

## ARTICLE 10: SUBDIVISION REVIEW

*Introduction: This Article of the Burlington Comprehensive Development Ordinance addresses the relocation of property boundaries, the creation of new lots, and the recording of plats in the City Land Records. The application and review process contained in this Article provides an overall framework for the consideration of such development proposals and all of their component parts. Often, but not always, land development that creates new lots also includes the placement of buildings and other site improvements. The specific regulation and review of such buildings and site improvements are can be found elsewhere in this ordinance.*

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### **Sec. 10.1.1 Purpose**

The city hereby adopts regulations governing the subdivision of lands to encourage the appropriate development of all lands in a manner which will promote the public health, safety, prosperity, comfort, convenience, efficiency, economy and general welfare; and to provide means and methods for the prevention, minimization and future elimination of land development problems which may presently exist or which may be foreseen.

In addition, this Article shall further the following specific aims:

- (a) To create an optimum urban environment by encouraging a rational pattern of development and the conservation of important natural areas, views and open space through implementation of the comprehensive master plan and insuring compliance with the applicable zoning bylaws;
- (b) To protect the public health and safety by the reduction of noise, air, and water pollution, protects access to adequate light and air, providing adequate access by emergency services and the creation of opportunities for daily physical activity;
- (c) To provide adequate access to public ways that will be safe and convenient for pedestrian, bicycle, and vehicular traffic;

- (d) To secure adequate and compatible provision for water, wastewater, stormwater and other utility services; street lighting, fire and police protection, recreational and educational facilities and similar municipal services; and any other requirements where necessary in a subdivision; and,
- (e) To provide an overall framework for the creation of new lots and the recording of plats and associated components in the city's land records

### **Sec. 10.1.2 Nonretroactive Effect**

The provisions of this Article shall not apply to any existing subdivision which has heretofore been approved by the city and the plat thereof recorded pursuant to the provisions of the subdivision regulations of the City of Burlington adopted April 1954, and as amended from time to time thereafter. In the event any such subdivision of said property shall be subject to the provisions hereof, no such prior approved subdivision shall be modified, changed or altered except by approval of the DRB in accordance with the provisions of this Article.

### **Sec. 10.1.3 Platting Jurisdiction**

#### **(a) Platting Authority:**

The DRB shall be the official city platting authority responsible for the review and acceptance of all land subdivision plats. No plat of a land subdivision shall be entitled to be recorded in the city land records without the approval of the DRB or its designee inscribed thereon.

#### **(b) Use of plat:**

The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a plat of a subdivision that does not have final approval by the DRB or its designee inscribed thereon and is not recorded in the city land records shall be prohibited.

#### **(c) Erection of buildings:**

No zoning or building permit shall be issued and no building shall be erected on any lot within a proposed subdivision unless and until the final subdivision plat has been approved by the DRB and properly recorded in the city's land records.

### **Sec. 10.1.4 Administrative Conference**

Applicants are encouraged to discuss their proposals with the administrative officer or designee prior to the submission of an application in order to provide the applicant with constructive suggestions, and to generally determine the information and review process that will be required for the issuance of a permit.

### **Sec. 10.1.5 Lot Line Adjustments**

The intent of this section is to provide for an abbreviated review and approval process for the realignment of lot boundary lines between existing adjacent lots, including the merger of lots, where no additional lots are being created. In addition, a lot line adjustment shall include the addition and subtraction of vestigial alleys, as defined in Article 13, when being combined with an adjacent lot. A lot line adjustment shall not constitute a subdivision.

**(a) Lot Line Adjustment Submission Requirements:**

An applicant requesting review of a lot line adjustment shall submit the following documentation to the administrative officer:

- (1) A complete application form pursuant to the provisions of **Art. 3** and signed by the property owner;
- (2) A letter requesting review and approval of a lot line adjustment, giving the names and address of property owners;
- (3) The applicable application fee; and,
- (4) Two (2) copies of a lot line adjustment plat which shall include the following:

The plat shall be prepared by a Vermont licensed land surveyor and indicate all lots that are proposed to be modified as a result of the proposed lot line adjustment. The survey shall be sufficient to clearly indicate the area, metes, bounds, and ties of each of the affected lots.

The survey shall include all structures and site improvements and delineate all building/structure setbacks, lot coverage, parking spaces and any other details as may be specified by the Administrative Officer..

The following additional language shall be printed on the plat:

*“Approval of this lot line adjustment plat does not constitute the creation of a separate parcel or lot. It adjusts the physical location of the common boundary of the adjoining parcels or lots. This lot line adjustment has been approved by:”*

\_\_\_\_\_  
City of Burlington Administrative Officer/ Assistant Administrative Officer

Date: \_\_\_\_\_ Zoning Permit # \_\_\_\_\_

**(b) Completeness of Submission:**

Upon receipt of a complete application, the administrative officer shall have no more than thirty (30) days to render a decision on the lot line adjustment application pursuant to the provisions of **Sec. 3.2.5**.

