizontal scale of all plans shall be 1"=40'; vertical scale shall be 1" = 4'. Such plans shall show, where applicable: locations of street rights-of-way, bearings, curve data (arc length, radii, and central angles) street names, and stations along center lines at 50' intervals and at all points of tangency and points of curvature; a North arrow, scale, legend, title, index and sheet number. The plans may be composed of multiple sheets, or sets of sheets, of twenty-four by thirty-six inches (24” x 36”).

4.2.5 For all roads, common driveways and Private Ways: existing ground surface grade on the center line, the proposed center line grade, and elevations at both right-of-way lines; grades, expressed as percentages; location and elevation of at least one bench mark; typical cross-section of each street indicating locations, dimensions, and materials of proposed paved areas; in addition, for drainage systems: watershed data used in the design of the system, all calculations used in the drainage design, and all drainage structures and easements.

4.2.6 Designated signature areas, with location for date signed, with the words “Approved by the Windham Planning Commission” to be signed by the Chairman, “Approved by the Town
Engineer”, “Approved by the Health Department” to be signed by the director or appropriate
Town or State official, “Meets current regulations” to be signed by appropriate Town staff. This
requirement shall be addressed on all sheets where required subdivision information is provided.

4.3 Application Process

4.3.1 The Commission shall hold a public hearing on any plan of re-subdivision, and may hold a public
hearing on any subdivision, such hearing shall be held within the time established by the
Connecticut State Statutes. Notice of a hearing shall be published in accordance with the
Connecticut State Statutes. The Applicant shall post signs on the subject property notifying the
public of the hearing date.

4.3.2 If the Commission schedules a Public Hearing, the Applicant shall notify all owners of property
abutting the site of a proposed subdivision, and all owners of property within 300' of any portion
of the property proposed for subdivision, and all holders of conservation easements on the subject
or abutting properties. If a parcel proposed for subdivision abuts a town or state designated scenic
road, all owners of property with frontage on that road shall be notified. Notification shall be sent
by mail, no later than ten (10) days prior to the Public Hearing. Notification shall state that the
full Application is available for review in the Windham Planning Office, and that interested
parties may contact the Windham Planning Office for additional information, and shall state the
address and telephone number for each office.

Evidence of such notification in the form of a certificate of mailing shall be filed with the
Commission prior to the hearing.

4.3.3 The Commission may request or receive reports or recommendations from any officer, board,
commission, or agency of the local, state or federal government or an independent consultant as it
may reasonably require in order to evaluate compliance of the Formal Application with these
Regulations.

4.3.4 The Commission may perform an official Site Inspection prior to or during the statutory review
period.

4.3.5 Upon receipt of all supporting information as required by these Regulations, the Commission may,
at one or more regular or special public meetings, review the Formal Application and shall either
approve, modify and approve, or deny any Formal Application within the time limits permitted
by Connecticut State Statutes. It is recommended that the Applicant, or an authorized
representative, attend any public meeting or hearing. In accordance with Connecticut General
Statutes, the time limit may be extended with the consent of the Applicant.

4.3.6 If the Formal Application is modified and approved, the Commission shall specify all
modifications to be reflected on the Final Approved Plan.

4.3.7 The Commission may impose conditions on an approval. The conditions may include, but not be
limited to, (1) off-site road, sidewalk or travel lane improvement where the Commission
determines, based upon evidence of traffic patterns demonstrating a need for improvement arising
from the proposed increased traffic when combined with existing traffic and road conditions, that
it will increase the quality and safety of motor vehicle, bicycle and pedestrian traffic, (2) noise
barriers, (3) street lighting, (4) bonding as set forth in these Regulations, (5) buffers, (6)
landscaping, retaining walls, fences, seeding and plantings, (7) monuments, (8) curbing styles, (9)
stormwater or drainage systems, (10) easements, (11) open space identification markers, (12)
trails, paths, bicycle paths and other similar improvements, (13) written subdivision agreement,
(14) revisions and modifications discussed during the public hearing; and (15) traffic signals. If
imposed, the conditions shall be inserted as notes onto the Final Approved Plan, and the
Commission may require security or other bonding in respect of them.
4.3.8 Notice of a decision by the Commission shall be published in a manner as required by Connecticut State Statutes.

4.3.9 If at any time the Applicant revises the Formal Application it must be submitted to the Town 7 days prior to the public hearing.

4.3.10 Implementation of an approved formal application requires completion of the required elements in Section 4.4.

4.4 Requirements After Approval.
Approval of any Formal Application shall, in addition to any other applicable provisions of these Regulations, be subject to the following conditions:

4.4.1 The Applicant may be required to execute a Subdivision Agreement verifying that the Applicant agrees to construct all required public improvements and common amenities and guarantees completion and maintenance of these improvements and amenities through a bond or escrow agreement as described in Section 10. Said agreement shall be approved by the Commission’s legal counsel.

4.4.2 After the required public improvements are complete and certified satisfactory by the Town Engineer or his designee, the Applicant shall provide a standard form warranty deed to the Town, in a form satisfactory to the Commission and its legal counsel. The Commission shall require that the Applicant provide a certificate from a duly licensed title insurance company certifying that the title to be conveyed is good and marketable, free of all liens and encumbrances, except utility easements, before any property is accepted by the Town. No bond will be released until the deed is provided and accepted.

4.4.3 If the subdivision includes Open Space:

a. If included in the approved Formal Application, the Applicant shall execute the appropriate conservation easement(s), in perpetuity, restricting the Open Space land(s) against further subdivision or development or improvement of any kind except as specifically allowed by these Regulations or as specifically allowed by the Commission in its approval. The easement must be acceptable to the Commission and its legal counsel. The Applicant also shall provide a letter or other written evidence from the proposed recipient of the easement stating that it is willing to accept such easement and assume responsibility for the management of Open Space land(s) as described in Section 5.11.5 of these Regulations.

b. If included in the approved Formal Application, the Applicant shall execute the transfer of the ownership of all Open Space land, in a manner acceptable to the Commissions and its legal counsel. The Commission shall require that the Applicant provide a certificate from a duly licensed title insurance company certifying that the title to be conveyed is good and marketable, free of all liens and encumbrances, except utility easements, before any property is accepted by the Town or other entity as applicable.

c. If included in the approved Formal Application, the Applicant shall provide the Town or its designee a warranty deed of dedication in a form satisfactory to the Commission and its legal counsel for any public or municipal right-of-way for recreational, trail or other access as part of the subdivision approval.

d. If the creation of a homeowners’ association is required, the Applicant shall provide the Commission, in a form acceptable to its legal counsel, all legal documents creating and empowering such association.

e. No bond will be released and no certificate of zoning compliance issued until the requirements of Section 4.4.3 is satisfied.
4.5 Post-Approval Procedure

4.5.1 Endorsement of Final Approved Plan.

a. Following approval, or modification and approval, of a Formal Application, the Applicant shall provide to the Planning Department a Final Approved Plan on polyester film (i.e. mylar), that incorporates any modifications of such approval, and shall be accompanied by any documents required by these Regulations, such as bonds, deeds, conservation and drainage easements, etc. The Final Approved Plan on polyester film shall include, reproduced on the face thereof, a copy of the Commission’s decision to approve including any modifications required. All monumentation (with Surveyor's Certificate) and all required subdivision work shall be completed or bonded pursuant to the Commission's approval action prior to endorsement by the Commission Chairman.

b. Upon determining that the Final Approved Plan properly incorporates all matters required by the Commission’s decision and by these Regulations the Commission Chairman or other authorized official shall endorse the Commission’s approval on the Final Approved Plan. Endorsed Final Approved Plans shall be returned to the Applicant in accordance with the provisions of Connecticut General Statute 8-25.

4.5.2 Filing of Final Approved Plan.

a. Provided the conditions of approval, endorsement, bonding and all other requirements have been satisfied, all Final Approved Plans, after endorsement, shall be subsequently recorded by the Applicant (at the Applicant’s cost) in the office of the Town Clerk within ninety (90) days of either (1) the expiration of the appeal period pursuant to Section 8-8 of the Connecticut State Statutes, or (2) in the case of an appeal, the termination of such appeal by dismissal, withdrawal or judgment in favor of the Applicant. The Commission or its authorized staff may grant up to two ninety (90)-day filing extensions, provided there are no revisions other than those required by the Commission's approval action.

4.5.3 Lot Line Revision in Final Approved Plans. A condition of each plan will include a note that a change in lot line due to unanticipated conditions in the field that does not create an additional lot, does not create a non-conforming lot, does not alter any lot size by more than 5%, and does not adversely impact any lot in meeting Zoning Requirements, shall require administrative approval by the Windham Zoning Enforcement Official.

4.5.4 Expiration. The expiration provisions of the Connecticut General Statutes (particularly Sections 8-26c and 8-26g) shall govern all subdivision approvals. Except for subdivisions that qualify for longer approval periods pursuant to statutory provisions, all work associated with an approved subdivision shall be completed within five (5) years of the date of approval unless an extension is granted by the Commission pursuant to statutory provisions. Failure to complete subdivision work (as defined by the State Statutes) within the approval period shall result in expiration of the approval.
SECTION 5. SUBDIVISION DESIGN STANDARDS

5.1 Purpose.
The subdivision design standards set forth in this Section 5 are intended to fulfill the requirements of Section 8-25 and 22a-19 of the Connecticut General Statutes, and specifically to assure that land to be subdivided is of such character that it can be used for building purposes without danger to health or the public safety; that proper provision is made for water, drainage, and sewerage and, in areas contiguous to brooks, rivers, or other bodies of water subject to flooding, that proper provision is made for protective flood control measures; that proposed streets are in harmony with existing or proposed principal thoroughfares shown in the Town’s Plan of Conservation and Development, especially in regard to safe intersections with such thoroughfares, and are so arranged and of such width as to provide an adequate and convenient system for present and prospective traffic needs; that reasonable provision is made for the creation and maintenance of Open Spaces, parks, and playgrounds; and that the design of any subdivision does not unreasonably pollute, impair, or destroy, or create an unreasonable risk of polluting, impairing, or destroying, the air, water, or other natural or historic resources of the Town of Windham or the State of Connecticut.

