

Town of Surry, NH-Subdivision Regulations

Town of Surry, NH
Subdivision Regulations

Effective Date---11/28/18

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Section I. Authority

Pursuant to the authority vested in the Surry Planning Board by the voters of the Town of Surry and in accordance with the provisions of RSA 674:35 of the New Hampshire Revised Statutes Annotated, and as amended, the Planning Board adopts the following regulations governing the subdivision of land in the Town of Surry, New Hampshire, hereinafter known as the Town of Surry NH - Subdivision .Regulations.

Section II. Purpose and Applicability

The purpose of these regulations is to provide for the orderly present and future development of the Town by promoting the public health, safety, convenience and welfare of its residents.

These regulations apply to Planning Board review and approval or disapproval of all subdivisions as defined by RSA 672:14 and minor lot line adjustments or boundary agreements. They do not apply to voluntary mergers as defined by RSA 674:39-a.

Section III. Definitions

The definitions contained in the Surry NH Zoning Ordinance and Driveway Regulations shall apply to these Subdivision Regulations.

- A. Abutter: Means: (1) 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 local land use board; and (2) affected municipalities and the regional planning commission(s) in the event of developments having regional impact. For purposes of receiving testimony only, and not for purpose 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. In the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association.
- B. Access: A way or means of approach to provide physical entrance to a property.
- C. Applicant: Means the owner of record of the land to be subdivided, or his\her designated agent.
- D. Application, Complete: Means a final plat and all accompanying materials and fees as required by these regulations.
- E. Approval: Means recognition by the Planning Board, certified by written endorsement on the plat, that the plat meets the requirements of these Regulations and in the judgment of the Board satisfies all criteria of good planning and design.
- F. Approval, Conditional: Means recognition by the Planning Board, certified by written endorsement on the plat, that the plat is not finally approved nor ready for filing with the Registry of Deeds until such time as certain conditions, set forth by the Board, are met. This is not to be confused with a plat that has been approved subject to certain conditions that would be met as part of the implementation of the plan.
- G. Board: Means the Planning Board of Surry.
- H. Development: Means any construction or grading activities on real estate for other than agricultural and lumbering practices.

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- I. Easement: Means the authorization by a property owner for the use by another, and for a specific purpose, of any designated part of his/her property.
- J. Lot Line Adjustment: Means adjustments to the boundary between adjoining properties, where no new lots are created.
- K. Permanent Resident: Means an individual or family using any building continuously as a residence for a period of six months or more.
- L. Plat: Means the map, drawing or chart on which the plan is presented to the Board for approval, and which, if approved, will be submitted to the County Register of Deeds for recording.
- M. Public Hearing: Means a meeting, notice of which must be given per RSA 675:7 and 676:4,I (d), at which the public is allowed to offer testimony.
- N. Public Meeting: Means the regular business meeting of the Planning Board as required per RSA 673:10. Notice must be posted at least 24 hours in advance and the meeting must be open to the public, although participation by the public is at the discretion of the Board.
- O. Setback: The distance between the nearest portion of a building or structure and the nearest property line, right-of-way line, wetland, or sewage disposal system.
- P. Sewage Disposal System (Individual): Means any on-site sewage disposal or treatment system that receives either sewage or other wastes, or both. For the purposes of this regulation, this means all components of the system, including the leach field.
- Q. Subdivision: Means the division of a lot, tract, or parcel of land into two (2) 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. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision.
- R. Subdivision, Major: Means a subdivision of four (4) or more lots, or one which involves the creation of new public streets and/or utilities, regardless of the number of lots.
- S. Subdivision, Minor: Means a subdivision of land into not more than three (3) lots for building development purposes, with no potential for resubdivision on an existing street; or one which does not involve the creation of new streets and/or utilities.
- T. Subdivision, Technical: Means a subdivision of land into two lots or sites for the purpose of conveying one such lot or site directly to an abutting landowner. The parcel to be conveyed does not constitute a separate building lot; however, said parcel may be used for building development in conjunction with contiguous land owned by the abutter.

