



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

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### VOLUNTARY MERGER REGULATIONS

The Town of Windham, acting through its Planning Board, hereby adopts the following rules and regulations governing the process of voluntary lot mergers in Windham, New Hampshire.<sup>1</sup>

#### SECTION I - Purpose –

The purpose of the rules and regulations herein are to

- (a) provide for harmonious development (RSA 674:36 (II) (b)),
- (b) assure that land which is merged through voluntary merger does not result in violation of the zoning ordinance and/or provisions of prior land use approvals obtained from the Town of Windham (RSA 674:36 (II) (i)),
- (c) promote the general convenience and prosperity of the Town of Windham (RSA 674:36 (II) (j)),
- (d) implement the provisions of RSA 674:39-a, and
- (e) create no increase in the non-conformity of a lot.

#### SECTION II – Authority –

These regulations are derived from the authority contained in RSA 674:35, and as allowed in RSA 674:39-a.

#### SECTION III – Procedure –

Applications for voluntary lot merger shall be processed in the following fashion:

- (a) Any property owner who owns two (2) or more contiguous parcels of land who wishes to merge them for municipal regulation and tax purposes shall file such

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<sup>1</sup> Adopted January 11, 2017 by Planning Board

requests with the Windham Code Enforcement Administrator, as designee of the Planning Board.

- (b) Such requests shall be filed on the official form annexed to these regulations as Exhibit A. Filing will require duplicate originals.
- (c) The application for merger shall be accompanied by a copy of the relevant portion of the Windham Tax Map, notating the lots to be merged and the dividing or lot lines to be eliminated. Applicants shall also attach copies of the deeds which are referred to in the application form. Where land has been inherited by the applicant, a copy of the statutory “Notice to Cities and Towns” shall be attached.
- (d) The application for merger shall be accompanied by up to three checks (i) one payable to the Rockingham County Registry of Deeds to cover the cost of recording the merger form, (ii) one to the Town of Windham to cover the application costs, and (iii) one to the Town of Windham to cover the legal review, if applicable. The fee amounts are established by the Windham Board of Selectmen and shall reflect the reasonable costs of the town.
- (e) The Code Enforcement Administrator shall review such merger requests for compliance with the provisions herein, and shall either (i) approve the request in writing by endorsement on the forms, or (ii) deny the request by sending notice in writing to the applicant. Such action shall be taken within thirty (30) days of filing of the application.
- (f) If an application is approved by the Code Enforcement Administrator, both copies will be forwarded to the Assessor’s office, who will assign the merged lot a tax map and lot number, sign the forms and then forward one (1) copy, along with the recording fee check, to the Rockingham County Registry of Deeds for recording. The recorded copy will be returned to the property owner. The duplicate original shall be retained by the Town.
- (g) If the Code Enforcement Administrator denies the merger application, the applicant may, within thirty (30) days of the issuance of the written notice of denial, appeal the decision to the Windham Zoning Board of Adjustment. See, Windham Zoning Ordinance, Section 904.2.

**SECTION IV – Standards –**

The decision to approve a voluntary lot merger shall be governed by the following standards:

- (a) Mergers shall be permitted only of lots currently shown on the Windham Tax Map.
- (b) The Code Enforcement Administrator shall verify with the office of the Assessor that the legal owner(s) of all of the lots submitted for merger is (are) identical for all the lots.
- (c) No merger shall be permitted if the result is to create a violation of zoning or other land use ordinances of the Town of Windham.
- (d) Parcels separated by a stream or way (private or public) may be considered contiguous if they are or can be utilized in a unitary fashion (e.g. a septic system on one lot serving a dwelling across a way from a served structure).
- (e) No lots shall be merged unless all real estate taxes on all lots are current.
- (f) No lots shall be merged unless legal counsel for the applicant, admitted to practice in New Hampshire, has signed a certification that the lots (i) are not subject to mortgages, liens or encumbrances, or (ii) if there is any mortgage on any of the lots, the applicant shall give written notice to each mortgage holder at the time of the submission of the application. The written consent of each mortgage holder shall be required as a condition of approval of the merger, and shall be recorded with the notice of the merger. Alternatively, an applicant may elect to have Town Counsel complete said review, at the expense of the applicant, and Town Counsel will notify the Code Enforcement Administrator if the application meets the foregoing requirements.
- (g) Create no increase in the non-conformity of a lot.

**SECTION V – Exception**

The foregoing regulations shall not apply when a property owner is proposing to merge two (2) or more lots as part of an application for subdivision approval or site plan approval which will result in the recording of a new plan in the Registry of Deeds which will reflect such merger and/or re-subdivision.