5.2 Application of Standards.
The standards set forth in this Section 5, elsewhere in these Regulations shall be considered by the Commission in determining whether to approve, modify and approve, or deny any subdivision or re-subdivision application. The Commission may modify a proposed subdivision plan in any manner it determines to be reasonably necessary to achieve compliance with such standards. Such modifications may include, without limitation, the adjustment of proposed lot lines; the adjustment of the locations or dimensions of proposed streets, rights-of-way, utilities, or other improvements; or the provision, or the adjustment of the proposed location, of any open-space area, park, or playground. Such modifications may also include the elimination, combination or merger of specific lots on the proposed subdivision plan if the Commission deems such modifications necessary to avoid unreasonably adverse impacts to specifically identified natural or historic resources or to avoid specifically identified health or safety hazards to landowners, pedestrians, drivers, or other persons making proper use of any land within the area of the subdivision.

5.3 General Requirements for Subdivision.
Every subdivider of land, residential or other, shall be bound by the following regulations and requirements:

5.3.1 Buildable Envelope Requirement of the Windham Zoning Regulations.

5.3.2 The Commission shall not approve any subdivision containing one or more fragments or parcels that would not meet the minimum requirements for a developable lot unless such fragments or parcels are expressly intended to be dedicated as open space or other public use acceptable to the Commission.

5.3.3 Parcel Must Be Planned. The entire parcel must be included in the subdivision planning, conceptually or in full detail at the developer’s discretion. Development may be in phases if requested by the applicant in the Formal Application and approved by the Commission.

5.3.4 Rear Lots in Subdivisions. Rear lots shall be allowed in accordance with Section 3.17 and Section 78 of Windham’s Zoning Regulations and these regulations. The Commission requires the use of common driveways to access multiple rear lots.

5.3.5 Streets and Roads. All streets must meet Windham Standards for Streets and those contained in these Regulations.
a. To facilitate vehicular movement throughout the Town and to provide effective fire protection, all new streets should be through streets or include a reserve strip for connection to a future street.

b. Permanent dead-end roads and private ways in subdivisions are permitted as a private road. Each lot served by a Permanent dead end street shall have the following recorded on the deed: "This lot is served by a private road, The Town of Windham will provide no maintenance, repair, school bus or other municipal service along this private road, nor have any obligation now or in the future to do so" or similar language approved by the Commission’s legal counsel.

5.3.6 Utilities. Electric power, telephone and other cable systems shall be placed underground in all residential subdivisions; individual lots abutting an existing town or state road may access existing utilities along that road.

a. The whole or any part of the electric power, telephone and other cable systems may be permitted above ground on new roads when the Commission has determined that safe underground installation is not feasible because of soil conditions or other natural or man-made conditions, or if not permitted by the Inland Wetland Commission.

b. The Commission may waive the requirement for underground utilities for lots approved under Section 6.4.2 of these regulations, and for subdivisions with four (4), or fewer, lots.

5.3.7 Lot Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Windham Zoning Regulations and Health Codes and in providing driveway access to buildings on such lots from an approved street or approved private way.

5.3.8 Solar and Other Alternative Energy. Applications for subdivision or re-subdivision for residential use shall incorporate at least one of the following elements into each of the proposed home-site plots or in the actual construction of the subdivision home, so as to capture passive solar benefits to maximize heat gain and or provide for thermal storage within the building, minimize heat loss from westward dominated wind flow, and encourage use of natural sunlight for indoor daytime activities:

a. Garage positioned on the north or west side,

b. Kitchen on the east side,

c. Predominate daytime living space with southern exposure,

d. Southerly facing building eaves extended so as to reduce summer sunlit heat from entering windows, or

e. Use of geothermal or other active alternative energy source

f. If a home or home site plan is situated where land features, terrain or other elements render it difficult or excessively expensive to incorporate any one of the passive energy saving features, then that deficient element in that home site shall be offset with incorporating additional elements in another home site in the same development. For example, a 10 lot subdivision should have 10 homes with at least one of the above energy saving element in each, or 5 of the homes should have 2 energy saving elements, to offset the 5 homes with no energy saving element.
5.3.9 Lot Dimensions.

a. Lot dimensions shall comply with the minimum standards of the Windham Zoning Regulations Sections 21-27 and Section 78. The Commission may approve a site-specific Flexible Design Subdivision which shall comply with the minimum standards of the Windham Zoning Regulations Section 28 and Section 6 of these Regulations.

b. For lots more than double the minimum required size for that subdivision, the Commission may require that the lots be restricted from further division.

c. Side lot lines shall generally be perpendicular to street lines. Corner lots shall have extra width to permit the minimum lot frontage on each street.

d. Lot lines, where practical, should follow existing stone walls.

5.3.10 Lot Shape. The lot width shall be no less than 75% of the minimum required frontage. Lots will be configured to incorporate a Buildable Envelope required in the Windham Zoning Regulations. These requirements are also applicable to subdivisions designed under the Flexible Design Subdivision regulations (see Section 6) of these Subdivision Regulations.

5.3.11 Open Space. No subdivision of land shall be made unless proper provisions have been made for the preservation of Open Space as required in Section 5.12.

5.4 Existing Natural & Cultural Resources.

Subdivisions shall be designed in harmony with the natural and cultural elements of the site in accordance with the following standards.

5.4.1 Vegetation Preservation/Planting Plan (VPPP)

a. All applications for subdivision shall include an overall VPPP plan. The plan must include the following:

(i) The boundary of wooded areas located on the site.

(ii) The area of the subdivision to be cleared, providing for a minimum of three (3) trees within the front yard of each lot to be planted or preserved. Each tree shall have a minimum caliper of three and one-half (3.5) inches measured 6” above ground level.

(iii) The limit of disturbed area shall be limited to the amount needed for development activities.

(iv) Existing trees identified to be preserved shall be protected from any construction activity, including all vehicular activity, to the drip edge of the tree canopy under the guidance of a licensed arborist.

(v) Where the proposed subdivision borders an existing agricultural use, the common boundary shall contain a buffer area of at least fifty (50) feet. Said buffer shall be designed to minimize the potential for conflict between the uses. Dense vegetation, earth berms, fencing and the use of existing natural features; such as, streams, wetlands, existing woodlands, slopes, stone walls, etc., shall be utilized in the design of buffers.

b. The interior area of all cul-de-sacs shall be landscaped in a manner that will require little or no future maintenance, such as with the use of native trees, shrubs, vegetative ground cover and boulders.

c. A visual streetscape buffer shall be established whenever subdivisions are proposed which have access to, or create new lots on, any street. The streetscape buffer shall stretch along the entire street frontage of the property, adjacent to the through street. The streetscape buffer shall
extend from the street line, back into the property to a minimum depth equal to the lesser of 10% of the depth (as measured, perpendicular from the street line to the furthest point of the rear property line), or a distance of 50 feet. The depth of the buffer shall be computed based on the configuration of the entire parcel, prior to subdivision. Within the streetscape buffer all existing vegetation, not listed on the State of Connecticut Invasive Species List, shall be preserved; the removal and depositing of earth and other materials shall be prohibited, and all construction activity shall be prohibited, except as specifically approved by the Commission.

(i) Where new streets or private ways will provide access and egress to the property by crossing the streetscape buffer, the area of the entrance shall be landscaped to visually ease the transition from the existing town road to the proposed subdivision. The buffer area shall be established as outlined above, and preserved between the street line and new interior subdivision lot(s), except as necessary to achieve proper sight line for vehicles exiting and/or entering the development. The Commission may require the use of natural features such as wetlands, existing woodlands, slopes, stonewalls, etc., in the design of the buffer. Where natural, historical or other significant features are absent, earth berms and boulders may be used in conjunction with the planting of native trees and shrubs to enhance the area of the entrance.

(ii) The development shall also provide for the retention of existing historic structures, barns, period fencing, stonewalls, or other significant features where they exist within the area of the buffer if required by the Commission. The developer may be required to replace any significant features moved or demolished within one year prior to formal application.

(iii) The Commission may reduce the depth of the streetscape buffer where conditions exist which, while preserving the streetscape; lessen the required depth of the buffer. These conditions include, but are not limited to:

- Vertical and horizontal alignment of the roads,
- Quality and quantity of the existing vegetation,
- Quality and quantity of proposed vegetation,
- Existence of natural and geological features which serve as a buffer,
- Existence of man-made and historical features, which serve as a buffer.

d. The streetscape buffer shall be permanently preserved through the creation of a conservation or similar easement, shown on the approved subdivision map and/or by deeding the fee or easement to an approved entity.

(i) The new road and existing rights-of-way shall only be cleared of existing vegetation as outlined in the VPPP to provide for safety, drainage and construction.

5.4.2 Maintenance of the visual integrity of hilltops and ridge lines shall be maintained by designing the development so that building silhouettes will be below the ridgeline or hilltop or, if the area is heavily wooded, so that the building silhouette will be at least ten (10) feet lower than the average canopy height of trees on the ridge line or hilltop.

