

West Brookfield Subdivision Rules & Regulations

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PREAMBLE: PURPOSE

The *Subdivision Control Law, Massachusetts General Laws, c. 41, §§81K-81GG*, was enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it has been put into effect by (1) regulating the laying out and construction of ways in subdivisions providing access to the lots therein and (2) ensuring sanitary conditions in subdivisions and, in proper cases, parks and open areas.

The powers of the Planning Board under the Subdivision Control Law are intended to be exercised with due regard for:

- a. the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel;
- b. lessening congestion in such ways and in the adjacent public ways;
- c. reducing danger to life and limb in the operation of motor vehicles;
- d. securing safety in the case of fire, flood, panic and other emergencies;
- e. ensuring compliance with the applicable zoning bylaws;
- f. securing adequate provisions for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment and street lighting and other requirements where necessary in a subdivision; and
- g. coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions.

Any subdivision plan filed with the Planning Board shall receive the approval of the Planning Board if the plan conforms to the recommendations of the Board of Health and to these Rules and Regulations; provided, however, that, pursuant to M.G.L. c.41, §81R and section 6.1 of these Rules and Regulations, the Planning Board may, when appropriate, waive such portions of the rules and regulations as it deems advisable.

SECTION 1.0: AUTHORITY

The West Brookfield Planning Board enacts these Rules and Regulations under the authority granted by MGL C. 41 § 81-Q of the General Laws, as amended, and by all subsequent amendments thereto, to govern the subdivision of land in the Town of West Brookfield. For matters not specifically covered by these Rules and Regulations, reference is made to the Subdivision Control Laws, Sections 81-K through 81-GG of Chapter 41 of the Massachusetts General Laws, as most recently amended.

SECTION 2.0:

2.1. Definitions

For the purposes of these Rules and Regulations the following words or terms are defined as follows. Where a term is not herein defined, applicable definitions from the West Brookfield Zoning Bylaw or the Massachusetts General Laws shall apply. In all other cases, the Planning Board shall determine the appropriate definitions and interpretations:

Abutter: The owner, or their successor in interest of land directly adjacent to a proposed development.

Applicant: A person as hereinafter defined who applies for the approval of a plan for a subdivision or a person who applies under Section III. "Applicant" shall include an owner, or his agent or representative, or his assigns. If the applicant is represented by an agent, written evidence shall be submitted with the application accompanying the subdivision plan that the agent has authority to submit said application for each owner.

Approval Not Required Lot: A buildable lot with minimum area and frontage requirements per the West

Brookfield Zoning Bylaw zoning that has access to an existing and passable way, which does not require the approval of the Planning Board subsequent to the applicant receiving a building permit to build on said lot.

Bikeway: A way designed to be used principally or exclusively by a bicycle or similar non-motorized vehicle.

Board: The Planning Board of the Town of West Brookfield.

Bridle Path: A way designed to be used principally or exclusively for equestrian purposes.

Cul-de-sac: A street intersecting another street at one end and terminated at the other end by a permanent vehicular turnaround.

Develop: To construct a street, install utilities, erect a house or other structure, or in any way to prepare the lot for such improvements.

Developer: A person, as hereinafter defined, who develops a subdivision under a plan of a subdivision approved pursuant to Section III of these Rules and Regulations.

Driveway, Common: A driveway which provides access to more than one lot, each of which has at least the minimum frontage on a Town street as required by the Zoning Bylaw. Common driveways are not permitted in West Brookfield.

Easement: A right acquired by public authority or other person to use or control property for a utility or other similar purpose.

Lot: An area of land in one (1) ownership with definite boundaries used, or available for use, as the site of one (1) or more buildings (MGL c.41, §81-L).

Massachusetts General Law (Abbreviated MGL): The General Laws of Massachusetts, and as the same may be amended. In case of re-arrangement of the General Laws, any citation of a particular section of the General Laws shall be applicable to the corresponding section(s) in the new codification.

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

Municipal Services: Storm drains, water pipes, cable TV, electrical lines, telephone lines, and similar systems and their respective appurtenances.

Open Space Residential Development (OSRD): A technique to build residential subdivisions that maximizes the amount of preserved open space and protects local resources while not reducing the number of units built compared to a conventional sub-division.

Owner: As applies to real estate, the person holding the fee simple title to a parcel, tract or lot of land, or control of such, as shown by the record in the Land Registration Office, Worcester District Registry of Deeds or Registry of Probate.

Parcel: An area of land in one ownership with definite boundaries not meeting zoning requirements nor available for use for the site of principal use buildings.

Person: An individual, two or more individuals, or a group or association of individuals, a partnership, trust or corporation, having common or undivided interests in a tract of land.

Plan, Definitive: The plan of a subdivision as duly submitted to the Board for approval, to be recorded in the Registry of Deeds and such plan when approved and recorded; all as distinguished from a Preliminary or other Plan (MGL c. 41, §81-O).

Plan, Preliminary: A plan of a proposed subdivision or a re-subdivision of land prepared in accord with Section 3 to facilitate proper preparation of a Definitive Plan (MGL c. 41, §81-L).

Planning Board Agent: Town employee or consultant authorized by the Planning Board to review subdivisions and/or administer the Rules and Regulations.

Recorded: Recorded in the Worcester District Registry of Deeds, except that, as affecting registered land, it shall mean filed with the Recorder of the Land Court (MGL c. 41, §81-L).

Registry of Deeds: The Worcester District Registry of Deeds, and when appropriate, shall include the Land Court (MGL c. 41, §81-L).

Roadway: That portion of a way, which is designed and constructed for vehicular travel.

Sidewalk: A way within the right-of-way of a street normally parallel to the street, designed for use by pedestrians.

Standard Specification: The Commonwealth of Massachusetts, Department of Highways, "Standard Specifications for Highways and Bridges", 1988 Edition, as amended by the "Supplemental Specifications", 2002 Edition.

Street, Dead-End: A street, extension of a street, or system of streets connected to another street at one (1) point only. Any proposed street that intersects with a dead-end street shall be deemed to be an extension of the dead-end street.

Subdivision: The division of a tract of land into two (2) or more lots and shall include re-subdivision, and when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into (2) or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law, if at the time when it is made, every lot within the tract divided has frontage on (a) a public way, or way which the Town Clerk of the Town of West Brookfield certifies is maintained and used as a public way, or (b) a way shown on a plan heretofore approved and endorsed in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the Town having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by the Zoning Bylaw.

Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the required frontage, or the division of a tract of land on which two (2) or more buildings were standing when the Subdivision Control Law went into effect in the Town into separate lots on each of which (1) of such buildings remains standing, shall not constitute a subdivision (§81-L of c. 41, MGL as amended).

Subdivision Control: The power of regulating the subdivision of land granted by the Subdivision Control Law, MGL c. 41, §§ 81-K through 81-GG inclusive as hereinafter amended.

Superintendent, Highway: The person appointed or designated by the Selectmen of the Town of West Brookfield with responsibility for streets and roadways in Town.

Town: Town of West Brookfield, Massachusetts.

Trail: A path or track made by or reserved for the passage of persons and/or animals, usually through undeveloped land.

Utilities, Private: This term shall include telephone, cable television, fiber-optic cable, electric light and power, gas lines, wind and solar power systems, water and sewage systems not owned or operated by the Town, whether installed on, above or beneath the surface of the ground, located entirely within the lot being serviced and neither within nor appurtenant to utilities within a public right-of-way.

Utilities, Public: This term shall include electric light and power distribution systems, including streetlights, surface/storm water drainage, drinking water and other utilities and their appurtenances, which are owned and operated by the Town or which may become the property or responsibility of the Town, or which are located within or appurtenant to public rights-of-way.

Walkway: A passage designed for use by pedestrians, not necessarily parallel to a street.

Way: A way is synonymous with the terms road, street, highway and avenue and shall denote any such line or route for passage whether public or private, or the width and length of the strip of land laid out, designated, acquired and/or dedicated for the use of such way. Such width includes the spaces for vehicular travel, sidewalks, edgestone and planting spaces where required.

Zoning. The Town West Brookfield Zoning Bylaw.

2.2 Fees

2.2.1 In General

All application fees and all expenses such as advertising; publication of notices; all engineering services, including but not limited to, review of preliminary and/or definitive plans, inspection and associated office work during construction which is part of the subdivision or appurtenant thereto; recording and filing of documents; and all other expenses in connection with review and approval of subdivisions or their construction, including without limitation, sampling and testing all as required by the Planning Board or its agents, shall be borne solely by the Applicant.

All fees shall be paid by check only, payable to the Town of West Brookfield. No review of any application will take place until all appropriate application/filing and review fees have been submitted as required. All fees must be satisfied in order for the Board to take affirmative action on any question before it.

2.2.2 Application/Filing Fee

A minimum fee is due with the filing of any plan.

- a. Approval Not Required Plans: fifty dollars (\$50) for each lot effected or new building lot created
- b. Preliminary Plans: two hundred dollars (\$200) plus fifty dollars (\$50) per lot, with a minimum fee of one thousand dollars (\$1,000).
- c. Definitive Plans

If a Preliminary Plan has been filed with the proper filing fee as required above, the fee shall be one thousand dollars (\$1000) plus two hundred dollars (\$200) per lot, but shall not be less than two thousand five hundred dollars (\$2,500).

If no Preliminary Plan has been filed, the fee shall be two thousand dollars (\$2,000) plus four hundred dollars (\$400) per lot.

2.2.3 Review Fees

2.2.3.1 Waivers

For each waiver requested at the time of application, or at any time during review of the application, a fee of five hundred dollars (\$500) shall be submitted for each waiver requested. Such fee shall be paid at the time such waiver is requested.

On requests for waivers made during a Preliminary Plan review where the Board declines to act, the waiver request(s) may be resubmitted during the Definitive Plan review stage. This waiver request fee will be used to support the processing and review of each request.

2.2.3.2 Consultant Review

2.2.3.2.1 Purpose

When reviewing, analyzing and processing an application for the subdivision of land, the Board may require the assistance of outside consultants according to the size, scale, complexity or potential impacts of a proposed project, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. The applicant shall be responsible for depositing with the Board an amount sufficient to cover the anticipated expenses for the Consultant Review. This fee is to be deposited into a special account as enabled by M.G.L. Chapter 44, §53G, referred to herein as the Consultant Review Account (CRF). The Board may engage engineers, planners, lawyers, designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws and regulations and with a professional engineering, legal and design practice. Review by the consultant(s) may include, but is not limited to technical review and analysis of the application, monitoring and periodic inspection of a project or site for compliance with the Board's decision and regulations, inspection of a project during construction or implementation and review of contracts such as homeowner and condominium agreements and affordable housing restrictions.

Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer, who shall establish a special CRF account for each project. Expenditures from this account may be made at the direction of the Board without further appropriation and shall be made only in connection with the review of a specific application or applications for which the review has been or will be collected from the applicant. Failure to pay the review fee within seven (7) days following notification by the Board shall be grounds for denial of the application.

2.2.3.2.2 Expenditure and Refunds

Review fees may only be spent for services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. The Board shall notify the applicant of all expenditures from this account. At the completion of the review or, in the case of an approved project, at the completion of the project to the satisfaction of the Board, any excess amount including interest shall be repaid to the applicant or successor in interest to the applicant. For the purpose of this regulation, any person or entity claiming to be a successor in interest to an applicant shall provide the Board with documentation establishing such succession in interest.

2.2.3.2.3 Appeal of Consultant Selection

An applicant may file an administrative appeal of the selection of the outside consultant with the Board of Selectmen. The applicant must file any such appeal within seven (7) days following his receipt of notification by the Board of the selection of the consultant. The grounds for such appeal shall be limited to claims that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of an educational degree in, or related to, the field at issue or three or more years of practice in the field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that the Board of Selectmen makes no decision within one month following the appeal, the selection made by the Board shall stand.

2.2.3.2.4 Deposit Amount

At the time of application, a deposit for outside consultant review fees shall be paid by the Applicant to the Town in such amount as is required by the Planning Board. Generally such initial deposit will be a minimum of two thousand five hundred dollars (\$2,500), but may be different depending on the size and/or nature of the proposal. Said deposit shall be replenished by the Applicant as required by the Planning Board before the amount of expenses equals in value the amount of the deposit.

2.2.4 Plan Revisions

Any increase in the number of proposed lots, or a significant change to the proposed roadway or infrastructure design, as determined by the Board, shall constitute a Plan Revision. The fee shall be five hundred dollars (\$500) plus one hundred fifty dollars (\$150) per lot for review of plan revisions.

If the Planning Board determines the proposed changes to constitute a significant alteration to the character or intent of the original subdivision the change shall be deemed a "Major Change". A major change shall give the Planning Board the option of rescinding the approval of the existing definitive plan, requiring that the applicant file a new definitive plan reflecting the proposed changes. The applicant shall retain the right to withdraw the request for change and construct the approved subdivision.

2.2.5 Inspection Fee Deposit

A minimum deposit in an amount equal to two dollars (\$2) per lineal foot of road shall be submitted to the Planning Board prior to any construction activity on the site. Such deposit shall be used by the Board to cover expenses incurred by the Town relating to the inspection of construction work, and other related activities within an approved subdivision. If during the course of construction of such subdivision, the Board finds that the deposit as prescribed above will not be adequate to cover expenses, the Board shall reserve the right to require such additional amount as the Board may deem necessary to cover such expenses. The Board shall notify the Developer or other authorized representative in writing that such additional amount is required. Said notice to be sent by certified mail. Any unexpended funds shall be returned to the Developer upon Planning Board determination that the project is complete.

2.3 Failure to Pay

2.3.1 Application Fees

In the event the application fees submitted are deemed to be insufficient as described by these Regulations, the application will be deemed incomplete and will not be scheduled for review by the Board.

2.3.2 Review Fees

In the event any review fees are deemed to be insufficient, either with regard to waivers requested or engineering reviews, the Applicant shall satisfy such within fourteen (14) days. In the event the Applicant fails to do so, the Board may cease all review and shall deny the application as presented.

2.3.3 Inspection Fees

In the event that the Developer does not pay inspection fees, as described in the Regulations, the Board may issue a cease and desist order to stop construction on the site. The Board will continue, however, to monitor the project for safety and environmental protection issues and the Applicant shall reimburse the Board for such costs incurred prior to any construction/progress inspections taking place.

2.4 Compliance with These Rules and Regulations and Waivers

All plans and all procedures relating to subdivisions and plans not requiring approval shall conform in all respects to the provisions of these Rules and Regulations unless otherwise authorized by the Planning Board in writing when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

2.5 Compliance with Zoning Bylaw

The Planning Board shall not approve or modify and approve any plan of a subdivision of land unless all lots shown on said plan comply with the Zoning Bylaw of the Town of West Brookfield or unless a variance from the terms thereof has been granted by the Board of Appeals, recorded in the Worcester District Registry of Deeds and is noted on the plan.

2.6 Issuance of Building Permits

The Building Inspector shall not issue any permit until first satisfied that, a) the lot on which the building is to be erected is not within a subdivision, or b) a way furnishing the access to the lot within a subdivision as required by the Subdivision Control Law is shown on a recorded plan and that any conditions endorsed thereon limiting the right to erect or maintain a building on such lot have been satisfied.