**(c) Lot Line Adjustment – Administrative Decision:**

The administrative officer shall have the authority to approve or deny an application for a Lot Line Adjustment as follows:

1. An application may be denied for good cause based upon substantial evidence including but not limited to:
  - A. Such cases where the proposed adjustment will result in a new lot being created;
  - B. Such cases where the proposed adjustment will result in the creation of a non-conforming parcel or non-conforming buildings or structures or yard areas or any non-conforming dimensional standard; and,
  - C. Such cases where the proposed adjustment does not adequately address the applicable Land Division Design Standards of **Art. 6**.
2. Provided the adjustment does not create a non-conforming parcel, structure or nonconforming yard area or other dimensional non-conformity, or upon the issuance of a variance by the DRB, and upon submission of a plat per subsection (b) above, the administrative officer shall approve the proposal as presented or as modified.

All appeals of an administrative officer's decision shall be made pursuant to the applicable provisions of **Article 12**.

### **Sec. 10.1.6 Sketch Plan Review**

Whenever a subdivision is proposed that will create five (5) or more lots or dwelling units, the applicant shall submit sketch plans and data pursuant to **Article 3, Section 3.2.1(c)** Sketch Plan Review showing existing conditions within the site and its vicinity and the proposed layout and development of the subdivision prior to the preparation of any preliminary and/or final plats.

All other applications are encouraged but not required to submit sketch plans for review prior to submitting an application.

### **Sec. 10.1.7 Combined Preliminary and Final Plat**

For subdivisions that will create fewer than five (5) lots or dwelling units, and are not otherwise subject to consideration under Major Impact Review pursuant to the provisions of **Article 3, Part 5** or Planned Unit Development pursuant to the provisions of **Article 11**, the applicant may request, and the DRB may authorize the hearings on preliminary and final subdivision plats to be combined into a single public hearing.

In such cases, the submission requirements for final subdivision plats pursuant to **Sec. 10.1.9** shall be met at the time of application, and decisions by the DRB shall be based on the project's conformance with the review criteria for both preliminary (**Sec. 10.1.8(d)**) and final plats (**Sec. 10.1.9(d)**).

### **Sec. 10.1.8 Preliminary Plat Review**

After sketch plan review if applicable, the applicant may submit an application for Preliminary Plat Review pursuant to requirements specified below and containing any

additional information requested by the administrative officer after completion of the sketch plan review.

**(a) Preliminary Plat Submission Requirements**

An applicant requesting preliminary plat review shall submit the following to the administrative officer:

1. A complete application form pursuant to the provisions of **Art. 3** and signed by the property owner;
2. A letter requesting review and approval of a preliminary plat, giving the names and address of those to whom notice of the public hearing by the DRB on preliminary plat shall be sent;
3. The applicable application fee;
4. A narrative describing the proposed project's conformance with each of the applicable review criteria in **(d)** below;
5. Eight (8) copies of a preliminary plat meeting the following specifications:
  - A. Sheet size and scale: The preliminary plat shall be twenty-four (24) inches by thirty-six (36) inches outside dimension. The plat shall be clearly and legibly drawn to a scale of no larger than one-inch equals forty (40) feet. Larger sheet sizes will be allowed with approval of the administrative officer. A reduced, 11" X 17" copy as well as digital version in a format acceptable to the administrative officer shall also be submitted.
  - B. The preliminary plat must show all of the following as applicable:
    - i) Subdivision name or title, address, scales, north arrow indicating magnetic and true north, date, and legend;
    - ii) Names and addresses of the applicant, designer, and other parties to the subdivision;
    - iii) Vicinity map, drawn at a scale of one inch equals six hundred (600) feet, showing boundary lines of adjoining developed and undeveloped land within an area bounded by nearest arterial streets or other natural boundaries; identifying type of use and ownership of surrounding land and showing alignments of existing streets;
    - iv) Total acreage of subdivision and number of lots proposed;
    - v) Exact boundary lines of the tract by bearings and distances with such measurements tied into an existing reference point and the boundaries of contiguous properties;
    - vi) Location, widths, and names of all existing or previously platted streets, or other rights-of-way, parks, and other public open spaces, permanent buildings and structures, easements, and section and corporate lines within the tract and to a distance of one hundred (100) feet beyond the tract; and,

