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SUBDIVISION REGULATIONS
FOR THE
TOWN OF LINCOLN

ARTICLE I: GENERAL

Section 1.1 Purpose

The Subdivision Regulations of the Town of Lincoln compliment Zoning Regulations and other Town ordinances to implement the Town Plan ("the Plan"). The fundamental principles of the Plan protect and enhance the Town's most important community assets (natural, environmental, social, aesthetic and economic) and assure every individual's freedom to use and enjoy his or her own property in ways that do not impinge on the rights and well-being of his or her neighbors.

While Lincoln expects growth and encourages moderate growth, the Plan recognizes that the scale of the Town's services and the physical characteristics of the area are best suited to small-scale enterprises and a moderate rate of growth in housing. Subdivision Regulations provide a process for evaluating proposed subdivisions in the context of these limitations and long-term goals.

The Plan also recognizes Lincoln's considerable natural resources and seeks to protect, preserve and enhance them for the benefit of this and future generations. Subdivision Regulations seek to protect wetlands, wildlife, air and water quality, forest health, agricultural resources, and the Town's general rural character.

Section 1.2 Enactment

There are hereby established Subdivision Regulations for the Town of Lincoln ("these regulations") under the authority of Title 24 of the Vermont Statutes Annotated, Chapter 117 (24 V.S.A. 117), entitled "Vermont Municipal and Regional Planning and Development Act," hereinafter referred to as "the Act."

Section 1.3 Authority

The Town Planning Commission is hereby authorized and empowered to regulate the division of a lot or parcel of land into two or more lots as provided for in 24 V.S.A. §§4401, 4402(3) and 4418 , as amended. Additionally, for subdivisions constituting "boundary line adjustments" as defined herein, the Zoning Administrator is authorized to issue a permit administratively as provided for in 24 V.S.A. §4464(c). These regulations establish standards and procedures for approval, modification, or disapproval of plats of land and approval or modification of plats previously filed in the office of the municipal clerk or land records.

Section 1.4 Jurisdiction of Regulations

Any one proposing to subdivide land in the Town of Lincoln, for any purpose shall file a written subdivision application and secure a subdivision permit prior to taking any action with respect to the property in question including entering a contract for its sale, grading, clearing or otherwise improving the property, requesting building permits or filing any plats or deeds in the land records.

Section 1.5 Enforcement, Violations and Penalties

These Regulations shall be enforced in accordance with the provisions of §§4451 and 4452 of the Act, as amended.

Section 1.6 Severability

The invalidity of any provision of these Regulations shall not invalidate any other part or provision.

Section 1.7 Amendments

These Regulations may be amended according to the requirements and procedures established in Sections 4441 and 4442 of the Act.

Section 1.8 Effective Date

These Regulations shall take effect 21 days after adoption at a regular meeting of the legislative body or after a petition and vote as per 24 V.S.A. 4442(c)(1).

ARTICLE II: DESIGN STANDARDS

Section 2.1 Requirement for Approval

An application for subdivision may be approved by the Planning Commission after notice and hearing in accordance with the provisions of these Regulations provided the proposed subdivision complies with the standards set forth in this Article and all other Town Regulations and Ordinances.

Section 2.2 General Standards

The applicant shall show that the proposed subdivision complies with the following general standards:

2.2.1 **Character of the Land -** All land to be subdivided shall be, in the judgment of the Planning Commission, of such a character that it can be used for the intended purpose without danger to public health or safety, or to the environment. Significant wetlands, land subject to periodic flooding or poor drainage, steep slopes over 20% grades or land with inadequate capability to accommodate structures, septic systems, roads, utilities, or other forms of development, or land with other hazardous conditions shall not ordinarily contain infrastructure necessary to support a subdivision.

2.2.2 **Preservation of Existing Features -** Due regard shall be given to the preservation and protection of existing features, including but not limited to exceptional trees, scenic areas, brooks, streams, rock outcroppings, hilltops and ridges, water bodies, wetlands, open land, and other natural and historic features. To avoid parcelization, isolation or destruction of such features, irregular or elongated lots may be restricted or prohibited, and the location of structures or other development may be restricted or limited to within certain building envelopes established on the property. Provisions for planned unit developments (PUDs) contained within the Zoning Regulations pertaining to the clustering of development in a manner which minimizes the impact on existing features and are encouraged for all subdivisions. Even if they chose not to apply as a PUD, all applicants will benefit by referring to those sections for guidance in preserving existing features.

2.2.3 **Compatibility With Town Plan and compliance with existing ordinances -** The proposed development shall be compatible with the uses proposed for each area in the Town Plan and shall provide sufficient open space for the recreation, visual and aural privacy, and other domestic needs of the area's inhabitants The subdivision shall also comply with the Town's Zoning Regulations and Access Ordinances, as amended. The proposed subdivision may be denied if the intended use cannot be shown to be capable of complying with the provisions of applicable regulations and ordinances.

2.2.4 **Lot Layout and Configuration -** The layout and configuration of lots shall conform to the principles of the Town Plan and, unless developed as a PUD, the requirements of the Town's Zoning Regulations. Lot layout shall be appropriate for the intended purpose and shall support the existing pattern of the district. In the Village district, lot layout shall reinforce the existing building pattern by enabling building sites and setbacks consistent with existing development patterns, contributing to logical and connective street and pedestrian networks. The applicant shall consider topography, soil conditions, existing features, natural resources and

adjacent uses. PUDs or cluster development shall be encouraged and may, at the Planning Commission's discretion, be required whenever it is deemed to be feasible and desirable.

