

SUBCHAPTER 3. SUBDIVISIONS

§1-301. General

This subchapter will be used in the review of subdivisions subject to the jurisdiction set forth below.

§1-302. Definitions

A. “Building development” and “development” means the construction or installation of any structure or building, the useful occupancy of which requires the installation of plumbing, of a water supply system or of a sewage disposal system.

B. “Existing subdivision” means a subdivision:

- 1) which has been approved by a municipality pursuant to the administration of a subdivision ordinance or bylaw prior to September 18, 1969; or
- 2) concerning which a plat thereof prepared by an engineer or land surveyor, has been filed for record in the town clerk's office of the town in which the subdivision is situated, on the basis of which plat, one or more lots depicted thereon have been conveyed or made the subject of a contract for sale prior to September, 1969; or
- 3) which was not of record on September 18, 1969, but which the Division accepted as a subdivision existing on that date on the basis of evidence submitted to the Division prior to July 1, 1970;
- 4) involving a parcel which on March 5, 1973, contained two or more structures which were used on or before that date as primary single or two family residences, but only to the extent that the proposed subdivision would create a boundary between two such structures; or
- 5) involving up to two individual parcels subdivided out of the same parcel and described by deeds which were recorded between September 18, 1969 and March 5, 1973.

C. “Parcel” means any contiguous land owned or controlled by a person. Tracts or lots of land owned by a person which have in common one or more points on any boundary or which are divided only by easement or interests consisting of less than fee simple ownership shall be deemed to be contiguous land for purposes of this subchapter except that:

- 1) tracts or lots of land which are divided by State or municipal highway rights-of-way or surface waters with a drainage area greater than 10 square miles shall not be deemed contiguous;
- 2) tracts or lots of land which were acquired by their owner with the same boundaries as they are to be conveyed shall not be deemed contiguous to any other parcel owned by that person; and
- 3) a subdivision which is created by State or municipal condemnation for highway or utility construction, shall not require a permit.

D. “Subdivision” means:

- 1) the dividing of a parcel of land by sale, gift, lease, mortgage foreclosure, court ordered partition or decree or filing of a plot plan on the town records where the act of division creates one or more

Environmental Protection Rules, Chapter I  
Subchapter 3—Subdivision

parcels of land ~~of less than 10 acres in area~~, but excluding leases subject of the provisions of Chapter 153 of Title 10 relating to mobile homes. Subdivision shall be deemed to have occurred on the conveyance of the first lot or the filing of a plot plan on the town records, whichever shall first occur; or

2) the commencement of building development with intent to subdivide, as defined in subsection (1) of this section, ~~such that the building development will be located upon a parcel of land less than 10 acres in size.~~

~~Note: When subdivision creates a retained lot of ten acres or larger in size, approval of the retained lot is not required.~~

§ 1-303. Existing Subdivision -- Permit Required for Modification or Extension. Approved Lots, System, Construction in Approved Municipalities.; Lots that are Ten Acres or Larger in Size.

- A. This subchapter shall not apply to existing subdivisions except that no person shall alter, modify, or extend a subdivision or an existing subdivision without first complying with these rules and with local subdivision ordinances insofar as they pertain to public health or health related factors.
- B. If an individual sewage system is required for a lot subdivided pursuant to a permit issued under these rules, the person developing that lot may install a system approved by the municipality without further review or approval by the Division, provided that the municipal ordinance has been approved by the Commissioner of Health pursuant to the Vermont Health Regulations, Chapter 5, Subchapter 10, Part II or by the Department of Environmental Conservation pursuant to Title 24 VSA, Chapter 102.
- C. All subdivided parcels that are ten acres or larger in size which are not existing subdivisions, which existed as of September 1, 2002, and which have been developed as of September 1, 2004 with a substantially completed building or structure and its associated substantially completed potable water supply and wastewater system are exempt from the permitting requirements of this Subchapter provided the lot is not further subdivided. For the purposes of this section, “substantially completed” means a building or structure, potable water supply and wastewater system that is sufficiently constructed so that it can be used for its intended purposes with no further construction.
- D. All subdivided parcels that are ten acres or larger in size which are not existing subdivisions, which existed as of September 1, 2002, and which have not been developed as of September 1, 2004 with a substantially completed building or structure and its associated substantially completed potable water supply and wastewater system will require a permit only:
- (1) When the parcel is subdivided;
  - (2) Prior to the development of the parcel; or
  - (3) Prior to the transfer of the ownership of the parcel or prior to a court ordered partition or decree.-

§1-304. New Subdivisions - Permit Required

No proprietor of land shall subdivide it, or otherwise establish and create a subdivision, without first obtaining a permit from the Wastewater Management Division;

Exceptions:

- A. No permit will be required for a lot which contains a primary single family residence, or a public

Environmental Protection Rules, Chapter I  
Subchapter 3—Subdivision

building with design flows of domestic type sewage of 300 gallons per day or less, constructed there prior to March 5, 1973, when the following conditions exist:

- 1) the structure is served by a public water supply approved by the Water Supply Division a private water supply which has been tested and has tested negative for the presence of Total Coliform; and
- 2) the structure is served by a municipal sewage disposal system approved by the Department; or has a functioning on-site sewage disposal system not causing apparent pollution or a health hazard where the existing disposal field complies with one of the following:
  - a) is at least 100 feet from any property boundary created by conveyance;
  - b) is at least 100 feet from the boundary created by an easement which allows for the installation of a replacement water supply or wastewater disposal system for the homestead exempt lot within the easement area; or
  - c) has a fully complying replacement area designed by a qualified consultant which is shown to meet the requirements of Subchapter 1-7 of this rule.

