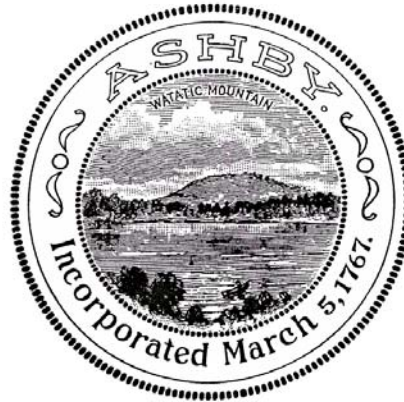


TOWN OF ASHBY

RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND



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RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND ASHBY, MASSACHUSETTS

(Adopted under the subdivision Control Law, Sections 81-K to 81-CG inclusive, Chapter 41 of the Massachusetts General Laws)

PURPOSE

The subdivision control law has been enacted for the purpose of protecting the safety, convenience, and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and, in proper cases, parks and open areas. The powers of a planning board and of a board of appeal under the subdivisions control law shall be exercised with due regard for the provision of adequate access to all the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for 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 for 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 the neighboring subdivisions. It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of such board if said plan conforms to the recommendation of the board of health and to the reasonable rules and regulations of the planning board pertaining to subdivision of land; provided, however, that such board may, when appropriate, waive, as provided for in section eight-one R, such portions of the rules and regulation as is deemed advisable: (Section 81-M of Chapter 41, M.G.L.)

SECTION 1

AUTHORITY

Under the authority vested in the Planning Board of the Town of Ashby by Section 81-Q Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Ashby. Such rules and regulations shall be effective on and after November 1991.

SECTION 2

GENERAL

2.0 Definitions

Applicant: The person who applies for the approval of a Plan of a proposed subdivision. The applicant or applicants must be the owner or owners of all land included in the proposed subdivision. An agent or representative may act for an owner, provided written evidence of such fact is submitted. Evidence in the form of a list of the officers and designated authority to sign legal documents shall be required for a corporation.

Abutter: Owners of land abutting upon the land included in proposed subdivision.

Board: The Planning Board of the Town of Ashby, Massachusetts or its designated agent.

Collector Street: A street which collects, or may reasonably be expected to collect traffic from several minor streets, or which handles traffic equivalent to that generated by 100 homes or more, or which serves non-residential abutting property.

Developer or Subdivider: The owner of land being subdivided, acting directly or through an authorized agent or assigns.

Development Impact Statement (DIS): A documented, written analysis of a proposed subdivision which provides the Planning Board and its agents with information necessary for plan review. Prepared by the applicant, a DIS shall follow the format presented in Appendix A of this document.

Engineer: Any person who has been registered or otherwise legally authorized by the Commonwealth of Massachusetts to perform civil engineering services.

Landscape Architect: Any person who has been registered or otherwise legally authorized by the Commonwealth of Massachusetts to perform landscape architectural services.

Lot: An area of land in one ownership with definite boundaries ascertainable or to be ascertainable of record, and use, or set aside and available for use, as a site of one or more buildings and building accessory thereto for any other definite purpose.

Minor Street: A street which primarily provides, and can be expected to provide access to property abutting the street rather than to intersecting streets. For example, streets serving subdivisions.

Owner: The owner of record as shown by the records in the Middlesex Registry of Deeds.

Roadway: That portion of the way, right-of-way, or street layout which has been prepared and constructed for vehicular traffic.

Shall: Where used, shall to be understood as mandatory.

Should: Where used, should to be understood as advisory.

Subdivision: The division of a tract of land into two or more lots and including resubdivision, and when appropriate to the context, relating to the process of subdivision of the land or territory subdivided; provided, however, that the division of a tract of land into two 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 so divided has frontage on: (a) a public way, or a way which the Town Clerk certifies is maintained and used as a public way, or (b) a way shown on a plan previously approved 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 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 a distance as is then required by the Ashby Zoning Ordinance for the erection of a building on such lot.

Conveyances, or other instruments adding to, taking away from, or changing the size and shape of lots in such manner as not to leave any lot so affected without the frontage above set forth; or the division of a tract of land, on which two or more buildings were standing when the Subdivision Control Law went into effect in Ashby (August 26, 1958) into separate lots on each of which one of such buildings remain standing, shall not constitute a subdivision.

