

Subdivision Regulations

SECTION 1 - Authority and Title: Pursuant to the authority vested in the Newington Planning Board by the Voters of the Town of Newington, at a Special Town Meeting held January 25, 1952, and duly recorded with the Register of Deeds of Rockingham County, and in accordance with the provisions of Chapter 36, sections 19-29, New Hampshire Revised Statutes Annotated, 1955, as amended, the Newington Planning Board adopts the following regulations governing the subdivision of land in the Town of Newington, New Hampshire. These regulations shall be known as and may be cited as *The Town of Newington Land Subdivision Control Regulations* hereinafter referred to as *Subdivision Regulations*.

SECTION 2 - Definitions: Interpretations: For the purpose of these regulations and unless the contents otherwise require, the following definitions shall be used in the interpretation and construction of these regulations: Words in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "*building*" shall include "*structure*", and the word "*shall*" is mandatory and not optional.

A - Abutter means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board. For purpose of receiving testimony only, and not for purposes of notification, the term *abutter* shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

B - Board means the Planning Board of the Town of Newington.

C - Bond means performance bond, irrevocable letter of credit, or other surety, the form to be selected by the Planning Board and Planning Board counsel.

D - Comprehensive Plan or Master Plan means any part or element of the overall plan of development adopted by the Planning Board.

E - Engineer means any duly designated engineer of the Town of Newington, or, if there is no such official, the planning consultant or official assigned by the Newington Planning Board.

F - Lot means a parcel of land occupied or intended to be occupied by a principal building and accessory buildings, or utilized for a principle use and uses accessory or incidental to the operation thereof, together with such open spaces as required by the zoning ordinance and having frontage on a town accepted street or road.

G - Plan or Plat means the map, drawing or chart prepared by a New Hampshire licensed engineer/land surveyor, on which the subdivider(s) plan of subdivision is presented to the Newington Planning Board for approval, and which if approved, shall be submitted to the Register of Deeds, Rockingham County, for recording. It includes plans for Site Review.

H - Primary Electrical and Communication Duct System is the portion of conduit delivering the primary power/communication trunk to the pad-mounted transformers/communication distribution pedestal.

I - PVC is Polyvinylchloride

J - Secondary Electrical and Communication Duct System is the portion of conduit that is used as feeders from the pad-mounted transformers/ communication pedestals to each facility requiring service.

K - Street means and includes street, avenue, boulevard, road, alley, highway, and other way exclusive of driveways serving not more than two adjacent lots.

L - Subdivider means an individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity (or agent thereof) that undertakes the activities governed by these regulations. Inasmuch as the subdivision plat or plan is merely a necessary means to an end of assuring a satisfactory development, the term "*subdivider*" is intended to include the term "*builder*" and "*developer*" even though the person involved in successive stages of the subdivision may vary.

M - Subdivision means the division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under these regulations.

SECTION 3 - Procedures on Plans (Plats)

General Information

- (1) Any person proposing to subdivide land in the Town of Newington must apply to the Newington Planning Board for approval of such subdivision.
- (2) The application shall conform to the specifications contained in these regulations, and to any other applicable regulations adopted by the Town.
- (3) In accordance with RSA 36:27, as amended, transfer or sale of any lot in an unapproved subdivision will be null and void and subject to a penalty.
- (4) To aid the applicant, Planning Board, and abutters or persons with a direct interest in the plan, it is suggested that all three stages below be utilized. However, applicants may elect to begin the process with any one of the three following stages, providing all the required data is included in the final stage.

(a) Preliminary Consultation: This stage is very informal for the purpose of facilitating the subsequent preparation of the plans. It may involve a rough sketch of the proposal, but not a professionally prepared plan. Only conceptual ideas may be discussed, and in general terms, such as desirability of types of development and proposals under the master plan, if any. No fees or formal public notice are required for a preliminary consultation, but such requests must be made fifteen (15) days prior to regularly scheduled meeting for discussion with the Board. This stage shall not bind either the applicant or the Board, nor shall time limits apply. More detailed discussion requires notification to abutters and the general public.

(b) Preliminary Plan: This stage involves a professionally prepared plan with approximate dimensions to show the proposal will meet Town regulations. Various permits, tests, and reports which will be required for the specific proposal shall be started during this stage, with direction from the Planning Board. Notification fees are required, and all requests must be made sixteen (16) days prior to a regularly scheduled meeting.

(c) Formal Application: This stage begins the 90-day period in which the Board either approves or disapproves the plan. The formal application form must be properly filled out, all required fees paid, and all completed engineered plans, tests, permits, and reports filed with the Town at least sixteen days (16) prior to the meeting at which the application will be accepted.