SECTION 3.0 PROCEDURE FOR THE SUBMITTAL AND APPROVAL OF PLANS

3.1 Approval Not Required Plans

3.1.1 Plan Submission

Any person who believes that his/her plan does not require approval under the Subdivision Control Law, may submit the mylar plan, three (3) contact prints thereof and one (1) properly executed Form A application accompanied by the required fee and evidence to show that the plan does in fact not require approval. Each application shall be submitted at a regular or special Planning Board meeting, with a letter, which shall correspond to the date of the meeting, fixes the start of the period of time during which the Board must act.

3.1.1.1 Filing

The submittal shall be filed with the Board during regularly scheduled office hours at least ten (10) full business days prior to the Board's regularly scheduled meeting at which endorsement is requested.

3.1.1.2 Town Clerk

Said person shall also file, by delivering in hand or by registered mail, a notice with the Town Clerk stating the date the ANR application was submitted to the Board accompanied by a copy of the plan and one (1) properly executed Form A application.

3.1.2 Plan Sheets

Said plan shall be legibly drawn in accordance with the Rules and Regulations of the Registry of Deeds, as amended, pertaining to plan size, material, lettering and related requirements including but not limited to all required seals and signatures. The size shall be twenty-four inches by thirty-six inches (24" x 36"). The scale shall be forty feet to the inch (1"=40'). A registered professional engineer (PE) or land surveyor registered in Massachusetts shall prepare the plan and their name and seal shall be visible on all plan sheets.

3.1.3 Contents

The plan shall contain the following:

- a. Identification of the plan by name of the owner of record and location of the land in question including deed, book and page reference, the Assessors' tax map and lot number, area, frontage in feet, the scale, north point and date.
- b. The statement, "Approval Under Subdivision Control Law Not Required" and sufficient space for the date and the signatures of all the members of the Board.
- c. A locus map at one thousand feet to the inch (1"=1,000') showing the boundaries of the abutting properties.
- d. Zoning classification and location of any zoning district boundaries that lie within the locus of the plan, including any zoning overlay districts, which include, but are not limited to, the Flood Plain District, Groundwater Protection District and Town Common Overlay District.
- e. Names of abutters from the most recent local tax list. If the Applicant has knowledge of any changes subsequent to the latest available Assessors' records, this information shall be indicated on the plan.
- f. Names and status (e.g., private or public, how developed and maintained, etc.) of streets and ways shown on the plan, if any.

- g. The names and addresses of the record owner of the land and Applicant and the name, seal and address of the engineer or surveyor who made the plan. This information shall appear in the lower right-hand corner of the plan.
- h. Bearings and distances of all lines of the lot or lots shown on the plan and the distance bearing to the nearest permanent monument.
- i. The location and footprint of any building currently occupying the site.
- j. The following statement: “The endorsement of this plan is not a certification that the lot or lots shown hereon comply with the terms of the Town of West Brookfield Zoning Bylaw.”
- k. The following statement, if the plan shows any parcel or parcels which are not intended as a building lot: “Not a building lot; no further building may occur without further approval by the Planning Board pursuant to the Subdivision Control Law.”

3.1.4 Board Action

- 3.1.4.1 The Board shall evaluate the ANR plan to determine if it shows a subdivision. The Board shall determine first, whether each and every lot shown on the plan has the minimum frontage required by the West Brookfield Zoning By-Law on a suitable way; and second whether vital, direct, practical and traversable access exists from an abutting way to the buildable portion of the lot(s).
- 3.1.4.2 The lot(s) shown on an ANR plan must have the minimum frontage required by the West Brookfield Zoning By-Law on one (1) of the following types of ways:
 - a. A public way; or
 - b. A way certified by the Town Clerk as being used and maintained as a public way in accordance with a vote by Town Meeting; or
 - c. A way shown on a previously approved Definitive Subdivision Plan where the way has been constructed in accordance with the conditions of the approved plan or acceptable security/performance guarantee has been provided to assure such construction; or
 - d. A way that was in existence on the ground and provided meaningful vehicular access prior to 1952 (when the Subdivision Control Law became effective in the Town of West Brookfield).
- 3.1.4.3 The Board shall also determine if the way presently has sufficient width, suitable grades, and adequate construction to provide for the practical needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby and to provide for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. To make such a determination, the Board shall consider the following minimum roadway standards, among others:
 - a. The roadway vertical alignment shall not exceed eight percent (8 %) and the horizontal and vertical alignment of the roadway shall provide a minimum two-hundred foot (200’) sight distance;
 - b. The traveled surface shall be at least eighteen feet (18’) wide and shall be adequate to provide access to each lot by fire-fighting equipment, police and other emergency vehicles.

Where the lot(s) shown on the ANR plan do not have the minimum frontage required by the West Brookfield Zoning By-Law on one of the above ways, the Board shall not consider the lot as having sufficient frontage to allow a division of land without approval under the Subdivision Control Law.

- 3.1.4.4 The Board shall determine whether vital, direct, practical and traversable access to municipal services exists from the abutting way to the buildable portion of a lot. The access shall be safe and convenient for travel. Where access is illusory due to the existence of steep grades or other physical barriers, constraints or impediments, the Board shall not consider the lot as having sufficient frontage to allow a division of land without approval under the Subdivision Control Law.
- 3.1.4.5 If the Board determines that the plan does not require approval, it shall without a public hearing and within twenty-one days of submission endorse on the plan the words "Approval under the Subdivision Control Law not required". Said plan shall be returned to the applicant.
- 3.1.4.6 If the Board determines that the plan does require approval under the Subdivision Control Law, it shall within twenty-one days of submission of said plan so inform the applicant and the Town Clerk of its determination and return the plan to the applicant.
- 3.1.4.7 If the Board fails to act upon the plan within the prescribed twenty one (21) days, it shall be determined that approval under the Subdivision Control Law is not required.
- 3.1.4.8 In determining whether a way has been used and maintained, as a public way, the Town Clerk shall submit to the Board written evidence of public maintenance under vote of the Town and of continued substantial use by the general public with permission of the landowners along the way, continuous for at least 20 years. Sporadic use, use by a few persons or use by agreement of the abutters shall not suffice.

3.1.5 Compliance With Zoning

An endorsement by the Board of a plan not requiring subdivision approval does not address, nor in any way imply that the lots shown thereon conform to the Zoning By-Law or any other local or state regulations. Any proposed parcel that does not conform to zoning shall be designated on the plan as "not a buildable lot."

3.1.6 Failure of the Board To Act

If the Board fails to act upon a properly submitted plan under this section and fails to notify the Town Clerk and the person submitting the plan of its action within twenty-one (21) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required, and the Board shall forthwith make such endorsement on said plan, and upon the failure of the Board to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

3.2 Preliminary Plan

3.2.1 General

A Preliminary Plan of a subdivision may be submitted by the applicant for discussion and approval by the Board. The submission of such a Preliminary Plan will enable the subdivider, the Board, other municipal agencies and owners of the property abutting the subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in every case. A preliminary plan is required for all non-residential subdivisions.

3.2.1.1 Pre-Submission Review (Sketch Plan)

Prior to investing in extensive professional design efforts for subdivision plans, it will often prove useful to review the proposed development of a parcel of land with the Board in an informal manner, in order that general approaches, possible use of cluster development, and potential problems can be freely explored. Pencil sketches and other illustrations, which need not be professionally prepared, will assist the discussion, and might show some, but not all, of the information shown on a Preliminary Plan. In some cases, pre-submission review may eliminate the advisability of submitting a Preliminary Plan. However, the pre-submission review provision is strictly a voluntary procedure left to the discretion of the applicant. The pre-submission review has no legal status whatsoever, insofar as zoning exemptions are concerned.

3.2.2 Plans

3.2.2.1 The Preliminary Plan and ten (10) copies thereof, together with the minimum filing and review fees, two (2) copies of a properly executed application and one (1) set of reproducible reductions of the Preliminary Plan, said reductions not to exceed eleven by seventeen inches (11" x 17") in outside dimensions, shall be filed with the Planning Board. At the same time a plan and application shall also be filed with the Board of Health.

3.2.2.2 After such submission, the Applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission of a Preliminary Plan to the Board for such approval accompanied by a copy of said application and describing the land to which the plan relates sufficient for identification. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefore.

3.2.3 Contents

3.2.3.1 The Preliminary Plan shall be drawn on tracing paper, polyester, or drafting film, at a suitable scale not less than 1"=200'. Said Preliminary Plan should show sufficient information about the subdivision to form a clear basis for discussion of its problems and for the preparation of the Definitive Plan.

3.2.3.2 Said plan will contain the following information:

- a. A Title Block, in the lower right hand corner, with Subdivision name, boundaries, north point, locus, date, scale, legend and title "Preliminary Plan". Name and address of the owner of record, subdivider, engineer and surveyor and dates of revisions.
- b. Sheet numbers will appear in the lower right corner of each page.
- c. Names of all abutters as they appear in the most recent tax list, existing and proposed lot numbers, existing and proposed street names and any existing or proposed easements.

- d. Existing and proposed lines of streets including approximate grade, radii of curves, ways, lots, easements and public and common areas within the subdivision in a general manner. A typical street cross section should be included.
- e. Proposed system of drainage, including the location of all swamp, marsh and lowland, water bodies, streams, open drains and ditches, natural or man-made, and flowage right, public and private, adjacent to or within the proposed subdivision, in a general manner. This should include any certified or potential vernal pools.
- f. The approximate boundary lines of proposed lots, with approximate areas and dimensions.
- g. The names, approximate locations and widths of adjacent streets.
- h. The topography of the land in a general manner (10 ft. contour interval) and proposed major topographic changes.
- i. Any and all easements and rights-of-way appurtenant to the land shall be shown by exact location on the plan.
- j. Zoning classifications of all land shown in the plan, including overlay zoning such as flood plain, groundwater protection or town common overlay districts.
- k. Major site features such as existing stone walls, fences, buildings, large trees, rock outcroppings and historical features.

3.2.4 Wetlands Boundary Determination

The Board strongly recommends the Applicant secure an Abbreviated Notice of Wetlands Area Delineation (ANRAD) from the West Brookfield Conservation Commission before preparing and submitting a Preliminary Subdivision Plan.

3.2.5 Procedure for Submission of a Preliminary Plan to the Board

- 3.2.5.1 The submittal shall be filed with the Board during regularly scheduled office hours or at a Planning Board meeting.
- 3.2.5.2 The Applicant shall file by delivery, in hand, or registered or certified mail, a notice with the Town Clerk stating the date the application was submitted to the Board accompanied by a copy of a properly executed application Form B and one (1) print of the Preliminary Subdivision Plan.
- 3.2.5.3 The Applicant shall also submit one (1) copy of the application Form B and one (1) print of the Preliminary Subdivision Plan to the West Brookfield Board of Health for its review.
- 3.2.5.4 Any plan determined by the Board or its Agent to not completely satisfy Subsection 3.2.3.2 within fourteen (14) days of the Applicant's written notice to the Town Clerk that such plan has been submitted to the Planning Board, will be deemed not to have been submitted. Such plan will be returned to the Applicant and a notice of the Board's determination sent to the Town Clerk. The Preliminary Subdivision Plan Filing Fee shall either be returned in part or retained to be applied to a resubmission at the Applicant's option. When brought into conformity with the requirements of Subsection 3.2.3.2 such plan may be re-submitted to the Board and will be considered without prejudice.

3.2.6 Plan Standards

A Preliminary Subdivision Plan shall be prepared by a Professional Engineer and Professional Land Surveyor duly registered in the Commonwealth of Massachusetts and shall be legibly drawn in accordance with the Rules and Regulations of the Registry of Deeds pertaining to plan size, material, lettering and related requirements.

3.2.7 Review by Other Town Officials

3.2.7.1 Upon receipt of an application, the Board shall transmit one (1) copy of the Preliminary Subdivision Plan to the Department of Public Works, Board of Health, Conservation Commission, Fire Department, Inspector of Buildings, Police Department, Water/Sewer Board and other town boards or agencies as the Board determines may be helpful in reviewing the application.

3.2.7.2 The Board may convene a meeting of various Town boards/departments/committees to assist in project review and to help applicants better understand the permitting procedures of other Town agencies.

3.2.8 Site Walk

At its discretion, the Planning Board may conduct a site walk to become more familiar with the land, its topography and site characteristics

3.2.9 Board Action

3.2.9.1 The Board may give such Preliminary Plan its approval, with or without modification. Such approval does not constitute approval of a subdivision but does facilitate the procedure in securing approval of the Definitive Plan.

3.2.9.2 The Board may also disapprove the plan. A detailed statement of reasons for the action will accompany disapproval.

3.2.9.3 The Board shall give notice of its action to the applicant and Town Clerk within 45 days of the date of submission. Failure to act within that time shall be considered as approval of the Preliminary Plan.

3.2.10 Relation of a Preliminary Plan to Definitive Plan

Approval of a Preliminary Plan does not constitute approval of a subdivision and a Preliminary Plan cannot be recorded in the Registry of Deeds. If a Definitive Plan is duly submitted within seven months from the date of approval of the Preliminary Plan, the subdivision rules and regulations in effect at the time of the submission of the approved Preliminary Plan shall govern the approval process of the Definitive Plan.

3.3 Definitive Plan

3.3.1 Submission of a Definitive Plan

3.3.1.1 Any person who submits a Definitive Subdivision Plan of Land for approval to the Planning Board shall in accordance with the Rules and Regulations file:

- a. A reproducible drawing of the Definitive Plan ten (10) contact prints thereof, dark line on white background, for distribution to the appropriate Departments (list to be acquired from the PB), together with one (1) set of reproducible reductions of said plans, the reductions not to

exceed eleven by seventeen inches (11" x 17") in outside dimensions. The reproducible drawings will be returned to the Applicant after approval or disapproval, which in the case of approval and following endorsement are to be recorded in the Worcester District Registry of Deeds.