Subdivision Control Law: Sections 81-K to 81-GG, inclusive, of Chapter 41 of the General Law of the Commonwealth of Massachusetts, entitled "The Subdivision Control Law."

Surveyor: Any person who has been registered or otherwise legally authorized by the Commonwealth of Massachusetts to perform land surveying services.

Town: The Town of Ashby, Massachusetts.

Preliminary Plan optional for residential subdivisions

Preliminary: A plan submitted prior to the Definitive Plan in order to present the broad outline of the project to the Planning Board. Preliminary Plans are mandatory for all non-residential projects and optional, but recommended, for residential projects.

Review Period: In the case of a subdivision showing lots in a residential zone, any person, before submitting his or her definitive plan for approval, may submit to the Planning Board and to the Board of Health, a preliminary subdivision plan, and shall give written notice of plan submittal to the Ashby Town Clerk by delivery or by registered mail, postage prepaid.

Preliminary Plan mandatory for non-residential subdivision

In the case of a non-residential subdivision, any person before submitting his or her definitive plan for approval shall submit to the Planning Board and the Board of Health, a preliminary plan, and shall give written notice to the Clerk by delivery or by registered mail, postage prepaid, that he or she had submitted such plan.

Maximum forty-five (45) day review period.

In either case, if the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefore. Within forty-five (45) days after submission of a preliminary plan, the Planning Board shall notify the applicant and the Clerk by certified mail, either that the plan has been approved, or that the plan has been approved with modifications suggested by the Board or agreed upon by the person submitting the plan, or that the plan has been disapproved and in the case of disapproval the Board shall notify the Town Clerk of this approval or disapproval, as the case may be. Except as is otherwise provided, the provisions of the subdivision control law relating to a plan shall not be applicable to a preliminary plan, and no register of deeds shall record a preliminary plan.

Ninety (90) day review of non-residential definitive plans

In the case of a non-residential subdivision where a preliminary plan has been dully submitted and acted upon or where forty-five (45) days has elapsed since submission of the said preliminary plan, and then a definitive plan is submitted, the failure of a Planning Board either to

take final action or to file with the Town Clerk a certificate of such action regarding the definitive plan submitted by an applicant within ninety (90) days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the Planning Board with the Town Clerk.

One hundred thirty-five (135) day review of residential definitive plan if no preliminary plan submitted

In the case of subdivision showing lots in a residential zone, where no preliminary plan has been submitted and acted upon or where forty-five (45) days has not elapsed since submission of such preliminary plan and a definitive is submitted, the failure of a Planning Board either to take final action regarding the definitive plan submitted by an applicant within one hundred and thirty-five (135) days after such submission, or such further time may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the Planning Board with the Town Clerk.

When Subdivision is not required

Exemptions from Subdivision Control Law

2.1 Plan Believed Not to Require Approval

ANR submittal requirements

2.1.0 Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that said plan does not require approval under the Subdivision Control Law shall submit the following to the Planning Board at least 48 hours prior to a regular scheduled Planning Board meeting.

2.1.1 Procedural Requirements

2.1.1.1 One (1) original plan prepared by a registered land surveyor on mylar.

2.1.1.2 Four (4) paper prints.

2.1.1.3 Two (2) completed copies of Form "A"

2.1.1.4 One (1) check or money order made payable to the Town of Ashby in the amount of \$100.00 plus \$25.00 per new lot.

2.1.2 Drafting Requirements

2.1.2.1 Plan sizes shall be a minimum of eight and one-half inches by eleven inches (8 1/2" x 11") and a maximum of twenty-four inches by thirty-six inches (24" x 36").

2.1.2.2 Plans being presented for recording shall be on linen or polyester film, single matte with a thickness .004 mils, and must have an opacity so as to allow consistent diazo and microfilm reproduction.

2.1.2.3 All plans shall be prepared using a compatible ink with excellent cohesiveness which will produce a permanent bond and result in a plan with long term durability.

2.1.2.4 Linen or polyester reproductions shall be accepted for recording provided they contain original signatures and comply with the other requirements for the recording of plans.

2.1.2.5 Each plan shall have three quarter inch (3/4") borders.

2.1.2.6 The minimum letter size on plans presented for recording shall be one-eighth inch (1/8").

2.1.2.7 Each plan presented for recording shall include a graphic scale, and the scale shall be not less than 1 inch equals 40 feet unless specifically allowed by the Planning Board.

