

Chapter 11

Growth Management

This chapter establishes a competitive growth management system for residential subdivisions. The policy basis for this system appears in Section 5.1 of the town's *Comprehensive Plan*. Readers are encouraged to read that material first, as background for understanding the procedure established here.

11.1 Purpose - Authority

11.1.1 Why does Williston limit the pace of residential development? The purposes of growth management review are to:

11.1.1.1 ... ensure that residential growth does not exceed the capacity of the town's existing infrastructure and support planning for the expansion of municipal facilities and services; and

11.1.1.2 ... given the limited capacity of the town's infrastructure, to encourage residential subdivisions that successfully implement the goals of the town plan.

11.1.1.3 More specifically, the residential growth management system adopted here supports the development of a compact, pedestrian-friendly mixed-use center in the Taft Corners growth center by encouraging housing construction in close proximity to that center, while also rewarding the protection of open space resources identified in the *Open Space Plan* and the provision of trails, energy conservation, and other actions residential developers can take to help implement the *Town Plan*.

11.1.2 What gives the town authority to limit the rate of development? Limiting the pace of development "to avoid or mitigate any undue impact on existing or planned community facilities or services" is specifically authorized by 24 V.S.A. § 4423.

11.2 Applicability

11.2.1 Which developments are subject to growth management review? Growth management review is required before a proposed residential subdivision or the residential portion of a proposed mixed-use development may apply for a discretionary permit.

11.2.2 Are there any exceptions to growth management review? There is a full exemption for the construction of a single dwelling on certain existing undeveloped parcels. The DRB has authority, but is not required, to provide a partial exemption for proposed minor residential subdivisions.

11.2.2.1 Existing Lots. One dwelling may be constructed on any undeveloped parcel on which dwellings are permitted by this bylaw that was, and has continued to be, in separate ownership since the town adopted its first growth management system in 1990. It is important to review the lot merger requirements of this bylaw (see WDB 2.4) before determining that an existing parcel qualifies for this exception.

11.2.2.2 Minor Subdivisions. The DRB may, after having evaluated and ranked all proposed residential subdivisions as provided in this chapter, allocate as many as four dwelling units each fiscal year to proposed minor residential subdivisions, regardless of their score on the evaluation standards established in WDB 11.6, 11.7, or 11.8.

Why is there a Minor Subdivision Exception? This exception is needed to allow the town to adopt evaluation standards that are stringent enough to encourage positive performance by larger subdivisions without penalizing landowners who wish to create only one or two lots from a relatively small parcel.

11.2.3 What about lots approved under previous versions of growth management? Lots created by approved subdivisions under previous versions of the town’s growth management system will continue to be subject to the allocation rules applied at the time that the subdivision was approved.

11.3 Residential Growth Target

11.3.1 What is the town’s annual residential growth target? Section 5.1.2 of the *Town Plan* sets a residential growth target of 80 dwelling units or dwelling unit equivalents, as defined in WDB 46.3.46, per fiscal year, each year through FY 2025.

11.3.2 How is a dwelling unit defined? For the purposes of this chapter and for calculating density under WDB Chapter 19, one dwelling is defined as a dwelling unit containing 2 or more bedrooms. A dwelling containing only one bedroom or less (studio) is counted as 0.5 of a dwelling unit.

What Happens After 2025? It is assumed that the town will have acquired additional sewage treatment capacity and other new infrastructure and that this chapter will have been revised accordingly.

11.3.2 Is there a geographic component to the growth target? Yes. Section 5.1.3 of the *Town Plan* provides that the 80 dwelling units will be distributed as follows:

11.3.2.1 ... in the sewer service area, in the designated growth center, 56 dwelling units;

11.3.2.2 ... in the sewer service area, outside the designated growth center, 12 dwelling units, and

11.3.2.3 ... outside the sewer service area, 12 dwelling units.

11.3.2.4 Shift to the Growth Center. The DRB may shift available units from areas outside the growth center to proposed residential and mixed-use developments within the designated growth center.

11.3.2.5 Shift to Certain Developments in the ARZD. The DRB may shift available units from other areas to proposed residential subdivisions that qualify under WDB 31.11.

11.3.2.6 Accessory Dwellings. Accessory dwellings permitted by WDB 23.1 are not dwelling units for the purposes of this chapter.