2.2.5 **Open Land -** The Applicant shall demonstrate that the project will result in the dedication of open or public space consistent with the purposes of this section. Lands set aside to meet the purposes of this section shall be in a location or locations, and of a size and shape approved by the Planning Commission (for park, recreation, open space, agriculture, forestry, wildlife habitat, natural areas, aquifer protection areas, water body bank, or municipal purposes). Provisions for open space shall include but shall not be limited to the following objectives:

- The open space land shall provide for the protection of resources on the site including agricultural land, woodland, wildlife habitat, natural areas, aquifer protection areas, views, vistas, stream banks and historic sites.
- The location, shape, size and character of the open space land shall be suitable for its intended use and shall be located so as to conform with and extend existing and potential common open space lands on adjacent parcels.
- Open space land will be suitably improved and/or maintained for its intended use, except that open space containing natural resources worthy of preservation may be required to be left unimproved. Provisions will be made to enable lands designated for agriculture and forestry to be utilized for these purposes. Management plans for forestry and wildlife habitat may be required.
- The Planning Commission, as a condition of approval, may establish such conditions as it deems necessary to the ownership, use and maintenance of land set aside as open space, to assure the preservation of such lands for their intended purposes.
- The amount of open space to be provided within each PUD shall be not less than 25 percent in the Village District, and not less than 33 percent in the Outlying District.
- Additional measures may be imposed to protect resources identified on the parcel, such as restrictions on building sites through designation of buildable envelopes and clearing limits.
- The Commission may require that the Town be a party to any legal mechanisms for the protection of open space.
- Road rights-of-way and parking spaces shall not be included in the determination the open space requirements of this section.

Section 2.3 Air and Water Pollution.

Proposed subdivisions shall not cause unacceptable air or water pollution. Applicants shall demonstrate that the development proposed has been designed to comply with the following standards.

2.3.1 **Rivers and Stream**s – Applicant shall demonstrate that the subdivision has been designed to reasonably mitigate impacts on rivers and streams by demonstrating that:

- all infrastructure planned as part of the subdivision has been designed to protect the water quality in Lincoln’s rivers and streams by meeting the applicable setbacks contained within Section 421of Lincoln’s Zoning Ordinances.

- Where appropriate, vegetated common land may be preserved as open space to serve as a buffer to development along the river or stream
- any infrastructure that must encroach upon the setbacks to cross the stream shall be designed to minimize the encroachment through clustering or use of existing infrastructure easements or crossings. or the use of reasonable alternative routes.
- Applicant shall secure a stream alteration permit from the Agency of Natural Resources as applicable.

2.3.2 **Wetlands** – Applicant shall demonstrate that the subdivision has been designed to reasonably mitigate impacts upon significant wetlands by demonstrating that:

- If feasible, no infrastructure will be located within a Class II wetland or the 50 foot buffer surrounding it.
- If infrastructure must reasonably cross a Class II wetland or its boundaries, Applicant shall secure a Conditional Use Permit from the Agency of Natural Resources as applicable.

2.3.3 **Floodplains** - Applicant shall demonstrate that any proposed infrastructure for the project will not be constructed within the floodplain as designated in the Town of Lincoln. If any portion of the project lies within the floodplain, Applicant shall demonstrate that the subdivision has been designed to avoid or minimize intrusion into the floodplain. If any infrastructure is located within the floodplain, applicant shall demonstrate that all infrastructure can be constructed to comply with Article_IV of the Town of Lincoln Zoning Regulations governing construction within the floodplain.

2.3.4 **Fluvial Erosion Hazard Area -** Applicant shall demonstrate that any proposed infrastructure for the project will not be constructed within the Fluvial Erosion Hazard District as designated in the Town of Lincoln. If any portion of the project lies within the FEH District, Applicant shall demonstrate that the subdivision has been designed to avoid or minimize intrusion into the FEH District. If any infrastructure is located within the FEH District, applicant shall demonstrate that all infrastructures can be constructed to comply with Article IV of the Town of Lincoln Zoning Regulations governing construction within the FEH District.

Section 2.4 Solid waste

Applicants subdividing property for commercial or industrial use shall demonstrate that adequate facilities for the storage and removal of solid waste exist on the property and that said facilities are located in a service area screened from view of the roadway and any residential structures adjacent to the subdivision. Applicant shall also demonstrate that the solid waste stream is properly disposed of upon leaving the property.

Section 2.5 Wastewater

Applicant shall demonstrate that the subdivision has been designed to reasonably dispose of wastewater by procuring a State Wastewater Disposal Permit or, if appropriate, a Deferral of Permit for each lot created.

Section 2.6 Water.

Applicant shall demonstrate that an adequate supply of water exists for the subdivision and that said supply will not interfere with existing water supplies by procuring a State Water Supply Permit or if appropriate, a deferral of permit for each lot created.

Section 2.7 Runoff and Erosion.

Applicant shall demonstrate that the subdivision has been designed, and phased to control stormwater and erosion control both during and after construction. Projects a of significant enough size to trigger the State's stormwater regulations for either construction (Disturbing 1 or more acres of land and require at least a Construction General Permit 3-9020) or for permanent stormwater control measures (Creating 1 or more acres of impervious surface) may satisfy this criterion by procuring and complying with applicable state stormwater permits. Smaller subdivision proposals shall provide plans and information sufficient to demonstrate they have included adequate provisions for the control of runoff and erosion, before, during and after construction, by following the requirements in section 2 of the "*Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control*" dated August 2006 and as subsequently revised.

Section 2.8 Highway Congestion and Pedestrian Traffic

Proposed subdivisions shall not cause unreasonable highway congestion or unsafe conditions with respect to the current or projected use of highways, streets and roads in the Town. Proposed subdivisions shall contain adequate provisions for pedestrian traffic in terms of safety, convenience and access to appropriate destinations.

2.8.1 **Roads and Driveways -** Roads and driveways associated with a proposed subdivision shall comply with the requirements of Town Ordinance #1986-1, as amended.

2.8.2 **New Road's Design Standards -** New roads shall be designed to comply with appropriate standards for the size and location of the subdivision as contained in the Vermont State Standards for the Design of Transportation Construction and Rehabilitation on Freeways Roads and Streets dated July 1, 2007, as amended.

2.8.3 **Traffic Capacity** - Subdivision projects judged by the Planning Commission to generate traffic that exceeds the existing capacity of adjacent public roads or intersections shall be denied, or phased in a manner which allows the improvement of said capacity to better accommodate the project.

2.8.4 **Financial Impacts** - An applicant may offer to or be required to provide for any or all of the expenses of road or intersection improvements necessitated by his/her project.

