

**TOWN OF NEWFANE
SUBDIVISION BYLAW**

As approved on August 14, 2007
by the Newfane Planning Commission
following a Public Hearing held on July 24, 2007

As adopted by the Newfane Selectboard
at their regularly scheduled meeting on October 4, 2007.

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Article 1: ENACTMENT, AUTHORITY, AND PURPOSE

Section 1.1 Enactment

Whereas the Town of Newfane has created a Planning Commission and has adopted and has in effect a plan under Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, herein referred to as the Act, there is hereby established a subdivision bylaw for the Town of Newfane. These regulations shall be known as the "Town of Newfane Subdivision Bylaw".

Section 1.2 Purpose

The purposes of this bylaw is to further implement the goals and policies of the Town Plan; maintain, preserve, and enhance Newfane's rural character, cultural heritage, and historic working landscape; maintain, preserve and enhance Newfane's natural resources and environmental quality; and to provide for orderly present and future development of the Town by promoting the public health, safety, convenience, and welfare of its residents.

Section 1.3 Authority

The Newfane Planning Commission is hereby authorized and empowered to do all acts and things set forth and provided in §4402 and §4413 of the Act including but not limited to the approval, modification, or disapproval of all plats filed.

Article 2: DEFINITIONS

Abutter: Any person owning land contiguous to the proposed land development including land separated by a stream, river, road, or road right-of-way.

Act: The Vermont Municipal and Regional Planning Development Act, 24 V.S.A., Chapter 117.

Administrative Officer: (see Zoning Administrator and Section 7.1) Local official charged with administering bylaw under 24 VSA §4448.

Applicant: Shall mean the owner of record of the land to be subdivided or his/her designated agent duly authorized in writing.

Buffer Strip: Any space between adjoining uses intended and designed to reduce the impact of one use upon the other including open space, woodland, landscaped areas, and other types of visual and sound barriers.

Cluster Subdivision: The modification of the arrangement of lots, buildings, and infrastructure permitted by the zoning bylaw to be placed on a parcel of land to be subdivided. This modification results in the placement of buildings and improvements on a part of the land to be subdivided in order to preserve the natural and scenic quality of the remainder of the land.

Community Wastewater Systems: A non-municipal wastewater system that serves more than one lot.

Community Water Supply: A non-municipal water supply system that serves more than one lot.

Construction: The undertaking of the first improvement on a tract of land, including work preparatory to construction such as clearing, the staking out or use of a right-of-way or in any way incident to the altering of land according to a plan or intention to improve or to divide land by sale, lease, partition or otherwise transfer an interest of land. Activities that are principally for the preparation of plans and specifications and which may be required and necessary for making application for a permit including but not limited to test wells and pits, percolation tests and line of sight clearing for surveys are not commencement of construction.

Density: The number of acres or square feet of land that are required for a given number of units, uses, or structures. The areas within a lot that is subject to a road right-of-way or public easement shall not be included within the lot areas for calculation of density.

Driveway: Minor travel way which provides vehicular access to no more than two lots from an adjoining road.

DRB: Abbreviation for the Town of Newfane Development Review Board.

Easement: An acquired privilege or right of use in the land of another and used to create facilities for access, space for public utilities, and right-of-way, and other public or private uses, both in

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favor of the municipality and/or in favor of its residents. It shall include, without limitation, streets and roads, vehicular and pedestrian traffic, sidewalks, water, storm drainage, and water supply and wastewater systems, pipelines, street lighting, slopes, ingress and egress, construction and conservation easements.

Frontage: Means the side of the lot abutting a street or body of water and ordinarily referred to as the front of the lot.

Homeowner's Association: A community association that administers and maintains common property and common elements.

Improvement: Street pavements or resurfacing, curbs, gutter, sidewalks, water lines, sewer lines, drains, street lights, flood control and drainage facilities, utility lines, landscaping, parks and other related matters usually associated with the development of undeveloped land into building sites.

Individual waste disposal system: An 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 leachfield.

Individual water supply system: Any water supply system other than a municipal system or public water system that supplies potable water.

Interested Person: The definition of an interested person under §4465(b) of the Act includes the following:

1. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
2. The Town of Newfane or any adjoining municipality;
3. A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
4. Any ten (10) voters or property owners within the municipality who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and

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5. Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Landscaping: The addition of lawn, trees, plants, grading and other natural and decorative features to land.

Lot: Any parcel of land the boundaries of which are separately described in a recorded deed or filed plat.

Lot Line Adjustment: An agreement that adjusts the common boundaries between adjacent lots, tracts, or parcels for the purpose of accommodating a transfer of land such that no additional lots, tracts, or parcels are created and all reconfigured lots, tracts or parcels contain sufficient area and dimension to meet minimum requirements for zoning and building purposes.

Monument: A permanent marker to indicate a boundary point or other point for measurement purposes.

Open Space: Land not to be developed for building purposes, but to remain permanently available for purposes of recreation, including recreation facilities, and for conservation, including agriculture, for the benefit of the neighborhood community, without buildings, except as incidental accessories to agriculture, forestry, conservation and recreational purposes and maintenance.

Person: An individual, corporation, partnership, association and any other incorporated organization or group.

Plat: A map or plan drawn to scale of one or more parcels of land, showing, but not limited to boundaries, corners, markers, monuments, easements and other rights (27 V.S.A. §1401)

Re-subdivision: A change of recorded subdivision plat, if any change affects any street layout shown on such map or reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to adoption of any regulation controlling subdivisions, such parcel shall be considered for approval by the Development Board of Review by the current procedure, rules and regulation as for a subdivision.