- b. Properly executed forms including Application for Approval of a Definitive Plan; Engineer's Certificate, or Land Surveyor's Certificate; Certified List of Abutters; Verification of Proposed Street Names and Area Within a Subdivision. It shall be the applicant's responsibility to notify abutters pursuant to MGL 41 §81-T. This notification shall be made by way of USPS Certified Mail Return Receipt Requested. The return receipts shall be presented to the Planning Board prior to the opening of the first public hearing.
 - c. All fees as required in Section 2.2.2.
- 3.3.1.2 Upon submission of a Definitive Subdivision Plan the Planning Board will review the application for completeness. At this meeting, all plans and documents shall be reviewed for compliance with Sections 3.3.1 & 3.3.2. If the application is found to be complete, a public hearing shall be scheduled. The Board shall not accept any application that is found to be incomplete. The applicant will be notified that the application was not accepted and provided with a list of the information the application is lacking. Any unaccepted application may be refiled with no financial penalty within ninety (90) days. After this time, the Board shall consider the application a new filing.
- 3.3.1.3 When a Definitive Plan of a subdivision is filed with the Planning Board, a copy thereof shall be filed with the Board of Health or its officer having like power and duties. Such Health Board or Officer shall, within forty-five (45) days after the plan has been filed, report to the Planning Board in writing, approval or disapproval of said plan, and in the event of approval or disapproval, shall make specific findings as to which, if any, areas shown on such plan cannot be used for building sites, without injury to the public health, and include such specific findings and reasons therefore in such report, and where possible, shall make recommendations for the adjustment thereof. The Planning Board shall review this report and incorporate any recommendations, made by the Board of Health, into its final decision. Failure of such Board or Officers to report shall be deemed approval by such Board or Officers. Such Health Board or Officer shall send a copy of such report, if any, to the person who submitted said plan.
- 3.3.1.4 After the Board's acceptance of the plan, the Applicant shall forthwith file by delivery or registered mail a notice with the Town Clerk. This filing shall state the date of acceptance of the Definitive Plan by the Board and be accompanied by a copy of the application and description of the land to which the plan relates sufficient for identification. This filing shall serve to begin the countdown of the statutory time limits outlined in MGL 41 Section 81U. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefore.
- 3.3.1.5 After an application for a Definitive Subdivision Plan is submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation except for purposes of soil testing, no dredging or filling and no construction of buildings or structures shall be done on any part of the development site until the Definitive Subdivision Plan has been approved, endorsed and recorded at the Registry of Deeds.

3.3.2 Contents

- 3.3.2.1 The Definitive Plan shall be prepared by a Registered Professional Civil Engineer and Registered Professional Land Surveyor and shall be clearly and legibly printed in black permanent ink upon polyester drafting film or linen. The plan shall be at a scale of 1" = 40' or such other scale as the Board may accept to show details clearly and adequately. Sheet

sizes shall be 24" X 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision at a scale of 1" = 200'. The Definitive Plan shall contain the following information:

- a. A location plan of the subdivision at a scale of 200 ft. to the inch, (1"=200') showing the exterior lines of all proposed streets in the subdivision and their location in relation to one or more existing streets, or portions thereof, lots, easements, street names and lot numbers, drawn with ink on mylar. One plan to be submitted with the initial definitive plan and another showing the subdivision as finally approved by the Board.
- b. The plan will show the overall location of streets, lots, storm drains, water system, fire protection system, street lights and other underground utilities.
- c. A sketch plan showing a possible or prospective street layout for any adjacent un-subdivided land owned or controlled by the owner or applicant of the subdivision, unless such a plan has already been submitted to the Board.
- d. A complete set of Drainage Calculations, certified by the Registered Professional Engineer who prepared them.
- e. Applicant shall submit proof of ownership, right to purchase or purchase and sale agreement, including any deed restrictions and covenants.
- f. A Title Block, in the lower right hand corner, with Subdivision name, boundaries, north point, date, scale, names and addresses of owner of record and applicant, date, names, signatures and seals of the Engineer and Surveyor that prepared the plan and space for revision dates.
- g. Sheet numbers will appear in the lower right corner of all pages.
- h. Full names of all abutters as determined from the most recent tax list, including owners of land separated from the subdivision only by a street and zoning district boundaries, if any.
- i. Existing and proposed lines of streets, lots, rights-of-ways, easements and any public or common areas within the subdivision. The proposed names of proposed streets shall be shown in pencil until the Board has approved them. The Plan shall show the overall layout to include lots, streets, water systems, storm drainage and sanitary sewer systems, fire protection systems and all other underground utilities. Utility Drawings will also show the plan view directly above the profile view.
- j. Sufficient data including lengths, bearings, radii, curve lengths and central angles to determine the exact location, direction, and length of every street and way line, easement line, lot line and boundary line and to establish these lines on the ground.
- k. Location of all existing permanent monuments and bench marks. A minimum of three (3) permanent benchmarks shall be set. Elevations shall be National Geodetic Vertical Datum (NGVD) basis.
- l. Location, names and present widths of streets bounding, approaching, or within at least 800 feet of the perimeter of the subdivision on the 1" = 200' scale map.
- m. Boundary lines, areas in square feet and acres and dimensions of all proposed lots, parcels and roads, with all lots and parcels designated numerically and in sequence.

- n. Location of natural waterways, water bodies, as well as areas governed by the Wetlands Protection Act, within and adjacent to the subdivision.
- o. Suitable space to record the action of the Board and the signatures of the members of the Planning Board on each sheet of the Definitive Plan. Where the applicant elects to secure completion of required improvements by covenant (rather than bonds or surety), there shall be a notation above such space as follows:

Approved on _____, subject to covenant conditions set forth in a covenant executed by _____, dated _____, and to be (recorded) (registered) herewith, and subject to conditions listed within the plan.

- p. Existing and proposed topography of the entire subdivision at 2' contour interval extending at least 50' beyond the subdivision boundary. Actual pavement grades, accurate to 0.1 feet, within 100' of proposed street intersections shall be shown. All buildings and physical features of abutting property that are within 50' of the boundary shall be shown. Additional topographic data shall be required to identify potential off-site drainage problems related to the proposed development, if the Board determines it to be necessary.
The need for additional topographic data may be identified during the Preliminary Plan review process. The above data is to be derived from recent field surveys. Recent aerial mapping, augmented by field surveys, may be used provided that the accuracy of the data submitted for the contour interval stated above meets established standards for this method. All plans submitted showing topographic data shall bear a note indicating how the data was derived.
- q. Profiles on the centerlines and sidelines of proposed streets at a horizontal scale of one-inch equals forty feet (1"=40') and vertical scale of one inch equals four feet (1"=4'), or such other scale acceptable to the Board. Profiles shall show elevations of existing sills and of all existing structures, the location of existing and proposed storm drains, water mains, sewers and their appurtenances and the location of any intersecting public or private ways. Present and proposed elevations must be shown at least every 50', and must refer to NGVD level.
- r. All variances and waivers granted by the Board, shall be listed on the final plans.
- s. Tree Plan
Location and species of all proposed street trees and location of all existing trees with trunks over twelve inches (12") in diameter measured four feet (4') above the finished ground within the minimum front setback distance.
- t. Erosion Control Plan
An erosion control plan, indicating the erosion control measures to be employed, including a description of locations of temporary stockpiles, spoil areas, temporary drainage systems, slope stabilization techniques and sediment basins and a narrative description of how erosion from individual lots onto streets and into drainage systems is proposed to be controlled.
- u. All easements in draft form.
- v. Staking
At the time of filing of the Definitive Plan the Applicant shall stake the centerline of all proposed streets at a minimum of every one hundred feet (100') with the centerline stations and the cut or fill dimensions to finish grade marked on the stakes, and also the lot corners, with lot numbers. The Applicant, throughout the Definitive Plan review process, shall maintain such staking.

- w. The Board may request, at the expense of the applicant more detailed information in the form of specialized studies (i.e., geological, hydrological, soils, engineering, environmental etc.) and/or professional services, (i.e., professional engineer, landscape architect, lawyer, geologist, etc) to assist the Board in its review process in an effort to aid the Board render a more accurate and definitive decision regarding a prospective subdivision development.
- x. For all subdivisions of 20 or more lots and any the Board determines, may have major impacts, the Applicant shall submit an Impact Report that addresses the probable impact on Town facilities and services directly attributable to the uses proposed on the subdivision plan. The following items, at a minimum, shall be included:
 - (1) Traffic – average daily traffic generation (trips per day);
 - (2) Public school enrollment – total students at full development;
 - (3) Water usage – average daily and peak demand;
 - (4) Police and fire protection, including man hours and equipment;
 - (5) And street maintenance, including drainage and other improvements.
- y. This impact analysis shall consider all current and proposed subdivisions within the Town or as determined by the Board.
- z. Plans of perimeter and other drainage systems to be connected to a drainage structure to be accepted by the Town will be submitted for approval as soon as they are determined, and prior to lot releases.

3.3.3 Review by Other Town Officials.

- 3.3.3.1 The Board shall distribute copies of the proposed Definitive Subdivision Plan to Town officials/boards as follows:

Water/Sewer Department, Conservation Commission, Board of Selectmen, Public Works Department, Fire Department, Police Department, the Disability Commission, the Inspector of Buildings/Zoning Enforcement Officer, Police Department, Fire Department and other such departments, boards or committees as the Board determines to be appropriate. Before the Definitive Subdivision Plan is approved, the Board shall request written comments from the above officials with regard to the proposed improvements in the following respect:

- a. The Conservation Commission as to the potential involvement with MGL C. 131, §40, storm-water management policies, and the effects of the subdivision on streams, wildlife and similar considerations within the scope of the Conservation Commission. The Conservation Commission report will address whether the basic location of the proposed roadway layout can be built without being in violation of the Wetlands Protection Act and the Town of West Brookfield General Wetlands Protection By-Law.
- b. The Board of Selectmen and Department of Public Works as to the design of the street system, location of easements, monuments, street lights, drainage systems and curb cuts.
- c. The Fire Department as to street alignment, location of hydrants, installation of the alarm system and emergency access.

- d. The Police Department as to traffic control, street safety, both vehicular and pedestrian, safe stopping site distance, access for emergency vehicles and street light location.
- e. The Inspector of Buildings/Zoning Enforcement Officer as to general conformance with the Zoning By-Law and to general suitability of lots for building purposes including the independent roadway drainage system for perimeter drains.
- f. The Water/Sewer Department as to conformance with its regulations regarding the construction of water and sanitary sewer systems.
- g. The Disability Commission as to conformance with laws and regulations regarding handicap accessibility.

3.3.3.2 The Board may convene a meeting of various Town boards/ departments/committees to assist in project review and to help applicants better understand the permitting procedures of other Town agencies.

3.3.4 Site Walk

At its discretion, the Planning Board may conduct a site walk to become more familiar with the land, its topography and site characteristics.

3.3.5 Public Hearing

3.3.5.1 Before approval, modification and approval, or disapproval of the definitive plan is given, a public hearing shall be held by the Board, notice of the time and the place of which and of the subject matter, sufficient for identification, shall be given by the Board at the expense of the applicant by advertisement in a newspaper of general circulation of this region or the Town of West Brookfield, once in each of two successive weeks, the first publication being not less than fourteen days before the day of such hearing or if there is no such newspaper in the Town, then by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen days before the day of such hearing and by mailing a copy of such advertisement to the applicant and to all owners of land abutting upon the land included in such plan as appearing on the most recent tax list.

3.3.5.2 The Board shall arrange for the publication of the notices of the hearing. The applicant shall arrange transmission of the notices. At or before the time of the hearing, the applicant will file with the Clerk of the Board a list of the persons notified and their addresses, return postal receipts, and a copy of the published notice. The cost of the publication shall be borne by the applicant, who will be billed directly therefore by the newspaper. The applicant shall produce evidence at the hearing of the payment of said bill.

3.3.5.3 The public shall have an opportunity to be heard, in person, or by agent or attorney, or in writing, and various Town departments/boards/committees and outside consultants shall provide their review and comment. The Board may continue the public hearing as needed.

3.3.5.4 In the event a public hearing is continued either six (6) times or for more than six (6) months, the Applicant shall be responsible for the costs of re-notifying abutters and re-advertising the legal notice.

3.3.5.5 Before determining its action, the Board shall close the public hearing after all written and oral testimony is collected.

3.3.6 Approval Under MGL, Chapter 131, Section 40 Wetlands Protection Act

Any person submitting a subdivision for approval by the Board, which is subject to jurisdiction under MGL c.131 §40, shall file a Notice of Intent with the Conservation Commission.

3.3.7 Board Action Procedure

- 3.3.7.1 The procedure that the Board will follow with regard to approval, approval with modifications/conditions/waivers, or disapproval of the proposed Definitive Subdivision Plan submitted by the Applicant will be that as set forth in Chapter 41, Section 81-U, MGL, as amended.
- 3.3.7.2 During the course of review, the Applicant shall submit revised plans to the Board and the Town's Consulting Engineer at least two weeks prior to the next scheduled public hearing. Failure to do so shall result in public hearing continuation. Any plan revision shall be accompanied by a written summary describing the proposed changes.

3.3.8 Board Action Deadlines

- 3.3.8.1 The Board may approve, approve with modifications/ conditions/waivers; or disapprove a proposed Definitive Subdivision Plan pursuant to the deadlines as specified in MGL, C.41, §81-U.
- 3.3.8.2 Where a Preliminary Subdivision Plan has been duly submitted and acted upon or where forty-five (45) days has elapsed without action since submission of the Preliminary Subdivision Plan and a Definitive Subdivision Plan is duly submitted, the Board shall file its Certificate of Action with the Town Clerk within ninety (90) days. The Board shall send notice of its action by certified mail to the Applicant.
- 3.3.8.3 Where no Preliminary Subdivision Plan was duly submitted, or where forty five (45) days has not elapsed between submission of a Preliminary Subdivision Plan and submission of a Definitive Subdivision Plan, the Board shall file its Certificate of Action on the Definitive Subdivision Plan with the Town Clerk within one hundred thirty five (135) days of receipt of the Definitive Subdivision Plan application or extension of such time. The Board shall send notice of its action by certified mail to the Applicant.
- 3.3.8.4 The Applicant may request, in writing, an extension of the deadline by which the Board must file its Certificate of Action on a Definitive Subdivision Plan with the Town Clerk. Notice of the Board's acceptance of the Applicant's request for a deadline extension shall be filed by the Board with the Town Clerk.

3.3.9 Board Considerations

- 3.3.9.1 When all issues raised by the Board, various Town boards and departments, abutters, and the Board's consultants have been resolved to the satisfaction of the Board, the Board will act on the plan. In making its decision, the Board shall consider the information as presented in the application and all revisions thereto, reports of outside consultants, Town boards, commissions and departments, the testimony presented at the public hearing, and any additional information available to the Board, submitted to the Board by any person, official or agency, or acquired by the Board on its own initiative or research during the public hearing process.

3.3.10 Criteria for Action By the Board

The Board, in considering any proposed Definitive Subdivision Plan, shall be concerned with the best use of the land being subdivided and the Master Plan of the Town of West Brookfield. Proposed subdivisions shall adhere to principles of correct land use, sound planning, and good engineering. The Board shall evaluate the proposed subdivision according to the following criteria before taking action on the Definitive Subdivision Plan.

3.3.11 Conditions

- 3.3.11.1 The Board may, as a condition of granting approval under MGL, C. 41, § 81-U, impose reasonable requirements, conditions, safeguards and limitations designed to promote the health, convenience, safety, and general welfare of the community and to benefit the Town.
- 3.3.11.2 The Board may determine that the Applicant shall be responsible for the construction or funding of public improvements that are directly related to the impact of the subdivision on the community and in the surrounding area. Such public improvements may include but are not limited to the construction of intersection improvements, sidewalks, drainage improvements, and replacement of street trees. Conditions may include provisions for the construction of such public improvements to be phased over time and milestone performance dates to be established.
- 3.3.11.3 As a permanent condition of approval, the Board shall indicate that the approved subdivision is limited to a specified number of lots as depicted on the Definitive Subdivision Plan. The Board shall require that no further subdivision of the land and/or the creation of additional lots within the subdivision will be allowed without a formal modification to the Definitive Subdivision Plan. Minor lot line changes shall also require approval of the Board.
- 3.3.11.4 The Board shall include all such conditions in its Certificate of Action and shall endorse such conditions on the Definitive Subdivision Plan to which they relate, or set forth a separate instrument attached thereto, to which reference is made on such plan and which shall for the purpose of the Subdivision Control Law, be deemed to be a part of the Definitive Subdivision Plan.