5.5 Off-street Parking.
Sufficient space shall be provided on all lots for off-street parking.

5.6 Driveways.
No proposed driveway shall exceed slope of fifteen percent (15%). All existing driveways shall be reconstructed or improved as necessary and all proposed driveways shall be designed and constructed to prevent drainage onto adjacent property or streets, and/or unsafe driveway sightlines along adjacent streets. The applicant shall demonstrate on the plans that all necessary regrading, tree removal and drainage
improvements shall be dependent on existing conditions, the speed limit of the adjacent street and the street classification as defined by the Windham Subdivision Regulations. The applicant shall ensure that each lot shall have control of driveway visual sightlines, such control may be in the form of an easement.

a. To help ensure safe and appropriate access to a house site for all vehicles, including emergency vehicles, the following provisions shall apply for all driveways exceeding a length of three hundred (300) feet:

(i) The driveway shall have a minimum travel width of eight (8) feet and minimum load-bearing shoulder widths of two (2) feet on each side. All driveway curves shall have a minimum inside radius of twenty-five (25) feet;

(ii) Pull-off areas adjacent to the driveway shall be provided at average intervals of every three hundred (300) feet or as deemed necessary by the Commission due to slope, sightline or other site characteristics. Pull-offs shall have a minimum load-bearing length of forty (40) feet and minimum width of ten (10) feet;

(iii) An adequately-sized, located and surfaced turnaround area that will accommodate a fire truck shall be provided. Unless the following distance requirements are waived by the Commission due to specific site characteristics, the turnaround area shall be no closer than seventy-five (75) feet from a house site and no further than two hundred (200) feet from a house site and the turnaround shall be at least thirty (30) feet in length with two (2) foot wide, load-bearing shoulders.

5.7 Common Driveways.

Common driveways are encouraged as a way to reduce impervious surfaces and to decrease the amount of land devoted to vehicular uses. Common driveways must meet the driveway requirements of these regulations and the Windham Zoning Regulations.

5.7.1 Minimum separation between common driveway property lines is 25 feet. Common driveways may not serve as a connecting driveway between two public streets or private ways, and must be wholly contained within an access strip with a minimum width of 40 feet throughout.

5.7.2 The driveway shall have a minimum travel width of ten (10) feet and minimum load-bearing shoulder widths of two (2) feet on each side. All driveway curves shall have a minimum inside radius of twenty-five (25) feet;

5.7.3 Common driveways shall be a public improvement and the responsibility of the developer to construct; no lots served by a common driveway may be sold until the Town Engineer has approved of the completion of the common driveway.

5.7.4 All common driveways are to be maintained through the establishment of private maintenance and liability agreements between the lot owners served by the common driveway, in a form acceptable to the Commission and shall be subject to review by the Commission’s legal counsel. Appropriate easements shall be provided for travel, utilities, snow storage and pull-off, hammerhead turnaround, and associated snow shelves.

5.7.5 Each lot served by a common driveway shall have a note placed on the Final Subdivision plan, and subsequently in the deed to each lot stating: “This lot is served by a common driveway, The Town of Windham will provide no maintenance, town services or school bus services along this private common driveway road, nor have any obligation now or in the future to do so” or other similar language approved by the Commission’s legal counsel.
5.8 Lot Arrangements on Existing Streets.
Lots proposed for existing streets shall, in addition to meeting other applicable standards of these Regulations, be arranged to conform with the following:

5.8.1 Where the development of a lot fronting on an existing street will cause drainage problems in that street, the developer shall install drains in the street or make such other provision as may be necessary to correct the condition.

5.8.2 Access from lot(s) directly onto thoroughfares, principal, secondary or collector streets shall not be permitted. The Commission may require screening or a buffer between lots and streets/roads where appropriate. Access to lots shall be from a spur access road to provide a safer means of access to the lots. This access road may be accepted as a Town Road per Section 7.5. The Commission reserves the right to waive the requirement where this rule is impractical.

5.9 Public Health Standards

5.9.1 Water Supply

a. Every proposed lot must be suitable for the installation of, or service by, an adequate water supply consisting of a drilled well, artesian well, public water supply or community water supply. Where evidence before the Commission indicates that water supply may not be adequate, whether because of poor quality, insufficient quantity or other reason, the subdivider may be required to submit additional information demonstrating the adequacy, quality and quantity of the proposed water supply. Such information shall be submitted to the Town Health Department or other appropriate Town official for review and comment. If the use of a community water supply system is proposed, the subdivider shall submit a plan in compliance with evidence of an approval by the State Health Department or other designated authority.

b. Water Lines shall be installed in all subdivisions in the Willimantic Service District and in those subdivisions in the Windham Service District that are presently served by the Willimantic Water Department, or within an area of planned system expansion.

c. Fire hydrants necessary to provide adequate coverage as required by the National Board of Fire Underwriters shall also be installed. Lines shall be of a size to meet hydraulic requirements and conforming to the meter plan of the Windham Water Department and installed in accordance with the installation specifications of the Windham Water Department. Fire hydrants shall be located in accordance with the requirements of, and approved by, the applicable protection unit.

d. To eliminate future street pavement openings, all underground utilities for water or fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on the subdivision plan.

e. Wells – for all subdivisions not served by the Windham Water Department, a report from a licensed professional engineer of the adequacy of water supply and distribution is required.

5.9.2 Sanitary Waste Disposal

a. Every proposed lot must be suitable for the installation of, or service by, an adequate individual septic system, public sewerage system or private community sewerage system. No lot shall be considered for approval by the Commission until the individual or community system has received final approval for the subdivision by the Town Health Department, or other appropriate Town or State official or commission as required for the system. A lot intended to be serviced by the public sewerage system shall be only approved by the Commission after receipt of a report from the Willimantic Water Pollution Control Authority indicating that all requirements of Connecticut General Statutes Section 7-246f have been satisfied. Where
evidence indicates special cause for concern, the Commission may require additional information including, but not limited to, a permeability analysis and/or renovation analysis of bacteria, phosphates, or other pollutants.

b. It is the responsibility of the subdivider to contact the Town Health Department to prove that the lot area is adequate to permit the installation and operation of an individual sewage disposal system or community sewage system. The subdivider shall provide the necessary equipment and labor for the making of any and all tests required by Town health officials. When Town Health Department approval is given subject to conditions, such conditions shall be noted on the subdivision plan.

c. On-site Sewage Systems - Individual on-site sewage systems shall be allowed provided that:

(i) There is no public sewage system existing within 500 feet down gradient of any boundary of the subdivision and public sewers will not be available within a period of five years as determined by the Windham Water Pollution Control Authority.(see 5.9.2.e.ii below).

(ii) All lots on which such systems are proposed shall be approved for on-site systems by the Town Health Department,

(iii) Where the need for easements for future public sewer construction can be identified, such easements shall be indicated on the subdivision plan, and shall be dedicated to the Town at the time of subdivision approval.

d. Public Sewage Systems

(i) Public Sewage Systems shall be constructed throughout the subdivision and connected to existing public sewage facilities when such facilities are within 500 feet of any boundary of the proposed subdivision where feasible.

(ii) When public sewage facilities will be made available to the area within five years, as determined by the Windham Water Pollution Control Authority (WPCA), public sewage systems shall be installed throughout the subdivision with accommodations for future connections. Such systems shall be capped and shall include all underground sewer lines for a complete system from the homes, along streets or easements, to the subdivision boundary.

(iii) Where a subdivision has frontage on an existing street, sewer lines may be required within the existing street right-of-way.

(iv) Sanitary sewers shall be located within street or alley rights-of-way as required by utility line assignment in the Town Public Improvement Specifications, unless topography dictates otherwise. When located in easements on private property, access shall be provided to all manholes. The proposed location of sewer lines shall be shown on the final plan of subdivision, and easements to the Town shall be as required by WPCA.

(v) Sanitary sewer facilities design shall be in conformance with WPCA design criteria prevailing at the time of the subdivision and applicable engineering requirements. All sanitary sewage facilities shall be compatible with the long range planning for sewering the entire tributary area.

e. Private (or Shared) Community Sewage Systems

(i) A private, or shared, community sewage system serving some or all of the lots in the subdivision may be considered.

(ii) All such systems must be approved by the Connecticut DEP or other designated state authority.
(iii) Appropriate easements, deed language and any other requirements must be approved by the Commission’s legal counsel.

5.10 Standards for Protection of Natural Resources.

5.10.1 The Commission may modify a proposed subdivision plan prior to approval if it deems such modifications(s) necessary to protect specifically identified natural resources such as, but not limited to:
   a. Inland wetlands or watercourses and their riparian zones
   b. Significant stands of mature trees or particularly large or unusual trees
   c. Active or recently active agricultural areas or areas with prime or important farmland soils
   d. Significant geological features, such as unusual rock outcroppings
   e. Vista points and undisturbed ridgelines
   f. Floodplains
   g. High-yielding or potentially high-yielding aquifers.

5.10.2 The Commission may require that the developer hire an expert in the field of natural resources, approved by the Commission, to assist in the identification and assessment of the resources of the parcel and to report the findings to the Commission.

5.11 Standards for Protection of Historic/Cultural Resources

5.11.1 The Commission may modify a proposed subdivision plan prior to approval if it deems such modification(s) necessary to protect specifically identified historic resources such as, but not limited to:
   a. Stone walls or fences
   b. Foundations or other evidence of historic settlements within the Town
   c. Burial grounds
   d. Sites of archaeological significance
   e. Historic structures or landmarks, as defined by Section 22a-19a of the Connecticut General Statutes.

5.11.2 The Commission may require that the developer hire an expert in the field of historic and cultural resources, approved by the Commission, to assist in the identification and assessment of those resources on the parcel and to report the findings to the Commission.

5.12 Standards for Open Space

The Town of Windham Plan of Conservation and Development and Open Space Plan encourages the protection of our natural resources.

5.12.1 In accordance with Section 8-25 of the Connecticut General Statutes and consistent with the State Plan of Conservation and Development and the Windham Plan of Conservation and Development, no subdivision of land shall be made unless proper provisions have been made for the preservation of Open Space.

