

SECTION 5

DEFINITIONS OF TERMS

5.1 USAGE

- 5.1.1** The numbers, abbreviations, terms, and words used in these Regulations shall be used, interpreted, and defined as this Section provides.
- 5.1.2** Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these Regulations"; the word "Regulations" means "these Regulations;" the words "these Regulations" mean the Subdivision Regulations of the Town of New Milford; words of the masculine gender include correlative words of the feminine and neuter genders.
- 5.1.3** A "person" or "applicant includes an individual, a firm, an organization, a corporation, a partnership, or an incorporated association of persons such as a club; "shall" is always mandatory; "may" is always permissive; "should" implies expectation not obligation; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- 5.1.4** If a question arises as to the expressed intent and/or purpose of a definition or work usage in these Regulations, the Commission, by resolution, shall determine its meaning.
- 5.1.5** The terms "Architect," "Landscape Architect," "Surveyor," "Land Surveyor," "Engineer," "Professional Engineer," "Civil Engineer," "Sanitary Engineer," "Soil Scientist," "Appraiser" refers to that specific professional, registered, certified or licensed or as required to practice in the State of Connecticut.

5.2 WORDS AND TERMS DEFINED

- 5.2.1 Affordable Housing:** Housing for which persons and families pay a specified amount as defined by State Statute, or as amended.
- 5.2.2 Affordable Housing Development:** As defined by State Statute.
- 5.2.3 Agricultural Land:** Any land suitable by reference to soil types, existing and past use of such land for agricultural purposes and other relevant factors for the cultivation of plants for production of human food and fiber or production of other useful and/or valuable plant products and for the production of animals, livestock and poultry useful to man and/or the environment, and land capable of providing economically profitable farm units, and may include adjacent pastures, wooded land, natural drainage areas and other

- adjacent open areas.
- 5.2.4** Reserved for future use.
- 5.2.5** **Applicant**: The subdivider or his agent or successor in interest who has signed the subdivision application.
- 5.2.6** **Application**: An application for consideration of a proposed subdivision or re-subdivision as provided in Section 3.2.
- 5.2.7** **Base Flood**: Flood having a one percent chance of being equaled or exceeded in any given year.
- 5.2.8** **Base Flood Elevation**: Elevation of the base flood as recorded on the Flood Hazard Boundary Map and accompanying stream profile data.
- 5.2.9** **Bond**: A bond in an amount and form acceptable to the Commission, which is intended to provide a financial guarantee of the completion of the planned improvements. (See performance guarantee)
- 5.2.10** **Buffer**: An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation and/or created by the use of trees, shrubs, fences, and/or berms, designed to limit the view of the site from adjacent sites or properties.
- 5.2.11** Reserved for future use.
- 5.2.12** **Building Line**: A line on a lot or parcel of land establishing the minimum setback for structures from a street line.
- 5.2.13** **Building Orientation**: The relationship of a building's longest axis to the true south compass point. Optimal building orientation for detached housing usually occurs when the building's longest axis is east to west (90 degrees from true south) with acceptable variations of 10 degrees to the northwest and 25 degrees to the southwest.
- 5.2.14** **Commission**: The Planning Commission of the Town of New Milford.
- 5.2.15** **Common Driveway**: A privately owned and maintained driveway, serving at least two lots but not more than six lots, located on a strip of land which is everywhere not less than 20 feet in width connecting to a "street" as that term is defined herein.
- 5.2.16** **Common Open Space**: Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development.
- 5.2.17** Reserved for future use.