Section IV. General Requirements for Subdivision of Land

- A. Character of Land for Subdivision: Land of such character that it cannot, in the judgment of the Board, be safely used for building development purposes because of exceptional danger to health or peril from fire, flood, poor drainage, excessive slope, or other hazardous conditions, shall not be platted for residential, commercial, or industrial subdivision, nor for such other uses as may increase danger to life or property, or aggravate the flood hazard.

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- B. Preservation of Existing Features: Wherever feasible, suitable steps shall be taken to preserve and protect significant existing features such as trees, scenic points, stone walls, rock outcroppings, water bodies, and historic landmarks. Where possible, the boundary line(s) should follow stone walls.
- C. Premature Subdivision: The Board may provide against such scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, sewage disposal, drainage, transportation, schools, fire protection, or other public services which necessitate the excessive expenditure of public funds for the supply of such services.

Section V. Subdivision Review Procedures

A. Preliminary Conceptual Consultation (Optional)

- 1 The applicant may request a meeting with the Board to discuss a proposal in conceptual form and in general terms. Although optional, the Board strongly suggests that the applicant avail him/herself of the opportunity to resolve any issues at this early stage that might become a problem later on. Such preapplication consultation shall be informal and directed toward:
 - a) Reviewing the basic concepts of the proposal.
 - b) Reviewing the proposal with regard to the master plan and zoning ordinance.
 - c) Explaining the state and local regulations that may apply to the proposal.
 - d) Determination of the proposal as a major, minor, or technical subdivision, and of the submission items that would be required.
- 2 Preliminary conceptual consultation shall not bind the Applicant or the Board. Such discussion may occur without formal public notice, but must occur only at a posted meeting of the Board.

B. Design Review (Optional)

- 1 Prior to submission of an application for Board action, an applicant may request to meet with the Board or its designee for non-binding discussions involving more specific design and engineering details of the potential application.
- 2 The design review may proceed only after proper notification, as set forth in Paragraph I.
- 3 Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action eventually taken on the application.
- 4 A sketch of the site should be provided, showing:
 - a) Location of lot lines
 - b) Lot measurements
 - c) Streets surrounding the site.

C. Submission of Completed Application

- 1 A completed application shall be filed with the Planning Board only at its regular monthly meeting. A completed application shall consist of all required data listed in Section VI of these regulations.

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- 2 At the next meeting for which notice can be posted – or 30 days from the date of delivery – the Board will determine whether the application is complete. If the application is incomplete, the applicant will need to resubmit under a new notification procedure.
- 3 Acceptance of an application shall only occur at a meeting of the Planning Board after due notification has been given according to Paragraph I. Acceptance will be by affirmative vote of a majority of the Board members present.
- 4 Once an application has been accepted as complete by the Board, the 65-day review period begins.

D. Board Action on Completed Application

- 1 The Board shall begin consideration of the Completed Application upon acceptance. The Board shall act to approve, conditionally approve, or disapprove the Completed Application within 65 days of acceptance.
- 2 The Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve, conditionally approve or disapprove an application. An applicant may waive the requirement for Board action within the time periods specified in these regulations and consent to such extension as may be mutually agreeable.
- 3 Approval of the application shall be certified by written endorsement on the Plat and signed and dated by the Chairman and Secretary of the Board. If any application is disapproved, the grounds for such disapproval shall be adequately stated in the records of the Planning Board and in written notice given to the Applicant within 144 hours of the decision.
- 4 An approved plan shall be recorded by the Planning Board with the County Register of Deeds within 90 days of approval. Any subdivision plan not filed within this timeframe shall be considered void.

E. Failure of the Planning Board to Act

- 1 In the event that the Planning Board does not act on an accepted application within the prescribed time period, the applicant may petition the Selectmen to issue an order directing the Planning Board to act within 30 days.
- 2 If the Planning Board fails to act within 40 days of receiving this directive from the Selectmen, the Selectmen must approve the application unless they find in writing that the plan does not comply with a local regulation. In the event the Selectmen fail to act, the applicant may petition superior court to approve the plan.