(5) The Board may make visual on site inspection of the land at any stage of the proposal. Inspection is to be at such time, when in the opinion of the Board, ground conditions are suitable for inspection.

(6) If a plan is withdrawn prior to hearing notification for the plan, no further action is required by the Board, and it will be considered terminated. One copy of any such plan(s) shall be retained for Board files.

(7) Approval of the plan by the Board shall not constitute an acceptance by the Town or the dedication of any street, highway, park or other public open space.

(8) The Board may approve the plan with such conditions as may be necessary to insure proper completion of required improvements, including performance bonds.

(9) All plans, exhibits, photographs, and drawings that are presented to the Planning Board thereafter become the property of the Town of Newington.

B - Preliminary Consultation Requirements (Stage 1)

(1) Correct Names & Addresses of owner(s) of record (and applicant, if different), and location of the proposal.

(2) A rough sketch of the site should be provided which shows the following:

a - Approximate location of proposed lot lines.

b - Approximate lot measurements and area of new lots.

c - Street(s) on which lots have frontage.

C - Preliminary Plan - Required Exhibits and Data (Stage 2)

(1) Preliminary Plan sheets to include:

a - Original on mylar in permanent ink.

b - Three (3) prints of each plan sheet (blue or black line).

c - Sheet size to conform to the requirements of the Registry of Deeds of Rockingham County for filing.

d - Scale: not more than 1" = 100'.

e - Proposed subdivision name or identification.

f - Correct names and mailing addresses of: owner(s) of Record (and applicant, if different), all abutters including those across the street or stream keyed to plan.

g - Name, license number, and seal of the NH licensed Land Surveyor, Civil or Sanitary Engineer, plus name and address of engineer/designer.

h - Date, north arrow, location map.

i - Topographical plan with contour lines at Two (2) foot vertical intervals. Benchmark from USGS datum.

j - Adequate space for the necessary endorsements by proper authorities.

k - Tax Map reference sheet and parcel number.

(2) On a separate paper, the correct names and mailing addresses of the owner(s) of record (and applicant, if different), and all abutters including those across the street or stream.

(3) Abutters notification fee - (payable to the Town of Newington), \$2.00 per abutter plus applicant.

(4) The engineered plan shall include the following information:

a - Location of property lines and their approximate dimensions and bearings, boundary extensions, existing buildings, existing and proposed easements, alleys, parks, public open spaces, water courses, ponds or standing water, rock ledges, and other essential features. All abutting subdivisions' names and similar facts regarding abutting property.

b - Location, name and widths of existing and proposed streets and highways with their grades and profiles and the elevations of sufficient points on the property to indicate the general topography of the property. The center line of any proposed street must show on the plan. Where the preliminary plan submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future street system of the unsubmitted part shall be furnished and the street system on the submitted part will be considered in the light and adjustments and connections with the street system of the part not submitted.

c - Existing water mains, sewers, culverts, drains and proposed connections or alternative means of providing water supply, and disposal of sewage and surface drainage.

d - Where the topography is such as to make difficult the inclusion of any facilities mentioned in *paragraph (c)* above, within the public area so laid out, the preliminary plan shall show the boundaries of proposed permanent easements over or under private property. Such easements shall be not less than Ten (10) feet in width and shall have satisfactory access to existing or proposed public way(s).

e - Location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication, and a copy of such deed restrictions as are intended to cover part or all of the tract.

f - For lots under 2 acres, show both acreage and square footage, over 2 acres, show acreage only.

g - The actual house number, according to proper house numbering standards. The number must be posted on the lot and must be visible from the road. House numbers may be obtained from the Building Inspector.

(5) The topographical plan shall include the following information:

a - The general topography of the proposed subdivision by means of elevations of sufficient points on the property to establish and show contour lines at vertical increments of not more than two (2) foot intervals for the entire area proposed to be subdivided, including establishment of the lowest and highest points therein.

b - The location of and pertinent data on sufficient test pits and percolation tests to show that the regulations in Section 4J "*Requirements for Siting Septic Systems*" can be met on each lot created by the subdivision.