Right-of-way: A right of passage over the land of another and may be in the form of an easement, a license or an estate in fee. It shall include, without limitation, streets and roads, water conduits and mains, sanitary sewer utilities, and right of ingress and egress. Rights-of-way shall be specifically defined and shall be separate and distinct from the lots and parcels adjoining it and shall not be included within the dimensions or areas of such lots or parcels.

Road: A highway, street, or other way which exists for vehicular travel, exclusive of driveways. The word "road" shall mean the entire right-of-way.

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Road, Private: A private way, intended for vehicular traffic serving three or more lots that is not dedicated to the public.

Road, Public: A public way typically bounded between property lines, intended for vehicular traffic, improved to public standards, dedicated to the public, and accepted by the Town of Newfane Selectboard.

Steep Slopes: Land characterized by a gradient in excess of 25%.

Subdivider: Any person, firm, corporation, partnership, or association who shall cause the layout of any subdivision or part thereof as defined by these bylaws. The term includes the applicant for subdivision approval.

Subdivision: Division of any parcel of land whereby 2 or more lots are created. The term "subdivision" includes re-subdivision. Any transfer, conveyance, or sale of land held in one ownership, but already divided into lots by an existing public right-of-way shall not be considered a subdivision for the purposes of this bylaw.

Subdivision, Major: 1) Any subdivision of land into 5 or more lots; or 2) Any subdivision of land that requires a new public or private road (not including a driveway).

Subdivision, Minor: A subdivision which creates not more than 4 lots for building development purposes and that does not require a new public or private road, other than a driveway.

Town Plan: The comprehensive plan, prepared in accordance with 24 V.S.A. Chapter 117 for the community as adopted by the Newfane Selectboard.

Tract: A lot or contiguous group of lots considered a unit for subdivision purposes.

V.S.A.: Abbreviation for Vermont Statutes Annotated.

Wetland: Those areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonably saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities. 24 V.S.A. §4303(32)

Zoning Administrator: (see Administrative Officer and Section 7.1)

Article 3: SUBDIVISION REVIEW PROCEDURES

Section 3.1 Applicability

1. Whenever any subdivision of land is proposed the subdivider or his/her authorized agent shall apply for and secure approval of the proposed subdivision prior to undertaking:
 - a. Any street or utility construction, building development, or land clearing (excluding forestry or agricultural activities) in preparation for subdivision; or
 - b. Any sale or conveyance of any subdivided portion of a property; or
 - c. The issuance of any permit for any land development including land to be subdivided; or
 - d. The filing of a subdivision plat with the Town Clerk.
2. For the purposes of this bylaw, subdivisions shall be classified as minor or major subdivisions by the DRB in accordance with the following:
 - a. Minor Subdivision. Minor subdivisions will be exempt from preliminary review and may proceed directly to final plat approval under Section 3.7 after a completed application has been received and the DRB has categorized the application as a minor subdivision. A subdivision which creates not more than 4 lots for building development purposes and that does not require a new public or private road shall be considered a minor subdivision.
 - b. Major Subdivision. Major Subdivisions are required to receive preliminary approval under Section 3.5 and final plat approval under Section 3.7. The following are considered to be major subdivisions:
 - 1) Any division of land into 5 or more lots; or
 - 2) Any division of land that requires a new public or private road (not including a driveway).
3. Exemptions. The following types of land division shall be exempt from subdivision review but shall require a Zoning Permit:
 - a. A lot line adjustment.
 - b. The division of any parcel of land into not more than 2 lots over a 5 year period.

Section 3.2 Conceptual Consultation

1. Any applicant may request a meeting with the DRB to discuss the proposal in conceptual form and in general terms. Although this phase is strictly optional, the DRB strongly

suggests that the applicant avail him or herself of the opportunity to resolve any issues at this early stage that might become a problem later on. Such pre-application consultation shall be informal and directed toward:

- a. Reviewing the basic concepts of the proposal;
 - b. Reviewing the proposal with regard to the Town Plan and Zoning Bylaws;
 - c. Explaining the state and local regulations that may apply to the proposal;
 - d. Determination of the proposal as major or minor subdivision, and of submission items that would be required
2. Conceptual consultation shall not bind the applicant or the DRB. Request for conceptual consultation shall be in writing and submitted not less than 15 days prior to a regular meeting of the DRB and shall be properly posted as part of the DRB's agenda.

Section 3.3 Submission of Completed Application

1. A completed application shall be filed with the Secretary of the DRB. A complete application shall consist of all data required in Article 4 of this bylaw as well as an application form that can be obtained from the Zoning Administrator.
2. At the next meeting for which notice can be posted or within 30 days following the delivery of the application, the DRB shall determine whether the application is complete. Acceptance will be by affirmative vote of a concurrence of a majority of all the DRB members. Failure to hold the hearing within such 30-day period shall not be deemed an approval of the application and such hearing shall be held as soon as reasonably practical thereafter.
3. Development Review of the application in accordance with Section 3.5 or 3.6 shall follow the acceptance of an application. Public notice must indicate that the application review will be occurring at the same meeting as voting on the acceptance of the application.

Section 3.4 Preliminary Review

1. An applicant of a major subdivision must submit a preliminary plan for DRB review.
2. Within 30 days of the Secretary of the DRB receiving an application for preliminary review, the DRB shall hold a hearing with public notice given in accordance with Section 3.12.1. The failure to hold such hearing within the 30-day period shall not be deemed an approval of the application and such meeting shall be held as soon as reasonably practical thereafter.

3. Within 45 days of the date of adjournment of the preliminary review hearing, or any continuation thereof, the DRB shall approve, approve with modifications, or disapprove the preliminary plan based on a determination of whether or not it conforms to the applicable subdivision review standards or would be in conflict with the Town Plan or other municipal regulations then in effect. The DRB may also require, as a condition of approval, the submission of proposed changes or modifications resulting from further study. Approval, conditions of approval, or grounds for disapproval shall be set forth in a written notice of decision.
4. Approval of a preliminary plan shall not constitute approval of a subdivision plat and is merely authorization for the applicant to file a final plat application. The approval of a preliminary plan shall be effective for a period of 6 months from the date of written notice of approval, unless otherwise approved or extended by the DRB in the written notice of decision.