11.3.3 How does affordable housing affect the growth target? Residential developments that include some portion of the dwellings proposed shall be given priority in making allocation decisions in the evaluation criteria of residential developments. Of the 80 dwellings available for allocation

each fiscal year, a minimum of 25% of those dwelling units in each allocation area shall be reserved expressly for perpetually affordable housing as defined in WDB 46.3.9.

11.4 Growth Management Procedure

11.4.1 At what point in the development review process does growth management review occur?

Growth management review follows pre-application review. All proposed residential subdivisions that have cleared pre-application review on or before December 31 of any year shall be subject to growth management review in the following year. If a proposed residential subdivision has not cleared pre-application review by December 31 of a given year, it will not be reviewed during the following year.

11.4.2 How is growth management review conducted?

11.4.2.1 Notice to Eligible Applicants. All applicants whose proposed subdivisions qualify for growth management review shall be notified of the date of the DRB's growth management hearing (see WDB 11.4.2.2) and provided with a *Growth Management Questionnaire*.

11.4.2.2 Growth Management Questionnaires. Applicants must return their completed growth management questionnaires at least 15 working days before the scheduled hearing. All representations made on a *Growth Management Questionnaire* are binding and must be reflected in the application for a discretionary permit if the proposed residential subdivision receives an allocation of dwelling units.

11.4.2.3 Public Hearing. The DRB shall, in February or March of each year, hold a public hearing at which it reviews all proposed residential subdivisions that cleared pre-application review during the preceding year. This hearing shall generally follow the procedures prescribed in Chapter 6 for the review of applications for discretionary permits, but only published notice is required.

11.4.2.4 Evaluation and Ranking. Following the public hearing required by WDB 11.4.2.3, the DRB shall evaluate and rank the proposed residential subdivisions using the evaluation criteria established in his chapter. These criteria guide the DRB in awarding points to proposed residential subdivisions based on their implementation of specific goals and objectives of the town plan.

11.4.2.5 Allocation of the Growth Target. The DRB shall allocate the remaining portion (see WDB 11.5.1.2) of the growth target established in the *Town Plan* to the proposed residential subdivisions according to their ranking and the rules established in WDB 11.5, below. The DRB may also decide to allocate as many as four dwelling units under the exemption established by WDB 11.2.2.

11.4.2.6 Allocation Certificates. Notice of the DRB's decision shall be provided by the distribution of one Residential Allocation Certificate for each dwelling unit allocated to the applicant. Applicants who are denied allocations shall be notified by first class mail. The Residential Allocation Certificate must be presented with the application for the administrative permit to build the dwelling.

11.5 Allocation Rules

11.5.1 Are there rules the DRB must follow in making the allocations authorized by WDB 11.4.2.5, above? Yes.

11.5.1.1 Minimum Score. No proposed subdivision that is awarded fewer than 30 points shall receive an allocation, except via the exemption provided by WDB 11.2.2.2.

11.5.1.2 Number of Units. The DRB may allocate only the number of dwelling units allowed by the residential growth target adopted in the *Town Plan*. This does not mean that the DRB allocates 80 dwelling units each fiscal year. It does not. The number of dwelling units previously allocated is deducted from the growth target for each fiscal year in which those allocations were made, ensuring that an average of no more than 80 dwelling units per fiscal year are allocated.

What's Left? A chart showing the number of allocations that remain available in each fiscal year may be obtained from Williston Planning.

11.5.1.3 Lack of Demand. Dwelling units that are not allocated due to a lack of demand for the units available in a given fiscal year will be available for allocation in subsequent fiscal years through FY 2025.

11.5.1.4 Partial Allocations. The DRB may make partial allocations to help create an equitable division of the dwelling units available among proposed residential subdivisions that have equal or essentially equal rankings. The DRB may also, due to the limited availability of dwelling units and the rules adopted here, including WDB 11.5.1.5's limit on allocations to any one proposed residential subdivision, allocate fewer units to a proposed residential subdivision than were requested in its pre-application or on its growth management checklist.