3.3.12 Performance Guarantee

Before endorsement of its approval of a plan, the Planning Board shall require that the construction of ways and installation of municipal services to be secured by one or in part by one and in part by the other, of the following methods which may from time to time be varied by the applicant:

- a. By a proper bond, sufficient in the opinion of the Planning Board to secure performance of the construction of ways and the installation of municipal services required for all lots in the subdivision shown on the plan. Such Bond shall be approved as to form and the manner of execution by Town Counsel and shall be contingent on the completion of such improvements within such time, as the Board shall determine.
- b. By a deposit of money or negotiable securities, sufficient in the opinion of the Planning Board to secure performance of the construction of ways and the installation of municipal services required for all lots in the subdivision shown on the plan. Such security shall be approved as to form and manner of execution by Town Counsel and shall be contingent on the completion of such improvements within such time as the Board shall determine.
- c. By a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed; provided, that a mortgagee who

acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any such lot, subject to that portion of the covenant which provides that no lot shall be built upon until such ways and services have been provided to serve such lot; and provided further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board. A deed of any part of the subdivision in violation hereof shall be voided by the grantee prior to the release of the covenant but not later than three years from the date of such deed.

- d. By delivery to the Planning Board of an agreement, in a form acceptable by the Town, executed after the recording of the first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made to the applicant by the lender, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of funds sufficient in the opinion of the Planning Board and otherwise due the applicant, to secure the construction of ways and the installation of municipal services. Said agreement shall also provide for a schedule of disbursements which may be made to the applicant, upon written approval of the Planning Board or its assigned agent and upon completion of various stages of work, and shall further provide that in the event work is not completed within the time set forth by the applicant, any funds remaining un-disbursed shall be available for completion.

3.3.13 Reduction of Bond or Surety

The penal sum of any such bond, or the amount of any deposit held under 3.3.12 above, may from time to time, be reduced by the Board and the obligations of the parties thereto released by the Board in whole or in part. If release is by reason of covenant, a new plan of the portion to be subject to the covenant may be required. The Town shall retain twenty (20) percent contingency until the ways are completed in accordance with the approved plan or are accepted by Town Meeting as public ways.

3.3.14 Release of Performance Guarantee

Upon the completion of improvements required under Section 5, security for the performance of which was given by bond, deposit or lender agreement, or upon the performance of any covenant with respect to any lot, the applicant shall send by registered mail to the Town Clerk and to the Board a statement in duplicate that the said construction or installation in connection with which such bond, deposit or covenant has been given, has been completed in accordance with the approved plan, such statement to contain the address of the applicant. If the Board determines that said construction or installation has not been completed, it shall specify to the applicant by registered mail and to the Town Clerk the details wherein said construction and installation fails to comply with the approved plan. Upon failure of the Board to act on such application within 45 days after the receipt of the application by the Town Clerk, all obligations under the bond shall be cease, any deposit shall be returned and any such covenant shall become void. In the event that said 45 day period expires without such specification, or without the release and return of the bond or return of the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

3.3.15 Evidence of Satisfactory Performance

Before the Board will release the interest of the Town in a performance bond or deposit or, in the case of approval with covenant, issue a release of covenant:

- a. The applicant shall file with the Board an As-built Plan for each street in the subdivision, along with a statement by the engineer and surveyor employed by the applicant at his own expense, indicating that all streets, sidewalks, sewers, storm

drains, and water mains, and their appurtenances have been constructed in accordance with the lines and grades of said plan and are accurately located as shown thereon in accordance with Section 5.1.7. "As Built Plans".

- b. The Board shall obtain in writing from the Board's designated Construction Inspection Agent a statement that all work required by these Rules and Regulations has been inspected by him and completed in each street in the subdivision (or the street or streets serving the lots in question), including storm drains, bridges, and sidewalks and that he has approved the methods of construction and materials used in the performance of such work.
- c. If applicable, the Board shall obtain in writing from the Water Commissioners and, a statement that they have inspected and the applicant has completed each water main and all appurtenances in accordance with the requirements of these Rules and Regulations and they have approved the methods of construction and materials used in the performance of such work.
- d. The applicant shall execute an instrument, in a form approved by the Board, transferring to the Town or to an approved public utility company without cost, valid unencumbered title to all water mains and appurtenances thereto, constructed and installed in the subdivision or approved portion thereof, and to the Town or to an approved district or public utility company without cost and free of liens and encumbrances, perpetual rights and easements to construct, inspect, repair, renew, replace, operate and forever maintain water mains, with any easements and rights-of-way, manholes, pipes, conduits and other appurtenances, and to do all acts incidental thereto, in, through, and under the whole of all streets in the subdivisions or approved portion thereof, and if any such sewers or water mains have been constructed in, through, and under a strip of land extending 10 ft. in width on each side of the centerline of all such water mains.
- e. Approval by the Highway Superintendent or his/her designated representative of off-site storm drainage for connection to the nearest public storm drains (if required).

3.3.16 Failure of Performance

Any such bond may be endorsed and any such deposit may be applied by the Board for the benefit of the Town, as provided in M.G.L., Ch. 41 § 81U & 81Y upon failure of the performance for which any such bond or deposit was given to the extent of the reasonable cost to the Town of completing such construction and installation.

3.3.17 Certificate of Action

- 3.3.17.1 After the public hearing and after the report of the Board of Health, the Board shall approve, or, if such plan does not comply with the subdivision control law or the rules and regulations of the Board or the recommendations of the Board of Health, shall modify and approve or shall disapprove such plan, shall file a certificate of its action with the Town Clerk, a copy of which shall be recorded by the Town Clerk in a book kept for that purpose, and shall send notice of its action by registered mail, postage prepaid, to the subdivider at his address stated on the application.
- 3.3.17.2 Failure of the Board to take final action regarding the plan submitted by the subdivider within 90 days after such submission, or such further time as may be agreed upon at the written request of the subdivider, shall be deemed to be an approval thereof. Notices of such extension of time shall be filed forthwith by the Board with the Town Clerk, in accordance with M.G.L., Ch. 41 § 81U.

3.3.17.3 The action of the Board with respect to such a plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for such action. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signature of a majority of the Board (or by the signature of a person officially authorized by the Board) but not until the statutory 20-day appeal period has elapsed following the filing of the certificate of the action with the Town Clerk and said clerk has notified the Board that no appeal has been filed. No plan shall be endorsed until the Planning Board is in receipt of the surety required under Section 3.3.12 of these Rules and regulations. After the Definitive Plan has been approved, the applicant shall furnish the Board with ten revisions, for the Board to endorse. Final approval of the Definitive Plan does not constitute the laying out of or acceptance by the Town of the streets within the subdivision.

3.3.18 Recording of a Definitive Plan

3.3.18.1 Within 10 days after endorsement of the definitive plan, the property line plan, as approved and endorsed, shall be recorded at the Worcester District Registry of Deeds or, in the case of Registered Land, with the Recorder of the Land Court. The applicant shall notify the Planning Board in writing of the date of such recording with the plan book and plan reference.

3.3.18.2 Within fourteen (14) days after recording, the applicant shall file six copies of the complete approved Definitive Plan with the Board. The Board will distribute one to the Town Clerk, Board of Assessors, Building Inspector, Planning Board, Highway Department and Zoning Enforcement Officer. In accordance with the statute, where approval with covenant is noted thereon, the Building Commissioner shall issue no permit for the construction of a building on any lot within the subdivision except upon release of the lot in question by the Board.

SECTION 4.0 – DESIGN REQUIREMENTS

4.1 General Subdivision Design

4.1.1 All subdivisions shall be designed and constructed to reduce, to the extent possible:

- a) The net volume of cut and/or fill entering or leaving the site;
- b) Area over which existing vegetation will be disturbed, especially if within one hundred feet (100') of a river, pond, or stream, or having a slope of more than fifteen percent (15%);
- c) Number of mature trees removed, especially isolated trees over twelve inches (12”) in diameter;
- d) Extent of waterways altered, relocated or negatively impacted;
- e) Visual prominence of man-made structures or uses not necessary for safety or orientation;
- f) Soil erosion and stream siltation;
- g) Flood damage;
- h) Number of driveways exiting onto existing streets;
- i) Disturbance of important wildlife habitats, outstanding botanical features, and scenic or historic environs;
- j) Removal of existing stonewalls.

4.1.2 All subdivisions shall be designed and constructed to increase, to the extent possible:

- a) Visual prominence of natural features of the landscape;
- b) Legal and physical protection of views from public ways;
- c) Street layout facilitating solar orientation of houses;
- d) Use of curvilinear street patterns.

4.2 Streets

4.2.1 Dwelling Unit Access

4.2.1.1 Whenever possible, new lots should have driveways providing access to streets that will carry less traffic.

4.2.1.2 Access Through Another Municipality: In case access to a subdivision crosses land in another municipality, the Board may require that the applicant provide certification from appropriate officials of the abutting municipality that the way in question is approved in accordance with the subdivision rules and regulations of that municipality, that the security for construction in that municipality is adequate, and that the way provides adequate access for police, fire, and emergency vehicles as well as the expected traffic generated by the subdivision.

4.2.2 Location

4.2.2.1 General

- a) All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular and pedestrian travel and an attractive street pattern through curvilinear street layout whenever possible, and they will obtain the maximum safety and amenity for the subdivision of the land proposed for development.
- b) The proposed streets in the subdivision shall be so designed as to minimize cut and fill. Cuts or fills greater than four feet (4') are considered significant. Additional design and/or construction provisions may be required by the Board for significant cuts or fills.

- c) The proposed streets and sidewalks shall conform in location to any existing approved plans, proposed plans under review by the Board, and the Community Development Plan as adopted in whole or in part by the Planning Board, and, where required by the Board, to the existing, proposed and anticipated street system improvements.
- d) Provision satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property, whether or not subdivided. Such provision shall not be used to provide minimum area for any lot being subdivided.
- e) Reserve strips prohibiting access to streets or adjoining property shall not be permitted except where specifically directly by the Board. Such strips shall be in the public interest.

Table 1 lists the minimum standards for various design elements to which all subdivision streets must conform.

TABLE 1
STREET DESIGN STANDARDS

1.	Design Speed (mph)	30
2.	Minimum Right-of-Way (1)	50'
3.	Paved Width	26'
4.	Sidewalks, if required (3)(with curbs)	Two-Sides-5'
5.	Turf Area	Two 7'
7.	Minimum Centerline Grade	1%
8.	Maximum Grade (2)	8%
9.	Maximum Grade Within 100' of Intersection	3%
10.	Minimum Centerline Radius	150'
11.	Curb Radius at Intersection	30'
12.	Stopping Sight Distance	200'
13.	Clear Sight Distance at Intersections (4)	200'

Footnotes

- (1) Under certain circumstances, the Board may require an increase in right-of-way width by up to ten (10) feet to accommodate walkway construction and preserve natural features.
- (2) The Board may grant a waiver to allow steeper grades where due to severe topography; such grades are necessary to minimize cuts and fills. Waivers may not allow the grades shown above to be exceeded by more than two (2) percent.
- (3) Sidewalks shall be required to be constructed on both sides of the street. Curb ramps for handicapped accessibility shall be installed where curbs are provided to allow for the continuous movement of persons in wheelchairs throughout the subdivision and to sidewalks on adjacent streets.

- (4) At street intersections, a clear sight triangle should be designed to provide the driver of the entering vehicle with an unobstructed view to all points 4.5' above the roadway centerline in either direction.

4.2.3 Access from Public Ways

- 4.2.3.1 Where the street system within the proposed subdivision does not intersect with or have, in the opinion of the Planning Board, adequate access from an existing public way that has sufficient width, suitable grades and adequate construction, the Board shall require, as a condition of approval, that such adequate access be provided by the Applicant, and/or that the Applicant make physical improvements to and within such existing or proposed way of access in accord with the design and construction requirements of these Rules and Regulations, from an appropriate street within a subdivision to the nearest public way most suitable in terms of width, grade and construction.
- 4.2.3.2 Where the physical condition or width of a public way from which a subdivision has its access is considered by the Board to be inadequate to carry the traffic expected to be generated by such subdivision, the Board may require the subdivider to dedicate a strip of land along its frontage for the purpose of widening the abutting public way to a width at least commensurate with that required within the subdivision, and to make physical improvements to and within such public way to the same standards required within the subdivision. Such strip shall not be used in the calculation of lot area and yard setbacks. Any such dedication of land for purpose of way and any such work performed within such public way shall be made only with permission of the governmental agency having jurisdiction over such way, and all costs of any such widening or construction shall be borne by the subdivider.

4.2.4 Alignment

- 4.2.4.1 Intersections shall not be disjointed or separated.
- 4.2.4.2 The minimum centerline radii of curved streets shall be one hundred fifty feet (150'). Greater radii may be required at the discretion of the Planning Board.
- 4.2.4.3 Angle of Intersecting Streets
 - a) Intersections shall be laid out as nearly as possible at right angles, but in no case shall streets intersect at less than 60 degrees from the tangent. Intersection angles less than 75 degrees are approvable on a case-by-case basis.
 - b) When the intersection of two (2) streets varies more than ten (10) degrees from a right angle, the radius of the curb line curve at the obtuse angle may be less than thirty feet (30') and of the acute angle may be greater than thirty feet (30') to the extent approved or required by the Planning Board.
- 4.2.4.4 Property lines at street intersections shall be rounded or cut back to provide for the edge of pavement curb radius of not less than thirty feet (30'), the shoulder and sidewalk all within the right-of-way.
- 4.2.4.5 Streets shall be laid out so as to intersect with adjacent streets or adjacent unsubdivided land at intervals of from six hundred feet (600') to twelve hundred feet (1200'). In special instances the Planning Board may approve a right-of-way for a future street to remain in fee ownership of the applicant, in lieu of actual construction of a cross street.
- 4.2.4.6 Roadway centerlines shall be parallel with the sidelines of the roadway right-of-way. The distance between edge of pavement and edge of right-of-way shall remain constant.

4.2.5 Width

4.2.5.1 Right-of-Way Width

- a) The minimum width of right-of-way shall be fifty (50) feet
- b) Where the only access is to lots fronting on a dead-end street with a length in excess of five hundred feet (500'), or where in the opinion of the Board it is appropriate, the Board may require a greater right-of-way than that specified above and/or may require a divided roadway.

4.2.5.2 The minimum pavement width shall be twenty-six feet (26')

4.2.5.3 The edge of right-of-way, between the pavement and the right-of-way lines, shall be graded such that surface runoff entering and exiting the right-of-way is minimized.