5.12.2 All subdivision applications shall include a dedication of Open Space equal to or greater than twenty percent (20%) of the combined acreage of the lots proposed within the subdivision.

5.12.3 Open Space. At least fifty percent (50%) of the Open Space shall contain no wetlands, as defined by the Inland Wetlands and Watercourses Regulations, no excessive slopes (greater than 20%),
and no storm water detention facilities. The Commission may waive this requirement and permit additional areas of wetlands and excessive slopes in the opens space area if total area of the property to be developed contains more than 25% of such areas. In all cases the proportion of wetlands and excessive slopes that is included within the Open Space shall not exceed the proportion that exists within the total area of the parcel.

5.12.4 The location of the Open Space shall be designed in accordance with one or more of the following factors as appropriate to the site, bearing in mind that some factors conflict with others.

a. Where new roads are proposed, Open Space is located so as to create a buffer between the existing Town/State road(s) and the proposed lots. Open Space that is preserved as part of the Visual Streetscape Buffer (Section 5.4.1.c) may be counted as a part of the Open Space preservation requirement.

b. The Open Space is suitable for recreational use.

c. The Open Space is located to preserve such natural features as scenic vistas, ridge tops, significant tree groves and environmentally sensitive areas.

d. The Open Space is located in areas to preserve significant man made features such as stonewalls or historic structures.

e. The Open Space is located so as to preserve agricultural lands.

f. The Open Space is located in areas which connect existing Open Space, or areas with the greatest potential for future Open Space, and facilitate recreational trails.

g. The Open Space extends beyond the wetland boundary of a stream or watercourse a minimum of 100 feet on either side.

h. The Open Space is designed as a buffer between the proposed subdivision and abutting properties.

5.12.5 Conservation Easement. All Open Space shall be preserved in the form of a conservation easement or similar restriction, the restriction shall be granted in perpetuity exclusively for the conservation and preservation of Open Space.

a. The Conservation Easement shall be held by one of the following:

   (i) a Land Trust approved by the Commission

   (ii) State Department of Environmental Protection

   (iii) the Town of Windham

   (iv) other nonprofit or preservation organization.

The applicant shall provide documentation that the receiver of the Open Space, as outlined above, agrees to take ownership of the Open Space.

b. Except as otherwise set forth within the approval, the following shall be prohibited within Open Space areas:

   (i) The construction or the placing of buildings, roads, parking areas or other impermeable surfaces, signs or other advertising materials, utilities or other structures on or above the ground, except those structures used for agricultural or recreational purposes and approved by the Commission;

   (ii) The dumping or placing of soil or other substances or materials as landfill, or the dumping or placing of trash, waste or other unsightly and offensive materials;
The excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other substances;

All uses except passive outdoor recreational uses, providing the land remains predominantly in its natural condition;

Any manipulation or alteration of natural watercourses, marshes, or other water bodies and any other acts or uses detrimental to the retention of said land in its natural and scenic and open condition;

The use of motorized recreational vehicles.

5.12.6 Land for public or private recreation areas shall be in a condition for the purpose intended.

a. In general, wooded areas and areas along the edges of waterways shall be left undisturbed. The Commission may include a condition of approval stipulating that invasive species and debris be removed.

b. If approved by the Commission, Open Space to be used for active recreation shall be graded and seeded to dispose of surface water.

c. Public Open Space shall abut or have direct access to a street through a right-of-way dedicated to public use. In acceptable circumstances, such as where the proposed Open Space abuts an existing Open Space, the Commission may reduce or waive this requirement.

d. If for public use, the Open Space shall be deeded in fee to an approved entity as identified in Section 5.12.5a.

e. If for private use of homeowners:

   (i) Deeded in fee, with appropriate conservation easement, to a homeowners’ association with rules, regulations and successor provisions approved by Commission.

5.12.7 If to be used for agriculture:

   (i) Deeded in the form of an agricultural easement for the exclusive use of crop production to an approved user.

5.12.8 If to protect the natural or cultural resources:

   (i) Deeded in fee to an approved entity as identified in Section 5.12.5a

   (ii) Deeded in the form of a conservation easement to be held by an approved entity as identified in Section 5.12.5a

   (iii) Deeded in the form of a scenic easement to an approved preservation organization,

5.12.9 Performance surety, as outlined in Section 10, which provide for the completion of public improvements shall be sufficient to cover the estimated costs of required improvements to public or private Open Space areas. In the event that the dedication and location of the Open Space is deferred, due to a phased development, that fact shall be stated on the Mylar and a cash bond or other security at the discretion of the Commission, such as a cash bond, a letter of credit or a surety bond of the highest ratings in such terms and conditions as are acceptable to the Commission, shall be established to assure the future dedication of Open Space as required by the subdivision approval.

5.12.10 The total area of required Open Space may be broken up into separate areas of not less than one (1) acre, provided the total of all areas is equal to or greater than the minimum requirement. Commission may waive the one (1) acre minimum when the future development of adjoining
land makes smaller areas feasible or where the area is a continuation of a stream protection area, existing or future Open Space corridor or other natural features.

5.12.11 When a parcel is to be developed in stages, the Commission may allow the preservation of Open Space to be included in any of the phases provided the necessary total amount of Open Space is preserved as required by the Commission upon the completion of the development of the entire tract and provided the Open Space meets all requirements of the Commission. The Commission shall require a bond as per Section 10 to assure the preservation of the total area of the Open Space proposed for the subdivision.

5.12.12 Fees in Lieu of Open Space Dedication. As set forth in Section 8-25 of the Connecticut General Statutes, the Commission may authorize the applicant to pay a fee to the Town of Windham, or may approve a combination of paying a fee to the Town of Windham and preserving the land in accordance with this section, in lieu of the full requirement to preserve Open Space otherwise required by these Regulations. In considering any land to be transferred under this Section, the Commission shall follow the procedures outlined in the Connecticut General Statutes, as amended. The procedure is set forth below:

a. The applicant shall provide the Commission with a narrative setting forth the proposal to pay a fee, or pay a fee and transfer land, in lieu of the full Open Space dedication as set forth above.

b. The Commission shall determine whether to accept the proposal of the applicant, to recommend an alternate fee, a different combination of dedication and fee, or to require a dedication only.

c. If fees in lieu of Open Space are to be allowed, the Commission, and the applicant shall first jointly select an appraiser to determine the fair market value of land proposed to be subdivided in predevelopment condition. The applicant shall be responsible for all of the appraisal fees and expenses. At the option of the applicant, the applicant may request that the Commission agree to establish the fair market value based on the value noted on the Assessor Property Card, for land only, as adjusted for inflation, if any, by the Town Assessor.

d. The final fair market value of the land; shall be determined by the Commission, when and if, the fee in lieu of Open Space is accepted.

e. The payment, or combination of payment and the fair market value of the land transferred for preservation, shall be equal to ten percent of the fair market value of the land to be subdivided prior to the approval of the subdivision, except that the Commission may accept a payment of 6% where only one new parcel is created and 8% where two new parcels are created.

f. The method of payment of any fees under this Section shall be one of the following two options:

(i) The applicant, at his option, may submit the entire fee in one lump sum prior to the filing of subdivision mylars with the Town Clerk; or

(ii) The applicant may elect to submit a fraction of such payment, the numerator of which is one and the denominator of which is the number of approved building lots in the subdivision, no later than the time of the sale of each approved building lot; and a notation describing this requirement shall be placed on the final subdivision map filed in the Town Clerk's office. If this option is chosen, the applicant shall submit a bond or other security acceptable to the Town of Windham, equal to the full amount of fee required, prior to the filing of the subdivision maps in the Town Clerk's office.

g. Fees submitted under this section shall be deposited by the Town in a fund, which shall be used for the purpose of preserving Open Space or acquiring additional land for Open Space or for
recreational or agricultural purposes. The disbursement of such fees shall be approved by the Commission and shall be consistent with the Plan of Conservation and Development. Any required fees shall be paid to the Town prior to the release of any subdivision bond.

5.12.13 The Open Space requirements of these Regulations shall not apply if the transfer of all land in a subdivision of less than five parcels is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration.

   a. the Applicant shall submit the proposed deed for each lot to the Commission prior to endorsement of the Final Approved Plan by the Chairman.

5.12.14 Each recorded deed shall include the following language: “This lot was created by subdivision approved by the Windham Planning Commission on [date] under a claim by the owner of an exemption from Open Space Land requirements of the Windham Subdivision Regulations under Connecticut General Statute 8-25, where “the Open Space requirements of this sections shall not apply if the transfer of all land in a subdivision of less than five parcels is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration.” Conveyance of this lot to any other person prior to ten (10) years from the date of subdivision approval shall require provision of such Open Space Land or payment of a fee in lieu of Open Space land by the seller in accordance with the Windham Subdivision Regulations, as the Windham Planning Commission may determine in its sole discretion.” Any deed recorded in the land records of the Town shall incorporate the terms and language of the proposed deed submitted to the Commission.

5.12.15 The Applicant shall submit to the Commission a copy of the federal or state gift tax return demonstrating transfer of each lot in the subdivision for no consideration to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin of the current legal owner as required by Connecticut General Statute 8-25 within 180 days of the date the Final Approved Plan is recorded in the office of the Town Clerk.

5.12.16 The Open Space requirements of these regulations will not apply if the subdivision is to contain affordable housing, as defined in Connecticut General Statute 8-39a, equal to twenty per cent or more of the total housing to be constructed in such subdivision.
5.13 Non-residential Subdivisions (entire section added 2/17/2011)

5.13.1 Subdivision of land within the Willimantic Service District for a non-residential use:

a. May provide a total of 20% (either in one area or in several areas) of the lot in landscaping, landscaped buffers and natural areas in lieu of open space provision and be so noted on the Final Subdivision Plan.

b. May utilize an existing or proposed private drive as a private street for vehicular access and to meet the minimum frontage requirements.

i. An existing private drive shall have no less than a 24' travel width; the developer shall provide a statement from a Civil Engineer licensed to practice in the State of Connecticut that the existing private drive substantially meets construction standards as a private street suitable for the intended volume of traffic.

ii. A proposed private drive shall meet the Standards of Section 7 of these regulations.