Information shall include at least the following:

- The location of test pits;

- Percolation test data;

- The certificate of the Planning Board member or its agent witnessing the test;

- An outline of the area reserved for leach field to correspond with test location. Leach Field to be twice the minimum size required to allow a reserve area should the first system fail. Soils information to be based on most recent soils data for the Town. Local septic system requirements must be met prior to obtaining approval from NH Water Supply & Pollution Control Commission. (*For local septic system requirements see Section 4J*)

c - Approval from NH Water Supply & Pollution Control Commission. Under a 1979 regulation enacted by the NH Water Supply & Pollution Control Commission, all construction permits for septic systems will expire four years from date of issue unless an Operational Approval has been granted or construction is imminent.

d - the limits of the 100' tidal buffer zone, and an accompanying list of all applicable land use restrictions therein;

e - the limits of the 250' shoreland protection zone, and an accompanying list of all applicable land use restrictions therein;

f - the limits of the 100 year flood zone, i.e. all land along the Great Bay Estuary that is situated between the shore and 7 feet above National Geodetic Vertical Datum (NGVD).

g - New Hampshire State Plane Coordinates and USGS 1983 North American Datum.

(6) Road profiles shall include the following information:

a - Preliminary site plans for construction of all streets, sidewalks, and other improvements, including utilities. Plans shall indicate percent grade of streets, width and cross sections, plus locations and sizes of: water and sewer pipes, electric and telephone lines, storm water pipes, drains and culverts. Indicate type of pavement or surfacing of streets and subgrade thickness, as well as materials specifications thereof. See *Road Construction Specifications* for complete details.

b - Preliminary designs of any bridges or culverts which may be required.

D - Formal Application (Stage 3)

(1) Formal consideration of the application will not begin until the Planning Board or its agent has received sufficient information to allow the Board to make an informed decision, in the proper time period, per RSA 36:23.

(2) A completed application will be received only at a regularly scheduled public meeting of the Board which has been properly noticed as per RSA 36:23 I(d), see Town Regulations, Section 3.F.

(3) At least sixteen (16) days prior to a regularly scheduled meeting, a properly filled out formal application must be filed with the Planning Board or its agent. One original, plus 3 copies. The following information must be included:

a - On a separate paper, the correct names and mailing addresses of the applicant and owner(s) of record (if different), and all abutters (including those across the street and stream) as indicated in Town records - to be obtained not more than 5 days before the day of filing.

b - Schedule of Fees - Subdivisions:

Lot Line Adjustment:	\$100
Minor Subdivision (3 lots or less):	\$200
Major Subdivision (more than 3 lots):	\$500 plus \$100/lot

Additional fees may be required for administrative expenses, special investigative studies, review of documents and legal, engineering and other professional services which may be required by a particular application.

All costs of notice whether mailed, posted or published, shall be paid at this time by the applicant. Failure to pay such costs will terminate further consideration of the proposal, and the Planning Board may disapprove the plan without a Public Hearing.

c - The final plan(s) shall be on mylar in permanent ink and include all the requirements in final form in Section C, Preliminary Plan - Required Exhibits and Data. Original to be retained by the Board for recording. Three (3) prints of each plan sheet (blue or black line) shall be provided, in addition to all other supporting documents, permits, deeds, test data, and reports necessary for the specific proposal.

d - Abutters must be indicated on any plan submitted, showing their location in relation to the proposed subdivision.

e - The final plan(s) shall include sufficient data acceptable to the Planning Board and the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. All dimensions shall be shown to hundredths of a foot and bearings to at least half minutes. The error of closure shall not exceed a ratio of 1 to 10,000. The final plan(s) shall show the boundaries of the property and the bounds of any public or private streets and easements abutting or pertaining to the proposed subdivision in any manner.

f - A digitized copy of the final plan shall be submitted on a diskette in Autocad (.DWG) format.

E - Timing for Formal Consideration

(1) Within thirty (30) days after submission of the completed application, in accordance with 3.D(2), the Board will begin formal consideration of the application.

(2) The Board shall act to approve or disapprove the completed application within Ninety (90) days after submission, subject to extension or waiver as provided in the following paragraph.

(3) The Planning Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove an application. The applicant may waive the requirement for Planning Board action within the time periods specified in the above, and consent to such extension as may be mutually agreeable.

(4) When the Board approves the final plan, the Board shall transmit a copy of such approval in writing to the Register of Deeds of Rockingham County together with any conditions that may be attached thereto. A fee of \$20.00 is required for such filing.