11.5.1.5 Maximum Allocation. There are limits on the number of units of allocation that may be allocated in any of the allocation years. No more than 75% of the units available in a given fiscal year and in any of the three 'allocation areas' established by WDB 11.3.2 may be allocated to any one proposed residential subdivision. In addition, no more than 50% of the number of allocation units in any of the allocation areas may be allocated two or more years prior to the fiscal year the allocation becomes available, and no more than 75% of the number of allocation units in any of the allocation areas may be allocated one year prior to the fiscal year the allocation becomes available.

11.5.1.6 Changes in Capacity. Sewage treatment plant capacity may change due to changing regulations, the failure of plant components, and other causes. The DRB shall not allocate units for which adequate sewage treatment plant capacity is not available regardless of the growth target established in the town plan. Any decision not to allocate units on this basis shall be based on a written finding by the Selectboard that changing conditions have resulted in inadequate capacity.

11.5.2 Do allocations made by the DRB expire? Yes. Applicants must meet two deadlines, one for the submission of an application for a discretionary permit for the proposed residential subdivision and one for the actual construction of the dwelling unit.

11.5.2.1 Submission of Plans. An application for a discretionary permit for the proposed residential subdivision must be filed within one year of the date of the record of decision for the DRB meeting at which the allocation of dwelling units to that subdivision was made. If an application is not filed within one year, the allocation becomes void and the units of allocation it included will be made available for allocation to another proposed residential subdivision or development.

11.5.2.2 Construction of Units. Allocations of dwelling units are available beginning on July 1 of a particular year (the start of the town's fiscal year). An administrative permit for the construction of an allocated dwelling unit must be approved within five years after the July 1 on which it becomes available. If an administrative permit is not approved within five years, the allocation becomes void and the unit will be made available for allocation to another proposed residential subdivision.

11.6 What happens if some portion of a subdivision's allocation expires? A subdivision that has had some portion of its allocation expire may reapply for residential growth management allocation under the provisions of *WDB* 11.6.1.1-6 under limited circumstances.

11.6.1 What are the specific rules for reapplying for allocations that have expired?

11.6.1.1 Time Limitation. A subdivision may apply to have its previously awarded allocation returned without having to compete against other subdivisions if a request for pre-application is submitted prior to the end of the calendar year when the expiration of the units of allocation was identified by the Williston Planning office.

11.6.1.2 Substantial Progress. A residential subdivision applying to have some portion of its allocation re-established under these provisions must demonstrate that substantial progress towards implementing the subdivision has been made. For the purpose of these provisions substantial progress determined by the DRB must include all of the following:

- Construction of any required public or private street or driveway necessary to provide access to the subdivision
- Dedication of land or easements for open space, public access or conservation purposes as required under the initial subdivision approval
- Administrative Permits for the construction of at least one dwelling unit within the subdivision must have been obtained

11.6.1.3 Expiration. Allocation re-established under these provisions may receive an additional five years to obtain administrative permits to begin construction beginning on the July 1st immediately following the DRB meeting when the allocation was awarded under these provisions. No additional extensions of time under these provisions are possible.

11.6.1.4 Conditions of Approval. The original conditions of subdivision approval shall continue to apply to any subdivision awarded allocations under these provisions. The DRB shall only impose additional conditions of approval in cases where it is necessary to preserve the public health, safety and welfare.

11.6.1.5 Special Findings. In order for a subdivision to re-establish some portion of its allocation under these provisions, the DRB must find that the subdivision is in substantial compliance with the intent and purpose of the current development regulations.

11.6.1.6 Expired Allocation. Any allocation that has expired under these provisions was not re-applied for within the time constraints of WDB 11.6.1.1, or that does not meet the criteria specified under WDB 11.6.1.1-5 shall be returned to the pool of available units of allocation and shall only be awarded through the competitive process specified under WDB 11.4 & 5.

11.7 Evaluation Criteria for Proposed Residential Subdivisions in the Growth Center. The evaluation criteria the DRB will use to evaluate and rank proposed residential subdivisions or the residential portion of proposed mixed-use developments in the growth center are summarized and weighted to create a 100-point scoring scale in the growth management checklists. They are explained in detail below.

11.7.1 Conserve Energy. This criterion encourages energy conservation in accord with Policy 9.4 of the *Town Plan*. Scoring will be based on the percentage of total dwelling units that will be Five-Star or LEED certified.