2.8.5 **Road Upgrades** - If the proposed access road or driveway intersects a Class 4 Town Highway, the Planning Commission may deny the application. Alternatively, and contingent upon the approval of the Select Board, the Planning Commission may require the applicant to improve the intersected road to Class 3 Town Highway construction standards. The Planning Commission may also impose conditions on the approval of a subdivision which require the improvement of private roads or drives on the subdivided parcel which, in the

judgment of the Planning Commission, are inadequate to handle the increased traffic which may be expected.

Section 2.9 School and Municipal Services and Facilities.

Applicant shall demonstrate that when viewed in the context of existing and unbuilt but approved subdivisions and developments in the Town, Applicant's proposed subdivision shall not place an unreasonable burden on the ability of the Town to provide municipal, educational or governmental services or facilities. Applicant may satisfy these criteria by providing information sufficient to satisfy the planning Commission or letters from the following entities:

2.9.1 **School letter -** A letter from an official at the community school that the development proposed will not unduly impact the school by causing the population to exceed the capacity of the existing facility.

2.9.2 **Road letter -** A letter from the road foreman regarding the capacity of roads, intersections and bridges in the immediate vicinity of the proposed subdivision to accommodate additional traffic generated by the proposed subdivision within an appropriate level of service ;

2.9.3 **Fire letter -** A letter from officials of the Lincoln Volunteer Fire Department confirming that the proposed subdivision is designed in such a manner to allow them sufficient access for response vehicles and that they have the ability to provide service to the proposed subdivision.

Section 2.10 Natural Resources.

Applicant shall demonstrate that they have developed the subdivision in a manner that provides due regard for natural resources by minimizing impacts upon the following identified natural resources and wildlife commutes or habitat:

2.10.1 **Agriculture and Primary Agricultural Soils -** Applicant shall demonstrate that they have minimized the impact of the proposed subdivision on agriculture and primary agricultural soils on the property, if any as follows:

- Clustering development in areas removed from operating agricultural operations and/or on non-primary agricultural soils and/or
- Preserving significant blocks of primary agricultural soils on the property as common or open space.
- Establishing deeds and covenants on each lot near or adjacent to existing agricultural operations contain "Freedom to Farm Provisions" acknowledging the agricultural activity and its right to operate pursuant to accepted agricultural practices

2.10.2 **Views and Aesthetics -** Applicant shall demonstrate that they have designed the subdivision to minimize the viewshed impacts of the proposed subdivision by demonstrating how the subdivision compiles with the requirements of the Viewshed Overlay District requirements contained in Article IV of the Town of Lincoln Zoning regulations and incorporated herein.

2.10.3 **Deer Wintering Areas -** Applicants shall demonstrate that the proposed subdivision has been designed to reasonably mitigate impacts on deer wintering areas in the Town of Lincoln as depicted upon the Statewide Deer Wintering Area GIS data layer produced

by the Agency of Natural Resources, Department of Fish and Wildlife. If Deer wintering area exists on the parcel proposed to be subdivided, applicant shall demonstrate how they have reasonably mitigated impacts on the resource by:

- Clustering development away from the resource;
- Preserving the resource as open space or common area
- Other methods of conserving the resource

2.10.4 **Threaten and Endangered Species -** Applicants shall demonstrate that the proposed subdivision has been designed to reasonably mitigate impacts on threatened or endangered species in the Town of Lincoln as depicted upon the Statewide Non-game and Natural Heritage Threatened and endangered species GIS data layer produced by the Agency of Natural Resources, Department of Fish and Wildlife. If threatened and/or endangered species exists on the parcel proposed to be subdivided, applicant shall demonstrate how they have reasonably mitigated impacts on the resource by:

- Clustering development away from the resource;
- Preserving the resource as open space or common area
- Other methods of conserving the resource

Section 2.11 Utilities.

Applicant shall demonstrate that they have thoughtfully designed the utilities serving the project in a manner that will minimize their impact on the surrounding area and promote cost effective energy conservation measures as follows:

2.11.1 **Utility Easements -** Underground utilities should be placed either in the street right-of-way between the paved roadway and street line or placed horizontally underneath the roadway. Where inclusion of utilities in the street right-of-way is impractical, perpetual, unobstructed easements twenty (20) feet in width shall be provided with satisfactory access to the street.

2.11.2 **Creation of Municipal Utilities -** All subdivisions shall make adequate provisions for water supply, storm water and sanitary sewage disposal, and required utilities and improvements. The Commission may require that a community water supply or wastewater system unconnected to municipal systems be designed in such a way that it may eventually be connected to a public municipal supply system.

2.11.3 **Electric, Telephone, Cable T.V** - The applicant shall coordinate the subdivision's design with the utility companies and submit a plan prepared with their cooperation showing all line extensions necessary to serve the subdivision. Such plan shall be integrated with a systematic program for distribution of service to the entire area around the subdivision now or in the future. Common rights-of-way shall be utilized whenever possible and, when technology and terrain make it economically feasible; distribution systems should be built underground.

2.11.4 **Energy Conservation -** In order to conserve energy, subdivisions should minimize areas of infrastructure and incorporate designs that use solar orientations where

possible. Landscaping should be effectively used for providing wind barriers and reducing heat loss and heat gain. Cluster development is encouraged.

Section 2.12 Construction Plan and Timing.

Applicant shall demonstrate that they have designed the timing of significant construction activity to reasonably mitigate impacts on neighbors of the project. Mitigation measures may include:

- Limiting the hours of major construction
- Further limiting the hours of trucking of material;
- Requiring notification of neighbors before any blasting

Section 2.13 Waivers and Variances

Waivers and variances to the provisions of these Subdivision Regulations shall be considered under the following conditions and limits:

2.13.1 **Waivers** - The Planning Commission may waive those requirements of these Subdivision Regulations which, in its opinion, are inappropriate due to:

- The size, location or land form of a particular lot;
- A lack of connecting facilities adjacent to or in close proximity to the proposed subdivision; or
- An adverse influence on the public health, safety or general welfare of the residents of the area.

2.13.2 **Variances** - Where the Planning Commission finds that extraordinary and unnecessary hardships may result from strict compliance with the standards set forth in these Regulations, it may vary such standards, subjecting the applicant to appropriate conditions.