Each lot served by a private street shall have a note placed on the Final Subdivision plan, and subsequently in the deed to each lot stating: "This lot is served by a private street. The Town of Windham will provide no maintenance or town services along this private street, nor have any obligation now or in the future to do so” or other similar language approved by the Commission’s legal counsel. The Commission may require additional access/egress points to serve the lots.

c. Are not subject to the standards for buildable envelope or buildable square of these regulations.

d. Are exempt from the requirements of 4.1.3, 4.1.4, 5.3.1, 5.3.8, 5.3.9, 5.3.10, 5.3.11, 5.4.1c, 5.4.1d and 6.
SECTION 6. FLEXIBLE DESIGN SUBDIVISIONS

6.1 Purpose

6.1.1 The purpose of this Section is to:

a. maintain and enhance the conservation of natural, scenic or agricultural resources,

b. protect natural streams and water supplies,

c. promote conservation of soils, wetlands, and other significant natural features and landmarks,

d. enhance the value to the public of abutting or neighboring parks, forests, environmental conservation areas, nature reservations or sanctuaries or other Open Spaces,

e. enhance public recreation opportunities,

f. preserve historic sites,

g. encourage development that addresses needs of first-time homebuyers and those downsizing, and

h. promote orderly urban and suburban development.

6.1.2 These regulations are intended to provide for increased flexibility, balanced by increased control, in the development of land so as to facilitate the preservation of Open Space, natural resources, recreational uses, and rural character.

6.2 Requirement of Submitting a Flexible Design Subdivision

6.2.1 As authorized under Connecticut General Statutes Sections 8-2(a) and 8-25(c), every applicant proposing to subdivide a parcel (or portion of a parcel of land) completely within the Town of Windham which is equal to or larger than 15 acres and/or proposing at least 5 lots, shall submit a Flexible Design Subdivision plan that meets the requirements of this Section 6 and the other relevant provisions of these Regulations and Windham’s Zoning Regulations. For purposes of determining the size of the parcel proposed for subdivision, all land within the parcel, including any land not immediately proposed for use as building lots, shall be included. An applicant may submit an alternative, conventional subdivision plan in addition to the Flexible Design Subdivision plan required by this Section if the applicant wishes to have the Commission consider granting an exception to the Flexible Design Subdivision requirement pursuant to Section 6.10. The plan must conform to all other requirements contained in these Regulations and the Windham Zoning Regulations.

6.2.2 The Commission recommends that prior to the submission of the Formal Application for subdivision approval, the applicant use the Pre-Application Review process as described in Section 3. The preparation of the preliminary plan is recommended to facilitate the general discussion of potential factors affecting the development of the land before the applicant proceeds with the official application and the preparation of maps, plans, and documents required for consideration by the Commission. The presentation of a preliminary plan will readily and economically facilitate alterations and changes recommended by the Commission.

6.3 Procedures

6.3.1 Except as otherwise provided, all Flexible Design Subdivision applications must meet the procedural and substantive requirements of all Sections of these Regulations and the Windham Zoning Regulations.

6.4 General Density Limitations

6.4.1 The maximum number of units for a Flexible Design Subdivision shall be calculated, at the applicant's option, by either the Formula Method or the Yield Plan Method.
a. Formula Method. If the applicant chooses the Formula Method, the maximum number of lots shall not exceed the number resulting from dividing the total area of the parcel, excluding areas listed in 6.4.1 a.(i), by 100% + 10% (110%) of the minimum lot size permitted for a conventional subdivision in the applicable zoning district to represent proposed lot area plus street right of ways.

(i) Areas to be excluded in the Formula Method, in acreage to the nearest 1/10th, are:

- 75% of total wetlands, watercourses, and flood zone A (per FEMA maps)
- slopes greater than 20% that extend 50 linear feet or more
- area separated by significant wetland or other natural or man-made feature making access too costly to be practical for development
- existing easements and right-of-ways, excluding conservation easements
- 20% of total land to meet minimum open space requirement

(ii) Example of Formula Method:

<table>
<thead>
<tr>
<th>Description</th>
<th>Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Area of the Parcel</td>
<td>60.0 acres</td>
</tr>
<tr>
<td>less 75% of wetland, watercourses, flood zone A</td>
<td>6.5 acres</td>
</tr>
<tr>
<td>less acres of slopes &gt; 20% over 50’ linear distance</td>
<td>.2 acres</td>
</tr>
<tr>
<td>less acres of existing easements and right of ways</td>
<td>.0 acres</td>
</tr>
<tr>
<td>less 20% open space</td>
<td>12.0 acres</td>
</tr>
<tr>
<td>less acres separated by significant wetland</td>
<td>6.0 acres</td>
</tr>
<tr>
<td><strong>35.3 acres</strong></td>
<td></td>
</tr>
</tbody>
</table>

If applicable zoning district is 2 acres, then

\[
2 \text{ acres } \times 110\% = 2.2 \text{ acres}
\]

\[
\frac{35.3 \text{ acres}}{2.2 \text{ acres}} = \text{16.05 lots}
\]

Rounded to 16 lots

If result is not a whole number, results are rounded down if less than .5 or up if result is greater than or equal to .5. For example, a result of 16.2 would be rounded down to 16 lots; a result of 16.5 would be rounded up to 17 lots.

b. Yield Plan Method. If the applicant chooses the Yield Plan Method, the applicant must provide a conceptual subdivision plan consisting of lot and street layouts conforming to the Zoning and Subdivision Regulations governing conventional subdivision lots. Although such yield plans shall be conceptual in nature, and are not intended to involve significant plan-preparation costs, they must be realistic and must not show potential lots or streets in areas that would not ordinarily be permitted or practical in a conventional subdivision layout. Consequently, yield plans must identify physical and other features that would limit or restrict the use of the parcel for development, including, but not limited to, topographic contours, at a contour interval of no more than five (5) feet; wetlands and watercourses; 100-year floodplains (Flood Zones A, as shown on FEMA maps); slopes exceeding twenty percent (20%) for 50’ linear feet; rock outcrops; and easements and rights-of-way affecting the parcel.

(i) On lots that would not be served by public sewerage or a centralized private sewage treatment facility, soil suitability for individual septic systems must be demonstrated. The Commission may select a small percentage of lots (10 to 15%) to be tested, in areas considered to be marginal. If all tests on the sample lots meet applicable Health Department requirements, the applicant's other lots shall also be deemed suitable for septic systems, for the purpose of calculating total lot yield. However, if any of the sample lots
fail, several others of the Commission's choosing shall be tested, until all the lots in a given sample pass.

6.4.2 Bonus Lots in a Residential Subdivision.

a. Windham Plan of Conservation and Development recommends addressing the need for starter home ownership to satisfy an ongoing need in our area.

A starter home for the purposes of these regulations is defined as a detached dwelling built or renovated to accommodate a single household so as to be affordable to Windham’s working residents at a price that will require no more than (3) times Windham’s annual median family income.

(i) To encourage the construction of starter homes to accommodate Windham’s workforce homebuyers, a lot bonus shall be granted for a subdivision or a re-subdivision that include starter homes as part of a proposed subdivision. The number of starter homes included in a subdivision shall not exceed 20% of the total units in proposed subdivisions to a maximum of (6) six in any one subdivision.

(ii) The Maximum Lot Yield may be increased by the Commission by one additional lot for each two starter homes proposed by the applicant, up to a maximum of ten percent (10%) of the total number of lots (as determined by the Maximum Lot Yield calculation) that would otherwise be allowed. Each additional lot created under provisions of this section shall be deemed a bonus lot.

(iii) If within a proposed subdivision, an entire section of a subdivision is built with starter homes, a Private Way may be permitted to serve up to six (6) starter-home lots (See Section 7 for Standards). The maximum length for a Private Way is 599’. The Commission may permit above ground utilities along a Private Way.

(iv) No Zoning Permit nor Certificate of Occupancy may be issued by the Town of Windham for any building on any lot approved as a bonus lot under these provisions, unless all deed covenants and restrictions comply with the provisions of this section and have been recorded in the Windham Land Records in a form approved by the Commission's legal counsel.

6.5 Standards, Controls and Design Guidelines for Flexible Design Subdivisions

6.5.1 Because of the need to balance conservation and development in the design, the Commission strongly encourages the involvement of a Landscape Architect in the design of a Flexible Design Subdivision.

6.5.2 Minimum Area, Yard and Coverage Requirements for individual lots are set out in Windham Zoning Regulations.

a. To facilitate lot layout, the Commission may reduce the minimum frontage or lot area requirements up to 15% as long as the average of all frontages and all lot sizes within the subdivision meet the minimum requirements.

b. All lots in a Flexible Design Subdivision shall meet the Buildable Envelope Requirements as defined in the Windham Zoning Regulations governing Flexible Design Subdivisions, which area shall be of a more or less rectangular shape.