F. Conditional Approval

The Board may grant conditional approval of an application, but the plat will not be signed or recorded until all of the conditions have been met. If the applicant has not complied with the conditions of approval within one (1) year, the approval is considered null and void and the applicant must submit a new subdivision application. A further public hearing is not required when such conditions:

1. are administrative in nature;
2. involve no discretionary judgment on the part of the Board;

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3. involve the applicant's possession of permits and approvals granted by other boards or agencies, such as the Department of Transportation, the Wetlands Board, or Water Supply and Pollution Control Division; however, any subsequent change to the plan required by such approvals would constitute grounds for a new application process.

G. Expedited Review

1. The Planning Board may allow for an expedited review of applications for lot line adjustments, technical subdivisions or minor subdivisions, as defined in Section III of these regulations.
2. The application may be submitted, accepted as complete and voted on at the same meeting, provided the public notice so indicates.
3. The Board may waive certain plat requirements for lot line adjustments, minor and technical subdivisions.

H. Public Hearing - prior to the approval of an application, a public hearing shall be held. Public hearings may be waived for lot line adjustments; minor or technical subdivisions do not require a public hearing unless requested by either the Planning Board, the applicant or any abutters, except that public notice shall be given prior to approval of the application.

I. Notification

1. Notice of a Design Review, submission of an application, or a Public Hearing shall be given by the Board to the abutters, the applicant, holders of conservation, preservation or agricultural preservation restrictions, and every engineer, architect, land surveyor or soil scientist whose professional seal appears on any plat.
2. Notice shall be by certified mail, mailed at least ten (10) days prior to the submission. The public will be given notice at the same time, by posting at the Town Hall and the Town Fire Station, and publication in the Local Newspaper.
3. The notice shall give the date, time, and place of the Planning Board meeting at which the application will be formally submitted to the Board, shall include a general description of the proposal which is to be considered, and shall identify the applicant and the location of the proposal.
4. If the notice for the public hearing was included in the notice of submission or any prior notice, additional notice of the public hearing is not required. Additional notice is not required of an adjourned session of a hearing provided that the date, time, and place of the adjourned session was made known at the prior meeting.

J. Fees

1. The applicant shall be responsible for all fees incurred by the processing of applications. Failure to pay such costs shall constitute valid grounds for the Board to not accept the application as complete.
2. Upon formal submission of the application, the application fee will be collected: the application fee includes: an administrative fee, the costs of certified mailings, and newspaper notification.

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3. Upon approval of the application, the filling fee will be collected: the filling fee includes : cost of changes to the Town's tax maps and the cost of recording the mylar with the Register of Deeds.
4. It shall be the responsibility of the applicant to pay reasonable fees for special investigative studies, environmental assessments, legal review of documents, administrative expenses and other matters which may be required to make an informed decision on a particular application.

K. Site Inspections

1. Whenever the Board deems it necessary for the consideration of an application to visit the site, the Board shall arrange a time that is reasonable for the applicant.
2. Such a site inspection shall be posted as a meeting of the Board pursuant to the Right-to-Know provisions of RSA 91-A. If there is a quorum present at the site inspection, minutes shall be kept.
3. All applications are conditioned upon the owner allowing access to the property, to the extent reasonable and necessary to properly review the application. Denial of access automatically terminates any further consideration of the proposal.

- L. Concurrent and Joint Hearings The applicant or the Planning Board may request a joint hearing with one or more land use boards in conjunction with a subdivision hearing if approval from all boards is required for the same project.