2.13.3 **Conditions** - In granting waivers and variances, the Planning Commission shall require such conditions as will, in its judgment, substantially secure the objectives of the requirements so waived or varied.

2.13.4 **Statutory Limitations** - The Planning Commission will not approve waivers or variances which would have the effect of contradicting the intent or purpose of the comprehensive Town Plan, any other Town Regulation or Ordinance, or these regulations.

2.13.5 **Application** - All requests for waivers and variances shall be made by the applicant in writing, and shall provide such information as may be necessary for the Planning Commission to reach a decision regarding such waivers and variances.

ARTICLE III: SUBDIVISION APPLICATION PROCEDURE

Section 3.0 Application of Regulations

Whenever any subdivision of land is proposed to be made, before any contract for sale of such subdivision or any part thereof is made, before any grading, clearing, construction, or other improvement is undertaken, or before any permit for erection of a structure in such proposed subdivision is granted, and before a final subdivision plat may be filed with the Town Clerk, the applicant shall apply in writing to the Planning Commission for and secure approval of the proposed subdivision in accordance with one of the procedures described in this Article III of these regulations. The amount of procedure required for any subdivision may vary depending upon the type and size of subdivision proposed and the probable impact of that subdivision upon the Town and neighbors. Lincoln recognizes three types of subdivisions, Boundary line adjustments, minor subdivisions and major subdivisions. Each is defined in Article V of these regulations. However, for discussion purposes, boundary line adjustments are simple boundary line adjustment between adjacent properties, minor subdivisions constitute the division of a property into 3 lots or less and major subdivisions involve the division of a property or properties into 4 or more lots. Boundary line adjustments are handled as an administrative procedure by the Zoning Administrator. Minor subdivisions involve an informal review of the project in the sketch plan phase and then a final review. Major subdivisions can be more complicated and will involve an informal discussion followed by formal hearings on the preliminary and final plat.

Section 3.1 Boundary Line Adjustments

These regulations grant the Zoning Administrator the ability to conduct an administrative review, as authorized pursuant to 24 V.S.A. 4464 (c), and grant permits for subdivision projects meeting the definitions of a "boundary line adjustment" as defined in Article V of these Regulations.

3.1.1 **Application for Boundary line Adjustment -** Applicants for boundary line adjustments shall be responsible for providing the Zoning Administrator with a complete subdivision application and a supplemental letter or plan containing information necessary for the Zoning Administrator to make a decision. Prior to granting the permit, the Zoning Administrator may require an accurate drawing of the property showing existing features, including structures locations, water and wastewater facilities, driveways, easements, parking and loading spaces and pedestrian walks and other information pertinent to the issue.

3.1.2 **Criteria to Qualify for Boundaryline Adjustment -** The Zoning Administrator may grant a permit for a boundary line adjustment, if the applicant can satisfy the following standards:

- The adjustment requested meets the definition of a boundary line adjustment.
- The lots resulting from the boundary line adjustment meet the dimensional requirements for lots within the underlying zoning district;
- The adjustment requested is in conformance with the Town Plan and the goals set forth in Section 4302 of the Act;
- The adjustment requested is designed to conform to the character of the land use area in which it lies as defined in the Plan and Zoning Regulations.

- The boundary line adjustment does not cause any structure on either lot to violate any dimensional setback requirements in the Zoning Regulations; and
- The applicant demonstrates that through a permit or a deferral of permit that the boundary line adjustment is acceptable for State water supply and wastewater permitting purposes.

3.1.3 **Decision of the Zoning Administrator -** The Zoning Administrator shall make a decision on the request for boundary line adjustment by applying the facts presented in the application to the criteria, listed above, and incorporating all into a decision. In approving a project the Zoning Administrator shall act to ensure, and may impose conditions requiring that the boundary line adjustment, if permitted, will conform to the Zoning Regulations and the Plan. The nature of any conditions attached to it shall be entered on the face of the permit and upon the plat depicting the adjustment and shall be enforceable in the same manner as all other applicable requirements of these Regulations. The decision of the Zoning Administrator regarding the permit is appealable to the Board of Adjustment pursuant to criteria and procedure outlined is Sections 360-365 of the Zoning Regulations.

3.1.4 Filing of Final Subdivision Plat - Upon securing a permit decision from the Zoning Administrator, prior to that permit taking effect, the applicants shall be required to file a final subdivision plat pursuant to the requirements of Section 3.7 of these Regulations.

Section 3.2 Sketch Plan Phase for Major or Minor Subdivisions

3.2.1 **Initial Meeting -** The applicant shall submit the sketch plan information as described in Section 4.1 of these regulations to the Zoning Administrator, who shall notify the members of the Planning Commission of the application. The Clerk of the Commission shall set a date for a sketch plan meeting. The applicant, or his/her authorized agent, shall attend the sketch plan meeting to discuss the proposed subdivision and the specific requirements of these regulations. The applicant shall be guided by the Commission as to the need for further meetings and the advisability of entering into the preliminary and final plan stages of the application process.

3.2.2 **Classification of Project -** At this meeting, the Planning Commission will classify the project as a major subdivision or minor subdivision. The Commission shall specify what the submission requirements for subsequent review will be. The Commission shall determine whether the project meets the purposes of these regulations and may make specific written recommendations for changes. If the project qualifies as a planned unit development, the Commission may simultaneously review the project under the criteria established in both these Regulations and the Zoning Regulations.

Section 3.3 Major Subdivision Application and Procedure

3.3.1 **Preliminary Plan Application -** Within six months after classification of the project as a Major Subdivision by the Commission, the Applicant shall submit an original and five copies (6 total) of the subdivision applications to the Zoning Administrator. The complete application must arrive at the town offices at least 25 days prior to the regular meeting of the Planning Commission for it to proceed at the next hearing for approval of a preliminary plan. The application shall conform to the requirements set forth in Sections 4.2.1-4.2.15 of these regulations, and shall conform to the layout shown on the sketch plan

plus any recommendations made by the Commission. If the applicant fails to file a complete subdivision application within 6 months from the conclusion of the discussion phase, the Planning commission may require the applicant to resubmit the application to the Commission for another Discussion Phase review.