If the sewage disposal system is an outhouse or other system not requiring interior plumbing and conventional subsurface disposal, the 100 feet will be measured from the location where a subsurface disposal system would likely be installed.

3) This exemption does not apply to seasonal camps.

B. When a subdivision is created by court ordered partition, the person(s) receiving title, not the court, shall comply with the permit requirements of these rules.

§1-305. Deferral of Permit

A. The purchaser of an unimproved lot of land ~~less than 10 acres in area~~ may waive developmental rights thereto involving the construction or erection of any building or structure, the useful occupancy of which would require the installation of plumbing and sewage treatment facilities. Upon the filing of an application consisting of a plot of the parcel and a statement signed by the purchaser of the parcel that waives developmental rights, the Division may issue to the proprietor, a deferral of permit for conveyance of the parcel. No structure or building, the useful occupancy of which will require the installation of plumbing and sewage treatment facilities may be constructed or erected on a lot subject to a deferral of permit, unless the lot owner first obtains a permit as required by these subdivision regulations. The terms and conditions of the deferral shall be binding on the purchaser and all successors in title. A parcel purchased under the provisions of this section may not be resold unless a subdivision permit is obtained, or the waiver of developmental rights is included in the deed or lease and notice of the purchaser's name and address is filed with the Division prior to conveyance.

Any waiver of developmental rights shall be made a term of any contract of sale or of lease of the parcel, and shall be recited in any deed in the form as follows:

“Waiver of Developmental Rights”

“In order to comply with State of Vermont Environmental Protection Rules, Chapter I on the subdivision of lands and disposal of waste including sewage, the grantee shall not construct or erect a structure or building on the parcel of land conveyed herein, the useful occupancy of which will require the installation of plumbing and sewage treatment facilities or convey this land without first complying with said State regulations. The grantee by acceptance of this deed acknowledges that this lot may not qualify for

Environmental Protection Rules, Chapter I  
Subchapter 3—Subdivision

approval of development under the appropriate environmental protection or health regulations and that the State may deny an application to develop the lot.”

B. Retained Parcel Deferral

When a parcel retained by the subdivider is subject to the permit requirements of these rules, the procedures in subsection (A) above may be used. The restrictions in this permit shall be binding upon the retaining landowner and any future landowner and the “Waiver of Developmental Rights” shall be included in any deed, contract or lease transferring the retained parcel unless a subdivision permit is obtained prior to transfer.

§1-306. Existing Seasonal Camps

A. “Existing seasonal camps” shall mean two or more structures, such as summer cottages, constructed or erected prior to June 1, 1970, which have not been used as a primary single family dwellings but have been in use as seasonal camps since that date.

B. A person may subdivide a single parcel containing existing seasonal camps if a subdivision permit is obtained or if:

- 1) any existing sewage disposal and water supply facilities are functioning without causing a health hazard or source of pollution; and
- 2) an application is submitted to the Division and approved showing a design for replacement sewage disposal and water supply facilities which meet the technical standards of these rules; and
- 3) the applicant has provided a legal mechanism which insures that the existing structure will remain in seasonal use unless approval for conversion to primary residential occupancy is issued by the Division; and
- 4) no unimproved lots ~~less than 10 acres in size~~ are created without a permit as a result of the subdivision.

§1-307. Application for Permits

Application for a permit to subdivide land shall be made to the Division by the landowner intending to do so. It is recommended that a preliminary investigation be made to determine that substantial compliance with the appropriate site and environmental requirements can be attained. Each application shall include the following:

A. Site Report

The application shall include a written site report containing the following information:

- 1) Name and location of the proposed subdivision, alteration, modification, or extension.
- 2) Name and address of the landowner.
- 3) Statement of the purpose of the subdivision, alteration, modification, or extension, and the intended use of the land after subdivision; such as residential, single family, 2-family, multiple housing, commercial, industrial, recreational, or agricultural.
- 4) Statement of the type of water system to be provided, or intended to be used in the subdivision; such as individual system on each lot, community system, or municipal system.