- 100% of all units certified – 10 points
- 80-99% of all units certified – 8 points
- 60-79% of all units certified – 6 points
- 40-59% of all units certified – 4 points
- 20-38% of all units certified – 2 points
- less than 20% of all units certified – 0 points

11.7.2 Build Affordable Housing. Consistent with Policy 5.2.1 of the *Town Plan*, this criterion provides an advantage to applicants who will build perpetually affordable housing. “Affordable” includes two levels: what is affordable at 100% and at 80% of the median income. The units affordable at the 80% of median income level are included in the overall percentage of affordable units.

- 40% or more of all proposed dwelling units will meet the definition of perpetually affordable below 120% of the median income level, and 20% or more of all proposed dwelling units will be affordable between 80-100% of the median income level, and 10% or more of all proposed dwelling units will be affordable at the 80% or less than the median income level – 10 points
- 30% or more of all proposed dwelling units will meet the definition of perpetually affordable below 120% of the median income level, and 20% or more of all proposed dwelling units will be affordable between 80-100% of the median income level, and 10% or more of all proposed dwelling units will be affordable at the 80% or less than the median income level – 8 points
- 20% or more of all proposed dwelling units will meet the definition of perpetually affordable below 120% of the median income level, and 10% or more of all proposed dwelling units will be affordable between 80-100% of the median income level, and 5% or more of all proposed dwelling units will be affordable at the 80% or less than the median income level – 6 points

- 15% or more of all proposed dwelling units will meet the definition of perpetually affordable below 120% of the median income level, and 5% or more of all proposed dwelling units will be affordable between 80-100% of the median income level, and 5% or more of all proposed dwelling units will be affordable at the 80% or less than the median income level – 4 points
- 10% or more of all proposed dwelling units will meet the definition of perpetually affordable – 2 points
- Less than 10% perpetually affordable units will be provided – 0 points

11.7.3 Offer Housing Choices. Consistent with Policy 5.2.3 of the *Town Plan*, this criterion encourages each subdivision to include housing options for a broad spectrum of household incomes and types, and for both owners and renters. The goal is not merely to promote affordability as WDB 11.6.2 does, but to ensure that limited housing choices do not result in a community with limited cultural and social diversity.

- Proposed residential subdivisions should include a mix of dwelling types and sizes that will result in a mix of different housing costs and tenures. Where the proposed residential subdivision is part of a mixed-use development, it must include units that are demonstrably affordable to the typical employee who will be working there in order to be awarded any points for this criterion. 1-10 points depending on the range of housing options proposed
- The proposed residential subdivision does not contribute to housing diversity. – 0 points.

11.7.4 Provide Neighborhood Space. This criterion encourages the provision of urban and/or neighborhood parks, and/or of indoor space for neighborhood activities. Points will be awarded for the construction of an urban or neighborhood park, as defined in Policies 1.2 and 2.2 of the *Open Space Plan*, and/or for the construction of a building space that can be used as a meeting room, fitness center, day care center, or other neighborhood space acceptable to the DRB. The developer must commit to equip the space provided for its purpose to earn points. The intent here is to encourage the creation of places for recreational and civic activities that foster neighborliness, but need not be maintained by the town.

- The proposed subdivision provides developed neighborhood space that is easily accessible and useful to its inhabitants – 1-10 points, depending on the size, diversity of functions, and other characteristics of the space/s provided.
- The proposed residential subdivision provides no such space, or inadequate space – 0 points.

11.7.5 Build Paths and Trails. This proposed criterion favors proposed residential subdivisions that build their portion of the paths and trails called for by the *Town Plan* (see Policy 6.6).

- The majority of the proposed dwelling units are served by the town's path and trail system, with the developer building all on-site segments – 5-10 points, depending on the length of the path or trail segment/s.
- no path or trail connection is built – 0 points

11.7.6 Conserve Open Space. While there are limited opportunities for open space conservation within the growth center, this criterion encourages the permanent conservation of any remaining lands identified in the *Open Space Plan* or another open space asset acceptable to the Conservation Commission via dedication or conservation easement.