3.3.2 **Notice procedures -** All development review applications before the Planning Commission shall require notice for a warned public hearing as follows:

- Public Notice of hearings for subdivisions shall be given not less than 15 days prior to the date of the public hearing by all the following:
  i. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the Town of Lincoln. The Zoning Administrator or clerk or chair of the Planning Commission shall place the notice in the paper.
  ii. Posting of the same information in three or more public places within the Town of Lincoln in conformance with location requirements of 1 V.S.A. § 312(c) (2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made. The Zoning Administrator or clerk or chair of the Planning Commission shall post notices in two places within the Town and shall also be responsible for posting the property.
  iii. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. The applicant shall be responsible for notifying all adjoining landowners and shall do so by a certificate of mailing or hand delivery. Prior to the first hearing, the applicant shall demonstrate compliance with this provision by producing a copy of the letter sent, a list of those it was sent to and the certificate of mailing demonstrating that the letters were sent (The applicant need only demonstrate that the letter was sent, not that it was received) or signed receipts if the letter was hand-delivered. If the applicant fails to reasonably demonstrate that they sent notice to the ad joiners and any other interested party, the Planning Commission may postpone the hearing.

Applicant's providing of notice prior to the Preliminary Plat in a major subdivision shall constitute notice at least 15 days prior to the final plat sufficient to satisfy 24 V.S.A. 4464(a)(1).

3.3.3 **Review Procedures -** Pursuant to the requirements of 24 V.S.A. § 4461 the Planning Commission shall set a date and place for a public hearing of an application or an appeal under this chapter that shall be within 60 days of the filing of a complete application with the Planning Commission. The Planning Commission shall give public notice of the hearing pursuant to the procedure described in Subsection 3.3.2 of this section and shall mail to the applicant a copy of that notice at least 15 days prior to the hearing date. Any person or body empowered by Section 4465 of the Act to participate as an interested party with respect to that property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing. The Planning Commission may adjourn the hearing from time to

time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing. All hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. §810, Vermont Statute. At the beginning of the hearing applicant shall present copies of written notification to all adjacent property owners of the application for subdivision permit. If any portion of the land involved with the subdivision is within 500 feet of the boundary of an adjoining town, applicant shall also submit a copy of written notification to the Planning Commission of that town.

3.3.4 **Decisions -** The Planning Commission shall issue a written decision, which shall include findings of fact, any conditions, and provisions for appeal within 45 days after completing and closing the hearing and shall within that period send the applicant, by certified mail, a copy of the decision. Copies of the decision shall also be mailed to every interested person who appeared and was heard at the hearing. A copy of the decision shall be filed with the Zoning Administrator and the Town Clerk who shall record the decision as a public record. If the Planning Commission fails to make a decision within 45 days, on the 46th day the Planning Commission shall be deemed to have rendered a decision in favor of the applicant.

3.3.5 **Form of Approval and Conditions** - When granting approval of a Preliminary Plat, the Commission shall state the conditions of such approval, if any, with respect to:

- The specific changes which it will require in the Preliminary Plat
- The character and extent of the required improvements for which waivers may have been requested,
- The amount of improvement or the amount of all bonds therefore if any, which it will require as prerequisite to the approval of the Final Plat,
- Any required phasing of the project to insure compliance with Town Plan or conformance with these Regulations or any capital budget adopted by Lincoln at the time of the application.

The action of the Commission and any conditions attached thereto shall be noted on three (3) copies of the Preliminary Plat. One copy shall be returned to the Applicant, one retained by the Commission, and one forwarded to the legislative body.

3.3.6 **Validity of Preliminary Plan Approval -** Approval of the Preliminary Plan shall not constitute approval of the subdivision plan. Prior to approval of the final subdivision plan, the Commission may require additional changes as a result of further study. Subsequent to the approval of the Preliminary Plan, the applicant shall submit the approved plan to any other local officials having jurisdiction over the project (Selectboard, Board of Adjustment). Upon receipt of evidence of approval of the Preliminary Plan by said officials, the applicant may apply to the Planning Commission for Final Plan approval. The approval of a Preliminary Plan shall be effective for a period of six (6) months from the date of the written notice of approval.

3.3.7 **Final Plan Application -** Within six (6) months of Preliminary Plan approval, the applicant shall submit 8 copies of an application for approval of a final subdivision plat. If the applicant fails to do so, the Commission may require the applicant to resubmit a new plat for Preliminary Plan approval subject to any new zoning and subdivision regulations, unless the Commission determines that lengthy delays are beyond the applicant's control. The final application must conform to the requirements set forth in Section 4.3 of these regulations, and shall conform to the layout shown on the Preliminary Plan plus any recommendations made by the Commission.

3.3.8 **Official Submission Date -** Six (6) copies of the application for Final Plat review shall be presented to the Zoning Administrator at least 25 days prior to a regular meeting of the Commission. The date of such meeting following receipt of the required materials shall be the official submission date of the application for approval of a Final Plat.

3.3.9 **Final Plan Hearing -** A public hearing shall be held by the Commission within 60 days after receipt of the final subdivision application, pursuant to Subsection 3.3.3 above. Said hearing shall be warned in accordance with the requirements of Subsections 3.3.2 (i) and (ii) noted above.

3.3.10 **Final Plan Decision** - The Commission shall within [forty-five] 45 days from the adjournment of the Final Plan hearing, approve, modify, or disapprove the Final Plan pursuant to the procedure outlined in Subsection 3.3.4 above.

3.3.11 **Final Plan Approval and Conditions -** When granting approval of a Final Plat, the Commission shall state the conditions of such approval, if any, with respect to:

- The specific changes which it will require in the Final Plat,
- The character and extent of the required improvements for which waivers may have been granted,
- The improvement or the amount of all bonds, if any, that the Commission will require to secure work on public infrastructure as prerequisite to the approval of the Final Plat,
- Any required phasing of the project to insure compliance with Town Plan, or conformance with these Regulations or any capital budget adopted by Lincoln at the time of the application.
- Any conditions requiring the applicant to secure final state or federal permits, should the Commission grant final approval of the plat prior to applicants securing of all required final state and or federal permits.