Section 3.5 Final Plat Approval

1. Within 30 days of the Secretary of the DRB receiving a final plat application, the DRB shall hold a public hearing to review the final plat, with public notice given in accordance with Section 3.12.2. The failure to hold such hearing within such 45-day period shall not be deemed an approval of the application and such meeting shall be held as soon as reasonably practical thereafter.
2. Any action or decision of the DRB shall be taken by a concurrence of a majority of the members of the DRB. In accordance with §4464(b) of the Act, within 45 days after the adjournment of the final public hearing the DRB shall issue a decision to approve, approve with conditions, or disapprove the final subdivision plat, based on a determination whether or not the plat conforms to this bylaw. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day.
3. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
4. In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, this bylaw, and the municipal plan currently in effect.
5. All decisions of the DRB shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

Section 3.6 Conditional Approval

The DRB may grant conditional approval of an application, but the survey 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 to review compliance with the conditions prior to signing the survey plat is not required when such conditions:

1. Are administrative in nature; or
2. Involve no discretionary judgment on the part of the DRB; or
3. Involve the applicant's possession of permits and approvals granted by other boards and agencies, including those from state boards and agencies. However, any subsequent change to the plat required by such approvals would constitute grounds for a new application process.

Section 3.7 Performance and Maintenance Bonds

The DRB may, as a condition of subdivision approval, require from the applicant a performance bond or comparable security in a form approved by the Newfane Selectboard in an amount sufficient to cover the full costs of new streets and/or other required improvements and their maintenance for a period of not greater than 3 years from the date of completion. With the mutual written consent of the DRB and applicant, such bond or security may be extended for an additional period not to exceed 3 years. If any required improvements have not been installed or maintained as provided within the term of the performance bond or other security, such bond or other security shall be forfeited to the Town. The Town shall, if necessary, install or maintain such improvements to the extent of the proceeds from such bond or other security.

Section 3.8 Revisions to an Approved Plat

No changes, erasures, modifications or revisions shall be made to any survey plat after final approval, including any amendment or revision of a condition of final plat approval, unless said survey plat as modified is first resubmitted to the DRB as a minor subdivision and approved by the DRB after a public hearing warned in accordance with Section 3.12.2. In the event that such survey plat revisions are recorded without complying with this requirement, the revisions shall be considered null and void.

Section 3.9 Survey Plat Recording Requirements

1. In accordance with §4463(b) of the Act, within 180 days of the date of receipt of final approval, the applicant shall file 3 copies of the final survey plat, 1 mylar copy and 2 paper copies, for recording with the Town in conformance with the requirements of 27 V.S.A. Chapter 117 §1403. After such filing or recording, the plat shall be a part of the Official Map of the Town of Newfane. Approval of survey plats not filed and recorded

within this 180-day period shall expire except that the Zoning Administrator shall extend the filing period for an additional 90 days if final local or state permits or approvals are still pending.

2. Prior to plat recording, the plat must be signed by at least two authorized members of the DRB.
3. The approval by the DRB of a survey plat shall not be construed to constitute the Town accepting ownership of any street, easement, utility park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only in a formal resolution by the Selectboard, in accordance with state statute.

Section 3.10 Public Hearings

1. In accordance with §4461 of the Act, all meetings and hearings of the DRB, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of DRB.
2. In accordance with §4464(b) and §4468 the Act, the DRB may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

Section 3.11 Public Notice

1. Public notice requirements for preliminary review shall include at a minimum:
 - a. Posting of the same information in three (3) or more public places within the municipality;
 - b. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, 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; and
2. A warned public hearing shall be required for final subdivision plat review. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:
 - a. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
 - b. Posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from nearest town road to the property for which the application is being made;

- c. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, 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; and
 - d. For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.
2. No defect in the form or substance of any required public notice under this section shall invalidate the action of the DRB where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the DRB or the Environmental Court, the action shall be remanded to the DRB to provide new posting and notice, hold a new hearing, and take a new action.

Section 3.12 Fees

1. The applicant shall be responsible for costs incurred by the processing of applications. Application fees, as set from time by the Newfane Selectboard, shall be payable to the Town of Newfane and forwarded to the Zoning Administrator. Failure to pay such costs shall constitute valid grounds for the DRB to not accept the application as complete.
2. The Selectboard may establish procedures and standards for requiring applicants to pay for reasonable costs associated of an independent technical review of the application which may be required to make an informed decision on a particular application.

Section 3.13 Site Inspections

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

Article 4: SUBMISSION REQUIREMENTS

Section 4.1 Preliminary Review

Preliminary Plan review is required for applicants of major subdivisions. The complete preliminary plan application should be legible and to scale, but does not need to be completed by a surveyor or engineer. The preliminary plan shall include the information in Section 4.3. The DRB may, on written application, waive any part of this requirement.

Section 4.2 Final Plat Review

Final plat review is required for all applications for subdivision. The final plat shall consist of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to scale, showing or accompanied by information in Section 4.3. The plat must be prepared by a licensed land surveyor or registered civil engineer.