- 5.2.18 Conditional Approval:** An approval of a proposed subdivision by the Commission which authorizes filing of a plan and which permits construction of site improvements, but not the sale or offering for sale of lots. Conditional approval is specifically conditioned on the actual completion of the required infrastructure or the provision of a performance guarantee.
- 5.2.19 ConnDOT:** The Department of Transportation of the State of Connecticut.
- 5.2.20 Conservation Commission:** The New Milford Conservation Commission.
- 5.2.21 Construction:** Includes site clearing, grubbing, excavation and grading, installation of utilities, drainage and roadways and individual site improvements such as driveways, wells, septic systems and structures.
- 5.2.22 Cul-de-sac:** A proposed street, or any extension of an existing street, or any combination or pattern of streets or extensions thereof, having only one outlet to a through State or Town road, and ending in a circle as defined by the Road Ordinance of the Town of New Milford.
- 5.2.23 Date of Receipt:** The day of the first regularly scheduled meeting of the Commission immediately following the day of submission of the Application to the Commission, or its agent, or 35 days after such submission, whichever is sooner.
- 5.2.24 Dead-End Street:** A proposed street, or any extension of an existing street, or any combination or pattern of streets or extensions thereof, having only one outlet to a through State or Town road.
- 5.2.25 Detention Basin:** An impoundment made by constructing a dam or embankment or by excavating a pit or dugout designed to hold water for a limited time.
- 5.2.26 Development:** Any construction or grading activities pertaining to a subdivision or re-subdivision.
- 5.2.27 Development for Agricultural Purposes:** Development exclusively for use as agricultural land.
- 5.2.28 Disturbed Area:** An area where the natural vegetative ground cover is destroyed, moved or removed, leaving the land subject to accelerated erosion.
- 5.2.29 Drainage Easement:** The right, at any time, to direct the flow of water, whether derived from surface or subsurface sources, across any property owned or proposed to be owned by another. Said right is defined to include direction of the flow of water by any method or means, including but not limited to, unrestricted sheet flows, direction by open ditch or trench, or direction by enclosed conduits. Said right also includes the right to enter upon the property and to maintain said direction of the flow of water.

- 5.2.30 Easement:** A right, established in deed or other legal means, of one party to use a designated portion of a second party's land for a specific, limited purpose.
- 5.2.31 Erosion:** The detachment and movement of soil or rock fragments by water, wind, ice or gravity.
- 5.2.32 Final or Record Subdivision Plan:** The final map, which would be submitted to the Town Clerk for recording; also put under Record Map.
- 5.2.33 FIRM:** A Federal Flood Insurance Rate Map.
- 5.2.34 Flood Plain, 100 Year:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, as depicted on the official Flood Hazard Boundary Map issued by the Federal Emergency Management Agency.
- 5.2.35 Flood Prone Area:** The land in the flood plain subject to a one percent or greater chance of flooding in any given year. The area is designated as either zone A or AE on the Flood Insurance Rate Map (FIRM).
- 5.2.36 Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- 5.2.37 Free Split:** First division of property into two building lots on or after September 30, 1958.
- 5.2.38 General Statutes:** The Connecticut General Statutes, as amended.
- 5.2.39 Grading:** Any excavating, grubbing, filling or any combination thereof, including the land in its excavated or filled condition.
- 5.2.40 Health Officer:** The Health Officer of the Town of New Milford or his designated agent.
- 5.2.41 Homeowner's Association:** See "Owners Association."
- 5.2.42 Improvement:** Any change or alteration to the existing conditions of the subdivision site for the purpose of complying with these regulations, or any approval granted hereunder, or rendering the site more suitable for development and/or habitation. As used in these regulations, improvements include but are not limited to: construction and installation of roadways, paved streets, curbs, gutters, utilities, street signs, monuments, trees, drainage facilities, erosion and sedimentation control measures, buildings, earth filling or removal, seeding and grading.
- 5.2.43 Inland Wetlands Commission:** The New Milford Inland Wetlands and Watercourses

Commission, being the agency designated pursuant to the Connecticut General Statutes.

- 5.2.44 Inspection:** The review of construction activities, location, procedures and measures as shown on maps and plans approved under these regulations.
- 5.2.45 Loop Street:** A proposed cul-de-sac, or any extension of an existing cul-de-sac, that curves back to intersect with itself.
- 5.2.46 Lot:** A parcel of land which is either owned separately from any contiguous parcel as evidenced by fee conveyance recorded in the land records of the Town of New Milford, or is a building lot shown on a subdivision map approved by the Planning Commission and filed in the office of the New Milford Town Clerk. A lot may not necessarily be suitable for construction.
- 5.2.47 Lot and Area:** The total horizontal area within the lot lines. In determining compliance with the minimum lot area requirements of these regulations, areas consisting of wetlands, watercourses, natural slopes in excess of 25%, portions of the lot less than 25 feet wide, or the private right-of-way leading to the rear lot shall not be included.
- 5.2.48 Lot, Interior:** See Lot, rear.
- 5.2.49 Lot Line:** The property lines bounding a lot as defined herein.
- A. Lot Line, Front:** In the case of a lot abutting upon only one (1) street, the line separating the lot from the street; the case of a corner lot, the Zoning Commission shall, for the purpose of these regulations, have the privilege of electing any street lot line as the “front lot line”.
- B. Lot Line, Rear:** The lot line which is generally opposite the front lot line; if the rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line not less than ten (10) feet long, lying wholly within the lot and farthest from the front lot line.
- C. Lot Line, Side:** Any lot line which is not a front lot line or a rear lot line, as defined herein.
- 5.2.50 Lot, Rear:** A lot of which the buildable area is located generally to the rear of other lots having frontage on the same street as said lot and having access to the street via a permanent access way no less than twenty (20) feet wide and owned in fee by the same ownership as the interior portion.
- 5.2.51 Maintenance Agreement:** An agreement between property owners sharing a common driveway which stipulates the respective rights and responsibilities of each owner for maintenance and repair of the common driveway and the remedies available to the parties when one or another fails to meet his responsibility