- vii) Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract; also indicate such data as grade invert elevations, and locations of catch basins, manholes, and hydrants;
6. Eight (8) copies of a preliminary site plan meeting the following specifications:
- A. Site plan, drawn to a scale of 1" =, 10, 20, 40 or 60 ft., of the subject property. A reduced, 11" X 17" copy as well as digital version in a format acceptable to the administrative officer shall also be submitted;
  - B. The preliminary site plan must show all of the following as applicable:
    - i. Physical features such as water courses with respective buffers, wetlands with respective buffers, rock outcrops, wooded areas, slopes in excess of 15%, significant trees with a diameter at breast height of 6" or greater, and other significant natural or cultural features, and soil boring data at locations and depths as may be reasonably required by the administrative officer or city engineer to carry out the purposes and intent of this chapter.
    - ii. Preliminary erosion and sedimentation control plan including temporary and permanent measures to meet the most current city, state and federal water quality standards.
    - iii. Existing and proposed contours at vertical intervals of not more than five (5) feet with elevations indicated in feet above mean sea level except where the city engineer may require further delineation of the topography.
    - iv. Proposed layout including streets and alleys with proposed street names, lot lines with approximate dimensions, approximate location of proposed structures including public facilities and land to be reserved or dedicated for public uses. Where only a portion of a larger parcel is being subdivided, the development review board may require a complete site plan of the entire parcel so as to examine the partial development to be sure it does not adversely affect the arrangement and continuity of the overall design. The site plan of the entire parcel shall indicate the types of land uses, densities, and vehicular accessibility.
    - v. Remaining and protected open space, systems of drainage, and provisions for disposal of sewerage and water supply within the subdivision.
    - vi. Building types, approximate size, footprint location, if applicable.
    - vii. Proposed street tree planting including proposed species, size, and spacing.
    - viii. Zoning district and overlay district boundaries of all areas shown on the site plan.

**(b) Completeness of Submission, Administrator's Action**

Upon receipt of a complete application, including all supporting documents and payment of all applicable fees, the administrative officer shall have no more than thirty (30) days to refer the application to the DRB pursuant to the provisions of [24 VSA Sec 4448](#) and [Art. 3, Sec. 3.2.5](#). In addition, the administrative officer shall date each copy and immediately distribute one copy to each of the following:

1. the city engineer/director of the department of public works;
2. the director of the department of parks and recreation;
3. the director of the Burlington electric department;
4. the chair or designated individual of the DRB; and,
5. the fire marshal.

The administrative officer shall retain the other two (2) copies. The administrative officer shall also notify the school board and the city councilors serving the affected ward(s) of the pending development; its size, location, and general character.

**(c) Public hearing on preliminary plat:**

Applications for preliminary plat review shall require a public hearing by the DRB pursuant to the provisions of [Article 2](#). Should the proposed subdivision be located within five hundred (500) feet of a municipal boundary, a copy of the public notice shall also be sent to the regional planning commission and to the clerk of the planning commission of the affected municipality.

The notice shall describe the location of the proposed subdivision, the name of the applicant and the time and place of the hearing. It shall specifically state the hearing is on the applicant's proposed preliminary plat. A copy of said notice shall be sent by first class mail to the applicant and to all owners of land abutting the proposed subdivision.

Once convened, the DRB may recess the public hearing to be reconvened at a later date, time, and place announced during said hearing without having to re-advertise and repost notice of such recessed hearing. The DRB shall make a record of all comments presented at the public hearing.

Pursuant to a schedule issued by the DRB prior to the close of the public hearing, affected city departments shall provide a written report to the DRB, administrative officer, and the applicant of all objections and comments regarding the proposed subdivision. Representatives of state and private agencies may likewise be requested to provide written comments. The applicant shall then provide written responses to all such reports to the DRB and administrative officer.

**(d) Review Criteria:**

The review of a preliminary plat by the DRB shall address all issues pertaining to conformance with city plans; the capacity of municipal infrastructure; and overall site development and configuration including but not limited to the preservation of open spaces and natural resources, the layout of blocks and lots; streets, sidewalks pathways,

and other access ways; stormwater management systems, water, sanitary sewage and other utility systems; and buffering of uses.

In its review of a Preliminary Plat, the DRB shall include consideration of the input of the Conservation Board, Design Advisory Board and city departments where offered. Such comments shall be considered by the DRB throughout the review process.

Decisions by the DRB on a preliminary plat shall be based on the project's conformance with the following:

1. the requirements of the underlying zoning district(s) and all applicable overlay district(s) as set forth in **Article 4**;
2. the review criteria for Conditional Uses and Major Impact in **Article 3, Part 5** where applicable;
3. the requirements of **Article 5** with regard to Special Uses and Performance Standards as applicable; and,
4. the land division and site development principles and design standards in **Article 6**.