Section 4.3 Plan Requirements

Requirement	Preliminary	Final Plat
Boundaries and area of all abutting land, including land separated by a public right-of-way, belonging to owner of record, and proposed subdivision (a copy of the tax map is sufficient).	√	
Existing and proposed layout of property lines including parcel sizes and frontage; type and location of existing and proposed restrictions on land, such as easements and covenants.	√	
Type, location, and approximate size of existing and proposed highway access, streets, sidewalks, street lighting, utilities, and open space.	√	
Preliminary plans for services including water supply and wastewater disposal.	√	
Preliminary plans for maintenance of common lands.	√	
Approximate locations of natural features such as wetlands, shorelines, watercourses, prime and statewide agricultural soils, slopes of greater than 25%, and designated floodplains.	√	
Date, north arrow, and scale.	√	
Location map showing relation of proposed subdivision to adjacent property and surrounding area.	√	
Any requests for waivers of application requirements or review standards. Waiver requests shall be submitted in writing by the applicant with the subdivision application.	√	
The number of acres within the original parcel; location of existing property lines; existing easements, deed restrictions, and existing features; including buildings; wooded areas; streets; water courses and wetlands; existing foundations; and other existing physical features, including prime and statewide agricultural soils.		√
All parcels immediately adjacent to the proposed subdivision, including those separated by a public or private right-of-way, with the names and addresses of owners of record of such adjacent acreage.		√
Any zoning district boundaries applicable to the proposed subdivision.		√
Location and size of any existing individual or community sewage		√

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Requirement	Preliminary	Final Plat
disposal systems, wells, culverts, and drains on the property to be subdivided.		
The proposed lot lines; access location, the location of proposed water, wastewater and utilities; streets, curbs sidewalks and pedestrian ways including lighting; and land to be set aside for public use.		√
Building envelopes indicating setback distances from front, side, and rear property lines.		√
A vicinity map drawn at the scale of not over 1,000 feet to the inch showing the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.		√
Name and address of the owner of the property owner.		
Name and address of the proposed subdivision.	√	√
Name and address of person or firm preparing the map.	√	√
Total acreage of the subdivision and each proposed lot with lots numbered and identified.		√
Sufficient data acceptable to the DRB to determine readily the location, bearing, and length of every street line, lot line, building envelope, boundary line, and to reproduce these lines on the ground.		√
Supporting Information and Documentation		
Written description including construction sequence and time schedule for completion of each phase of the subdivision.		√
Written description of the proposed uses of each lot.		√
Copies of proposed deeds, agreements, or other documents showing the manner in which streets and open space, including park and recreation areas, are to be dedicated, reserved, and maintained, and in which significant natural resources are to be protected and maintained, as applicable.		√
Any other documents required by the DRB as a result of preliminary approval.		√

Article 5: SUBDIVISION DESIGN STANDARDS

Section 5.1 Application of Standards

1. The DRB shall evaluate any minor or major subdivision of land as defined in Section 3.1 in accordance with the standards set forth in this Article. Where the standards conflict with other provisions of this bylaw, the more stringent shall apply.
2. Pursuant to §4418(2)(A) of the Act, the DRB may waive or vary subdivision review standards if the DRB determines that the requirement:
 - a. Is not requisite in the interest of public health, safety, and general welfare; or
 - b. Is inappropriate due to the inadequacy or lack of connecting facilities to or in proximity to the subdivision.

Any request for waiver shall be made in writing by the applicant at the time of application. In granting such waiver, the DRB shall require such conditions that will, in its judgment, substantially secure the objectives of any waived or varied requirements.

3. The DRB may require the applicant to submit additional information to determine conformance with the standards outline in sections 5.2 through 5.14. The DRB may also, in light of findings based on these standards, require the modification or phasing of a proposed subdivision, or measures to avoid or mitigate any adverse impacts.

Section 5.2 Conformance with the Newfane Town Plan and other Regulations

Subdivisions of land shall be in conformance with all applicable requirements of this bylaw, the Newfane Town Plan as most recently adopted, and all other municipal bylaws and ordinances currently in effect.

Section 5.3 Dimensional Requirements

No lot shall be created that does not meet the minimum area, dimensional, and frontage requirements of the district in which it is located unless approved as part of a Cluster Subdivision (Article 6).

1. Area: No new lot created shall have an area less than the minimum area as required of the zoning district in which it is located. Zoning rules and provisions are used to calculate areas.
2. Dimension: No new lot shall have a minimum width or depth dimension less than 90 feet.
3. Frontage: The frontage requirements are as follows:

- a. Minor Subdivisions: All new lots created shall either have frontage on a maintained public road (Class 1, 2, 3), private road, or with approval of the DRB after review and approval of the Selectboard, access by means of a permanent easement or right-of-way to such a road. Access to or over a Class 4 highway of Town Trail requires approval by the Newfane Selectboard. The minimum frontage required is established by the zoning district in which it is located. Access easements or rights-of-way shall not be less than 24 feet in width. If serving more than two lots, the DRB may require a right-of-way up to 40 feet in width to ensure public safety and orderly development.
- b. Major Subdivisions: All new lots created shall have frontage on a public or private road. An easement or permanent right-of-way is not a substitute for frontage. Existing landlocked parcels, therefore, cannot be subdivided as a major subdivision without approval and construction of a road (an approved easement is insufficient to permit subdivision). The minimum frontage required is established by the zoning district in which it is located.
4. Lot Shape: Lots with irregular shapes (e.g. curves, jogs, dog-legs, excessive lot depth in relation to width, etc.) shall not be created unless warranted by conditions of topography, the location of natural features, or existing roads.
5. Lot Lines: New or adjusted lot lines cannot cause an existing structure to become a non-conforming structure. If the structure was already non-conforming then the new or adjusted lot line cannot increase the degree of non-compliance as defined by the Town of Newfane Zoning Bylaws.
6. Monuments and Corner Markers: Permanent monuments and corner markers shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying. Temporary markers may be placed during periods of construction provided final monuments are placed by the surveyor at the conclusion of the construction or prior to sale, or offer for sale, of any lot. All easements and rights-of-way described on the plat shall be monumented unless waived by the DRB.