F - Notification: The Planning Board shall notify the applicant, abutters, and every engineer, architect, land surveyor, landscape architect, or soil scientist whose professional seal appears on the plat submitted to the board by certified mail, return receipt requested, of the date upon which the application will be formally submitted to the Board. Notice shall be mailed at least Ten (10) days prior to formal submission. Notice to the general public shall also be given at the same time by posting in two (2) public places and/or publication in a newspaper of general circulation in the town. The notice shall include a general description of the proposal, the applicant's name, and location of the proposal. For any Public Hearing on the application, the same notice as required for notice of submission of the application shall be given. If notice of Public Hearing has been included in any prior notice, additional notice is not required, nor shall additional notice be required of an adjourned session of a hearing properly noticed, if the date, time and place of the adjourned session was made known at the prior hearing.

G - Public Hearings

(1) The applicant, any abutter or any person with a direct interest in the matter may testify in person or in writing at the Public Hearing. Other persons may testify as permitted by the Board.

(2) No application may be denied or approved without a Public Hearing on the application unless the following situations occur:

a - The subdivision consists of a minor lot line adjustment or boundary agreement that does not create a buildable lot. However, notice to the abutters is required prior to approval of the application. Any abutter may request to be heard on the application.

b - The Board has disapproved the application for the following reasons:

1) Failure of the applicant to supply information required by the regulations, including abutter's identification.

2) Failure to meet reasonable deadlines established by the Board.

3) Failure to pay costs of notice or other fees required by the Board.

In case of disapproval of any application submitted to the Board, the grounds for such disapproval shall be adequately stated upon the records of the Board.

H - Other Fees: No Building Permit shall be issued until all outstanding bills associated with Planning Board engineering fees are paid in full by the applicant, in accordance with NH RSA 676:41(g).

I - Roadway Completion: Upon completion of roadway construction:

(1) drainage infrastructure shall be cleared of all debris and sediment,

(2) comprehensive as-built plans, with all infrastructure features, shall be submitted to the Planning Board, and

(3) the Town's consulting engineer shall inspect all improvements in order to ascertain compliance with the approved plan and the as-built plan.

SECTION 4 - General Requirements for the Subdivision of Land: The Subdivider shall observe the following general requirements and principles of land subdivision:

A - Land of such character that it cannot be safely used for building purposes because of exceptional danger to health or peril from fire, flood or other menace shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, until appropriate measures have been taken by the owner or his agent to eliminate such hazards.

B - Areas set aside for parks and playgrounds to be dedicated or to be reserved for the common use of all property owners by covenant in the deed, whether or not required by the Board, shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.

C - Requirements for Siting Septic Systems in areas not currently served by a public sewer system, each lot in a subdivision shall meet standards set forth in the NHWS&PCC publication Guide for the Design, Operation and Maintenance of Small Sewage Disposal Systems and the requirements listed below:

- 1) No test pit or percolation tests shall be performed between June 15 and September 15.
- 2) Any soil with a seasonal high-water table at or within 12 inches of the natural ground surface shall not be used for the disposal of septic tank effluent.
- 3) Any soil with a percolation rate of over 60 minutes per inch shall not be used for the disposal of septic tank effluent.
- 4) Every residential building in the Residential District shall be served by a septic system situated on the same lot as the building.

D - Before approval of a subdivision by the Planning Board, there shall be filed a bond by the subdivider in an amount sufficient to cover the cost of the preparation of the streets and the extension of public water and sewer lines as specified in Section 5 of these regulations. This Bond shall be approved as to form and sureties by the legal counsel of the Town of Newington, and conditioned on the completion of such improvement within five years of the date of the Bond.

E - The proposed subdivision shall conform to the Zoning Ordinance of the Town of Newington, Comprehensive Master Plan of the Town of Newington and other pertinent state or local laws or regulations. When the subdivider can satisfy the Board that any of these regulations should not be strictly adhered to because of topographical or other conditions peculiar to the site, a departure may be authorized without destroying the intent of such provisions.

Zoning Ordinance requirements cannot be varied except by approval by the Board of Adjustment.

Likewise, the Board may require the installation of sidewalks or other improvements necessitated by the peculiar conditions or circumstances relative to the particular subdivision. Any such departure from the usual regulations shall be stated in writing in the minutes of the Board with the reason.

F - There shall be filed with the Planning Board a **3-year bond to maintain the new street(s)** and utility services in an amount equal to 10% of the cost of the roadway and utility services construction. The maintenance bond shall take effect upon the release date of the construction bond.

G - The Planning Board reserves the right to provide against such **scattered or premature subdivision of land** as would involve danger or injury to health, safety or prosperity by reason of lack of water supply, drainage, transportation, schools, fire protection, or other public services that would necessitate excessive expenditure of public funds to supply such services (*NH RSA 674:36 IIa*).