4.2.6 Grade

4.2.6.1 The minimum centerline grade for any street shall be not less than one percent (1.0%).

4.2.6.2 The maximum centerline grade for streets shall be ten percent (10%).

4.2.6.3 Vertical Curves. Where changes in grade exceed one-half of one percent (0.5%), vertical curves will be provided. The minimum length (k value) of vertical curves shall be designed in accordance with the following:

$L = K (G1 - G2)$	G = Grade in percent	L = Length in feet
	Crests	Sags
The values for K:	50	50

Vertical curves will not be included within any required leveling area.

4.2.6.4 Cross Pitch. Roadways shall have a cross slope of two percent (2%) or one-quarter inch (1/4) per foot.

4.2.6.5 Super elevation. Where curves and grades combine to create potentially dangerous driving conditions, the Board may require a suitable amount of super elevation of the curves or other protection.

4.2.6.6 Leveling Areas. Subdivision streets shall have a leveling area that extends at least one hundred feet (100') from the intersection of street right-of-way sidelines, with a maximum road grade of three percent (3%).

4.2.7 Dead End Streets

4.2.7.1 The length of dead end streets shall be measured from the right-of-way line of the intersecting street to the center of the turnaround.

4.2.7.2 A dead-end street shall not serve nor provide access to more than ten (10) lots nor have a length greater than five hundred (500) feet.

- 4.2.7.3 The plans shall show a roadway easement from the end of the dead end street to adjacent property. If the adjacent property is divided, the easement should align and connect to its corresponding easement. Such easement shall be demonstrated to be reasonably developable in accordance with these regulations through the provision of a plan and profile for the easement corridor.
- 4.2.7.4 If a dead end street is subsequently extended beyond the required turn-around, any easement other than land required for the extension of the roadway shall be relinquished to the adjacent properties. Until such extension is constructed, no land lying in the easement may be used in determining the area or frontage of any lot to determine conformity with the minimum requirements under the Zoning Bylaw of the Town. In addition, no land lying in the easement may contain permanent structures that would prevent use of such land in the future for right-of-way purposes. Upon such extension, all excess pavement in the turn-around shall be removed and the land brought into conformance with these regulations.
- 4.2.7.5 Dead end streets shall be provided at the closed end with a paved turnaround having an outside diameter of one hundred feet (100') unless the Board requires a greater diameter. The turn-around or stub shall be located at the property line.

4.2.8 Street Names

The applicant shall submit three proposed street names in order of preference for each street in the subdivision. The Board of Selectmen, Police Department and Fire Department shall approve street names and walkway names.

4.2.9 Streets in More Than One Town

If a subdivision is divided by a Town boundary, the Planning Board shall condition approval of the Definitive Plan on approval of the remaining portion of the plan by the Planning Board of the City or Town in which it is located.

4.3 Curbs and Berms

4.3.1 Granite Curb Inlet

A granite curb inlet of the dimensions given for granite curb inlet (Section M.9.04.5) shall be placed at each catch basin. Each such granite curb shall be six feet (6') in length, from seventeen to nineteen inches (17"-19") in depth and six inches (6") wide at the top and bottom. The granite curb inlet shall be transitioned at each end where necessary to the adjoining bituminous curb by the use of a granite vertical to sloped transition piece.

4.3.1 Curbing

The edges of all streets shall be provided with a vertical granite curb along both edges of the roadway for the full length of the street. The curbing shall be from seventeen to nineteen inches (17"-19") in depth and six inches (6") wide at the top and bottom and shall be installed to have a six (6) inch surface revealed.

4.4 Curb Cuts And Driveway Openings

- 4.4.1 Driveways in subdivisions containing one (1) family dwellings shall be at least twelve feet (12') wide, have a curb return at the roadway of two feet (2') in radius and shall have an opening of at least sixteen feet (16') at the gutter line.

- 4.4.2 Driveways for all non-residential uses shall be at least sixteen feet (16') wide, have a curb return at the roadway of two feet (2') in radius and shall have an opening of at least twenty feet (20') at the gutter line.
- 4.4.3 There shall be at least fifty feet (50') between the side right-of-way lines of intersecting ways (as measured from the outer edge of the radius) and a driveway as measured along the frontage.
- 4.4.4 Driveway openings shall not be located at catch basins, granite curb inlets, or granite transition pieces.
- 4.4.5 Driveways and other curb cut openings shall be designed so that surface runoff can neither enter nor leave the road right-of-way.

4.5 Open Space (MGL c. 41 § 81-U)

- 4.5.1 Before approval of a plan, the Board may also require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air, pursuant to MGL c. 41 §81-U. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. The total amount of the park area shall be approximately eight percent (8%) of the gross area of the subdivision. The Board may, by appropriate endorsement of the plan, require that no building be erected upon such park or parks without its approval for a period of three (3) years.
- 4.5.2 Each area reserved for such purpose shall be of suitable area, dimensions and topography for use as a natural playground. The area or areas shall be so located as to serve adequately all parts of the subdivision as approved by the Board.
- 4.5.3 The Board may require that the area or areas reserved shall be located and laid out so as to be used in conjunction with public and semi-public open spaces or with similar areas of adjoining subdivisions or of probable subdivisions. Any land so reserved shall be graded to dispose properly of surface water and shall be left in condition for the purpose intended, as required by the Board.
- 4.5.4 The Town shall have the right to acquire ownership of same as provided in MGL c.41 §81-Q.
 - a. Any applicant with a Definitive Plan on which open space areas are to be transferred to the Town shall provide the Town with clear title to such land, in the form of a quitclaim deed and a title certificate. The deed and title to such land shall be given to the Town upon approval of the Definitive Plan by the Planning Board.
 - b. In areas designated as open space on a Definitive Plan, if such areas have been environmentally damaged prior to the completion of the development as a result of soil removal, harvesting of trees or other natural features, refuse disposal or any other activity deemed inappropriate with proposed uses of the open space, the Developer shall restore or improve the condition and appearance of the open space area. The Planning Board shall require the posting of a bond or other appropriate form of performance guarantee to ensure such restoration or improvement.

4.6 Protection of Natural Features

- 4.6.1 Due regard shall be shown for all natural features, such as trees, wooded areas, water courses, scenic points, historic spots and similar community assets, which, if preserved, will add attractiveness and value to the subdivision.

- 4.6.2 Tree wells or retaining walls should be installed when and as requested by the Highway Superintendent or his/her designee for suitable grading around trees. Tree wells or retaining walls shall be of such design as to meet the standards as set forth in Urban Trees: A Guide for Selection, Maintenance and Master Planning by Leonard E. Phillips, Jr. (McGraw-Hill) or some similar publication acceptable to the Board.

4.7 Lot Drainage

Lots shall be prepared and graded in such a manner that development of one lot shall not cause detrimental drainage on another lot (either within or outside the subdivision) or onto streets either during construction or upon completion. Any necessary drainage easements shall be a minimum width of twenty-five feet (25').

4.8 Utilities

4.8.1 General

- 4.8.1.1 All required utilities exclusive of transformers shall be placed underground at the time of initial construction in accordance with Schedule A. Required utilities include water, storm drainage, telephone, electricity, wiring for street lights, fire alarm systems and cable TV unless otherwise specified by the Board.
- 4.8.1.2 Where adjacent property is not subdivided, or where all the property of the Applicant is not being subdivided at the same time, provision shall be made for the extension of the utility system by continuing the mains the full length of streets and to the exterior limits of the subdivision at such grade and size which will, in the opinion of the Board, permit their proper extension at a later date in conformance with all regulations governing the design and installation of such utility.
- 4.8.1.3 Location and Placement (MHD Section 201, 220, 230). All drain, water pipes, telephone, electricity, fire alarm systems, cable TV and other underground utilities and other structures shall be installed to the property line of each lot in such a manner that future connection will not disturb the sidewalk, grass plot, or street trees. The locations and depths of the proposed utility lines shall be based on the respective requirements of utility companies or Town departments and shall be installed as shown on the plans and profiles approved by the Board.
- 4.8.1.4 Connections for drain, water, electric, cable TV, telephone and other underground utility service from the primary utility structure in the way to the exterior line of the way shall be constructed for each lot whether or not there is a building thereon, except that the Board may waive such requirement, in whole, or in part, in the case of a lot to be permanently used for a park, playground or for any other purpose for which, in the opinion of the Board, such connections will not be required.

4.8.2 Water

- 4.8.2.1 If a public water system is located within three thousand feet (3,000') of the subdivision, as measured along public ways from the end of an existing water line to the proposed subdivision entrance, or other cases where the Board deems it appropriate, all lots shall be connected to the public water system by the Developer unless the Water Department specifies otherwise. Design and installation of water systems shall be in conformance with the rules and regulations of the Water Department and paid for by the Developer.
- 4.8.2.2 If not within three thousand feet (3,000'), every structure shall be connected to a source approved by the Board of Health and the Fire Department.

- 4.8.2.3 If development occurs within the Water District, where private wells are used, water mains as described in this Section shall also be installed (a dry system).

4.8.3 Electricity

Electric utility conduits, wires, transformers, and other such equipment shall be located and installed in accordance with the requirements of the local utility company. The Board may permit transformers, switches, and other such equipment to be placed on the ground in approved locations.

4.8.4 Lighting

Street lighting shall be located in accordance with all requirements of the local utility company and as required by the Planning Board.

4.8.5 Fire Hydrants

- 4.8.5.1 Hydrants shall be provided every five hundred running feet (500') or portion thereof on one (1) side of each street.
- a. A hydrant shall in all cases be installed at the terminal end of each water main.
 - b. A hydrant shall be located on each new main within five hundred feet (500') of the nearest supply main or, if no hydrants exist, within two hundred feet (200') of the connecting point and, where practical, at all road intersections.
- 4.8.5.2 Each hydrant shall be served directly from the water main by a lateral connection with not less than a six inch (6") inside diameter.
- 4.8.5.3 Hydrant type, size and make, direction and pitch of threads shall be approved by the Fire Department.
- 4.8.5.4 When hydrants are connected to a dry system, they shall be painted black and suitably identified as not in use.

4.8.6 Stormwater Management

- 4.8.6.1 Stormwater drainage systems shall be designed using best management practices (BMPs) as found in the most recent version of DEP's Non-Point Source Management Manual ("the Mega-Manual"). Stormwater BMPs shall be designed in a manner to contain soil erosion on site, to prevent non-point source pollutants from entering streams, lakes and ponds, and to minimize the need for maintenance. The development shall conform to the Stormwater Management Standards of the Department of Environmental Protection (DEP).
- 4.8.6.2 Storm drains, culverts, ditches and related installations, including catch basins, gutters and manholes shall be installed as needed, in the opinion of the Board, to provide adequate routing of surface and subsurface water, including control of erosion, subsurface water, flooding, and standing water from or in the subdivision and adjacent land. The drainage system shall be designed by methods based on the report of the United States Natural Resources Conservation Service, Urban Hydrology For Small Watersheds, Technical Release Number 55. The designer shall review the Northeast Regional Climate Center Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada, Publication RR 93-5 and use its data where TR 55 is exceeded. The Board may require a more intense design storm frequency to be used in any situation which in its judgment requires that a greater degree of protection should be afforded to public or private property.

- 4.8.6.3 Systems for infiltration, detention or attenuation of storms shall be analyzed for the one hundred (100) year frequency storm. Drainage outfalls shall not cause water to be discharged within ten feet (10') of the perimeter of the subdivision. Catch basins, manholes, and piping shall be designed for a twenty-five (25) year frequency storm at a minimum. Roadway culverts shall be designed for a fifty (50) year frequency storm at a minimum. The use of retention basins shall be discouraged.
- 4.8.6.4 A system of catch basins, curb inlets and manholes shall be designed to maintain the drainage area free of temporarily ponded runoff and to avoid excessive accumulations of surface flow on or adjacent to public ways or off existing ways onto the proposed way. Catch basins shall not flow into other catch basins. In no instance shall catch basins be located within a driveway cut. Catch basins and manholes shall be spaced not over three hundred feet (300') apart. Manholes shall be provided at all changes in alignment or grade.
- 4.8.6.5 Proper connections shall be made with any existing drains in adjacent streets or easements. Where property adjacent to the subdivision has not been subdivided, drains installed within the subdivision shall be of such design as to make feasible their connection with drains installed in such adjacent property when subdivided.
- 4.8.6.6 Drainage Layer. Any road constructed in an area known to be wet, or where groundwater is or has been within two feet (2') of finish grade, or in an area with four feet (4') or greater cut depth, or any area where the Planning Board determines it to be appropriate, shall have a drainage layer below the gravel subbase in accordance with Section 5 of these Regulations.
- 4.8.6.7 Subdrains. Where drainage layer is required, or at any location where a groundwater condition may exist, subdrains shall be installed in accordance with Section 5 of these Regulations.
- 4.8.6.8 Groundwater shall be located by the determination of a soil profile in accordance with the criteria set forth in 310 CMR 15.103 at locations not to exceed two hundred feet (200') apart along the proposed roadway and at each drainage basin.

4.9 Detention and Retention Basins

4.9.1 Detention/retention basins should be designed and constructed so as to:

- a. Obtain maximum storage benefit from the terrain with a minimum of earthwork;
- b. Provide ease of access by the Town;
- c. Provide ease of maintenance by the Town; and
- d. Minimize visual impact to existing and future abutters.

4.9.2 Design Standards

- 4.9.2.1 Construction of a detention/retention basin in a subdivision shall precede all other construction activities except for the clearing activities, which are necessary for access to the basin site.
- 4.9.2.2 Where the detention/retention basin has been used to control sedimentation and erosion from the site during construction of the subdivision, the subdivider shall completely remove any temporary erosion control fabrics or hay, clean the outlet pipe and spillway, and remove all sediment and debris within the basin. The subdivider shall re-vegetate the basin upon the completion of the subdivision.
- 4.9.2.3 Maximum side slopes shall be 3:1 outside of the basin and 2:1 inside the basin.

- 4.9.2.4 Detention facilities shall be designed and constructed so that there is not a permanent pool of water.
- 4.9.2.5 A four-foot (4') high fence with gate is required around the detention/retention basin. The fence may be chain link or wooden with metal posts. For maintenance purposes, there shall be reasonable access to the basin from a public way. Proper drainage easements shall be provided.
- 4.9.2.6 Definitive plans shall provide for easements in the Town's behalf to allow access for maintenance of the facilities. See section 4.12.

4.9.3 Bonding

The construction of the detention/retention basin shall be included in calculating the amount of any performance bond for the subdivision. The amount of the basin maintenance fee described in the following section shall be included in the performance bond until such time as the fee has been paid.