Section VI. Submission Requirements

A completed application shall consist of the following items unless written request for waiver(s) is granted by the Board:

A. Completed Application Form:

1. A notarized list of the names and addresses of all abutters, taken from the town records not more than five (5) days before the day of filing;
2. Names and addresses of all persons whose name and seal appear on the plat;
3. Names and addresses of all holders of conservation, preservation or agricultural preservation restrictions;
4. Payment to cover filing and notification fees;
5. One mylar and 4 paper copies of the Plat, prepared according to the standards of the NH Land Surveyors Association and the County Register of Deeds, as follows:
 - a) Plats shall be at any scale between 1"= 20' and 1"=400'.
 - b) The outside dimensions of the plat shall be as specified by the Cheshire County Registry of Deeds.
 - c) The material composition shall be suitable for electronic scanning and archiving by the Registers of Deeds.
 - d) All plats shall have a minimum ½" margin on all sides.

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- e) All title blocks should be located in the lower right hand corner, and shall indicate:

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- 1) type of survey
- 2) owner of record
- 3) title of plan
- 4) name of the town (s)
- 5) tax map and lot number
- 6) plan date and revision dates;

6. A letter of authorization from the owner, if the applicant is not the owner.

B. The Plat Shall Show:

1. Proposed subdivision name or identifying title; name and address of the applicant and of the owner, if other than the applicant.
2. North arrow, scale – written and graphic, date of the plan; name, license number and seal of the surveyor or other person whose seal appears on the plan.
3. Signature block for Planning Board endorsement.
4. Locus plan showing general location of the total tract within the town and the zoning district (s).
5. Boundary survey including bearings, horizontal distances and the location of permanent markers. Curved boundary lines shall show radius, delta, and length.
6. Names of all abutting subdivisions, streets, easements, building lines, parks and public places, and similar facts regarding abutting properties.
7. Location of all property lines and their dimensions; lot areas in square feet and acres. Lots numbered according to the Town tax map numbering system. New lots should be numbered: Tax Map Number – Lot Number – Sublot number - .(decimal point) Sub-sub Lot Number.
8. Location and amount of frontage on public rights-of-way.
9. Location of building setback lines.
10. Location of existing and proposed buildings and other structures.
11. Location of all parcels of land proposed to be dedicated to public use.
12. Location and description of any existing or proposed easements.
13. Existing and proposed water mains, culverts, drains, sewers; proposed connections or alternative means of providing water supply and disposal of sewage and surface drainage.
14. Existing and proposed streets with names, classification, travel surface widths, right-of-way widths.
15. Final road profiles, center line stationing and cross sections.
16. Location and width of existing and proposed driveways.

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17. Water courses, ponds, standing water, rock ledges, stone walls; existing and proposed foliage lines; open space to be preserved; and any other man-made or natural features.
18. Existing and proposed topographic contours based upon the USGS topographical data, with spot elevations where necessary.
19. Soil and wetland delineation .
20. Location of existing and proposed well, with 75-foot well radius on its own lot.
21. Base flood elevations and flood hazard areas, based on available FEMA maps.

C. Other Information

- 1 Plan for Storm water Management and Erosion Control, if applicable (See Section VII).
- 2 State subdivision approval for septic systems; septic design approval where applicable; or certification by septic designer of adequacy of existing system.
- 3 Alteration of Terrain Permit from NH Department of Environmental Services.
- 4 State/Town driveway permit, as applicable.
- 5 Report from the Fire Engineer, Police Chief, and/or Town Conservation Commission.
- 6 Approval for municipal water/sewer connections.
- 7 Any deed restrictions; and all deeds covering land to be used for public purposes, easements and rights-of-way over property to remain in private ownership, and rights of drainage across private property, submitted in a form satisfactory to the Board's counsel.
- 8 Any other state and/or federal permits.
- 9 Any additional reports or studies deemed necessary by the Board to make an informed decision, including but not limited to: traffic, school, fiscal and environmental impact analyses. The Board reserves the right to request such information after an application has been accepted as complete, as well as before acceptance.
- 10 Should the Board determine that some or all of the above-described information is to be required, the applicant will be notified in writing within ten (10) days of the meeting at which the determination was made.