- the proposed development will protect open space lands identified in the open space plan via dedication to the town or another public agency, or via a conservation easement – 1-10 points depending on the extent and the importance of the open space protected
- the proposed development will not provide permanent open space protection – 0 points

11.7.7 Design for the Context. Proposed residential subdivisions should provide for a scale of housing (height, bulk) that is compatible with the surrounding uses. This does not mean that the density or mix of housing forms must be identical or very similar. It means that the overall character of the proposed residential subdivision will complement neighboring uses.

- the proposed development is in scale and compatible with the surrounding uses – 1-10 points depending on the effort made to ensure compatibility
- the proposed development is not in scale and compatible with its context – 0 points

11.8 Evaluation Criteria for Proposed Residential Subdivisions that Have Sewerage, but Are Not Within the Growth Center. The evaluation criteria the DRB will use to evaluate and rank proposed residential subdivisions in the MDR and Village zoning districts are summarized and weighted to create a 100-point scoring scale in the Growth Management Checklists. They are explained in detail below.

11.8.1 Conserve Energy. Same as WDB 11.7.1.

11.8.2 Build Affordable Housing. Same as WDB 11.7.2.

11.8.3 Offer Housing Choices. Same as WDB 11.7.3.

11.8.4 Provide Neighborhood Space. Same as WDB 11.7.4

11.8.5 Build Paths and Trails. Same as WDB 11.7.5

11.8.6 Design for the Context. Same as WDB 11.7.7.

11.8.7 Build Close to Services. Williston encourages new residential development within walking distance of focal points in the growth center or village. There must be a safe pedestrian way from the units for which points are awarded to a focal point in the growth center or the village. This means

there must be existing sidewalks and/or a town recreation path or trail, or that the developer will construct a safe pedestrian way. Distances will be measured along the shortest pedestrian way from the mid-point among the proposed units to the nearest focal point.

- Proposed units are within 1,310 feet of focal point in the growth center or village – 10 points
- Proposed units are within 2,640 feet of focal point in the growth center or village – 5 points
- All other proposed units – 0 points

What is a Focal Point? Focal points are public gathering places, formal or informal. They are currently identified in the town's vision for its growth center, as set forth in the town's application to the state for growth center designation. This material will eventually be incorporated into the *Town Plan*.

11.8.8 Neighborhood Design. This criterion does not include architectural design or the details of landscape design. Those subjects are addressed after an application for a discretionary permit is filed. Proposed residential subdivisions will be scored based their use of open space to both buffer and integrate the neighborhood, as well to manage stormwater, and on the siting of homes to encourage walking and social interaction among neighbors.

- Open space is used both creatively and to serve functional needs like buffering and stormwater management, while homes are sited so as to encourage walking and social interaction among neighbors – 0-10 points depending on how well this goal is implemented.
- Permanent protection of open space identified in the *Open Space Plan* will result in the award 1-5 additional points on this criterion, depending on the extent and quality of the open space resource being protected.
- Open space is not used creatively and/or site planning techniques do not encourage walking and social interaction – 0 points

11.9 Evaluation Criteria for Proposed Residential Subdivisions Outside the Sewer Service Area. The evaluation criteria the DRB will use to evaluate and rank proposed residential subdivisions outside the sewer service area are summarized and weighted to create a 100-point scoring scale in the growth management checklists. They are explained in detail below.

11.9.1 Conserve Energy. Same as WDB 11.7.1.

11.9.2 Build Affordable Housing. Same as WDB 11.7.2.

11.9.3 Build Paths and Trails. Same as WDB 11.7.5

11.9.4 Design for the Context. Same as WDB 11.7.7

11.9.5 Conserve Open Space. This criterion encourages the long-term protection of the open spaces identified in the open space plan. It awards points for the protection of lands identified in the open space plan by dedication or conservation easement.

- the proposed development will protect open space lands identified in the open space plan or another open space asset acceptable to the Conservation Commission via dedication to the town or another public agency, or via a conservation easement – 1-10 points depending on the extent and the importance of the open space protected
- the proposed development will not provide permanent open space protection – 0 points

11.9.6 Minimize Visual Impact. This criterion encourages “rural” developments that are sited so as to disappear into the landscape.

- the proposed project will not be visible from public roads, except any new road built to provide direct access to the site – 10 points
- the proposed project will be minimally visible from public roads, except any road directly serving the site – 5 points
- the proposed project will be visible from public roads – 0 points