**(e) Decision of the DRB on the preliminary plat:**

Pursuant to **Sec. 3.2.8**, within forty-five (45) days from the close of the public hearing on the preliminary plat the DRB shall issue Findings of Fact regarding the proposed application's conformance with each of the review standards of **(d)** above. The DRB's decision may be to approve, approve with modifications, or disapprove the preliminary plat. Failure of the DRB to issue a decision within this period shall be deemed approval and shall be effective on the 46th day. Notation of the action taken by the DRB shall be made on two (2) copies of the preliminary plat - one copy to be returned to the applicant and one copy retained for the records of the DRB.

Approval of the preliminary plat shall not constitute a final decision of the DRB on the proposed project or in any manner whatsoever constitute an approval of a final plat unless as specifically provided under **Sec. 10.1.7** above. Such a decision shall indicate only conceptual approval of the proposed layout and serve as a guide to the preparation of the final plat.

Disapproval of the preliminary plat shall constitute a final decision of the DRB on the proposed project and be subject to the provisions for appeal pursuant to **Art. 12**, or consideration of a revised preliminary plat as provided under **(f)** below. In the case of disapproval, the DRB shall include in the Findings of Fact the specific reasons for denial which shall accompany the returned copy of the preliminary plat.

**(f) Consideration of a Revised Preliminary Plat.**

In the case of disapproval, the applicant may submit a substantially revised preliminary plat within six (6) months of the decision and upon payment of fifty (50) per cent of the original application fee. No time extensions of the six month period shall be granted.

Such a revised preliminary plat shall substantively address the reasons for denial as outlined by the DRB, but shall not constitute an entirely new development proposal as determined by the administrative officer. Consideration of a revised preliminary plat shall

follow the same process and address the same review criteria as the original preliminary plat pursuant to the requirements of this Article.

In the case of disapproval of a revised preliminary plat, no additional reconsideration shall be permitted, and the decision of the DRB shall constitute a final decision on the proposed project which may be appealed pursuant to the provisions of **Article 12**.

**(g) Time Limits for a Preliminary Plat:**

A preliminary plat approved or conditionally approved by the DRB shall be valid for a period of one (1) year after the date of decision after which the approval shall be void and the applicant shall be required to submit a new subdivision application for approval. The period of validity may be extended for an additional one (1) year only if a written request for such an extension has been received and granted by the DRB prior to the expiration of the preliminary plat. No additional renewals shall be granted.

### **Sec. 10.1.9 Final Plat Approval Process**

During such time that an approved preliminary plat remains effective, the applicant may submit an application for approval of a final plat.

**(a) Final Plat and Construction Detail Submission Requirements**

The applicant may seek approval of a final plat by filing the following items with the administrative officer. All plat maps, including street and utility construction plans, shall also be provided in a digital computer format compatible with the city mapping and CAD systems as determined by the administrative officer.

1. A letter requesting review and approval of the final plat and giving the name and addresses of person(s) to whom notice of the hearing by the DRB thereon shall be sent.
2. A narrative describing the proposed project's conformance with each of the applicable review criteria in **(d)** below, and a timetable or phasing plan for the construction of all site improvements.
3. Ten (10) copies of the final plat, as specified in **subsection (6)** below.
4. Ten (10) copies of the final site plan, as specified in **subsection (7)** below.
5. Ten (10) copies of construction detail drawings of the sewer, water and drainage systems, other underground utilities, surface improvements, street profiles and street cross-sections as specified in **subsection (8)** below.
6. **Final plat specifications:** The final plat shall be prepared by a Vermont licensed land surveyor. The plan shall be at a scale of one inch equals forty feet (1"=40'). In addition such other scale as the board may require to showing details clearly and adequately shall be included. Sheet sizes shall be twenty-four (24) inches by thirty-six (36) inches with one-inch margins on three (3) sides and two (2) inch margin on the side to be bound. If multiple sheets are used, they shall be accompanied by an index sheet referencing the entire final plat. The final plat shall contain all