6.5.3 In designing a Flexible Design Subdivision, the applicant shall consider the purposes set forth in Section 6.1 of these Regulations, and the following:

a. Lots shall be grouped allowing a portion of the parcel to remain open.
b. The Open Space in any Flexible Design Subdivision shall be located entirely within the subdivision and shall be in one contiguous piece except where the Commission finds that the purposes of Section 6.1 would be more effectively served by separated parcels. The Open Space shall have a suitable shape, dimension, character and location to promote the purposes specified in Section 6.1.

c. Lots shall be laid out to the greatest extent feasible to achieve the following objectives (listed below in order of priority, as it is recognized that some may conflict with others on any given site):

(i) To place septic systems on the most suitable soils for sub-surface waste water disposal (in unsewered areas only)

(ii) Proposed lots and improvements should be designed and situated to minimize disturbance of cultural and natural site features to be preserved

(iii) Preserve natural and environmental features, preferably contained within the Open Space

(iv) Individual lots should be arranged and situated to relate to surrounding properties, to improve the view from, and the view of, prospective lots, and to minimize the area devoted to vehicular circulation

(v) In locations where the greatest number of units could be designed to take maximum advantage of passive solar heating opportunities

(vi) Individual lot lines should follow any existing stone walls to the extent feasible

(vii) In locations least likely to block or interrupt scenic vistas, as seen from the public roadway(s)

(viii) On the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural use

(ix) Within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features)

(x) Wherever possible, wetlands should be adjacent, contiguous or included in the Open Space

(xi) Proposed Open Space areas should include irreplaceable natural features of the site such as, but not limited to stream beds, stands of trees, individual mature healthy native trees, and rock outcroppings

(xii) Open Space intended for recreation or other public use should be easily accessible to pedestrians, including to the extent feasible, the handicapped and elderly

6.5.4 Along any part of the parcel perimeter where residential lots abut non-residential lots, a fifty foot buffer zone, thickly planted with fast-growing native shrubs and trees shall be required; or a retained existing forested strip or natural vegetation may be accepted at the discretion of the Commission.

6.5.5 Unless otherwise approved by the Commission because of site conditions such as ledge or other natural restraints, underground utilities shall be required in Flexible Design Subdivisions.

6.6 Modification
The Commission may approve and modify an application so as to preserve Open Space in locations other than those proposed, if it determines that such modified location(s) will better serve purposes and satisfy the
applicable criteria, purpose and standards of these Regulations and the Windham Plan of Conservation and Development.

6.7 Stormwater System
All stormwater systems are to adhere to standards set out in Section 8. Curbing and formal closed drainage systems (e.g., culverts, catch basins, etc.) are to be held to a minimum, except as provided below.

6.7.1 Curbing may be necessary where a road is in a cut situation with surrounding land pitching toward the road; at a low point in the road with catch basins to collect storm water runoff; and where a closed drainage system is required.

6.7.2 Curbing is not required: where land generally has flat slopes; where the road is in a fill situation and sheet flow away from the road is advantageous; and where no closed drainage system is required.

6.7.3 A closed drainage system is required where drainage structures (e.g. catch basins) are necessitated by site conditions and subdivision design.

6.8 Subdivision Streets, Roads, Private Ways and Common Driveways

6.8.1 All streets, roads and private ways shall conform to the Standards in Section 7 of these regulations.

6.8.2 All dead-end roads shall terminate in a cul-de-sac with vegetated island of native planting. Cul-de-sac streets shall not serve more than (12) dwelling units, except that waivers for cul-de-sac streets serving not more than sixteen (16) dwelling units may be granted by the Commission in instances where the applicant has satisfactorily demonstrated that street length, topography, natural features, site layout and emergency vehicle access are adequate to properly serve the proposed dwellings three-quarters (3/4) of the Commission quorum present must vote in favor for the waiver to be granted.

6.8.3 Common Driveways must meet driveway requirements of these regulations (Section 5.7), and the Windham Zoning Regulations.

a. Common driveways serving more than one dwelling unit are encouraged, especially when interior rear lots are proposed.

6.8.4 Rear Lots in Flexible Design Subdivisions:

a. Only one rear lot shall be permitted in the Flexible Design Subdivision served by a private driveway. Driveway access width for the private rear-lot driveway shall be a minimum of twenty-five feet (25') and a maximum of forty-nine feet (49').

b. Up to 1/3 of the lots may be rear lots provided they are all served by a common driveway associated with one frontage lot.

6.9 Dedication of Open Space
Open Space will be dedicated in the manner as described in Section 5.12 of these regulations.
6.10 Modification or Exception
An applicant may apply to the Commission for a modification or exception to the Flexible Design Subdivision plan requirements. The purpose of the modification or exemption is to provide flexibility with regard to parcels of land for which a Flexible Design Subdivision would be impractical due to existing physical conditions or limitations; would create an undue hardship; or would be substantially detrimental to the character of, or property in, surrounding areas. In evaluating, approving or disapproving an application for such a modification or exception, the Commission may consider the following criteria:

- the nature of the proposed development,
- the nature of the resources present on the land,
- the size of the subdivision,
- road access,
- the shape of the parcel,
- any undue hardship that the creation of a Flexible Design Subdivision would cause,
- any other factor the Commission deems to cause grounds for a hardship.
SECTION 7. STANDARDS FOR STREETS AND OTHER VEHICULAR WAYS

7.1 General Requirements

7.1.1 Proposed streets shall be in harmony with existing or proposed roads as shown on the Plan of Conservation and Development adopted by the Commission. Special consideration to be given to safe intersections and a road arrangement that will provide an adequate and convenient system for present and prospective traffic needs.

7.1.2 All subdivision streets, private or public, private ways and common driveways shall be built according to Town Public Improvement standards as established by the Town Engineer and these regulations.

7.1.3 All pre-existing and recorded street, road or vehicular easements must be either removed or incorporated into the street layout of the proposed subdivision. All existing pedestrian trail and other easements must be retained and incorporated into the proposed subdivision.

7.1.4 Access to Existing Through Street

a. All subdivisions shall have frontage on, and vehicular access from, an existing through-road or street that has at least two means of ingress and egress. In subdivisions containing twenty (20) or more lots, the Commission may require that the development be accessible from two different locations.

b. When land with frontage on an existing public street is proposed for subdivision and the existing public street does not meet the construction standards and right-of-way width required by Town standards, or required for the traffic proposed together with the existing traffic and traffic conditions, the Commission may require dedication of additional rights-of-way and construction of improvements by the developer to ensure suitability of the road to accommodate the added burden of development proposed.

c. Generally, access from lot(s) directly onto principal or secondary thoroughfares or collector streets shall be discouraged unless specifically authorized by the Commission. The Commission may also require screening or a buffer between lots and thoroughfares where appropriate. The preferred design should include an offset access road to provide a safer means of access to the lots. The Commission reserves the right to waive the requirement where this rule is impractical.

7.1.5 To provide for a coordinated future street system, all temporary dead-end roads shall have a fifty (50) foot wide right-of-way, with paved road stub 20’ in length, leading from the proposed subdivision street to adjoining properties included in the subdivision plan unless the street is to remain as a private way or road.

7.2 Classification

7.2.1 All streets shall be laid out, designed and constructed in accordance with the following classifications:

a. Thoroughfares - Thoroughfare streets are the major arteries in the Town and consist of principal and secondary types which are indicated below:

   (i) Principal - A major traffic street carrying comparatively long-distance, fast-moving traffic between communities and defined as a principal thoroughfare in the Plan of Development. These may be designed as boulevards or dual streets, and may be accompanied by marginal access streets.
(ii) Secondary - A Street designed to carry heavy volumes of intra-town traffic between important points in the Town and defined as a secondary thoroughfare in the Plan of Development.

b. Collector Street - A Street carrying moderate volumes of traffic and serving areas, which do not generate high traffic volumes. These streets provide links between access streets and thoroughfares and are defined as collector streets in the Plan of Development.

c. Local Street - A street designed for urban areas primarily providing access to individual properties and not likely to be used by traffic other than that having an origin or destination on the street.

d. Access Roads

(i) One-Way Loop. A short street that loops back to itself, with a single entry off a through street, it serves a limited number of properties and cannot be extended to serve undeveloped areas in the future. One half of the distance of the loop plus the length of the approach road cannot exceed 1,000’. For example, an approach road of 400’ with a 1,200’ one-way loop would be permitted (400’ + 600’ = 1,000’)

(ii) Permanent Dead End - A short street, such as a cul-de-sac, which serves a limited number of properties that cannot be extended to serve undeveloped areas in the future. The maximum length permitted is 1,000’ measured from the through street’s right-of-way to the frontage property line of the farthest lot.

(iii) Temporary Dead End – A short street that ends in a temporary cul-de-sac with a right-of-way, with paved road stub 20’ in length, planned as a street connection to a potential future development. The maximum length permitted is 1,000’ measured from the through street’s right-of-way to the frontage property line of the farthest lot.

(iv) Spur – A short street, more or less parallel to a town road, intended to limit the number of curb cuts onto that road; the ends of the Loop must between 300’ and 1500’ apart.

(v) Private Way - A short lane, which may be shared by private maintenance agreement by not more than six house lots, only as approved for starter house lots in Section 6.4.2 of these Regulations.

7.3 Topography and Arrangement

7.3.1 Streets that are appropriately related to the general topography of the land are encouraged. A combination of steep grades and curves shall be avoided. Where steep slopes exist, roads should ascend diagonally across the slope in order to avoid major cuts and fill of the natural grade. Specific standards are contained in the design standards of these Regulations.
7.3.2 All streets shall be properly related to special traffic generators, such as industries, business districts, schools, churches and shopping centers to population densities and to the pattern of existing and proposed land uses.

7.3.3 Local and access streets shall be laid out to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum of streets necessary to provide convenient and safe access to property. The use of curvilinear streets is encouraged for traffic calming and to integrate the street with the topography and to provide advantageous solar exposure for future lots.

7.3.4 In business and industrial developments, the streets and other access-ways shall be planned in connection with the grouping of buildings, location of rail facilities and the provision of alleys, walks, parking areas and truck loading and maneuvering areas, to minimize conflicting movement between the various types of traffic, including pedestrian.