Section 5.4 Establishment of Building Envelopes

All lots shall have a designated building envelope. Such building envelope shall be designated to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excluding road rights-of-way or easements) on one or more portions of a lot. The size and shape of the building envelope shall at a minimum be established by zoning district setback requirements unless specified in this bylaw. The building envelope lines are non-binding and are intended to demonstrate the usability of the lot. An amended subdivision plat is not required for future development outside of the building envelope. The building envelope does not vest any rights to construct within the area.

Section 5.5 Water Supply and Wastewater Disposal

1. Water Supply: Water supply systems shall be designed and built to meet all applicable state requirements. Unless being serviced by a community system, applicants are required to demonstrate that any proposed lot is able to accommodate the individual wastewater system and alternative location as may be required, water supply system, and applicable isolation distances on the parcel it is serving without extending onto an abutting lot. Any infringement onto an abutting lot shall require abutter approval and a permanent easement therefore. Proposed well site(s) must be identified on the plat including any associated well shield and isolation distances as established by the *Vermont Water Supply Rules, Chapter 21* as may be amended. The DRB may require evidence that adequate water supply is available through an existing or proposed system prior to granting final approval. The DRB may require as a condition of approval, or as a condition of issuing zoning permits, that the subdivider provide the results of water samples tested by the Vermont Health Department.
2. Wastewater Disposal Capacity: Identification of sites for wastewater treatment and any backup sites shall be shown on the plat. Unless being serviced by a community system, applicants are required to accommodate the individual wastewater system and alternative location as may be required, water supply system, and applicable isolation distances on the parcel it is serving without extending onto an abutting lot. Any infringement onto an abutting lot shall require abutter approval and a permanent easement therefore. The DRB may require the subdivider to undertake and provide results of percolation tests and test holes as directed by the VT Department of Environmental Conservation (VT DEC), or determined by a qualified engineer or site technician. The proposed individual disposal system, including the size of septic systems and leach fields or other secondary treatment device, shall be approved by the VT DEC or by a qualified engineer or site technician.
3. Community Systems: Proposed development may be serviced by either private or community water and wastewater systems. Community water and wastewater systems shall be designed and installed in accordance with all applicable state regulations and standards. The system design and specifications shall be submitted to the DRB and shall be certified by a professional engineer qualified and registered in the State of Vermont. Articles of Association or similar arrangements are required to address long-term care and maintenance of these systems by the users.
4. Waivers: In the event that the applicant is proposing the creation of lot(s) not requiring water or wastewater systems, the requirements of Sections 5.1(2) and 5.15 shall apply.

Section 5.6 Driveways and Road Design

1. Driveways. Driveways serving individual lots shall comply with the Vermont Agency of Transportation's B-71 Standard for residential and commercial driveways, as most recently amended. In addition:

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- a. In accordance with the Town of Newfane's *Policy on Highway Access and Work in Right of Way*, the Selectboard shall review and approve all proposed access onto public roads.
 - b. Subdivision of lands abutting State Highways or Class 1 Town Highways require prior approval of an access permit in accordance with 19 V.S.A. §1111(k). The applicant shall provide the DRB with a copy of such approval in the form of a letter prior to final plat approval.
 - c. The maximum number of lots to be served by a driveway is two. If there are more than two lots then they must be served by a road or, if applicable, an easement in accordance with Section 5.3.3(a).
2. Road Design. The standards contained herein shall apply to all proposed roads. All new roads are considered private for purposes of subdivision regulations. Acceptance of private roads by the municipality is subject to the approval of the Selectboard pursuant to state law for the laying out of public rights-of-way and can only be made following the completion of construction. Location and design of roads to these standards in no way ensures acceptance by the Selectboard.
- a. All roads shall be designed in accordance with the most recent *Revised Town of Newfane Minimum Road Specifications*. The Development Review Board may modify lane and shoulder widths as necessary to provide suitable access to, or accommodate, anticipated future subdivision.

Minimum Lane and Shoulder Width for Rural Roads							
Design Volume (ADT)	0-25	25-50	50-100	100-400	400-1500	1500-2000	2000+
Design Speed (mph)	Width of Lane/Shoulder (ft)						
25	7/0	8/0	9/0	9/2	9/2	10/3	11/3
30	7/0	8/0	9/0	9/2	9/2	10/3	11/3
35	7/0	8/0	9/0	9/2	9/2	10/3	11/3
40	7/0	8/0	9/2	9/2	9/2	10/3	11/3
45	--	--	9/2	9/2	9/2	10/3	11/3
50	--	--	9/2	9/2	10/2	10/3	11/3

Source: *Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation of Roadways and Bridges*, Vermont Agency of Transportation, October 1997.

- b. The arrangement of roads in the subdivision shall provide for the continuation of existing roads to those in adjoining subdivisions for the extension of roads through adjoining properties that are not yet subdivided
- c. Permanent dead end roads and cul-de-sacs shall be discouraged unless deemed necessary by the DRB due to physical site limitations or safety considerations. No dead end road shall be permitted without a suitable turn around at its terminus. A "T" configuration suitable to topography is preferred, but a cul-de-sac with an inside turn radius of not less than 40 feet may be permitted.