H - All roadways, sidewalks, and bicycle paths shall be constructed in accordance with the applicable road construction standards attached hereto. These standards are hereby incorporated into and made a part of these regulations.

I - Utility Hookups: The developer of the subdivision shall extend the secondary electrical and communication duct system to each residential building in the subdivision. Ducts shall be 4" Schedule 40 PVC conduit.

SECTION 5 - Required Improvements in Subdivisions

A - Water Supply:

1) Water mains and hydrants shall be installed on all streets of the subdivision. Materials, pipe size, hydrant spacing and installation shall be in accordance with the Water Agreement between the Town of Newington and the City of Portsmouth, except that the subdivider shall be responsible for the entire cost. Criteria on fire flow requirements as determined by the N.H. Board of Underwriters will be used in the determination of pipe sizes and hydrant spacing.

2) When a public water main lies within 2600 feet of the subdivision at its nearest point **the subdivider shall connect to such water main at his own cost.** Hydrants will be installed at a standard spacing along the connecting water main. The developer will assume the costs of the hydrants, associated fittings and installation of hydrants.

3) If a public water main is not available within 2600 feet of the subdivision, **the subdivider shall provide a private water supply** in accordance with the laws of the State of New Hampshire. The water supply shall be capable of satisfying the fire flow requirements of the subdivision. In addition, a capped-off branch line shall be laid to the edge of the nearest existing public road for future connection to a public water main.

B - Sanitary Sewage: Where a public sanitary sewer line within the Commercial/Industrial sewer systems is within 1500 feet of the lot or subdivision at its nearest point, the applicant shall connect with such sanitary sewer line with a line at least 8 inches in diameter. If the Planning Board and the governing authority deem it necessary to use a line of larger diameter, the municipality shall be responsible for the difference in cost between the 8-inch line and the oversize line. Where a public sewer is not reasonably accessible as determined by the Planning Board, the subdivider shall provide private means of sewage disposal in compliance with the laws of the State of New Hampshire. The public sanitary sewer line shall not be extended into that part of the Residential District west of the Spaulding Turnpike unless approved by the vote of the Town.

C - Street Name Signs. The Planning Board shall be responsible for the naming of all streets and the municipality shall be responsible for the erection of street name signs at all street intersections.

SECTION 6 - Floodplains

For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

- A. The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

- B. The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).

- C. The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:
 - (i) all such proposals are consistent with the need to minimize flood damage;
 - (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
 - (iii) adequate drainage is provided so as to reduce exposure to flood hazards.

SECTION 7 - Amendments to the Subdivision Regulations shall include the following steps:

A - The Board shall hold a least one Public Hearing on the proposed regulation and/or amendments.

B - Copies of the proposed regulations shall be posted in two public places and a summarized version printed in a newspaper of general circulation in the municipality.

C - The Town Clerk and Planning Board shall keep a copy on file.

D - Posting shall include the purpose of the hearing, time, place, date and a copy of the proposed regulations.

E - There shall be not less than sixteen (16) days between the day of posting and the hearing, not including the posting or hearing days. Saturdays, Sundays and holidays may be counted in the minimum required time.

F - At any time after the Public Hearing has been held and closed, the Board may vote on the regulations, as amended.

G - Those present and voting on the amendments shall sign and date the approved amendments.

H - Signed copies shall be placed on file with the Town Clerk, Selectmen and Planning Board and a copy transmitted to the Rockingham Registry of Deeds.

SECTION 8 - Administration and Enforcement: It shall be the duty of the Board of Selectmen and that Board is hereby given power and authority to enforce the subdivision regulations. The Planning Board may appoint an agent charged with the responsibility of receiving for the Planning Board preliminary layouts and final plats, checking them to determine if they meet the requirements of the subdivision regulations, and inspecting improvements for compliance with the subdivision regulations and requirements of the Planning Board and Selectmen.

SECTION 9 - Penalty: Every subdivider violating any of the provisions of these regulations shall be fined, upon conviction, not more than \$100.00 for each day such violation may exist. Each violation shall be considered a separate offense for each day it occurs.

SECTION 10 - Certificate of Failure to Take Action: Upon failure of the Board to approve or disapprove the application as in Section 3, paragraph E(2) & (3), the applicant may obtain from the Selectmen, an order, directing the Board to act within fifteen (15) days. Failure of the Board to act on such order shall, upon petition of the applicant, constitute grounds for the superior court to issue an order approving the application, if the court determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.

If the Planning Boards failure to act was not justified, the court may order the Board to pay the applicant's reasonable costs, including attorney's fees, incurred in securing such order.