4.9.4 Fees

- 4.9.4.1 Where detention/retention basins are proposed as part of the drainage system for a subdivision exceeding four (4) lots, the subdivider shall provide a one-time deposit of funds to be placed in escrow with the Town of West Brookfield. The amount shall be sufficient to cover the estimated cost of maintenance of the basins(s) over a twenty (20) year period once the subdivision roads have been accepted as public ways.
- 4.9.4.2 The amount of these funds will be determined on a case-specific basis based on the volume of the pond at the rate of \$15.00 per cubic yard of volume of the pond, as required for a 100-year frequency storm. These funds are to be expended by the Town of West Brookfield for maintenance of the detention/retention basins.
- 4.9.4.3 The subdivider will pay the required fee upon the approval of the plan.
- 4.9.4.4 Ownership. The subdivider will retain ownership of the detention/retention basins and drainage easements, and will be responsible for the maintenance until the subdivision road is accepted as a public way.
- 4.9.4.5 Maintenance. Until accepted by the Town, the subdivider shall inspect the detention/ retention basins at least once per year and submit a written report to the Board. Inspection should be conducted during a storm to ensure that the basin is operating as intended. At least twice during the growing season the base and side slopes shall be mowed and all accumulated debris and sediment removed.

4.10 Monuments (Bounds)

- 4.10.1 Granite bounds shall be set to locate both sidelines of rights-of-way, at all street intersections; at all changes in direction and points of curvature of sidelines; at the roadway lot corners of designated open space areas and municipal easements (such as access, drainage, future street or utility, etc.); the boundary of reserved rights-of-way; and any other points as determined by the Planning Board. Intermittent bounds shall be set on all tangents and curves of a length exceeding eight hundred feet (800').
- 4.10.2 Sight lines between bounds shall not be obscured; utility poles shall not be set on a right-of-way sideline. A clearance of at least three feet (3') from a bound point shall be provided to permit free use of the bound both laterally and along sidelines.
- 4.10.3 Monuments shall be installed according to the requirements of section 5.11.

4.11 Sidewalks, Grass Plots, Trees

- 4.11.1 Sidewalks, grass plots and trees shall be provided for the full length of each street. Sidewalks shall be provided on both sides of the street, shall be at least five feet (5') wide, shall conform to all handicap access codes and shall be located and shown on the plans and profiles required by these Regulations.
- 4.11.2 Trees, shrubs, fences and other items shall not be located so as to obstruct vision at intersections.
- 4.11.3 In areas where ledge is encountered in road cuts, the ledge shall be cut back to provide a strip at least five feet (5') wide with a slope of one-quarter inch (1/4") per foot towards the road for the length of the ledge. Such strip shall be located outside, and immediately adjacent to, the road right-of-way. The purpose of this strip is to prevent falling pieces of ledge from injuring anyone or anything within the street right-of-way.
- 4.11.4 Street trees shall be planted along both sides of the street approximately at intervals of forty feet (40'). Trees shall be located either in the grass plot or along the back of the sidewalk but not more than twelve feet (12') from the edge of pavement or the curb. Trees shall be at least twelve feet (12') in height and two inches (2") in diameter measured four feet (4') above the approved grade, unless otherwise required by the Tree Warden and/or Planning Board.
- 4.11.5 The following types of trees are recommended for subdivision streets. The Board if so recommended by the Tree Warden may approve other types of trees. A minimum of two (2) species of trees shall be provided for each one thousand feet (1000') of roadway proposed.

Norway Maple	Sugar Maple	Red Maple	Silver Linden
Littleleaf Linden	American Sweet Gum	Flowering Ash	Green Ash
Zelkova	Japenese Hornbeam	Sentry Gingko	Anise Magnolia
American Hophornbeam	Ruby Horsechestnut	Callery Pear	Manchurian Crabapple
Chinese Elm	American Sweet Gum	White Ash	Yellowwood

- 4.11.6 A continuous healthy growth for all planted trees, shrubs, plants and seeded areas shall be maintained by the developer until the street is accepted by the Town. Prior to acceptance, all dead or diseased trees shall be replaced with healthy stock.
- 4.11.7 Where a sidewalk is located within a street right-of-way, a grass plot four and one-half feet (4½') wide shall be planted between the back edge of the pavement or curb and the edge of the sidewalk. Where there is no sidewalk within the street right-of-way, grass shall be seeded in the area between the back edge of the pavement or curb and the right-of-way line.

4.12 Trails, Bikeways and Walkways

Trails, public bikeways or pedestrian walkways are a desired amenity to provide circulation or access to schools, playgrounds, parks, shopping, transportation, open space and/or community facilities. These may or may not be part of normal sidewalk provisions, but they shall not be included as part of any lot in the subdivision. The Board may also allow a trail, bikeway or walkway in lieu of a required sidewalk where such a facility will connect to an existing trail network or provide public access to natural resource areas or recreational, cultural, or public facilities.

4.13 Easements

- 4.13.1 Where utilities cross lots or are parallel to rear or side lot lines, easements shall be provided at a width of at least twenty-five feet (25').

- 4.13.2 Where a subdivision is traversed by a water course, drainage way, channel or stream, the applicant shall provide a storm water easement or drainage right-of-way of adequate width as determined by the Planning Board to conform substantially to the lines of such water course, drainage way, channel or stream and to provide for construction or other necessary purposes. In no case shall the width be less than twenty feet (20').
- 4.13.3 Access easements shall be provided, if required by the Board, for use by emergency vehicles and for the benefit of the Town. They shall have a minimum width of twenty-five feet (25').
- 4.13.4 Bridle paths, footpath easements and access easements (e.g., to conservation areas) may be required by the Planning Board. They shall be at least twenty-five feet (25') in width.
- 4.13.5 Wherever possible easements along rear lot lines shall be continuous to the street at the end of the block to connect with the adjoining blocks in the shortest direct line.

4.14 Low Impact Development

- 4.14.1 The Town of West Brookfield strongly encourages the use of Low Impact Development (LID) techniques (West Brookfield Town Ordinances Chapter XII) approved at Town Meeting May 9, 2006.
- 4.14.2 The use of Low Impact Development will allow the Planning Board to approve plans that show roadway and stormwater management systems that do not conform to the aforementioned conventional design standards. (see Appendix for samples of LID Techniques)
- 4.14.3 Any application using LID Techniques shall include the submittal of a LID Management Plan to the Planning Board. This LID Management Plan shall contain sufficient information for the Planning Board to evaluate the environmental impact, effectiveness and acceptability of the site planning process and the measures proposed by the applicant for reducing adverse impacts from stormwater runoff. This plan shall be in accordance with the criteria established in these Bylaws and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the Commonwealth of Massachusetts.
- 4.14.4 Any issue related to the use LID not expressly addressed in Section 4.14 shall be decided by a vote of the West Brookfield Planning Board.

SECTION 5.0 CONSTRUCTION REQUIREMENTS

5.1 General

- 5.1.1 It is the intent of these Regulations that no street or way through private property shall be accepted by the Town unless the same has been previously constructed and completed in accordance with the Standard Cross Section (See Appendix, Schedule A), Street Layout Plan, Profile and the following specifications.
- 5.1.2 To insure high quality and uniformity of construction and unless otherwise specified, all the work and the materials used in the work to be done shall conform to the requirements of the Commonwealth of Massachusetts, Highway Department, "Standard Specifications for Highways and Bridges, 1988 Edition", as amended by the December 1998 "Supplemental Specifications", together referred to as the "Standard Specifications", and the special provisions included hereinafter. Appropriate illustrations are found in Commonwealth of Massachusetts, Highway Department, "Construction Manual, Part 3, 1995" as from time to time amended.
- 5.1.3 Supplemental Specifications
- 5.1.3.1 Supplementing the aforesaid Standard Specifications, certain specifications or special provisions shall apply particularly to the work to be done hereunder. References in the following specifications, unless otherwise stated, are to the aforesaid Standard Specifications, amendments or addenda. When the requirements of these Rules and Regulations are stricter than the provisions of the Standard Specifications, the Rules and Regulations shall govern.
- 5.1.3.2 All references in the Standard Specifications, amendments or addenda to Commission, Department, Department of Public Works, Engineer, party of the First Part, etc., shall be construed to mean the Planning Board of the Town of West Brookfield or its duly authorized representative.
- 5.1.3.3 To facilitate reference where appropriate, each section in these specifications is noted with the paragraph number of the particular section as contained in the Standard Specifications. Where appropriate, references are also made to the Construction Manual. No departure from these regulations will be permitted without the approval of the Planning Board, working in conjunction with the Department Head involved.
- 5.1.3.4 Wherever in the documents referred to in 6.1.2 above, the following terms, or pronouns in place of them are used, the intent and meaning shall be interpreted by substitution as follows:

"Town"	Town of West Brookfield
"Department"	Highway Department; Town of West Brookfield
"Engineer"	The Planning Board's Engineer

5.1.4 Work Based on Approved Plans

The extent of work required shall be completed as shown upon approved plans, and shall be in compliance with the Standard Cross Section.

5.1.5 Environmental Controls

- 5.1.5.1 Construction stakes shall be set under the direction of either a Registered Land Surveyor or Professional Civil Engineer. Edge of pavement offset stakes shall be placed at twenty-five foot (25') intervals and at each point of curvature, point of tangency and point of compound or reverse curvature. Each drainage structure and hydrant shall also be staked to indicate the

location and the exact amount of cut, fill or grade. The use of laser equipment for line and grade is recommended.

5.1.5.2 Improvements to minimize adverse environmental impact shall be installed in accordance with all details as shown on the approved Definitive Plan, and all possible measures shall be taken during construction to minimize dust and/or erosion.

5.1.5.3 No earth shall be removed from the area shown on a Definitive Plan except in accordance with the approved plan.

5.1.6 Construction Approval

5.16.1 As each construction operation is completed, it shall be certified by the applicant's engineer for conformance to the approved plans, with variances and discrepancies noted. Such certification shall be submitted in writing for approval by the proper Town authority and/or utility company and to the Planning Board or its Engineer prior to starting work on the succeeding operation.

5.1.6.2 The operations to be certified and reports submitted shall be not less than the following phases of construction:

- a. Environmental controls;
- b. Tree clearing and grubbing;
- c. Rough grading and sub-base;
- d. Drainage, water and utility system;
- e. Fine grading and pavement base course;
- f. Sidewalks and curbing; and
- g. Landscaping

5.1.6.3 Inspections shall take place in accordance with Section 6.4 of these Regulations. Form M provides a list of stages at which inspections are to occur.

5.1.7 As-Built Plans

The Developer shall have the approved plans and profiles that are on file in the Planning Board office corrected and certified by his engineer to show the actual as-built locations and profiles of all streets, ways, utilities, and storm water facilities, and any changes authorized by the Planning Board or its Engineer. A minimum of three (3) swing ties from permanent structures shall be used to locate ends of unconnected building connections and other appurtenances that may be buried or covered.

5.1.8 Prior to the commencement of any construction, the Developer shall obtain all applicable permits including but not limited to: Conservation Commission Order of Conditions, Road Opening Permit, Special Permit, etc.

5.2 Streets and Roadways

5.2.1 Grading and Preparation for Pavement

5.2.1.1 Clearing and Grubbing (MHD Section 101)

The entire area of each street or way shall be cleared and grubbed to remove all trees not intended for preservation, stumps, brush, roots, peat, organic matter, rocks or boulders and like material which may exist upon the surface.

5.2.1.2 Excavation (MHD Section 120)

The entire area of the roadway shall be excavated to remove all materials encountered within the right-of-way down to the true surface of the subgrade, or to suitable material in the areas where unsuitable material exists, in preparation for foundation of roadway, sidewalks, driveways and berms. Approved materials obtained from the excavation may be used in fills as required if, in the opinion of the Engineer, they are suitable.

5.2.1.3 Embankment (MHD Section 150)

- a. When, in the opinion of the Engineer, suitable material is not available within the limits of the roadway location to form the subgrade or sub-base, the Developer shall obtain suitable additional material from other sources and as may be approved by the Engineer.
- b. Embankments within or adjoining the right-of-way shall be evenly graded and pitched at a slope of not greater than two (2) horizontal to one (1) vertical in fill. All such slopes shall be stabilized in accordance with the Specifications for the area between the roadway and sidewalk or roadway and boundary of the right-of-way. Where cuts are made in ledge, other slopes may be determined with the approval of the Highway Superintendent and the Engineer. Where terrain necessitates greater slopes, retaining walls, terracing, fencing or rip-rap may be used either alone or in combination to provide safety and freedom from Town maintenance, but must be done in accordance with plans filed with and approved by the Engineer. The Town shall be responsible for maintenance (after Town Meeting acceptance) of only those slopes, retaining walls, terracing, fencing, rip-rap, etc., which lie within the respective layout lines.

5.2.1.4 Grading (MHD Section 170)

- a) The subgrade surface twenty-four inches (24") below the finished surface grade in major streets shall be prepared true to the lines, grades and cross-sections given and properly rolled with not less than a ten (10) ton roller. All soft or spongy material below the subgrade surface shall be removed to depth determined by the Engineer, and the space thus made shall be filled with special Gravel Borrow (Section M 1.03.0 Type a), containing no stones over six inches (6") in their largest diameter.
- b) The subgrade surface shall be transversely sloped to produce a crown of ¼ inch per foot.

5.2.1.5 Drainage Layer.

Any drainage layer shall be a six inch (6") layer of crushed stone, ¾ inch gradation, placed under the gravel sub-base, which extends from edge to edge of pavement on both sides of the road. At each side, the drainage layer shall terminate at a subdrain. The drainage layer shall include, above it and below it, a synthetic, non-woven geotextile fabric with geotextile opening size of 0.21 mm, or as appropriate for that soil.

5.2.1.6 Gravel Sub-Base (MHD Section 401)

- a. Prior to placing gravel, results of gradation testing shall be submitted to the Engineer for review and approval. Maximum dry density shall be as determined by the Modified Proctor method (AASHTO test method T99).
- b. Gravel sub-base or foundation shall be spread in two (2) layers on the surface of the sub-grade in conformity with the requirements of Section M. 1.03.0 Type a of the Standard Specifications for furnishing gravel borrow. The lower layer containing no stones greater than six inches (6") in greatest dimension shall be to a depth of twelve inches (12"). The upper

layer containing no stones greater than two and one-half inches (2 ½") in greatest dimension shall be to a depth of six inches (6").

- c. A single layer containing no stones greater than four inches (4") in greatest dimension shall be to a minimum depth of twelve inches (12") on minor streets in a residential subdivision.
- d. Each layer shall be rolled with not less than a ten (10) ton roller, and compacted true to line and grade, to ninety-five percent (95%) of maximum dry density. Any depressions that appear during and after rolling shall be filled with additional gravel and re-rolled until the surface is true.
- e. At the time of paving, gravel shall be at optimum moisture content and shall be at least ninety-five percent (95%) of maximum dry density.
- f. Final grading, rolling and finishing including the shaping, trimming, rolling and finishing of the surface of the sub-base prior to application of gravel for surfacing of the roadway and base courses for walks and berms shall be in accordance with this section and as directed by the Engineer and the Highway Superintendent.
- g. Gravel sub-base surface shall be transversely sloped to produce a crown of ¼ inch per foot.
- h. At the conclusion of this step, the roadway shall be staked in all locations where permanent monuments are to be installed as provided in Section 5.11 Monuments.