Section VII. Subdivision Design Standards

A. Lots

1. Areas set aside for parks and playgrounds to be dedicated or reserved for the common use of all property owners shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.

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2. Lots shall be laid out and graded to eliminate flood or stagnant water pools. No water shall be permitted to run across a street on the surface, but shall be directed into catch basins and pipes underground in a pipe of not less than 12 inches in diameter.

B. Reserve Strips

Reserve strips of land that show an intent on the part of the sub divider to control access to land dedicated or to be dedicated to public use (such as a road) shall not be permitted.

C. Fire Protection

Applications for new subdivisions shall be required to address water supply needs for fire protection. The Surry Fire Engineers shall review all proposals to determine whether or not water supply should be addressed for that particular proposal; if so, the following requirements apply:

1. The Fire Engineers shall complete an inspection of the proposed site to evaluate the availability of existing water supply in the area.
2. The Fire Engineers shall implement all applicable provisions of the National Fire Prevention Association's Standard on Water Supplies for Suburban and Rural Fire Fighting.
3. The Fire Engineers shall determine the type, location and spacing of any water supply (such as fire ponds, cisterns, etc.)
4. Following the inspection and evaluation, the Fire Engineers will submit his findings in writing to the Planning Board.
5. All proposed developments, whether including the provision of hydrants or other water supply facilities, shall be accessible to firefighting and other emergency equipment

D. Septic Systems and Water Supply

1. In areas not currently served by public sewer systems, it shall be the responsibility of the sub divider to prove that the area of each lot is adequate to permit the installation and operation of an individual septic system.
2. In subdividing parcels with existing dwellings the existing lot and the new subdivision must both maintain the required 4000 square-foot area for septic system purposes and require that the existing system is in good working order.
3. All new wells shall have a protective radius of seventy-five (75) feet, said radius to be located entirely on its lot. When that cannot be accomplished, the protective radius shall be maximized to the extent practicable. The 75-foot radius may extend over the property line (s) with written consent of the abutter (s).

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E. Storm water Management and Erosion Control

1. The applicant shall submit storm water management and erosion control plan when one or more of the following conditions are proposed:
 - a) A cumulative disturbed area exceeding 20,000 square feet.
 - b) Construction of a street or road.
 - c) A subdivision involving three or more dwelling units.
 - d) The disturbance of critical areas, such as steep slopes, wetlands, floodplains.
2. All storm water management and erosion control measures in the plan shall adhere to the “Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire”, published by the Rockingham County Conservation District, and the “Model Storm water Management and Erosion Control Regulation”, by the NH Association of Conservation Districts, Water Quality Committee.
3. Standard agricultural and silvicultural practices are exempt from this regulation.
4. The applicant shall bear final responsibility for the installation, construction, and disposition of all storm water and erosion control measures required by the Board. Site development shall not begin before the plan is approved.

F. Surveys

1. All surveys shall be prepared according to the minimum standards for instrument surveys adopted by the NH Land Surveyors Association for Standard Property Surveys.
2. In the case of applications that involve large acreages from which one building lot is being subdivided, the Board may, upon written request, waive the requirement for a complete boundary survey, when it is apparent that the remaining lot can meet existing frontage requirements and is suitable for building.

G. Monumentation

1. Monuments constructed of concrete or stone at least 4 inches square on the top and at least 30 inches long shall be set at all control corners.
2. If the subdivision involves the construction of a roadway, all Monumentation shall be in place before 50% of the surety held for the construction is released. If no road construction is involved, all Monumentation must be in place prior to the signing of the plat by the Board Chairman.
3. Pipes shall be set at all lot corners. Concrete or granite bounds shall be set at all points of curvature and all points of tangent for surveying purposes.
4. Monuments shall be tied in to a public street intersection, a U.S.G.S. benchmark, or other recognized existing monument.

Section VIII. Previously-Approved Subdivisions

If any land shown on a subdivision plat has been part of any previous subdivision approved, constructed, or created by conveyance no more than four (4) years prior to the new proposal, any such previous subdivision will be treated as part of the new proposal for purposes of analyzing its effect and applying all review criteria.