The action of the Commission and any conditions attached thereto shall be issued in a written decision issued pursuant to Section 3.3.4.

Section 3.4 Minor Subdivision Application and Procedures

3.4.1 **Final Plan Application Submittal** - Within six months (6) of the classification by the Commission of the project as a Minor Subdivision, the Applicant shall submit an application for approval of a subdivision plan according to the requirements set forth in Section 4.4 of these Regulations. The plan shall conform to the layout presented to

the Commission at the Discussion Phase, plus any recommendations made by the Commission. The Commission may require, where necessary for the protection of public health, safety, and welfare that a Minor Subdivision comply with all or some of the submission requirements or the general and specific standards for Major Subdivisions.

3.4.2 **Notice Requirements -** The applicant shall provide notice in the same manner as that required for preliminary plats in major subdivisions as outlined in Section 3.3.2 of these regulations.

3.4.3 **Final Plan Hearing** - The Commission shall conduct its hearing in the same manner as that required for preliminary plats in major subdivisions as outlined in Section 3.3.4 of these regulations.

3.4.5 **Final Plan Decision -** The Commission shall render its decision in the same manner as that required for preliminary plats in major subdivisions as outlined in Section 3.3.4 of these regulations. The decision may include any applicable conditions and should include relevant conditions concerning any of the circumstances outlined in Section 3.3.5 of these regulations.

3.4.6 **Appeal of the Commission's Decision** - Any interested person, as defined in §4465(b) of the Act, may appeal a decision of the Planning Commission to the Environmental Court in accordance with the provisions of 24 V.S.A. §4471.

Section 3.5 Public Acceptance of Streets, Recreation Areas

Approval by the Commission of a Subdivision Plat shall not be deemed to constitute or be evidenced of any acceptance by the municipality of any street, easement, utilities, park, recreational area, or other open space shown on such Subdivision Plat. As noted in Section 3.6 below, The Commission may require the filing of a written agreement between the applicant and the legislative body covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such improvements.

Section 3.6 Improvements and Performance Bond

If the Planning Commission finds it necessary to require a performance bond on any improvements benefiting the municipality, before the Commission signs the Final Subdivision Plat for recording, the Applicant shall either file with the Municipal Clerk a certified check to cover the cost of the required improvements as set by the Commission or the Applicant shall file with the Municipal Clerk a performance bond in an amount set by the Commission. Any such bond shall be satisfactory to the legislative body and municipal attorney as to form, sufficiency, manner of execution and surety. The Commission shall fix the term of the bond up to three years.

Section 3.7 Filing of Approved Subdivision Plat

3.7.1 **Plat Recording -** All final subdivision plats must be recorded in the office of the Town Clerk within One hundred and eighty (180) days of the date of final plan approval or the approval expires.

The approved final subdivision plat shall be filed with the Town Clerk. The plat to be recorded shall meet all requirements required for the recording of a survey plat pursuant to 27 V.S.A. §1403. Prior to recording, the final subdivision plat must be signed by two (2) authorized members of the Commission. Plats for boundary line adjustments may be signed by the Zoning Administrator. For any subdivision which requires the construction of streets or other public improvements by the applicant, the authorized members of the Commission may not sign the approved plat until the Applicant has:

- Demonstrated that the proposed public improvements have been accepted by the Selectboard and any other municipal official having jurisdiction or such improvements
- Met the requirements of Section 3.6, Performance Bond Requirements, of these Regulations, if any, or
- Constructed all public improvements to the satisfaction of the Commission.

3.7.2 **Plat Void if Revised After Approval -** No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Commission and endorsed in writing on the Plat, unless the said Plat is first resubmitted to the Commission and such Commission approves any modifications.

ARTICLE IV: APPLICATION REQUIREMENTS

Section 4.1 Sketch Plan Application

The Discussion Phase submission shall contain the following maps and information:

4.1.1 **Name and Address** – The name and address of the landowner and/or applicant, names of all adjacent property owners, and name of project.

4.1.2 **Location Map -** A map drawn to scale showing the location of the development parcel in the Town and all sites previously developed or subdivided by the applicant/owner in the Town or within one mile of the Town boundary within the past five (5) years (Projects following within 5 years of other projects by the same applicant will be deemed major subdivisions.).

4.1.3 **Sketch Plan Map -** A sketch plan at a scale not to exceed one inch = one hundred feet (1" = 100') drawn on a contour map at no greater that 10 foot intervals showing the project boundaries, zoning district boundaries, adjacent land uses and ownership, significant natural and manmade features, existing easements, and layout and size of the proposed lots, uses, and improvements.

4.1.4 **Description of Development -** A written description of proposed development plans, including the total parcel size, the number and size of lots, general timing of construction, and nature and extent of all improvements. The Commission may require additional information before recommending that the applicant proceed with the application.

Section 4.2 Major Subdivision--Preliminary Plan

The Preliminary Plan shall consist of one original and 7 copies (8 total) of the following maps and information. Information may be preliminary. Maps shall be at a scale no greater than 100 feet per inch.

4.2.1 **Permit Application and Fee -** A completed subdivision permit application form obtainable from the Town Clerk, and the application fee.

4.2.3 **Discussion Phase Information -** All information submitted from the Discussion Phase.

4.2.4 **Survey -** A complete survey of the boundaries of the subdivision parcel by a Vermont licensed surveyor with date, true north point and scale.

4.2.5 **Character of Land**, **Existing Features, Compliance, Layout, Open Space -** A description and map of the general character of the land as it currently exists and how it will exist after the development. Depict significant wetlands, floodplains, streams, brooks, steep slopes, rock outcroppings scenic areas, ridgelines, exceptional trees or other significant natural or historic features.