- d. New intersections along one side of an existing road shall, if possible, coincide with any existing intersections on the opposite side of the road. Road jogs with centerline offsets of less than 200 feet shall be prohibited unless the DRB determines that physical limitations necessitate a different arrangement.
- e. Roads shall be laid out so as to intersect as nearly as possible at right angles and no road shall intersect at less than 75 degrees.
- f. All new roads must minimize the loss of critical habitats including wetlands and primary agricultural soils. Roads shall maintain a 75 foot setback from all perennial streams, rivers (except to cross), and other water bodies. The road design shall minimize stream crossings and be designed to cross at locations that will have the least chance for erosion and undercutting.
- g. All streets shall be named using road naming rules outlined by the National Emergency Number Association and recommendations of Vermont 911. Said name will require written approval of the Selectboard. Names will be posted on a sign or signs conforming to guidelines and standards of the manual for uniform traffic control devices, latest edition, as directed by the Road Foreman.
- h. Roads containing slopes of 10% or more within any 50 foot segment or more will require a drainage plan by a Vermont licensed engineer, or other source acceptable to the DRB, to ensure that stormwater and spring meltwater will not result in erosion, endanger the integrity of the road surface, or cause siltation of drainage systems or surface waters.

Section 5.7 Stormwater Management and Erosion Control

- 1. Temporary and permanent stormwater management and erosion control measures shall be incorporated into subdivision design and layout to control surface runoff, sedimentation and water pollution on-site and downstream from the proposed subdivision. Factors to consider in determining the types of controls necessary shall include pre-development site and runoff conditions, vegetation and ground cover, slope and drainage patterns, soil types (i.e. hydric soils), the percentage of land covered in impermeable surfaces, types of pollutants generated, distances to streams and other surface waters, and impact on adjoining properties.
- 2. The DRB may require the preparation and implementation of stormwater management and/or sedimentation and erosion control plans and associated analyses when one or more of the following conditions are met:
 - a. A cumulative disturbed area exceeding 20,000 square feet;
 - b. Construction of a street or road;

- c. A major subdivision; or
- d. The disturbance of critical areas, such as steep slopes, wetlands, or flood hazard areas.

The purpose of the plan is to ensure that site improvements, including excavation, road and driveway construction and site clearing and grading, will not unduly impact neighboring properties or surface waters. Such plans, if required, shall be prepared by a licensed Vermont engineer, be based upon Best Management Practices (BMPs) for managing stormwater and controlling erosion, as defined by the Vermont Agency of Natural Resources, and shall include provisions for the inspection and long-term maintenance of stormwater management and erosion control facilities.

- 3. Areas exposed during construction shall be protected in accordance with standards of Vermont Department of Environmental Conservation, the US Natural Resources Council, or other appropriate body.
- 4. Standard agricultural and silvicultural practices are exempt from these provisions.

Section 5.8 Utilities

- 1. Locations. All proposed utilities, included but not limited to electric, telephone, and cable television, and their associated rights-of-way shall be shown on the final plat and be located as follows:
 - a. All utility systems shall be located underground throughout the subdivision, unless deemed unreasonable and prohibitively expensive by the DRB;
 - b. The subdivider shall coordinate subdivision design with utility companies to insure adequate and suitable areas for under and above ground installation, both for the proposed subdivision and areas adjacent to the subdivision; and
 - c. Utility corridors shall be shared with other utility and or transportation corridors where feasible and be located to minimize site disturbance; the fragmentation of agricultural, forest and conservation lands; and any adverse impact to natural, cultural or scenic resources.
- 1. Utility Easements: Utility easements of sufficient width shall be provided so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision. Such easements shall be shown on the final plat.
- 3. Coordination with the Selectboard: Where a subdivision will require the construction of utilities within the right-of-way of a public road, approval of the Selectboard is required prior to final plat approval.

Section 5.9 Protection of Agricultural Soils

1. Where a subdivision includes a minimum of 25 acres of contiguous primary agricultural soil, the applicant must create subdivision boundaries configured to avoid adverse impacts on prime and statewide agricultural soils. Methods for avoiding such adverse impacts include but may not be limited to the following:
 - a. Where marginal soils also exist on the site, the creation of a Cluster Subdivision under Article 6 may be required with the developable lots clustered away from primary agricultural soils. Lot lines shall be located at field edges or, in the event that no other land is practical for development, on the least fertile soil in order to minimize the loss of primary agricultural soils and impacts of existing farm operations.
 - b. Lots may be clustered on primary agricultural soils if those areas, by their nature, are not reasonably viable for farming. Such features could include primary soils that are distributed in a long, narrow band. Other areas in the subdivision are still required to protect areas with primary agricultural soils.
 - c. Contiguous areas of primary agricultural soils identified should not be fragmented. Primary agricultural soils should, wherever possible, remain in a parcel of no less than 25 acres.
 - d. Vegetated buffer areas may be required between agricultural and other uses to minimize land use conflicts.
 - e. Access roads, driveways, and utility corridors should be shared to the extent feasible. They should include linear features such as existing roads, tree lines, stonewalls, and/or fence lines to minimize the fragmentation of primary agricultural soils.
2. Where a project is required to meet the provisions established in section 5.9.1 but is also subject to review under Act 250, the project shall be presumed to meet this section. If the subdivision is approved, a condition should be attached to the approval stating that the application is approved provided the District Environmental Commission mitigates for the loss of agricultural soils. If the District Environmental Commission does not require the mitigation for the loss of soils, the DRB shall open a new hearing on the application to review the provision in section 5.9.1.
3. It is not the intent of these provisions to reduce the overall level of development but to require clustering or other design tools to limit or reduce the impact of the development on the soil resources. As a result, some projects may be built on primary agricultural soils where other soils are not available or reasonable for clustering.

Section 5.10 Fire Protection

1. Fire ponds and/or dry hydrants may be required for subdivisions. All hydrants must be installed to the specifications of the appropriate fire company. Fire ponds and dry hydrants shall be accessible for use in emergencies on other nearby properties. No fire ponds may be developed on land designated as a wetland by the state or National Wetlands Inventory.
2. The DRB may require approval by the appropriate fire company of plans for roads in a subdivision.