- information required for the preliminary plat pursuant to **Sec. 10.1.8 (a)4** above, updated and accurate, together with the following information:
- A. Existing and proposed lines of streets, ways, lots with areas of each, dimensions and areas of easements, parks and other property within the subdivision to be dedicated for public use.
  - B. Location, width, name, and final grade of proposed streets.
  - C. Sufficient data including the length, radii, and central angles of all curves to readily determine the location, bearing, and length of every street and right-of-way, lot line and boundary line and to reproduce same on ground; all bearings to be referred to magnetic meridian. Wherever a boundary line of the subdivision is within five hundred (500) feet of a Vermont Coordinate Survey monument, the survey of the subdivision shall be tied to said monument(s). The error of closure must not exceed one to fifteen thousand (15,000); traverse streets or a copy thereof showing error of closure of the field surveys and the calculations for final adjustment must be submitted to the office of the city engineer for approval.
  - D. Location of all permanent monuments properly identified as to whether existing or proposed. The distance and bearing to the nearest municipal, county or state monument on an accepted way and monuments at all points of curvature and changes in direction of street right-of-way lines or where designated by the city engineer.
  - E. Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision and street lines of the access street leading from the subdivision to the nearest accepted public street.
  - F. Lot numbers, proposed house numbers and areas of other adjoining land of applicant not included in subdivision.
7. Final Site Plan detail drawings: All submitted applications for final plat approval must likewise include a final site plan consisting of the following as applicable:
- A. All information required for the preliminary site plan pursuant to Sec. 10.1.8 (a)5 above, updated and accurate;
  - B. Minimum front, side, and rear setback lines shall be shown and dimensioned in accordance with the applicable zoning ordinance requirements of Article 4; and,
  - C. Subsurface conditions of the tract, location, and results of tests made to ascertain subsurface soil rock and ground water conditions and depth to ground water, as may be reasonably required to carry out the purposes and intent of these regulations.
8. Construction detail drawings: All submitted applications for final plat approval must likewise have construction detail drawings consisting of the following as applicable:
- A. Plans and profiles showing existing and proposed elevations along centerlines of all streets within the subdivision.

- B. Plans and profiles showing location of street pavements, curbs, gutters, sidewalks, manholes, catch basins, culverts and existing intersecting walks and driveways.
- C. Typical cross-sections of improved streets indicating the material used for construction of the roadbed and surface sidewalk, curbing and tree belt, tree pit showing centerline right-of-way width, width of pavement and travel lanes, height of crown, curb reveal, and any other pertinent information.
- D. Plans and profiles of the storm drainage system showing the location, pipe size and invert elevations of existing and proposed storm drains together with invert and rim elevations of all catch basins and manholes. Surface elevations and approximate depth of water shall be shown at each point where drainage pipe ends at a waterway. Drainage calculations prepared by the applicant's engineer, including design criteria used, drainage area and other information shall be sufficient for the city engineer to determine the size of any proposed drain, culvert, or bridge.
- E. Plans and profiles of the sanitary sewer system showing the location, pipe size and invert elevations of existing and proposed sewage system together with invert and rim elevations of all manholes. All lots within the proposed subdivision shall be serviced by the municipal sewerage system. Where a gravity flow of sewage cannot be attained, the applicant shall install a pumping or lift station of a make and type specified by the sewage disposal superintendent to provide for the proper disposal of all waste into the existing sanitary systems. The applicant shall covenant that one year after the pumping station has been installed and found to function to the satisfaction of the city engineer said pumping station shall be deeded to the city and thereafter shall be maintained and operated by the waste water division of the public works department.
- F. Plans and profiles of the water supply system showing the location, pipe size and invert elevations of the subdivision water system. All lots within the proposed subdivision shall be supplied by the municipal water system.
- G. All profiles shall be drawn with:
  - i. A horizontal scale of one inch to forty (40) feet and a vertical scale of one inch to four (4) feet.
  - ii. Existing centerline in fine black line with elevation shown every fifty-(50) feet.
  - iii. Proposed centerline grades in heavier black line with elevations shown every fifty (50) foot station except that in vertical curves elevations shall be shown at twenty-five (25) foot station. All changes in street grade shall be shown by a tangent to the vertical curve with the grade of the tangent indicated at the point of tangency.
  - iv. Cross-sections at every fifty (50) foot station or any unusual section, as is common practice in the design of roadways by the Vermont Agency of Transportation.

- v. Existing right-of-way line in fine black dash line.
- vi. Proposed right-of-way line in fine black dash line.
- vii. All elevations based on the U.S. Coast and Geodetic Survey benchmarks.
- viii. Requirements (i), (ii), (iii) and (iv) of such construction detail drawings must be approved by the city engineer prior to approval of the final plat by the DRB.

**(b) Completeness of Submission, Administrator's Action**

Upon receipt of a complete application for review of a final plat, the administrative officer shall have no more than thirty (30) days to refer the application to the DRB pursuant to the provisions of 24 VSA 4448 and Art. 3, Sec. 3.2.5. In addition, the administrative officer shall date each copy of such drawings and distribute a copy to the city engineer and the director of each affected city department. Two (2) copies shall be reserved for use by private utilities and two (2) copies shall be retained by the administrative officer.

**(c) Public hearing on final plat:**

Applications for final plat review shall require a public hearing by the DRB pursuant to the provisions of Article 2. Should the proposed subdivision be located within five hundred (500) feet of a municipal boundary, a copy of the public notice shall also be sent to the regional planning commission and to the clerk of the planning commission of the affected municipality.