- 5.2.52 MLSS:** Minimum Leaching System Spread, as defined by Connecticut Public Health Code.
- 5.2.53 Open Space:** Land or water that is set aside relatively free of buildings or other physical structures, except for outdoor recreation facilities and which is set aside, dedicated, designated, or reserved for the public, or common use of the subdivision residents. In practice this means that open space does not have streets, drives, parking lots, pipelines or power easements on it. Private spaces such as rear yards and patios, not available for general use are not included.
- 5.2.54 Owner's Association:** A community association that is organized in which individual owners share common interests and responsibilities for costs and upkeep of open space or other facilities such as but not limited to common driveways, parking areas, or drainage.
- 5.2.55 Passive Solar Energy Techniques:** Passive solar energy techniques shall mean the use of (1) house orientation, (2) street and lot layout, (3) vegetation, (4) natural and man-made topographical features and (5) the protection of solar access within the subdivision as tools for maximizing solar heat gain, minimizing heat loss and providing thermal storage within a building during the heating season and for minimizing heat gain and providing for natural ventilation during the cooling season.
- 5.2.56 Performance Guarantee:** Any security that may be accepted by the Commission as a guarantee that the improvements required as part of an application for development will be completed satisfactorily. A performance guarantee must be in a form acceptable to the Commission. A letter of credit is not an acceptable form. See "Bond".
- 5.2.57 Plan and Profile:** The drawing(s) depicting respectively the horizontal and vertical design for street construction and drainage, and containing all information required by both these Regulations and the town road ordinance.
- 5.2.58** Reserved for future use.
- 5.2.59 Premises:** Includes land and buildings on a parcel.
- 5.2.60 Print:** A blueprint, photostat, lithoprint; or other copy which reproduces exactly the data on the original drawing(s) from which it is made.
- 5.2.61 Public Water System:** Includes a corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, maintaining, operating, managing, or controlling any pond, lake reservoir, or distributing plant employed for the purpose of supplying water for general domestic use in any town, city or borough, or portion thereof, within this State.
- 5.2.62 Public Open Space:** An open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency, or other public body for recreational or conservational uses.

- 5.2.63 Public Sewerage System:** A sewerage system owned by the Town of New Milford and operated by the New Milford Water Pollution Control Authority.
- 5.2.64** Reserved for future use.
- 5.2.65 Re-subdivision:** A change in a map of an approved or recorded subdivision or re-subdivision if such change (a) affects any street layout shown on such map, or (b) affects any area reserved thereon for public use, or (c) diminishes the size of any lot shown thereon and creates an additional building lot; if any of the lots shown thereon have been conveyed after the approval or recording of such map.
- 5.2.66 Retention Basin:** A detention basin which prevents the continued flow of water.
- 5.2.67 Revision of Subdivision:** A minor change inside the subdivided area insofar as no street entrance or future public property is changed and no affected part of the land is already sold.
- 5.2.68** Reserved for future use.
- 5.2.69** Reserved for future use.
- 5.2.70 Rural Country Road:** A road identified as such in the New Milford Plan of Conservation and Development, as amended.
- 5.2.71 Sale:** A transfer of the absolute title of land for a price.
- 5.2.72 Scenic Road:** A road designated as such by the Town Council of the Town of New Milford.
- 5.2.73 Section:** Reference to a Section means a Section of these Regulations, unless otherwise specified.
- 5.2.74 Sediment:** Solid material, either mineral or organic, that was in suspension and has been moved, from its site of origin by erosion.
- 5.2.75 Should:** Should implies expectation but not obligation.
- 5.2.76 Septic Tank:** A substantially watertight receptacle which is used for the treatment of sewage and is designed and constructed so as to permit the settling of solids, the digestion of organic matter by detention and the discharge of the liquid portion to a leaching system.
- 5.2.77 Siltation Basin:** An excavation or structure to collect mud, silt, and debris with a controlled outlet; size, shape and location of basin to be determined by the Commission.
- 5.2.78 Soil:** Any unconsolidated mineral or organic material of any origin.