Section 5.11 Energy Conservation

Energy efficient site design and layout shall be encouraged in the review of proposed subdivision. In order to promote energy conservation, to the extent economically and environmentally feasible:

1. Building locations shall maximize solar access (e.g. through solar orientation);
2. Landscaping shall be effectively incorporated to provide wind barriers and to reduce loss or gain as appropriate; and
3. The siting of lots and buildings shall minimize the length of road and utility corridors required.

Section 5.12 Special Flood Hazard Areas

Where a subdivision is proposed in an area of special flood hazard the provisions of Section IX (Flood Hazard Area Regulations) of the Newfane Zoning Bylaw shall apply.

Section 5.13 Recreation Areas

Subdivisions may provide some recreational area for use by residents of the subdivision. The nature of the recreational areas (e.g. playground, ball field, trails, swimming pool, tennis courts) shall be at the discretion of the developer. Recreational areas shall be set aside as common land unless otherwise approved by the DRB and shall be of suitable location, shape, and character to serve the intended use.

Section 5.14 Common Land

1. Applicability: Land held in common for the preservation and maintenance of open space; the maintenance and protection of shared facilities, such as community wastewater systems, community water supplies, recreation or community facilities, and private roads, may be held under separate ownership from contiguous parcels and shall be subject to the provisions set forth below.

2. Common Land Requirements: All common land shall meet the following requirements:
 - a. The location, shape, and character of common land shall be suitable for its intended use;
 - b. Land held in common shall be subject to appropriate deed restrictions, stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship.
 - c. Common land is generally managed and maintained through articles of association, or similar arrangements, among members of the subdivision. For those not within an association, such provisions shall be made for the regulation and management of any common land.
3. Articles of Association: Articles of association and related arrangements are a contract among the members of an association; they are not a substitute nor do they supersede this subdivision bylaw. Where changes are sought to any common land or condition, the proposal must receive association approval and DRB approval for such change. Where appropriate, the associations must abide by the conditions established in the permit. Neither the Town nor the Zoning Administrator is responsible for mediating disputes within the association.
4. Legal Review: The articles of association must be approved by the DRB prior to the granting of subdivision approval, but only after legal review by an attorney hired by the DRB. The cost of such legal review shall be born by the applicant. An attorney shall ensure that an association is properly established; long-term care and maintenance of common land, including costs are addressed; and municipality is protected in the event of legal challenges.

Section 5.15 Creation of Parcels for other than Residential, Commercial or Industrial Uses

1. In the case of a subdivision in which the lots created are parcels for other than residential, commercial, or industrial use the applicant need only provide the DRB a completed subdivision application, a survey plat including all the information required for a Minor Subdivision, and any additional information to satisfy the requirements of this section.
2. The parcel shall have an approved right-of-way or permanent access easement.
3. The DRB may waive all provisions pertaining to water and wastewater disposal provided that the plat recorded with the Town Clerk clearly indicates that the parcel has not yet complied with applicable state rules concerning potable water supplies and wastewater systems. In addition, the individual deeds that are recorded and indexed for the unimproved lots shall include the following language:

“Notice of Permit requirements. In order to comply with applicable state rules concerning potable water supplies and wastewater systems, a person shall not construct or erect any structure or building on the lot of land described in this deed if the use or useful occupancy of that structure or building will require the installation of or connection to a potable water supply or wastewater system, without first complying with the applicable rules and obtaining any required permit. Any person who owns this property acknowledges that this lot may not be able to meet state standards for a potable water supply or wastewater system and therefore this lot may not be able to be improved.”

If there is no deed for the lot that was created, the owner of the unimproved lot shall record and index a copy of the above language in the land records.

4. The applicant shall submit a letter stating his/her intent for the use of the property to the DRB that shall be incorporated as a condition of subdivision approval and noted on the recorded plat. Any subsequent modification to the approved plat or conditions of plat approval would require modification of the subdivision plat.
5. Where a parcel in a subdivision is not intended for future development (e.g. sale to a land trust for conservation purposes), the subdivision may be permitted provided that the plat clearly reflects the lot is for conservation purposes only. The DRB may require the sale of development rights to a conservation organization for such a lot as a condition of approval.

Article 6: CLUSTER SUBDIVISION

Section 6.1 Purpose

The purpose of this article is to provide an opportunity for flexibility in the design of subdivisions with a view toward preserving and enhancing the natural beauty of the landscape; to protect areas with unique or environmentally sensitive natural features; to produce attractive, safe, and healthy living environments; to conserve natural resources; and to encourage orderly development patterns in accordance with the Newfane Town Plan.

Section 6.2 Permitted Uses

Single or two unit dwellings and their accompanying accessory uses may be constructed on certain lots in a cluster development although such lots may have less area, frontage and front, rear and side yard dimensions than required by the Newfane Zoning Bylaw.

Section 6.3 Dimensional Requirements

1. Density: The maximum number of dwelling units permitted in any cluster subdivision shall not exceed the density that would be allowed in the zoning district if the tract was subdivided by conventional methods.
2. Dimensional Requirements: Cluster subdivision lots shall not be required to conform to the minimum lot size, frontage, and setback required in the Zoning Bylaw, but shall be so designated and constructed as to achieve the purposes of the cluster development set forth in Section 6.1.

Section 6.4 Open Space Criteria

The minimum percentage of open space land that shall be designated as permanent open space and protected through conservation easement shall be as specified below:

1. Amount: The open space shall comprise a minimum of 50% of the gross area of the tract.
2. Layout: Open space land shall be designated as undivided parcels to facilitate easement monitoring, enforcement, maintenance, and to promote appropriate management by a single entity according to a management program approved by the DRB.
 - a. As part of the application, an open space plan shall be submitted showing clear delineation of parcels of open space land that is not to be developed. The subdivision plat shall indicate that development is restricted from the open space in perpetuity.
 - b. Open space shall be directly accessible to the largest practicable number of lots within the development.
 - c. Safe and convenient pedestrian access to open space shall be provided from all lots not adjoining the open space.