The notice shall describe the location of the proposed subdivision, the name of the applicant and the time and place of the hearing. It shall specifically state the hearing is on the applicant's proposed final plat. A copy of said notice shall be sent by first class mail to the applicant and to all owners of land abutting the proposed subdivision.

The administrative officer shall check the final plat for conformance with this article and report his or her findings and recommendations together with the findings and recommendations of the other city officials whose departments are affected by the proposed subdivision to the DRB. The DRB shall include consideration of the input of the conservation board, design advisory board and city departments where offered. The DRB shall make a record of all comments presented at the public hearing. Such comments shall be considered by the DRB throughout the review process.

Once convened, the DRB may recess the public hearing to be reconvened at a later date, time, and place announced during said hearing without having to re-advertise and repost notice of such recessed hearing.

**(d) Review Criteria:**

The review of an application for final plat shall also take into consideration modifications to the preliminary plat as required by the DRB, and address all infrastructure designs and detailed site development including the stormwater management systems, erosion control, water and sanitary sewage, utility systems; architectural designs, and streets and sidewalks.

Decisions by the DRB on a final plat shall be based on the project's conformance with the following:

1. the requirements of the underlying zoning district(s) and all applicable overlay district(s) as set forth in **Article 4**;
2. the review criteria for Conditional Uses and Major Impact in **Article 3, Part 5** where applicable;
3. the requirements of **Article 5** with regard to Special Uses and Performance Standards as applicable; and,
4. all development principles and design standards in **Article 6**.

**(e) DRB approval of final plat:**

Pursuant to **Art. 3, Sec. 3.2.8**, within forty-five (45) days from the close of the public hearing on the final plat the DRB shall issue Findings of Fact regarding the proposed application's conformance with each of the review standards of **(d)** above, and may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance and the city's municipal development plan. The decision of the DRB may be to approve, approve with modifications (conditions), or disapprove the final plat. Failure of the DRB to issue a decision within this period shall be deemed approval and shall be effective on the 46th day.

If the final plat is approved or disapproved, grounds for such action shall be stated as Reasons for approval or denial in the Findings of Fact and included in a letter advising the applicant of the approval/disapproval of the plat. In the case of denial of the final plat, a minimum of six (6) months must elapse, commencing from the date of denial, before the applicant may submit a new subdivision application for the same property. Any such future application shall be substantially different from the denied application as determined by the administrative officer.

### **Sec. 10.1.10 Performance Bond and Guarantee of Completion**

**(a) Bonds and Securities:**

Prior to the release of any zoning permits for construction associated with an approved final plat, the applicant shall file with the administrative officer, and with the city clerk for recording, a covenant acceptable to the city attorney, running with the land, committing such applicant to complete all required improvements within a maximum period of three (3) years from the date of final plat approval. A longer phasing period for such improvements may be permitted as a condition of approval of the final plat by the DRB.

Either a performance bond, irrevocable letter of credit or a deposit of money or negotiable securities pursuant to **24 VSA Sec. 4416-4417** and **Sec. 10.1.10** shall secure such covenant. The amount of such bond, letter of credit, money, or negotiable securities (security deposit) shall be based upon the estimated cost of such improvements verified by the city engineer or appropriate department head, plus a ten percent (10%) contingency factor and the estimated maintenance cost for such improvements for a

period of two (2) years following their completion. If a performance bond is filed, the penal sum of such bond shall be one hundred percent (100%) of the above-determined amount. The bond or any other form of surety or security shall be approved as to legal sufficiency, form, and manner of execution by the city attorney and as to credit worthiness by the city's chief administrative officer. If money or negotiable securities are filed, the necessary sum shall be one hundred percent (100%) of such above determined amount.

**(b) Security Reduction:**

As an applicant completes any one or more of the required improvements, and such completion is certified by the DRB or its designee after inspection by appropriate city departments, the DRB may permit a corresponding reduction in the amount of security held under subparagraph (a) hereof. The applicant shall inform the administrative officer at least forty-eight (48) hours prior to completion of any improvement so that arrangements for proper inspection thereof can be made. No part of any improvement shall be covered over until such inspection is made and completion of such improvement is certified. In no event, however, shall such security be reduced below the amount required to cover the ten percent (10%) contingency factor and the estimated two-year maintenance cost.

**(c) Certification of Occupancy:**

The DRB or its designee shall issue a final certificate of occupancy for the subdivision and all required improvements when it is satisfied, after appropriate inspections, that all improvements required by it under authority of this Article have been completed by the applicant, and the "as-built" drawings" required by **Sec. 10.1.14** have been filed. Additional certificates of occupancy will be necessary for any associated buildings constructed within the subdivision.