7.3.5 Within the Willimantic Service District, or in a proposed new town layout, a grid pattern may be appropriate.

   a. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block standard shall be permitted when deemed appropriate by the Commission. Blocks adjacent to major streets, railroads and waterways are examples where exceptions might be appropriate.

   b. Block lengths in residential areas shall not exceed 1,200 feet or ten (10) times the minimum lot width required in the zoning district, whichever is less; nor shall they be less than 400 feet in length, unless specifically permitted by the Commission. Wherever practicable, blocks along thoroughfares shall be not less than 500 feet in length.

   c. In long blocks, the Commission may require the reservation of easements through the block to accommodate utilities, drainage facilities or pedestrian traffic. Such easements shall not be less than twenty (20) feet wide and shall be improved and dedicated as required by the Commission. Such easements should be contained on one property whenever practical and not straddle a property line in order to reduce the number of properties affected.

   d. Blocks designed for non-residential uses shall be of such length and width as may be determined suitable by the Commission for prospective use.

7.3.6 Where the Commission determines that the street pattern for a proposed development should connect to an existing, proposed or previously laid out street or right-of-way, the Commission may require the extension and construction of the street or right-of-way by the applicant to assure a safe, efficient circulation system.

7.3.7 Generally, access from lot(s) directly onto principal or secondary thoroughfares shall be discouraged unless specifically authorized by the Commission. The Commission may also require screening or a buffer between lots and thoroughfares where appropriate. The preferred design should include a looped access road, frontage service road or lane which will provide a safer means of access to the lots. The Commission reserves the right to waive the requirement where this rule is impractical.

7.4 Traffic Control Devices and Signs

The applicant shall provide, at his expense, and install, all traffic control devices and signs required by the Town Traffic Authority. Street name signs are to be furnished and installed by the developer at all intersections within or abutting the subdivision, the type and location of which are to be approved by the Superintendent of Public Works.
7.5 Acceptance as Town Road
In order for a subdivision road to be accepted as a Town road the following conditions must be met:

7.5.1 The developer requests, in writing, that the Board of Selectmen/ Town Council accept the street(s).
7.5.2 The Board of Selectmen/Town Council requests a report from the Commission.
7.5.3 The Commission will not recommend acceptance unless:
   a. All required improvements have been completed and the Town Engineer finds them acceptable,
   b. The street being accepted has direct access to a Town or State-owned through road,
   c. The street is not a permanent dead end street,
   d. All conditions have been satisfied and Warranty Deed and easements have been delivered.
7.5.4 Based upon the Commission’s recommendation, the Board of Selectmen/Town Council will act on the street’s acceptance as a Town street.

7.6 Private Streets
Private streets, such as permanent dead-end streets and Private Ways, shall not be accepted as a Town street.

   a. Each lot served by a private street shall have the following recorded on the deed: "This lot is served by a private road. The Town of Windham will provide no maintenance, town service or school bus services along this permanent dead end street” or language approved by the Commission’s legal counsel sufficient to restrict the road from public acceptance.

7.7 Common Driveways
Common driveways shall meet construction standards as determined by the Town Engineer.

7.8 Design Standards for Streets and Roads

7.8.1 General - The design standards for roads contained in Table 1 are required to be met. The Commission shall determine the appropriate classification of the circulation system.

7.8.2 Additional Right-of-Way - Additional right-of-way widths in excess of the standards specified in these Regulations shall be required whenever the Commission determines that due to topography or traffic conditions, greater width is necessary to provide additional pavement width.

7.8.3 Intersections
   (i) Streets shall be laid out to intersect at, or nearly at, right angles. No more than two streets shall intersect in close proximity to any one point along a roadway.
   (ii) Proposed new intersections along one side of an existing street shall, where practical, coincide with any existing or proposed intersections on the opposite side of such street. Street jogs with centerline offsets of less than 150 feet shall not be permitted except where the intersected street has separated lines without median breaks at either intersection. Intersection of thoroughfares shall be at least 1,000 feet apart.
   (iii) At intersections of streets, the rights-of-ways shall be jointed by fillet radii as specified in Table 1.
   (iv) Intersections and cul-de-sacs shall be designed to be less than a 3% grade wherever practical. Approaches to intersections in hilly or rolling areas, shall be provided with a level area not greater than a three percent slope for a minimum distance of fifty (50) feet, measured from the nearest right-of-way line of the intersecting street.
(v) Where any street intersection or driveway access will involve earth banks or existing vegetation that would create a traffic hazard by limiting visibility, the developer shall remove such ground and/or vegetation (including trees) in connection with the grading of public right-of-way to the extent deemed necessary by the Commission to provide an adequate sight distance.

7.8.4 Bridges and Other Improvements - Bridges and other improvements of primary benefit to the applicant, as determined by the Commission, shall be constructed at the expense of the applicant without reimbursement from the Town.

7.8.5 Road Dedication and Reservations.

a. The Commission may require the reservation of the full right-of-way for any existing or proposed street and may require the construction of all or part of the facilities within the right-of-way required for the appropriate classification.

b. Widening and Re-alignment of Existing Roads - Where a subdivision borders an existing road or when the Plan of Development indicates or the Commission determines a need for re-alignment or widening of a road that would require use of some of the land in the subdivision, the applicant may be required to improve and dedicate at his expense such areas for widening or re-alignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at his own expense to the full width as required by these Subdivision Regulations, provided that if the applicant owns land on only one side of said road, the applicant need only realign that side of the road. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the Windham Zoning Regulations, whether the land is to be dedicated to the Town in fee simple, or an easement is to be granted to the Town.
<table>
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1 Grades up to ten (10) percent may be used but not for a distance greater than 500 feet.

2 Steeper grades may be considered for short distances upon petition by the applicant for a waiver. Such steeper grades should not exceed twelve (12) percent for any road segments of 100 feet or less.

3 The greater width of pavement is required when adequate off-street parking is not available. When curbs are required on both sides of the pavement, minimum curb-to-curb width shall be twenty-four (24) feet.

4 Measured from a point on the minor road fifteen (15) feet plus one half the required pavement width from the centerline of the major road, and measured from a height of eye at 3.50 feet on the major road to a height of object of 3.50 feet on the minor road.

5 Private Ways may be approved by the Commission with a finish surface of gravel; the base of the gravel surface must be approved by the Town Engineer and be suitable for possible future paving.
SECTION 8. STANDARDS FOR STORMWATER DRAINAGE

8.1 General Requirements
For subdivisions that include the disturbance of more than one acre of land, the applicant shall demonstrate to the Commission that the plan takes into consideration the need to reduce stormwater run-off volume, reduce peak discharges, increase run-off travel time, increase groundwater recharge and avoid impacts to natural stream flows by utilizing techniques outlined in the publication of the Connecticut Department of Environmental Protection, entitled, 2004 Connecticut Stormwater Quality Manual, as the same may be amended from time to time.

8.2 Drainage Easements
The Commission shall require the subdivider to provide sufficient easements for stormwater drainage of proposed streets. In determining these requirements, contours, soil types, and other unusual circumstances shall be considered. No natural water course or wetland shall be altered or obstructed to reduce natural run-off capacity of surface water unless substitute means of run-off are provided. All stormwater systems, including curtain drainage, for individual lots must be contained within that lot.

8.3 Best Management Practices (BMP) and Low Impact Development (LID).
Whenever possible, the use of BMP/LID techniques for stormwater management is required. Such techniques, include, in order of priority:

8.3.1 Minimizing stormwater runoff by maintaining existing vegetative cover and minimizing impervious surfaces;
8.3.2 Using vegetated swales, buffers, filter strips, rain gardens and level spreaders;
8.3.3 Creating several small stormwater ponds and wetlands;
8.3.4 Using permeable pavement;
8.3.5 Installing underground infiltration systems.
SECTION 9. STANDARDS DURING CONSTRUCTION

9.1 Erosion and Sedimentation Control Standards

9.1.1 For subdivisions that include the disturbance of more than one-half (1/2) acre of land, the applicant shall demonstrate to the Commission that the subdivision plan addresses the need to reduce soil erosion and sedimentation by utilizing techniques outlined in the publication of the Connecticut Council on Soil and Water Conservation and the Connecticut Department of Environmental Protection, entitled, 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as the same may be amended from time to time. Soil erosion and sedimentation control techniques shall include, but are not limited to:

a. Keeping land disturbance to a minimum by maintaining the existing topography and vegetative cover;

b. Avoiding excessive cuts and fills;

c. Avoiding steep slopes and soils with severe limitations for the intended uses;

d. Aligning roads and driveways to the contour of the land;

e. Utilizing the natural drainage system whenever possible.

9.2 Shade Trees
Existing trees and other vegetation specified in the VPPP as being maintained shall be protected during construction. Any existing trees shown as preserved on the VPPP that do not survive the construction shall be replaced. Replacements shall be of the same species or selected from those listed in the Urban Tree Selection Manual published by University of Connecticut Extension; replacement will be of at least 2.5” caliper.

9.3 Removal of Top Soil
Approval of a subdivision by the Commission shall not constitute approval of the removal of top soil or other excavated material from the premises other than that necessary to construct the improvements, and then only to the depths shown on the approved plan.

9.4 Grading
The land located within a subdivision shall be properly graded and left in a condition free of any solid waste and properly stabilized to eliminate erosion. Stumps, logs, construction materials, and any other solid waste shall not be buried on-site and shall be removed from the site and disposed of in a lawful manner.
SECTION 10. BONDING AND ENFORCEMENT

10.1 Completion of Improvements (revised 2/17/11)
All applicants shall be required to complete all the streets and other public improvements as specified in the subdivision plan as required in these Regulations, and to dedicate all public improvements to the Town, free and clear of all liens and encumbrances.

a. The applicant shall submit a “Certificate of Title” prior to conveying any land to the Town indicating all title restrictions.