- 5.2.79 Soil Erosion and Sediment Control Plan:** A method that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative, also called a Control Plan.
- 5.2.80 Special Erosion Control Area:** That portion of a lot as defined by the Inland Wetlands Regulations of the Town or, as more specifically determined to exist by in-field inspection by a soil scientist, including but not limited to: rivers, streams, brooks, lakes, ponds, freshwater marshes, swamps and bogs.
- 5.2.81 Specimen Tree:** A particularly impressive or unusual example of a species due to its size, shape, or any other trait that epitomizes the character of the species.
- 5.2.82 Standard Specifications and Details:** The Standard Specifications and Details for construction and materials as set forth in the Town of New Milford Road Ordinance, as amended.
- 5.2.83 State:** The State of Connecticut.
- 5.2.84 Steep Slopes:** Slopes in excess of 25%.
- 5.2.85 Street:** Any private road, existing town or state highway, or any proposed town or state highway shown on a recorded subdivision map duly approved by the Town Planning Commission.
- 5.2.86 Street Frontage:** The linear distance between the side lot lines of a lot measured at the street line.
- 5.2.87 Street Line:** That line separating the public right-of-way of a street from adjoining properties.
- 5.2.88 Street Pavement:** The wearing or exposed surface of the roadway used by vehicular traffic.
- 5.2.89 Street Right-of-Way:** The distance between street lines.
- 5.2.90 Subdivider:** The owner of record at the time of filing a subdivision application with the Commission.
- 5.2.91 Subdivision:** The division of a tract or parcel of land into three or more parts or lots for the purpose, whether immediate or future, of sale or building development, expressly excluding the development for municipal, conservation, or agricultural purposes, and includes re-subdivisions, pursuant to Chapter 126, Section 8-18 of the General Statutes.
- 5.2.92 Swale:** An open ditch, depression or low area of land, either natural or man-made, normally used for drainage purposes.

5.2.93 Reserved for future use.

5.2.94 Town: The Town of New Milford, County of Litchfield, Connecticut.

5.2.95 Plan of Conservation and Development: A plan for guiding the development of the Town and which has been adopted by the Planning Commission, in accordance with the General Statutes.

5.2.96 Traveled Width: The width of the street pavement or graveled surface.

5.2.97 U.S.G.S.: The United States Geological Survey.

5.2.98 Watercourses: As defined by State Statutes and/or Inland Wetlands and Watercourses Commission.

5.2.99 Wetlands: As defined by State Statutes and/or Inland Wetlands and Watercourses Commission.

5.2.100 Wetlands Commission: The New Milford Inland Wetlands Commission.

5.2.101 Work: Physical improvements required by the approved plan, other than the staking out of lots, and includes but is not limited to the construction of streets, storm drainage facilities and water and sewer lines, the setting aside of open space and recreation areas, installation of telephone and electric services, planting of trees or other landscaping, and installation of retaining walls or other structures.

5.2.102 Yard: An open space on the same lot with a structure which lies between said structure and the nearest lot line, and which is unoccupied except as may be specifically authorized. In measuring a “yard”, as hereinafter provided, the line of structure shall be deemed to mean a line parallel to the nearest lot line, drawn from a point of a structure nearest to such lot line. Such measurements shall be taken at a right angle from the line of the structure, as defined herein, to the nearest lot line.

5.2.103 Yard, Front: The open unoccupied space required across the full width of a lot from the front line to the nearest edge of the principal building or any covered porch, garage or addition which extends from the principal building.

5.2.104 Yard, Rear: A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the buildings.

5.2.105 Reserved for future use.

5.2.106 Zoning Commission: The Zoning Commission of the Town of New Milford.

5.3 POLICY - SUBDIVISION AND RESUBDIVISION:

The following policies are established with respect to the applicability of the term "subdivision" and "re-subdivision" in the Town under Chapter 126 and these Regulations.

5.3.1 For the purpose of the definition of "subdivision" any lot, parcel, tract, or acreage owned separately from any adjoining lot, parcel, tract, or acreage on September 30, 1958, as evidenced by deed or deeds recorded in the Office of the New Milford Town Clerk, is considered to be a "tract". Further definition is governed as well by the Connecticut General Statutes.

5.3.2 The Record Subdivision Map need only show the part which is the third or any subsequent division of the tract. It is recommended, however, that all divisions, to the degree practical, be shown on the Record Subdivision Map in order to clarify land records and property assessment records and to build up the available survey data in the Town.