- Describe methods used to preserve existing features noted above or otherwise reduce impacts, if any, to them
- Describe and depict the steps the applicant took to limit retain natural cover and limit impacts of construction.
- Describe any landscaping proposed.
- Depict landscaping plans showing plant types, ground cover, lighting and signage, and existing features and trees to be maintained.
- Provide a statement of the compliance of the proposed subdivision with the Town Plan; the Zoning Regulations and other regulations in effect. If the applicant seeks a variance from any provision of the Zoning Regulations through the Planned Unit Development section of the Zoning Regulations or otherwise, the applicant shall submit a clear statement regarding the variance(s) requested and why the variance is appropriate under Lincoln's Zoning Regulations.
- Describe and depict the lot layout and configuration, building envelopes, if any, and why the applicant chose to configure the development in the manner depicted.
- Describe and depict all land proposed to be dedicated to open or public uses or to be reserved for screening and buffer purposes, and the methods for assuring and maintaining such dedication or reservation.
- Describe any proposed covenants, and/or deed restrictions which are intended to cover all or part of the subdivision.
- Describe the homeowners' association or other form or management organization, if such is proposed.

4.2.6 **Air and Water Pollution -** A statement and maps, if necessary, or other documents demonstrating that the applicant has considered the impact the development may have on Lincoln's waters and has designed the project to comply with the standards contained in Section 2.3 of the regulations.

4.2.7 **Commercial Solid Waste -** Applicants proposing commercial development or subdivisions or PUDs containing commercial spaces, shall describe the type and volume of any waste produced by any commercial entities and how the waste will be disposed of. Additionally, the applicant will describe and depict the steps they have taken to screen the delivery/disposal area from the road and neighboring property owners. (Applicants are advised to look to the Lincoln Zoning Regulations, Section 736, governing "specific conditions" applicable to conditional uses for details.

4.2.8 **Water Supply -** An opinion from an engineer, hydrologist or other qualified person describing the type of system proposed and stating that the system will be designed to meet the State of Vermont Water Supply and Wastewater Rules, including a map depicting the approximate location of the infrastructure necessary for the system. If the source is a community water supply system, the applicant shall present evidence of the right to use such system and the adequacy of such a system to meet water supply requirements of the project.

4.2.9 **Wastewater Disposal System -** An opinion prepared in conformance with state subdivision regulations from an engineer, hydrologist or other qualified person describing the type of system proposed and stating that the system will be designed to meet the State of Vermont Water Supply and Wastewater Rules, including a map depicting the

approximate location of the infrastructure necessary for the system. If a community sewage disposal system is to be used, the applicant shall submit evidence of the right to use such system and an engineer's statement of the adequacy of the system to handle the additional sewage.

4.2.10 **Stormwater Systems.** A report from an engineer, hydrologist or other person qualified to render an opinion describing the type of stormwater system proposed, and opining that the system will be designed to meet the State of Vermont Stormwater Regulations governing both construction and permanent infrastructure and a map depicting the systems. Additionally, the applicant will supply preliminary grading plans showing areas of cut and fill and revised contours, at a contour interval sufficient to demonstrate the scope of the earthwork.

4.2.11 **Transportation Infrastructure.** A report and map from an engineer, or other qualified person describing and depicting existing and proposed transportation infrastructure including street right-of-way lines, widths of streets, typical road, walkway, and other transportation infrastructure and how they comply with the design standards contained in section 2.8 of these regulations. For larger projects, or as deemed necessary by the Commission, in its sole discretion, applicant may be required to provide evidence that the traffic generated by the project will not cause the capacity of roadways and intersections in the area to be exceeded. Information to be provided should include but not be limited to current traffic volumes, current excess capacities or deficiencies, trip generation estimates and their impact on capacities, and sight stopping distances for new road intersections with Town highways.

4.2.12 **Schools and other Municipal Services.** Applicant shall describe the municipal services that the project will impact and provide evidence demonstrating that any impact will be within acceptable limits. One acceptable method of providing evidence would be letters from the following entities:

- **Schools**. A letter from the school official responsible for the Lincoln Elementary School showing that school age population projected for the project can be accommodated in existing or be in conformance with school capital improvement program and budget.
- **Road Access.** A letter from the road foreman regarding the capacity of roads, intersections and bridges in the immediate vicinity of the proposed subdivision to accommodate additional traffic generated by the proposed subdivision within an appropriate level of service.
- **Fire.** A letter from officials of the Lincoln Volunteer Fire Department confirming that the proposed subdivision is designed in such a manner to allow them sufficient access for response vehicles and that they have the ability to provide service to the proposed subdivision.

Applicants unable to provide letters from local officials shall provide any other evidence they or the Planning Commission determines will be appropriate to satisfy the condition, including and additional compensation the applicant will provide towards mitigating the impact created.

4.2.13 **Natural Resources** - A report describing and a map depicting the natural resources on the property and how the proposed application will impact each of the following:

- Describe any agricultural activities currently on or adjacent to the parcel proposed to be subdivided and depict any prime agricultural soils on the property. Describe any steps taken to minimize the impacts on the soils or operations in light of the requirements listed in Section 2.10.1 of these regulations.
- Describe steps the applicant has taken to reduce the visual impact of the proposal in light of the requirements listed in Section 2.10.2 of these Regulations.
- Describe and depict any deer wintering areas on the property and, if they exist, any steps taken to mitigate impacts on them in light of the requirements listed in Section 2.10.3 of these regulations.
- Threatened and endangered species. Describe and depict any threatened or endangered species know to exist on the property and, if they exist, any steps taken to mitigate impacts on them in light of the requirements listed in Section 2.10.4 of these regulations.

4.2.14 **Utilities** - A report and map from an engineer, or other qualified person describing and depicting existing and proposed utilities infrastructure including utility easements, provisions for connections with municipal infrastructure, if any, location of electric telephone and cable infrastructure, any energy conservation measures incorporated into the design.

4.2.15 **Construction** - A description of the construction activities including hours of operation, hours of trucking, blasting, if any, or any other steps applicant has taken to reasonably reduce construction impacts.

4.2.16 **Site Visit** - Establish temporary markers on the site adequate to enable the Commission to locate readily and appraise the basic layout of the lots and infrastructure in the field. On the map, unless an existing street intersection is shown, the distance along a street from one corner of the property to the nearest existing street intersection shall be shown.

Section 4.3 Major Subdivision - Final Application

The Final Application shall consist of eight (8) copies of a surveyed Plat Plan and Project Description including the following information:

4.3.1 **Previous Information** - All information required for the Preliminary Submittal shall be submitted in final form, including any revision or additional detail requested by the Planning Commission.