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Section IX. Developments Having Regional Impact

- A. All applications shall be reviewed for potential regional impacts. Upon such a finding, the Board shall furnish the regional planning commission (s) and the affected municipalities with copies of the minutes of the meeting at which the determination was made. The copies shall be sent by certified mail within 72 hours of the meeting. At least 14 days prior to the scheduled public hearing, the Board shall notify by certified mail the regional planning commission (s) and the affected municipalities of the date, time and place of the hearing, and of their right to appear as abutters to offer testimony concerning the proposal.(Ref. Attached “Criteria for Determining Impact”)

Section X. Special Flood Hazard Areas

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 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 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 XI. Performance Guarantee

- A. As a condition of approval, the Board shall require the posting of a security in an amount sufficient to defray the costs of construction of streets and public utilities. The amount of the security shall be based on an estimate of costs provided by the sub divider and, at the discretion of the Planning Board, reviewed by a licensed engineer. All costs of such review shall be paid by the applicant.
- B. The security shall be approved by the Board and municipal counsel. The amount of the security shall include fees to cover the cost of periodic inspections.
- C. Where electric lines or other utilities are to be installed by a corporation or public utility, a letter of intent shall be required stating that the work will be done in reasonable time and without expense to the Town.
- D. Each approved plat shall contain a time limit for the completion of streets and public improvements. The performance guarantee shall be released in phases as portions of the secured improvements or installations are completed and approved by the Board or its designee, in accordance with the plan approved by the Board. In the case of road construction, the Board may require that the security stay in place until one full year has passed after completion of the road.

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Section XII. Revocation of Planning Board Approval

An approved and recorded subdivision plat may be revoked by the Board in whole, or in part, under the following circumstances:

- (1) at the request of or by agreement with the applicant;
- (2) when any requirement or condition of approval has been violated;
- (3) when the applicant has failed to perform any condition of approval within the time specified or within four years;
- (4) when four years have elapsed without any vesting of rights and the plan no longer conforms to applicable regulations; or
- (5) when the applicant has failed to provide for the continuation of adequate security

Section XIII. Administration and Enforcement

- A. These regulations shall be administered by the Planning Board. The enforcement of these regulations is vested with the Selectmen.
- B. No subdivision regulation or amendment, adopted under RSA 674:35-42, shall be legal or have any force and effect until copies of such are filed with the Town Clerk.
- C. Waivers: The requirements of these regulations may be waived or modified when, in the opinion of the Board, specific circumstances surrounding subdivision, or the condition of the land in such subdivision, indicate that such modifications will properly carry out the purpose and intent of the master plan and these regulations.
- D. Penalties and Fines: Any violation of these regulations shall be subject to a civil fine as provided in RSA 676:16 and 676:17, as amended.

Section XIV. Appeals

Any person aggrieved by a decision of the Planning Board concerning a plat or subdivision may appeal said decision to the superior court pursuant to RSA 677:15, except when a disapproval by the Board is based upon non-compliance with the Zoning Ordinance, in which case an appeal can be taken to the Board of Adjustment.

Section XV. Validity

If any section or part of a section or paragraph of these regulations shall be declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section or paragraph of these regulations.

Section XVI. Amendments

These regulations may be amended by a majority vote of the Planning Board after at least one (1) public hearing following the notification procedure outlined in Section IV, H & I.

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Section XVII. Effective Date

These regulations shall take effect upon their adoption as indicated by the attached signatures, and all regulations or parts of regulations, inconsistent therewith, are hereby repealed.

Adopted after Public Hearing on 12/09/02

Amended Section X 3/14/2006

Amended Section IX 12/27/08

_____ Chairman _____ Date

_____ Secretary _____ Date

_____ Member _____ Date

_____ Member _____ Date

_____ Member _____ Date

FILED-- _____ Date

Date---11/28/18