5.2.2 Pavement

5.2.2.1 Pavement Materials.

Pavement materials for all roadways in a subdivision shall be Class I, Bituminous Concrete, Base Course Type I-1 (Section 460). Cape Cod (low profile) berms, where applicable, shall be constructed of Surface Course material. The material and construction methods for laying pavement shall conform to the Standard Specifications.

5.2.2.2 Placing Pavement

- a) Pavement shall be plant mixed and laid hot to a finished depth of four inches (4") laid in two (2) courses consisting of two and one-half inches (2½") of binder mix, then one-and-one-half inches (1½") of finish mix. Each course shall be compacted with no less than a ten (10) ton roller.
- c) Sediment basins shall be constructed where necessary to detain runoff and to trap sediment during construction.
- d) Safe off-site disposal of runoff shall be provided, including the increased runoff resulting from construction.
- e) Permanent vegetation and erosion control structures, where necessary, shall be installed as soon as possible.
- f) The construction of the wearing or top surface of any street shall not proceed until the structural foundations for buildings on each lot to be served by that street have been completed.
- g) Paving shall occur between March 30 and November 15 of any year. The Board may extend the November deadline, weather permitting, if necessary to prepare the roads for winter conditions. Bond reductions for the binder course shall be given only after the binder has

weathered one winter season. Finish pavement shall be placed on a binder that has weathered one winter season. Any pavement placed between November 15 and March 30 shall be inspected during the month of May and certified by the applicant's Construction Engineer.

- h) Asphalt shall not be placed on material which the Town determines to be frozen, frosted, saturated, or otherwise unsuitable.
- i) Paving shall occur only under suitable conditions. Air temperature shall be at least 34° F. Paving shall not take place while rain, snow, sleet or any other precipitation is falling, or immediately following any such precipitation.
- j) Any pavement surface exposed for more than nine (9) months, except for finish course deemed acceptable by the Town, shall require a tack coat of asphalt emulsion prior to placing any additional asphalt layer(s). Tack coat shall be bituminous asphalt emulsion formulated in accordance with M3.03.0, at a rate of 0.2 gallons per square yard.
- k) Any exposed asphalt surface subject to placement of a further course of asphalt, except for finish course deemed acceptable by the Town, shall receive a coating of liquid bituminous sand seal coat, no less than annually, until finish course pavement acceptable to the Town has been placed. Such coating shall consist of liquid bituminous asphalt applied at a rate of 0.25 to 0.3 gallons per square yard, with a sand cover of fine granular material composed of hard, durable particles, clean of organic matter, applied at a rate of 20 to 25 pounds per square yard. Such coating shall be applied only when air temperature is at least 40° F.
- l) If the binder or finish pavement is removed, excavated or damaged, the trench shall be covered with a poured reinforced concrete slab to the lines, grades and dimensions approved by the Highway Superintendent. Pavement repair shall be by sealing all patch areas with an asphaltic sealer; application of a non-woven adhesive polymer asphalt membrane over joints in the "binder", placed with wearing side up; the pavement shall then be treated with asphalt emulsion prior to placing asphalt on it.

5.3 Utilities

5.3.1 General

5.3.1.1 All materials and installation methods used shall conform to the standards of the appropriate utility company or to these Regulations, whichever is stricter. All underground services shall be installed, and individual lot services carried to the front lot lines/edge of right-of-way prior to completing pavement foundation/ gravel sub-base work.

5.3.1.2 Excavation for Structures (MHD Section 140)

Excavation for structures, including foundations for drains and water pipes, walls and other structures shall be made to the depth indicated on the Definitive Plan or established by the appropriate utility. Rocks encountered in trench excavation (to a point five feet (5') beyond the edge of the pipe at the property lines) determined to be Class B shall be removed as directed by the Highway Superintendent.

5.3.1.3 Backfilling for Structures and Pipes

- a) All backfilling shall consist of granular mineral soil material (excluding organic matter, building rubble, solid waste, boulders larger than eighteen inches (18") in any dimension, or any other deleterious material) uniformly distributed and thoroughly compacted. When suitable backfilling materials cannot be obtained from excavation, the material shall consist of satisfactory borrow.

- b) Mechanical tampers shall be used in compacting backfill for trenches and in hard to reach areas around masonry.
- c) No backfill whatever shall be placed on or against structures, pipes, or other masonry, until permitted by the Engineer. Fill shall be formed of successive layers not more than six inches (6") in depth, uniformly distributed and thoroughly compacted.
- d) No load greater than eight (8) tons shall be moved over any pipe until a fully compacted backfill of at least two feet (2') has been placed over the top of the pipe. Compliance with this requirement is not to be construed as relieving the Contractor of any responsibility concerning damage to the pipe.
- e) Material used for backfilling to a point two feet (2') over the pipe shall contain no stones larger than three inches (3") in greatest dimension.
- f) Backfill below the haunches shall be placed in six inch (6") layers and compacted simultaneously on both sides of the pipe with railroad tampers or approved mechanical rammers which shall not come in contact with the pipe. Backfill above the haunches shall be placed in six inch (6") layers and compacted as directed. Backfill material shall be moist prior to and during compaction.
- g) Backfill material for the pipe bedding shall consist of gravel borrow, screened gravel, or crushed stone no greater than one- and-one-half-inch (1 ½") gradation to twelve inches (12") over the crown of the pipe. The material excavated from the trench may be used for the pipe bedding if it is of acceptable grade gravel and approved by the Engineer. If directed by the Engineer, backfill material above the pipe bedding shall consist of gravel borrow.
- h) In all cases the filling material shall be thoroughly compacted.

5.3.2 Sewerage

On site sewage disposal facilities shall be installed and constructed in conformity with the Rules, Regulations and Requirements of the Board of Health. Due consideration should be given to surface and subsurface soil conditions, drainage and topography in the location of such on-site facilities.

5.3.3 Water

- 5.3.3.1 The rules and regulations of the Water Department shall be consulted for detailed requirements (including pipe, fittings, hydrants, gas valves, service connections) and handling, storage, installation, inspection, testing and connection with existing installations.
- 5.3.3.2 The Developer shall make main and service connections, complete with all the required appurtenances thereto, and, prior to acceptance of the road by the Town, shall maintain the installation in accordance with the regulations of the Water Department.

5.3.4 Electric

Electric lines shall be installed underground as specified by the Planning Board in accord with regulations of the local utility company. Service shall be supplied to each lot and each streetlight before the subgrade is prepared.

5.3.5 Telephone

Telephone lines shall be installed in underground conduits in conformity with MHD Sections 801 and 813.

5.3.6 Other Utilities

- 5.3.6.1 Other utilities shall be installed in underground conduits in accordance with MHD Sections 801 and 813 or as required by the utility company or department. Telephone, cable television, and the fire alarm system shall be installed underground, and may be in the same trench with vertical and/or horizontal separation as approved by the Planning Board. Service shall be provided to each lot before the subgrade is prepared.
- 5.3.6.2 With the approval of the Planning Board, these other utilities may be located in the same trench with the electric power wiring.

5.4 Drainage (MHD Section 200)/Stormwater Management

5.4.1 Basins, Manholes and Inlets (MHD Section 201)

- 5.4.1.1 The standard depth of catch basins shall be four feet (4') below the invert of the lowest drain. Manholes shall be constructed to the required depth at each junction point and shall be as shown on the plan. Basin and inlet grates shall be of a type approved by the Highway Superintendent.
- 5.4.1.2 Catch basins and manhole structures shall be constructed of precast reinforced concrete. The top section of any such structure shall be eccentric, with eccentricity perpendicular to the direction of flow.
- 5.4.1.3 Manhole covers shall have the word "Drain" in three-inch (3") letters cast across the center and, at no time shall any such cover be raised above the pavement level.
- 5.4.1.4 A leveling course of sewer brick shall be installed under the frame on precast manholes and catch basins. The leveling course shall consist of a minimum of two (2) layers of brick and a maximum of twelve inches (12"). The frame shall be sloped to match the slope of the finished road surface.
- 5.4.1.5 Steps shall be installed in manholes and be spaced twelve inches (12") on center or sixteen inches (16") on center if radial concrete blocks are used. Steps shall be steel reinforced copolymer polypropylene plastic. Copolymer polypropylene shall be Type II, grade 16906 meeting ASTM designation D2146-78. Steel reinforcing shall be three eighths of an inch (3/8") diameter, grade 60 conforming to ASTM Specification A-615-79 and shall be continuous throughout the rung. The portion of the legs to be imbedded in the precast section shall have fins and be tapered to insure a secure bond.
- 5.4.1.6 A concrete or brick masonry invert shelf with channel shall be installed to a height of eight-tenths (0.8) the diameter of the largest pipe.
- 5.4.1.7 Modifications to precast structures shall be made by coring.
- 5.4.1.8 Corbels of manholes shall be eccentric, not concentric.
- 5.4.1.9 Size of manhole opening shall be a minimum of twenty-four inches (24").

5.4.2 Culverts, and Storm Drains (MHD Section 230)

- 5.4.2.1 All drain and culvert pipes shall be reinforced concrete pipe, HDPE, or equivalent if approved by the Board, at least twelve inches (12") inside diameter.

- 5.4.2.2 At least four feet (4') of cover (two feet (2') of granular cover) will be required over drainpipes. Where special conditions of topography and/or hydrology are deemed to justify the Board's approval of pipe with less than four feet (4') of cover, the Board may require other materials or methods of construction to meet such conditions.

5.4.3 Sub-Drains (MHD Section 260)

- 5.4.3.1 Subdrains shall be six inch (6") perforated SDR 35 PVC or SCH 40 PVC pipe, bedded in crushed stone, of ¾ inch gradation, in a two (2) foot wide drain trench filled with such crushed stone. Crushed stone shall extend horizontally and vertically to meet either the drainage layer or the gravel sub-base of the road. Crushed stone shall be wrapped in a synthetic, non-woven geotextile fabric, with geotextile opening size of 0.21 mm or as appropriate for the soil type. Subdrains shall be forty-eight inches (48") below finish grade as measured at the invert of the pipe, and shall be located outside the edge of pavement (but within the road right-of-way) on both sides of the road.
- 5.4.3.2 Cleanouts shall be located not more than one hundred fifty feet (150') from each receiving structure, and shall have cast iron covers set to finish grade.

5.5 Sidewalks

Sidewalks shall be constructed of Class I Bituminous Concrete conforming to MHD specification M3.11.00, and in accordance with the requirements of Sidewalks, Wheelchair Ramps and Driveways (MHD Section 701). The cross slope shall be one-fourth of an inch (1/4") per foot of width to provide for proper drainage.

5.6 Trails, Bikeways and Walkways

- 5.6.1 Where bikeways and walkways are provided they shall be constructed in accordance with the specifications for sidewalks above, (MHD Section 701). Where bikeways and walkways intersect with sidewalks, leveling areas shall be shown in detail on the Definitive Plan for the subdivision.
- 5.6.2 For the full length of each bikeway and walkway there shall be a side slope or crown equivalent to one-quarter inch (1/4") per foot of width to provide for proper drainage. Leveling areas at intersections with sidewalks shall be shown in details.
- 5.6.3 Existing trails shall be used, wherever possible. New trails or relocated trails shall be constructed with surface and drainage characteristics, which in the opinion of the Board, shall be satisfactory for horseback riding.

5.7 Curbs and Berms

Granite Curb shall be Type VA1, straight and shall be installed in accordance with the requirements of Curb and Edging (MHD Section 500) and Drawing 106.3.0 of the Construction Standards.

5.8 Highway Guard Fences and Walls

Guard fences, rails and walls shall be installed wherever determined necessary by the Planning Board and/or the Highway Superintendent to provide needed protection to the public. When provided, they shall be constructed in accordance with the relevant portions of Highway Guard Fences and Walls (MHD Section 600) of the Standard Specifications. Construction details of all fences, rails and walls will be shown on the Definitive Plan for the subdivision.

5.9 Grass Plots

- 5.9.1 Grass shall be used unless the Planning Board approves other ground cover.
- 5.9.2 Seeding
 - 5.9.2.1 The areas to be seeded shall be covered with loam to a depth of six inches (6") in accordance with Loam Borrow, Plantable Soil Borrow, Processed Planting Material or Topsoil, Rehandled and Spread (MHD Section 751).
 - 5.9.2.2 Grass seed conforming to Seed (MHD Section M6.03.0) shall be placed in accordance with Seeding (MHD Section 765) at the rate of four (4) pounds per one thousand (1000) square feet over the area to be grassed.
- 5.9.3 The slope of the grass plot shall be as shown on the profiles and standard cross-sections.

5.10 Trees, Shrubs and Ground Cover

- 5.10.1 The Developer shall plant street trees of nursery stock conforming to the standards of the American Association of Nurserymen of the species approved by the West Brookfield Tree Warden for each street in a subdivision, except where the Definitive Plan shows trees to be retained, which are healthy and adequate.
- 5.10.2 Except as otherwise provided, all cut bankings shall be planted with low growing shrubs or vine and wood chipped to a minimum depth of six inches (6") or seeded with a deep rooted perennial grass to prevent erosion.
- 5.10.3 Planting methods, including wrapping, staking and guying shall be in accordance with Planting Trees, Shrubs and Ground Cover (MHD Section 771).
- 5.10.4 Tree wells, if necessary, shall be designed and constructed in accordance with Plate 502.1.0 of the Construction Manual.
- 5.10.5 All deciduous street trees shall be clear of any branches from the approved grade level to a point seven feet (7') above ground level.
- 5.10.6 All reasonable care shall be exercised to preserve the trees in the subdivision.
- 5.10.7 The Developer will be liable for all trees so planted as to their erectness and good health after planting and until the release of all guarantees.

5.11 Monuments

- 5.11.1 Monuments shall be a standard permanent granite of not less than four feet (4') in length and not less than six inches (6") in width and breadth and a one-half inch (1/2") diameter hole one and one-half inches (1 1/2") deep shall be drilled in the center of the top surface and filled securely with a lead plug. (MHD Section 710).
- 5.11.2 Said monuments shall be installed at the time of final grading with the top flush with the top final graded surface. (Plates 506.1.0 and 506.2.0 of the Construction Manual).
- 5.11.3 No permanent monuments shall be installed until all road construction which would destroy or disturb the monuments is completed.

5.12 Street Signs

- 5.12.1 Street name signs shall be placed by the subdivider at all street intersections prior to the occupancy of any house on the street. Signs and posts shall be designed and installed in accordance with specifications of the Highway Superintendent. The subdivider shall provide the posts and erect them at each street intersection near the inside curb edge, at locations to be approved by the Highway Superintendent. The total cost of fabrication and installation shall be borne by the subdivider.
- 5.12.2 The Board of Assessors' shall approve street names. (See Section 4.2.8 of these Regulations.) Street signs, of a design approved by the Board, shall be installed at all intersections.
- 5.12.3 No street sign, temporary or permanent, shall be installed showing a name or in a manner other than as approved by the Board of Assessors or Planning Board.

5.13 Street Lights

- 5.13.1 Street and pedestrian lights shall be installed to conform to the type and style specified by the local utility company
- 5.13.2 Street and pedestrian light stanchions shall be of a type specified by the local utility company and shall be located in the grass plot or median.