Upon the issuance of a final certificate of occupancy, all security deposits required shall be released except the amount required for the issuance thereof, all security deposits required shall be released except the amount required for the ten percent (10%) contingency factor and the estimated two-year maintenance cost. Such remaining amount shall be released two (2) years from the date such final certificate of occupancy is issued, unless all or any portion thereof has been previously forfeited or is required for necessary maintenance work which arises prior to the expiration of such period.

**(d) Forfeiture:**

In the event any required improvements are not completed within the maximum period allowed, or are not maintained as required, such security deposit may be declared forfeit by the DRB or its designee, and the proceeds thereof utilized by the city to complete such improvements, maintenance, or "as-built drawings."

### **Sec. 10.1.11 Recording of Final Plats**

**(a) Certifications and Endorsement:**

Every approved final plat seeking recording in the city land records shall carry the following executed certifications:

1. City Engineer’s certification as follows:

“It is hereby certified that this plat fully complies with all engineering requirements set forth in the subdivision regulations of the City of Burlington and all other engineering requirements of Burlington, Vermont.”

By: \_\_\_\_\_

Registered \_\_\_\_\_

Seal

2. Surveyor’s certification as follows:

“It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown hereon actually exist or are marked as “future” and their location, size, type and materials are correctly shown.

By: \_\_\_\_\_

Registered \_\_\_\_\_

Seal

3. Applicant’s certification as follows:

State of Vermont, County of Chittenden, City of Burlington

“The owner of the land shown on this plat and whose name is subscribed hereto, in person or through a duly authorized agent, certifies that this plat was made from an actual survey.”

Agent/Owner: \_\_\_\_\_

Date: \_\_\_\_\_

4. Certificate of dedication: A certification by the applicant setting forth the description of the areas and improvements being dedicated to the public and the extent of the title which is being dedicated.

5. Text of protective covenants whereby the applicant proposes to regulate land use in the subdivision and otherwise protect the proposed development.

6. Certificate of the City Engineer, as follows:

“I, \_\_\_\_\_, city engineer, do hereby certify that the subject plat has been examined by me and found to comply with the engineering requirements set forth in the regulations governing plats of subdivided land adopted by the city council, with the following exceptions:”

\_\_\_\_\_

City Engineer

7. Certificate of the Superintendent of City Parks as follows:

“I, \_\_\_\_\_,  
superintendent of parks do hereby certify that the subject plat has been examined  
by me and found to comply with the street planting requirements and park area  
requirements set forth in the regulations governing plats of subdivided land  
adopted by the city council with the following exceptions:”

\_\_\_\_\_  
City Superintendent of Parks

8. Certificate of the City Fire Marshal as follows:

“I, \_\_\_\_\_, fire marshal  
do hereby certify that the subject plat has been examined by me and found to  
comply with the fire prevention requirements set forth in this chapter governing  
plats of subdivided land adopted by the city council with the following  
exceptions:”

\_\_\_\_\_  
City Fire Marshall

9. Any other certificate as may be reasonably required by the DRB to carry out the  
purpose and intent of these regulations.

Every approved final plat seeking recording in the city land records shall carry the  
following endorsement stating that the plat has been approved by resolution of the  
development review board, and specifying the date of such approval, including the  
Findings of Fact and any conditions of approval, and signed and dated by the chair of the  
development review board.

“Approved by Resolution of the City of Burlington Development Review Board,  
Burlington Vermont, on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ Subject to All  
Requirements and Conditions of The Comprehensive Development Ordinance of  
the City of Burlington, Vermont.”

Signed This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

By \_\_\_\_\_

Witness \_\_\_\_\_ DRB Chair \_\_\_\_\_

Zoning Permit/Certificate of Appropriateness # \_\_\_\_\_

Endorsement shall not take place until all required plats, construction drawings, and  
supporting documents have been submitted to the administrative officer and determined  
to be complete and accurate. Prior to the endorsement of the final plat, the city engineer  
and the administrative officer shall check all documents to be filed to ascertain that they  
are as approved.

Where necessary, a certification by the city clerk of the development review board's  
failure to act within forty-five (45) days of the close of the final public hearing held under  
these regulations shall serve as the required endorsement.

**(b) Recording within 180-days**

The final plat, endorsement by the DRB and all associated documents, shall be recorded in the office of the chief administrative officer within 180 days of the DRB's approval of the final plat. Failure to file all such materials within 180 days of the decision shall render the final plat approval void. In the case of an appeal of the DRB's approval of the final plat, or where additional state or federal permits may be required, the filing deadline shall be within 180 days of the final action or adjudication.

Upon written request, the administrative officer may extend the date for filing the plat by an additional 90 days.