4.3.2 **Town Acceptance of Easements** - In the event of granting of easements to the Town, a written acknowledgment of the Applicant's responsibility for maintenance of easement areas until such land has been legally accepted by the Town.

4.3.4 **Approval of Local Officials** - Written evidence of approval by all local officials having jurisdiction over the project, and written evidence application for or approval

of all State and Federal agency permits. Should the applicant move forward with only applications for state or federal agency permits, and fail to secure such permits prior to final plan approval, the Commission may issue approval subject to the condition that the applicant must secure state or federal agency permits substantially similar to those presented to the Commission prior to recording the subdivision plat.

Section 4.4 Minor Subdivision

At the Discussion Phase, the Commission shall specify which submission requirements stipulated for Major Subdivisions shall be required for a Minor Subdivision application approval. At minimum Sections 4.2.1 – 4.2.4, 4.2.8 and 4.2.9 shall be required. All other criteria shall be waived, unless in its sole discretion, the Planning Commission requires additional submission information.

ARTICLE V: DEFINITIONS

Access Ordinance - Town Ordinance #1986-1, as most recently amended.

Access road - Any road, public or private, constructed to provide access to three or more single-family residential uses or lots from an existing road network.

Act, the - Title 24 of the Vermont Statutes Annotated, Chapter 117 (24 V.S.A. 117), entitled "Vermont Municipal and Regional Planning and Development Act."

Applicant - Any person, firm, corporation, partnership, association, unincorporated organization, trust, or any other commercial or legal entity, including a joint venture of affiliated ownership which owns or controls the tract(s) of land to be developed or subdivided, who shall lay out for the purpose of sale or development any subdivision or part thereof as defined herein, either for him/herself or for others.

Boundary line adjustment - Any revision to a plat record or deed legally filed in the Town's land records which creates no new building lot(s) and which has no impact on roads, rights-of-way or other public facilities; i.e.: a case in which the owners of two abutting properties wish to move a common boundary, without the intent to create an additional lot. A boundary adjustment shall be treated as an administrative change.

Buildable envelope - That portion of a lot which remains available for the location of structures after all setbacks and other applicable regulatory limitations have been satisfied.

Cluster development - A development in which building lots may be reduced in size and buildings may be sited closer together, usually in groups or clusters, provided that the total development density does not exceed that which could be constructed on the site under conventional zoning and subdivision regulations. The additional land that remains undeveloped is preserved as open space and recreational-use land.

Deferral of permit - An arrangement in which the applicant agrees, by means of the inclusion of a restrictive covenant in the deed for the subdivided lot, that no development requiring the installation of a wastewater disposal system will be undertaken on the lot unless the appropriate permits have been applied for and granted.

Development - The division of a lot into two or more lots; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any road or driveway; and any change in the use of any building or other structure or land, or extension of use of the land.

Driveway - Any way commonly used for vehicular traffic, serving not more than two single-family residential uses or lots.

Final Subdivision Plat - A surveyed map or representation of land subdivided into lots and roads, drawn to scale and meeting all requirements for the recording of a survey plat pursuant to 27 V.S.A. §1403.

Historic Site – An area or structure of historic significance in the Town of Lincoln that has been designated on the State or National Historic Sites list.

Lot - A portion of land in a subdivision or illustrated on a plat record, separated by property lines.

Official map - The map authorized under the provisions of 24 V.S.A. §4402(5) and §4421.

Outlying district - That part of the Town of Lincoln which is not included in the Village or Transitional Zoning districts.

Planned unit development (PUD) - An area of land that is planned and developed as a single entity for a number of dwelling units, and commercial and industrial uses, if any, either in a single development operation or in phased stages. The plan for a PUD does not correspond in lot size, bulk or type of dwelling, commercial or industrial use, density, lot coverage and required open space to the requirements established in any one or more of the districts created under the provisions of the Town's Zoning Regulations which have been adopted under the authority of the Act, and subsequently amended. A Planned Unit Development includes principal and accessory structures and uses which are substantially related to the purposes and objectives listed in §4.1 of these Regulations. [24 V.S.A. 117, §4303(14)]

Re-subdivision - A change of a recorded subdivision plat record or deed if such change affects any road layout on such plat record, or area reserved thereon for public use, or any change of a lot line (other than a boundary adjustment *(q.v.)*), or any such change that affects any map or plan which has been legally recorded.

Road - Any road, highway, avenue, street, land or other way between right-of-way lines, commonly used for vehicular traffic exclusive of a driveway serving not more than two single-family residential uses or lots.

Road, private - A road which has been constructed for public or commercial travel over land which has not been conveyed to nor accepted by the Town or to the State of Vermont by a deed or a fee on easement interest.

Road, public - A road which has been constructed for public travel over land which has been conveyed to and accepted by the Town or by the State of Vermont by a deed or a fee on easement interest.

Sketch plan - A sketch of the proposed subdivision, in a form approved by the Planning Commission, showing the location of the subdivision, the names of the adjoining landowners and a description of the proposed development.

Sketch plan meeting - A meeting between the applicant, or his/her authorized agent, and the Planning Commission, scheduled to review a sketch plan of the proposed subdivision and to determine what data will be required for the formal application.

Subdivision - The division by recorded deed of a parcel of land with or without roads into two or more lots, plots or other legal divisions of land for transfer of ownership, building development or sale. Subdivision includes re-subdivision *(q.v.)*.

Town highway, Class 3 - All Town roads or highways other than Class 1, Class 2 or Class 4 highways, as designated by the Select Board.

Town highway, Class 4 - All Town roads or highways, including trails and pent roads, other than Class 1, Class 2 or Class 3 highways, as designated by the Select Board.

Transitional districts - The zoning districts which surround the Village districts of the Town, and provide a transitional area for density between the Village and Outlying District, with boundaries and conditions as defined in the Town's Zoning Regulations.

Village districts - The zoning district which encompasses the traditionally settled village center and Hamlets of the Town, with boundaries and conditions as defined in the Town's Zoning Regulations.

Water Supply and Wastewater Disposal Permit – Permits issued by the State of Vermont governing water supply and wastewater disposal pursuant to state regulations then in effect.