5.14 Cleanup

- 5.14.1 No later than October 31 of each calendar year, the Developer shall stabilize all exposed soils and other vulnerable or sensitive areas in a manner acceptable to the Conservation Commission and the Planning Board. No additional disruption may occur except in accordance with the approved construction plan.
- 5.14.2 No lot shall be considered complete until all stumps, brush, roots and like material and all trees, rocks and boulders not intended for preservation by the subdivider shall have been removed and disposed of in a manner and place satisfactory to the Planning Board. Any fire hazard shall be removed promptly to the satisfaction of the Fire Chief. This paragraph does not authorize the removal, including severing and stripping, of soil loam, sand, or gravel on such lot.

5.15 Maintenance of Improvements

- 5.15.1 For the purpose of protecting the safety, convenience and welfare of the Town's inhabitants, for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel, for reducing the danger to life and limb in the operation of motor vehicles, for securing safety in the case of fire, flood, panic and other emergencies, under the authority of M.G.L. c. 41, §81-M as amended, the Applicant or his successor shall provide for the proper maintenance and repair of improvements during the period of construction, and until the Town votes to accept such improvements.
- 5.15.2 Such maintenance shall include snow removal beginning from the time of occupancy of an individual owner or tenant other than the Developer until such time as the Town agrees to remove snow or accepts the way.
- 5.15.3 The Applicant shall provide the Town an easement over the right-of-way of all streets, which will run until the acceptance of streets as a public way, which easement shall be for the maintenance, repair and operation of public utilities. The easement shall be accompanied by a conveyance of a right of ownership to the Town of all appropriate utilities within the boundaries of the easement.

5.16 Provision for Competent Supervision

- 5.16.1 The Developer shall provide competent full-time supervision during the development of the subdivision. If at any time it becomes apparent to the Planning Board that the supervision is not satisfactory, the Board may order work to cease until competent supervision is provided.
- 5.16.2 Dependent on the work schedule and the scope of the work, the Planning Board may require that the Developer provide a construction Engineer on site during the critical construction phases, such as laying pipe, compacting, backfilling, laying finish surfaces and other operations determined by the Planning Board. The construction Engineer shall be hired by the Planning Board and paid for by the Developer in accordance with Section 2.5.

5.17 Schedule of Projected Work

The Developer shall submit a schedule of the projected work, by major categories of work, to the Planning Board for review and approval four (4) weeks prior to the start of construction. The schedule shall be by calendar weeks and address each category in Section 5. The Schedule shall be adjusted periodically to reflect the actual work progress and related modifications to the schedule.

5.18 Traffic Signs (MHD Section 828)

The Developer shall install and maintain traffic signs of the type and in locations as approved by the Highway Superintendent and Board of Selectmen until acceptance of the road by the Town. Such signs shall conform to the current edition of the Massachusetts Highway Department's Manual on Uniform Traffic Control Devices (MUTCD). The subdivider shall be responsible for preparation of traffic engineering studies in order to document compliance with the MUTCD. No such traffic sign shall be placed in a location restricted by M.G.L. c. 85§2.

SECTION 6 – ADMINISTRATION

6.1 Time for Plan Completion

- 6.1.1 The endorsement of the approved plan by the Board shall be valid for a period of two (2) years from the date of said endorsement. All improvements shown on the endorsed plan shall be completed within the two (2) year period, unless the Board requires in its Certificate of Action that completion occur sooner, or such time is extended as provided herein. Completion shall be deemed to include submission to the Board of an as-built plan documenting that improvements have been made in compliance with the endorsed plan. The as-built plan must be submitted a minimum of forty-five (45) days prior to the expiration of the three-year period to allow sufficient time for the Board, the Town's Consulting Engineer and the Department of Public Works to review and approve the as-built plan. If the ways in any subdivision are not completed, the utilities are not installed and the as-built plan is not prepared to the Board's satisfaction within the time so required by the Board, any such bond may be enforced and any such deposit may be applied by the Board and the Town of West Brookfield to complete the work for the benefit of the Town.
- 6.1.2 If an as-built plan is not received at least forty-five days prior to the expiration of the three year Period, or as extended, the Board shall notify the applicant of the violation and request that either an as-built plan or a request for extension be submitted within fourteen (14) days. If a timely response is not received, the Board shall notify the applicant by registered mail that it shall commence action to make the proceeds of whichever performance guarantee is in effect available to the Town to be used to complete the improvements.
- 6.1.3 An extension of time to complete the ways and improvements within the subdivision may be granted by the Board if there are mitigating circumstances. At least ninety (90) days prior to the expiration of the two (2) year approval period, the Applicant and/or owner may request in writing to the Board an extension of time, if necessary, to complete the construction of subdivision roadways, etc. The developer shall submit a written request to the Board outlining the mitigating circumstances necessitating such extension request. An extension request shall constitute a modification of the approved Definitive Subdivision Plan and shall be processed in accordance with Section 6.2. Any modification is subject to the Rules and Regulations in effect at the time the modification is sought.
- 6.1.4 Prior to approving any extension of time, the Board will review and revise the amount of the bond deposit or other surety and the Applicant shall provide a new or revised security instrument prior to the Board's vote to approve the requested extension. An extension shall not exceed one (1) year. The Applicant may apply for additional extensions after the first, but not until at least nine (9) months have expired on the extension in effect.
- 6.1.5 Phasing the construction of an approved subdivision is not permitted.

6.2 Plan Modification

- 6.2.1 The Board, on its own motion or on the petition of the Applicant or any person interested, shall have power to modify or amend its approval of a subdivision, or to require a change in a plan as a condition of its retaining the status of an approved plan. All of the provisions of the Subdivision Control Law and these Rules and Regulations relating to the submission and approval of a plan of a subdivision shall, so far as apt, be applicable to the approval of the modification or amendment of such approval and to a plan which has been changed under this section. Any modification is subject to the Rules and Regulations in effect at the time of the modification is sought.
- 6.2.2 No modification or amendment of the approval of a plan of a subdivision or change in such plan shall affect the lots in such subdivision which have been sold or mortgaged in good faith

and for a valuable consideration subsequent to the approval of the plan, or any rights appurtenant thereto, without the consent of the owner of such lots, and of the holder of the mortgage or mortgages, if any, thereon.

- 6.2.3 So far as unregistered land is affected, no modification or amendment of the approval of a plan, or a change in a plan under this Section shall take effect until:
- a. The plan as originally approved, or a copy thereof, and a certified copy of the vote of the Board making such modification, amendment, or change, and any additional plan referred to in such vote, have been recorded;
 - b. An endorsement has been made on the plan originally approved as recorded referring to such vote and where it is recorded; and
 - c. Such vote is indexed in the grantor index under the names of the owners of record of the land.
- 6.2.4 So far as registered land is affected, no modification or amendment of the approval of a plan or change in a plan under this Section shall take effect until such modification, amendment or change has been verified by the Land Court.
- 6.2.5 The Board shall charge a Subdivision Plan Modification Fee, which shall be submitted with an application for modification. Said fee shall be as specified in the Board's Fee and Bond Schedule.

6.3 Plan Rescission.

- 6.3.1 The Board, on its own motion or on the petition of the Applicant or any person interested, shall have power to rescind its approval of a subdivision. The following shall constitute sufficient reasons for the Board to rescind its approval of a Definitive Subdivision Plan in accordance with the provisions of MGL, C.41, §81-W:
- a. Failure of the Applicant to present the revised plans and other required submittals to conform to the conditions or modifications required in the Certificate of Approval, within ninety (90) days of said approval, for the Board's endorsement.
 - b. Failure of the Applicant to record the endorsed Definitive Subdivision Plan with the Registry of Deeds within a six (6) month period of its endorsement.
 - c. Failure of the Applicant to perform within the three (3) year completion period, unless otherwise specified in the Certificate of Approval and approved performance agreement, or to request an extension thereof in accordance with the provisions herein. This may result in the Board's notifying the Inspector of Buildings that no additional building permits shall be issued in said development.
- 6.3.2 The Board shall provide written notification to the Town Clerk of any decision to rescind subdivision plan approval.
- 6.3.3 After plan rescission, an Applicant may apply for a new Definitive Subdivision Plan for the site. However, the application will be subject to the Zoning By-law and the Rules and Regulations then in effect at the time of application.

6.4 Legal Description, Deeds & Easements.

- 6.4.1 The developer shall prepare and submit to the Board a legal description of each road, open space parcel, drainage system parcel and easement, proposed for acceptance by the Town, and a copy of said documents in electronic format as specified by the Board.
- 6.4.2 The developer shall execute an instrument, on a form approved by the Board and acceptable to Town Counsel, transferring to the Town, without cost, valid unencumbered title to the street(s) and all common sewers, storm drains and water mains, and all appurtenances thereto, constructed and installed in the subdivision or portion thereof to be approved.
- 6.4.3 The developer shall execute an instrument, on a form approved by the Board and acceptable to Town Counsel, conveying to the Town, without cost and free of all liens and encumbrances, valid unencumbered title to any open space parcel or drainage system parcel.
- 6.4.4 The developer shall execute an instrument, on a form approved by the Board and acceptable to Town Counsel, conveying to the Town without cost and free of all liens and encumbrances, perpetual right and easements to construct, inspect, repair, renew, replace, operate and forever maintain the aforesaid underground utilities, with any manholes, pipes, conduits and other appurtenances, and to do all acts incidental thereto, in the subdivision or portion thereof to be approved. If any such utilities have been constructed and installed in land not within such streets, then said transfer shall be in, through and under an easement as shown on the Definitive Subdivision Plan. Unless authorized in writing by the Board of Water/Sewer Commissioners, private sewer lines, force mains and pumping stations shall remain private and shall not be deeded to the Town.
- 6.4.5 The Board shall forward the legal documents to Town Counsel for review and approval. Town Counsel shall hold the documents in escrow until after the Town Meeting when street acceptance occurs.

6.5 Waivers and Other Variations

6.5.1 Waivers

- 6.1.1.2 Strict compliance with the requirements of these Rules and Regulations may be waived when in the judgment of the Board such action is in the public interest and not inconsistent with the Subdivision Control Law and with the purpose of these Regulations.
- 6.1.1.2 Any such waiver must be made in writing by the Board as a part of its approval or amendment thereof; otherwise, all requirements contained herein are deemed applicable.

6.5.2 Other Variations

Additional design, construction or other measures may be required when, in the opinion of the Board, site, design or other conditions so warrant them. When additional measures are required by the Board, such measures shall be clearly set forth in the Approval, on the plan, or by some other appropriate form or instrument.

6.6 Reference

For matters not covered by these Rules and Regulations, reference is made to M.G.L. c. 41 §§81-K to 81-GG, inclusive, and the West Brookfield Zoning Bylaw.

6.7 Coordination

The Developer shall be responsible for coordinating all reviews, permits, construction inspections, etc. In the event any permit or approval contains any requirement which conflicts with the requirement of any other permit or approval, the Developer shall be responsible for resolving such conflicts pursuant to the regulations of all agencies/ boards/departments, etc. which could be affected.

6.8 Inspections

6.8.1 Inspection Requirements

Inspection fees specified by Section 2.5.1.4 shall be submitted to the Planning Board prior to any construction activity on the site. Inspections shall be arranged by the Developer with the Highway Superintendent and Engineer as appropriate prior to the construction of streets and the installation of utilities, during construction at each significant construction stage, and as otherwise required by the Board. Form M of these Regulations provides a list of stages at which inspections are to occur.

6.8.2 Requests for Inspections

Inspection shall be requested by the Developer at least two (2) business days in advance of the inspection of any stage of the construction.

6.8.3 Progression

The Board may establish the order of the required inspections and may require satisfactory completion of one (1) step before the Developer proceeds to the next. The Board may require tests to be done by the Developer at his expense as a condition for approval when, in the opinion of the Board, it is advisable.

6.8.4 Inspection Reports

6.8.4.1 It shall be the responsibility of the Developer to ensure that all required forms are properly filled out, properly signed and returned to the Planning Board following each inspection.

6.8.4.2 The proper Town Official shall indicate the date of inspection and the approval and shall file such form, and an inspection report, if any, with the Planning Board following each inspection.

6.8.5 Failure to Comply

Failure to comply with the inspection procedure may necessitate removal of improvements at the expense of the Developer or rescission of the approval of the plan in accord with M.G.L. c 41, §81-W.

6.9 Stop Work Order

The Highway Superintendent may issue a Stop Work Order during or immediately after an inspection or upon the recommendation of the Board's engineer if an inspection reveals significant deviation from the approved plans, or if there is use of materials not approved by these Regulations or the Board. Upon issuance of such an order, the subdivider shall immediately stop work on the project. The Board will hold an emergency session at the earliest opportunity, but within four (4) days. If the Board is unable to meet within this period, the Chairman shall have the authority to allow a temporary resumption of work until such time as the Board shall meet to render a decision. The subdivider shall submit information regarding his intentions to correct the work or replace unapproved materials before work may begin again. If satisfied that the cause for the Stop Work Order will be corrected, the Board may lift the Order and allow immediate resumption of work. Town agents shall monitor the corrective

action of the subdivider and may issue additional Stop Work Orders if the subdivider fails to comply with the decision of the Board.

6.10 Building Permit

6.10.1 Lot Release Required

No building shall be erected on any lot within a subdivision without separate written permission for each lot. This permission is in addition to any other permits required for building, such as a permit from the Building Commissioner required by other Town Bylaws.

6.10.1.1 The Developer shall submit a written request for lot releases to the Board. Such request(s) shall include the Definitive Plan Book and Plan number(s), the Deed Book and Page number(s) of the Approval, subdivision lot number(s) requested for release and the Assessors' Map and Lot number(s) of the lot(s) requested for release.

6.10.1.2 Upon receipt of such properly submitted request(s) for release, the Board shall schedule such request(s) for the next available regularly scheduled Board meeting.

6.10.1.3 The Board shall review the request in terms of progress of the Developer (generally, and in terms of the construction schedule), condition of the site, compliance with applicable regulations and requirements and surety posted with the Board.

6.10.2 Additional Requirements

The Building Commissioner shall not issue any permit for the erection of a building until he is first satisfied that:

6.10.2.1 All fees and expenses are paid in full by the Developer;

6.10.2.2 Any condition endorsed on the plan has been satisfied or waived by the Board; and that

6.10.2.3 In the event that more than one (1) building for dwelling purposes be erected or placed or converted to use as such on any lot, the Building Commissioner is satisfied that consent has been obtained from the Board in accord with Section 2.4 of these Rules and Regulations, M.G.L. c. 41, §81-Y and amendments thereto.

6.11 Validity

If, in any respect, any provision of these Rules and Regulations, in whole or in part, shall prove to be invalid for any reason, such invalidity shall only affect the provision that was declared invalid. No other provision of these Rules and Regulations shall be invalidated, impaired or affected thereby.

6.12 Effective Date

These regulations become effective after approval by the Board, certification by the Town Clerk, and filing with the Registry of Deeds and the Recorder of the Land Court, on which date they supersede the present "Rules and Regulations Governing the Subdivision of Land", which became effective in 2 July 1974.