The plat to be filed with the chief administrative officer shall comply with the requirements of **27 V.S.A. Chapter 17** and **Section 10.1.9 (a)6** of this Article, and shall be drawn in black permanent inks on three (3) to five (5) mil stable-base polyester film (mylar). After such filing or recording, the plat shall be part of the City of Burlington Official Map.

In addition to the final plat as recorded in the city land records:

1. One copy of the approved plat shall be filed with the building inspector before building permits for structures within the subdivision are made available;
2. One copy of the approved plat shall be filed with the city assessor; and,
3. A digital version of the approved plat shall be filed with the department of planning & zoning in a format acceptable to the administrative officer.

**(c) Plat Void if Revised After Approval:**

No changes, erasures, modifications, or revisions shall be made on any subdivision plat after approval has been given by the DRB and endorsed in writing on the plat, unless said plat is first resubmitted to the DRB and the DRB approves any modification. In the event that such subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void and the DRB shall institute proceedings to have the plat stricken from the records of the chief administrative officer. Any person altering or attempting to alter any plat subsequent to final development review board approval shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed two hundred dollars (\$200.00).

**Sec. 10.1.12 Dedication and Acceptance of Public Facilities****(a) Acceptance of streets.**

The city council has exclusive authority to accept streets. Upon the effective date of these regulations no city improvements or maintenance shall be authorized on any unaccepted streets except by resolution authority of such city council; or unless security as required herein has first been posted by an applicant. An applicant shall not lay out, open, improve, grade, pave or light any street unless such street corresponds to the street location shown on the approved final plat of such subdivision.

**(b) Contract required.**

Prior to approval of any final plat, the DRB shall require an applicant to execute a contract pledging to dedicate and convey to the city all property lying within each street right-of-way to be constructed, all land designated for park and/or recreational use and all improvements which will, after a specified period of time, become the property of the city. Such contracts may be executed on behalf of the city by the chairperson of the DRB when duly authorized so to do by the board. The city attorney shall approve all documents as to legal sufficiency, form, and manner of execution.

**(c) Private status.**

Notwithstanding the execution of any contract requiring future dedication, all proposed streets, park and/or recreational lands and improvements shall remain the private property of the applicant until the same have been formally accepted by the city council. Furthermore, final plat approval by the DRB shall not be deemed to constitute or imply acceptance by said city council. No city department shall install any improvement within an unaccepted street right-of-way until the contract required by this section and the performance bond required by **Sec 10.1.10** has been filed with the DRB.

**(d) Acceptance procedure.**

Upon receipt of a certificate of occupancy under **Sec 10.1.10**, an applicant shall prepare and submit to the city council for acceptance pertinent deeds describing by metes and bounds all lands pledged to be dedicated to the city by the contract executed under **Sec 10.1.12(b)**. All required easements for utility line maintenance shall likewise be submitted. No such deed or easement may be considered by the council until a certificate of final completion has been issued. Upon proper submission, the city council shall set the matter down for public hearing, and give notice thereof by publication in a newspaper of general circulation in the city at least fifteen (15) days before such hearing. The notice shall state the name and location of the proposed street, park or easement, the name of the grantor on the proposed deed or easement, and the time and place of the hearing. Following such hearing the council shall, upon finding that all requirements of this chapter have been met, and that all liens, encumbrances, or charges of record affecting title or right to such land and/or easements have been discharged, accept such streets, lands, or easements as the property of the city.

**(e) Previously developed streets.**

Any provision of this chapter to the contrary notwithstanding, the city council may in its discretion, after a warned public hearing, accept a street the development of which shall have been substantially completed prior to the effective date hereof, and which shall be recommended for acceptance by the city engineer and the DRB.

**Sec. 10.1.13 Waivers for Required Improvements**

Where the DRB, on the recommendation of the city engineer, specifically finds that due to the special circumstances of a particular plat, or because of exceptional or unique conditions of topography, access, location, shape, size, drainage of other physical features of the site, provision of any one or more of the required improvements under this chapter is not requisite in the interest of the public health, safety or general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or proximate to the proposed subdivision, it may waive or modify such requirement(s) subject to appropriate conditions

Such conditions must, in the judgment of the DRB, substantially secure the objectives of the requirements so waived. No such waiver may be granted if it would have the effect of nullifying the intent and purpose of the zoning regulations, the municipal development plan, the official map, or this chapter. Where a more specific waiver provision is established for any provision of this chapter, this section shall be applicable.

**Sec. 10.1.14 As-built Drawings**

One reproducible set of drawings showing the location of all required improvements as-built shall be certified by an engineer or land surveyor and filed with the development review board in a digital form and format acceptable to the city engineer and the administrative officer prior to the issuance of any certificate of occupancy.

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