Environmental Protection Rules, Chapter I  
Subchapter 3—Subdivision

- 5) Statement of the type of sewage disposal system to be provided, or intended to be used in the subdivision; such as individual subsurface system on each lot, community subsurface system, or municipal system.
- 6) Statement of existing use of adjacent properties including the locations of water supplies and sewage disposal facilities.
- 7) Certified report of a qualified consultant including a highway location map and five foot interval contour map at a scale of 1" = 100' or less, showing the location of all standing and flowing waters and wetlands (including but not limited to lakes, ponds, rivers, streams, swamps, bogs, sedge meadows, and marshes) and artificial water impoundments, present or proposed, within or immediately bordering the land of the subdivision, together with the consultant's statement of whether any areas of such subdivisions lie within the flood plain. In cases where the subdivision may be subject to flooding, this report shall include the location on the lots of any flood plain designated by the Secretary of the Agency of Natural Resources or other official flood plain studies or calculations and measurements to show the flood plain level. At the discretion of the Wastewater Management Division, the applicant may be required to submit additional information verifying the location of the flood plain.
- 8) It is recommended that proposed sewage disposal areas be flagged at the corners and well locations flagged at the site prior to filing an application.
- 9) Such additional and supplementary information necessary to determine compliance with these rules, as the Wastewater Management Division may request after reviewing the application.

B. Plans and Specifications

The application shall also include a detailed plat of the proposed subdivision, alteration, modification, or extension, drawn to a scale of 1" = 100' or larger showing the locations and dimensions of the land involved; all existing and intended lots and exempt lots, streets, water and sewer systems, location of the sewage disposal and replacement areas required for individual sewage disposal facilities, if intended; parks, playgrounds, parking areas, if intended; rivers, streams, brooks, water supplies, wells, springs and any lakes, ponds, or wetlands, natural or artificial, existing or intended, and shall show the slope as naturally occurring, and any proposed alterations at five foot contour intervals. The surface drainage system shall be included on the plat as naturally occurring, and as altered by roadways or any drainage grading or improvement, installed or proposed.

C. Soil Data

- 1) If a subdivision, or any portion of a subdivision, is to be served by a central sewage disposal system operated by a municipality of the State, no soil data is required for individual lots served by the central sewage system.
- 2) Soil and site evaluation information as described in Section 1-707(A) shall be prepared by a qualified consultant and submitted with the application.

§1-308. Environmental Requirements

A. Water Supply

It is recommended that wherever feasible, every lot in a subdivision be served by a public community water supply system approved by the Department of Environmental Conservation's Water Supply Division in accord with Chapter 21 of the Environmental Protection Rules, the Vermont Water Supply Rule.

Environmental Protection Rules, Chapter I  
Subchapter 3—Subdivision

If service to each lot by a public community water supply is not proposed, the water source, and the water system shall meet the requirements of Chapter 21 of the Environmental Protection Rules, the Vermont Water Supply Rule.

B. Sewage Disposal

The Division shall not grant a subdivision permit unless it is satisfied that if the proposed plans are followed, the sewage and drainage from the subdivision will be safely and effectively disposed of through lawful and proper means.

It is recommended that, whenever feasible, the sewage and drainage of every lot in a subdivision shall be disposed of by means of a public sewerage and drainage system approved by the Department of Environmental Conservation in accordance with 10 V.S.A., Chapter 47.

If use of a public sewerage system is not proposed, the following criteria shall be used by the Division to determine the suitability of the subdivision lands for the disposal of sewage:

1) Minimum Required Area

Each lot shall contain a minimum required area of suitable soil sufficient for building sites, and for present and future sewage disposal use in a location that will be isolated properly from streams, storm drains, lakes, wells, property lines, embankments, driveways, parking areas and other features which may adversely influence the operation and maintenance of an individual sewage disposal system, or create a condition of hazard to the public health or cause pollution of ground or surface waters. The minimum required area of each lot shall be sufficient to permit the safe and effective use of a subsurface disposal system sited and designed in accord with the criteria outlined in Subchapter 1-7. These minimum required areas for each lot are:

- |  |                        |
|--|------------------------|
| a. Subdivision with a private water system on lot:                           | 20,000 ft <sup>2</sup> |
| b. Subdivision with a private water system off lot or a public water system: | 10,000 ft <sup>2</sup> |

2) Elevation: Ninety percent of the minimum required area of each lot shall be at least 1 foot above the flood plain of any lake or stream affecting the subdivision.

§ 1-309. Construction of Regulatory Amendments of 1973

A. The provisions of the amendments to the subdivision regulations adopted on the fifth day of March 1973, shall not affect any act done, liability or penalty incurred, or lien created, or affect any suit instituted, under provisions of the subdivision regulations in effect prior to the effective date of these rules. Where a parcel has been improved between March 5, 1973 and the effective date of these amendments, and subdivision is proposed, the improved lot must meet the requirements of the rules. Any existing septic system must meet the requirements for isolation distances with respect to water supplies, depth to bedrock, and depth to seasonal water table. Any existing system must be functioning properly without backup, surfacing, or discharge to surface waters. Any reconstructed septic system must be located in the approved continuous area.

B. In determining the number of parcels conveyed by a person, of those parcels of land conveyed from September 18, 1969 to November 8, 1972, only parcels of land of ten acres or less in area shall be counted.