3. Evaluation Criteria: The DRB shall evaluate the proposed open space land to determine whether the open space:
 - a. Protects and preserves all floodplains, wetlands and steep slopes from clearing, grading, filling, or construction;
 - b. Preserves and maintains mature woodlands, existing fields, pastures, and meadows and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses;
 - c. Avoids siting new development on prominent hilltops or ridges by taking advantage of lower topographic features;
 - d. Protects wildlife habitat areas and species listed as rare, threatened, or endangered by the US Environmental Protection Area and the Vermont Department of Fish and Wildlife;
 - e. Preserves sites of historic, archaeological, or cultural value, and their environs, as needed to safeguard the character of the feature, including but not limited to stone walls, cellar holes, barn foundations, and burial grounds;
 - f. Provides open space that is reasonably contiguous. Fragmentation of open space shall be minimized so that the resource areas are not divided into numerous small parcels located in various parts of the development. The open space shall generally abut existing or potential open space on adjacent parcels.
4. Ownership and Maintenance of Open Space: Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the DRB.
 - a. Be conveyed to the Town of Newfane and be accepted by it for open space. Any public dedication of land shall be on a voluntary basis and in no event may be imposed upon an applicant. Any proposal for public dedication of open space shall be subject to acceptance by the Town of Newfane;
 - b. Be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space and related activities; or
 - c. Be conveyed to an organization owned or controlled, or to be owned or controlled, by the owners of lots or residential units within the development. If such a corporation or trust is designated, as indicated herein, ownership shall pass with conveyance of the lots or residential units.

Under the second or third ownership alternatives listed above, a restriction enforceable by the Town of Newfane shall be recorded providing that such land shall be kept in an open

or natural state, including recreational, agricultural, or forestry uses, and not be built upon for residential uses or developed for accessory uses, such as parking or roadway.

Section 6.5 General Requirements

Except as provided for by this article, a cluster subdivision shall conform to all other provisions of this subdivision bylaw.

Article 7: ADMINISTRATION, APPEALS, AND ENFORCEMENT

Section 7.1 Zoning Administrator

This bylaw shall be administered by the Zoning Administrator appointed and acting in accordance with the provisions of §4448 and §4452 of the Act.

Section 7.2 Development Review Board

The DRB shall have all the powers set forth in the Act to administer the provisions of this bylaw, including but not limited to, the power to:

1. Consider preliminary plats for approval under Section 3.5. [§4460(e)(8)] [§4418(2)(B)]
2. Consider final plat approval under Section 3.6. [§4460(e)(8) and §4418(2)(B)]
3. Consider requests for a waiver under Section 5.1. [§4460(e)(6) and §4418(2)(A)]
4. Consider decisions of the Zoning Administrator upon appeal under section 7.3. [§4460(e)(10)]

Section 7.3 Appeals

1. Decision of the Zoning Administrator: Any interested person, as defined in Article 2 of this bylaw and §4465 of the Act, may appeal a decision or act by the Zoning Administrator by filing a notice of appeal with the Clerk of the DRB or the Zoning Administrator within 15 days of the date of such decision or act.
2. Decision of the Development Review Board: Pursuant to §4471 of the Act, an interested person who has participated in the final plat hearing for a particular subdivision may appeal a decision rendered in that hearing by the Newfane DRB to the Vermont Environmental Court. Participation in the public hearing shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject subdivision. Appeals to Environmental Court must be taken in accordance with the provisions of Vermont Rules of Civil Procedures (V.R.C.P.) 76a and Vermont Rules of Appellate Procedures (V.R.A.P.) 3 and 4. All appeals must be filed with the Environmental Court within 30 days of the date of such decision or act.

Section 7.4 Enforcement and Penalties

1. Enforcement. It shall be the duty of the Zoning Administrator to enforce the provisions of this bylaw. The commencement or continuation of any subdivision of land that is not in conformance with the provisions of this bylaw or the approved or recorded plat shall constitute a violation.

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- a. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail that a violation exists and has failed to satisfactorily respond or correct the alleged violation. The seven-day warning notice shall state:
 - (1) That a violation exists;
 - (2) That the alleged offender has an opportunity to cure the violation within the seven days;
 - (3) That the alleged offender has the right to appeal the notice of violation to the DRB within 15 days from the date the notice was sent; and
 - (4) That the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.
 - b. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months.
2. Penalties. Any person who violates this bylaw shall be fined not more than the amount permitted under the §4451(b) of the Act, which at the time of development of this bylaw is \$100. Each lot or parcel so transferred or sold or agreed or included in a contract to be sold shall be deemed a separate violation. Each day that a violation is continued after the initial seven (7) day notice period shall constitute a separate offense. All fines imposed and collected shall be paid to the Town of Newfane.

Section 7.5 Other Regulations

Where this bylaw is in conflict with other local bylaws, the more stringent shall apply.

Section 7.6 Savings Provision

These regulations shall not be construed as abating any action now pending under pre-existing bylaws.

Section 7.7 Severability

If any section, subsection, or phrase of this subdivision bylaw is found for any reason to be invalid, such decision shall not affect the validity of the remaining portion of this bylaw.

Section 7.8 Adoption; Effective Date

1. This bylaw shall be effective 21 days after adoption (by majority vote of the Selectboard) and shall remain in effect until repealed or amended in accordance with the §4442(c)(1) of the Act

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2. A vote on the regulations or an amendment shall not take effect if five percent of the voters of Newfane petition for a meeting of the municipality to consider the regulation or amendment, and the petition is filed within 20 days of the vote. In this case a meeting of the municipality shall be duly warned for the purpose of acting upon the regulation or amendment by Australian ballot in accordance with §4442(d).