10.2 Performance Bond

10.2.1 The applicant shall post an acceptable form of surety prior to the initiation of construction of the improvements required in the approved plan in an amount approved by the Commission. Said amount shall be based on the estimate of cost of construction provided under Section 4.4.15.d, cost for sediment and control, development within Open Space, and VPPP as approved by the Town Engineer, landscape elements and shall include a ten percent (10%) contingency.

10.2.2 Such performance surety shall be satisfactory to the Town Attorney. The period within which required improvements must be completed shall be incorporated in the security and shall not exceed two years. This provision is to encourage the subdivider to define phases for large subdivisions in order to develop the subdivision in manageable units, which will protect the Town, and the consumer. Said security shall remain in full force and effect until it is officially released by the Commission.

10.2.3 Enforcement, Violations and Penalties

10.2.4 It shall be the duty of the Commission or its designated agent to enforce these Regulations and to bring to the attention of the Town Attorney any violations or lack of compliance.

a. No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer, offer to sell, or sell any such parcel before a plan of such subdivision has been approved by the Commission, in accordance with the provisions of these Regulations, and filed with the Town Clerk.

b. No building permit shall be issued for the construction of any building or structure located on a lot or parcel subdivided or sold in violation of these Regulations.

c. The Commission may have a notice of the violation placed on the Windham Town Records in the Town Clerk’s office. The purpose of this notice is to alert potential buyers and lenders of the violation.

10.2.5 Sale of Lots – No lots can be sold until a street that has been approved as a paved street, whether public or private, has at least the binder course complete. No lots can be sold on a Private Way until the street, if gravel, is complete. No lots can be sold on a Common Driveway until the common portion of the driveway is complete. The developer may come before the Commission, during the road construction, to request a waiver of this section of the regulations.

10.2.6 Violations and Penalties - Any person, firm or corporation making any subdivision of land without the approval of the Commission shall be subject to a fine of not more than $500 for each lot sold, or offered for sale, or so subdivided.

10.2.7 Civil Enforcement - Appropriate actions and proceedings may be taken to prevent any violation of these Regulations, to prevent unlawful construction, to recover damages, to restrain, correct or
abate a violation, to prevent illegal occupancy of a building, structure or premises. These remedies shall be in addition to the penalties described above.

10.2.8 All landscaping elements portrayed on the approved plan, including buffer treatments, shall be maintained in a manner sufficient to ensure its continuing performance and the survival of plantings. Where a maintenance problem arises, upon order of the Zoning Enforcement Officer, said landscaping shall be restored to a satisfactory condition consistent with the approved landscaping plan.
SECTION 11. MISCELLANEOUS / ADMINISTRATIVE

11.1 General Requirements

11.1.1 Conformance to Application Rules and Regulations - In addition to the requirements established in these Regulations, all subdivision plans shall comply with the following:

a. The Town Zoning Regulations, Public Improvement Standards and all other applicable Town laws, codes or regulations.

b. The rules of the Connecticut Department of Transportation if the subdivision or any lot contained therein abuts a State highway or connecting street.

11.2 Plans Near, Abutting or Straddling Municipal Boundaries

11.2.1 Wherever a subdivision of land is planned, the area of which will abut or include land in two or more municipalities, the Commission shall, prior to granting approval, submit the plan to the Regional Planning Agencies for an advisory report, in accordance with State Law.

11.2.2 Whenever access to the subdivision is required across land in another municipality, the Commission may request assurance from their Town Attorney that access is legally established, and from their Superintendent of Public Works that the access road is adequately improved, and that performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

11.2.3 The Commission shall notify the clerk of any adjoining municipality of any application, petition, request or plan concerning any project on any site in accordance with Connecticut State Statutes.

11.3 Unanticipated Field Conditions

Where field conditions require additional construction techniques, such as the need for curtain drains to intercept a previously unknown drainage problem which will interfere with a subdivision improvement, the Town Engineer or his designated agent may require additional measures to be taken. This information shall be relayed to the Town Engineer by the subdivider. Failure to take corrective action may result in not issuing any further building permits within the subdivision. This will be a condition of all approvals.

11.4 Property Markings

The applicant shall show the location of all concrete monuments, drill holes, and iron pins on the subdivision plan according to the following requirements.

11.4.1 Monuments - shall be installed on street right-of-way lines, at street intersections and at angle points of curves and block corners. In addition, concrete monuments shall be installed at the corner of all land to be deeded to the Town. The installation of bronze plaques in ledge or large boulders may be substituted for concrete monuments with the approval of the Town Engineer.

11.4.2 The external boundaries of a subdivision shall be marked in the field by concrete monuments, iron pins or drilled holes as specified and required by the Town Engineer. These markings shall be placed not more than 600 feet apart in any straight line, at all corners, at each end of all curves, at the point where a curve changes its radius, and at all angle points in any line.

11.4.3 All road markings shall be properly set in the ground and certified by a Connecticut registered land surveyor on the as-built drawings prior to the time the Commission recommends acceptance of any improvements.

11.4.4 The corners of all lots shall be identified with iron pins or drill holes in ledge or large boulders.
11.5 Development Free Area
Where a residential subdivision borders a man-made facility such as an interstate highway or rail line from which the subdivision should be protected from traffic noise, possible train derailments, or hazardous waste spills by the reservation of a development free area of sufficient dimension to protect the future residents from the features, such as an aquifer or wetland, should also be protected from the subdivisions, and the Commission may require that no structure, including a septic system in the case of an aquifer, wetland, brook, etc., be constructed within a distance of 100 feet of the facility or feature. In such cases, the Commission may also require plantings, berms, screening, fencing, or additional measures to reduce adverse impacts.

11.6 Subdivision and Street Names
The proposed name of the subdivision and its street(s), shall not duplicate or too closely approximate the names of other streets or subdivisions in the Town. The Commission strongly suggests that names are selected to reflect the history or general attributes of the location of the subdivision or the town; the Commission shall have final authority to designate the name of the subdivision and streets therein.

11.7 Soil Preservation, Grading and Seeding

11.7.1 Soil Preservation and Final Grading - In all subdivisions, no streets shall be accepted until final grading has been completed in accordance with the approved final subdivision plan where grading is required. At least four inches of topsoil shall be placed and graded on each lot and suitably stabilized.

11.7.2 Lot Drainage - Lots shall be laid out so as to provide positive drainage away from all buildings. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed to avoid concentration of storm drainage water from one lot to adjacent lots where concentration may negatively impact the adjoining lots and shall be shown on the subdivision plan.

11.7.3 Lawn-Grass Seed and Sod - Lawn-grass seed shall be sown in accordance with suggested practices as outlined in “Erosion and Sediment Control Handbook” 2002, DEP. All disturbed areas shall be seeded and properly stabilized with mulch or with sod.

11.8 Debris and Waste
A note shall be placed upon each approved plan that no trees, timber, debris, junk, rubbish or other waste materials of any kind shall be buried in any lot or left or deposited on any lot, street, or other area within the subdivision. Removal of same from a lot shall be required prior to issuance of any certificate of occupancy for that subdivision lot. No such material shall be left or deposited in any area of the subdivision at the time of dedication of public improvements.

11.9 Fencing
Each subdivider and/or developer shall be required to furnish and install fences wherever the Commission determines that a hazardous condition may exist. The fences shall be constructed according to standards established by the Superintendent of Public Works or the Town Engineer. Fence specifications and details shall be included on the plans. No acceptance of public improvements shall be made until said fence improvements have been duly installed.

11.10 Water Bodies and Watercourses

11.10.1 If a tract being subdivided contains a water-body, or a portion of, which is not included in the Open Space for that subdivision, lot lines shall be so drawn as to distribute the entire ownership of the water-body among the adjacent lots. The Commission may approve an alternative plan where the responsibility for safe maintenance of the water body is assured.
11.10.2 No land that is under water shall be used to satisfy the minimum lot area requirement of the Windham Zoning Regulations.

11.11 Amendments
These regulations may be amended by the Commission in accordance with the procedures set forth in Section 8-25 of the Connecticut General Statutes.

11.12 Validity
If any part of these Regulations is declared by a court of competent jurisdiction to be invalid, such declaration shall not affect the validity of the rest of these Regulations.

11.13 Waiver of Requirements

11.13.1 General - Where the Planning Commission finds that extra-ordinary hardships or practical difficulties may result from compliance with these Regulations, it may approve waivers to these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such waiver shall not have the effect of nullifying the intent and purpose of these Regulations. Further, the Planning Commission shall not approve waivers unless it is found that the following circumstances can be satisfied based upon the evidence presented:

a. The granting of the waiver will not have a significant adverse effect on other adjacent property;

b. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable generally to other property;

c. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if these Regulations are to be carried out; and,

d. The waiver will not in any manner conflict with the provisions of the Zoning Regulations, Plan of Development or regulations of any other Town board or commission.

11.13.2 Conditions - In approving waivers, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these Regulations.

11.13.3 Procedures - A separate petition for the precise waiver(s) sought shall be submitted in writing by the subdivider at the time when the subdivision plan is filed for the consideration of the Planning Commission. The petition shall state fully the reason for the waiver request and all of the facts upon which the petition is relied. The Commission shall determine if a public hearing is necessary prior to granting the waivers and if so shall abide by the statutory provisions for conducting such hearing. A three-quarters vote of the full membership of the Commission shall be required to approve a waiver, and the Commission shall state on its record the reasons for granting the waiver(s).
APPENDIX - A

The following forms are used by the Town of Windham to facilitate the application and review process; they are administrative forms only and not part of the Subdivision Regulations.

Applications

Pre-application review
Formal Application

Checklists

Pre-application Review
Formal Application