2.1.2.8 Each plan shall have an area reserved to receive Planning Board recitation or contain a surveyors certification as per Chapter 380, Acts. of 1966.

2.1.2.9 Each plan shall have a three and one-half (3 1/2") square reserved for Registry use.

2.1.2.10 Each Plan must contain a certification clause signed by the preparer stating that he/she has conformed with the rules of the Registers of Deeds in preparing the plan.

2.1.3 Sheet Layout Requirements

2.1.3.1 Each sheet shall include the following items:

2.1.3.1.1 Name of applicant.

2.1.3.1.2 North arrow and bar scale.

2.1.3.1.3 Existing zoning district(s).

2.1.3.1.4 Contest or loci map.

2.1.3.1.5 Legend for miscellaneous items on plan.

2.1.3.1.6 Date.

2.1.3.1.7 Registered land surveyor's seal, name, and address.

2.1.3.1.8 Space for the signatures of the Planning Board members and approval date, and a three and one-half inch (3 1/2") square reserved for Planning Board use.

2.1.4 Plan Requirements

2.1.4.1 All plans shall at a minimum include the following information:

2.1.4.1.1 Names, widths, and exterior lines of any existing ways, public or private, that run through or are adjacent to the parcel being subdivided. Label each way; public or private as appropriate.

2.1.4.1.2 Lines, boundaries, and areas of all lots being subdivided.

2.1.4.1.3 The data necessary to determine the location, bearing, and length of every way line, lot line, and other boundary lines shown on the plan whether straight or curved, sufficient to be reproduced the same on the ground.

2.1.4.1.4 Buildings.

2.1.4.1.5 Walks and drives.

2.1.4.1.6 Fences and walls.

2.1.4.1.7 Water bodies and water ways.

2.1.4.1.8 Easements (public and private)

2.1.4.2 In the case of a recombination or a conveyance, the plan shall include the entire parcel being conveyed and the entire parcel to which the land is being conveyed. The plan shall also indicate the area of the parcels before the conveyance and the total area of the parcel after the conveyance.

2.1.4.2.1 In the instances where a parcel which, in itself, is not an acceptable lot under the rules and regulations governing the subdivision of land, is being conveyed to an abutter, a note shall be placed on the plan which shall state that parcel "A" is being combined with parcel "B" so as to create a new, single parcel.

2.1.5 If the Board determines that the plan does not require approval, the Board or its agent shall forthwith without a public hearing endorse on the plan the words "Approval under Subdivision Control Law not Required" or words of similar import. Such endorsement shall not be deemed to constitute any determination of compliance with requirements of the Zoning Ordinance. The original mylar of said plan shall be returned to the applicant.

2.1.5.1 In determining whether an existing way is adequate to qualify a plan as approval not required the Board shall consider the following standards, among others;

A way with the potential to serve one to five lots;
Minimum right of way 40 feet
Gravel foundation minimum 12 inches
Surface Type gravel
Surface width, minimum 18 feet
Maximum grade 8%

A way with the potential to serve more than five lots;
Minimum right of way 40 feet
Gravel foundation minimum 12 inches
Surface Type bituminous concrete, 3 inches
Surface width, minimum 20 feet
Maximum grade 8%

and adequate provisions have been made for public utilities and drainage

2.1.6 If the Board determines that the plan does require approval under the Subdivision Control Law, it shall forthwith so inform the applicant and return the original mylar of the plan. The Board shall also notify the Town Clerk of its determination.

Twenty-one (21) day Review Period

2.1.7 If the Planning Board fails to act upon a plan submitted under this section within twenty-one (21) days after its proper submission, it shall be deemed to have determined that approval under Subdivision Control Law is not required.

2.2 Subdivision: No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of

municipal services therein, unless and until a Definitive Plan of such subdivision has been submitted to and approved by the Planning Board as hereinafter provided.

2.3 Compliance with Zoning: No subdivision plan shall be approved by the Planning Board unless the size, shape, width, and frontage of all lots within the subdivision comply with the applicable provisions of the Zoning Ordinance. Under-sized lots may be included on a plan only if the Boards records on the mylar that said lots are unbuildable.

2.4 Effect of Prior Recording of Plan: Notwithstanding the foregoing, the recording of a plan of a subdivision within the Town in the Registry of Deeds of Middlesex County prior to August 26, 1958, shall not exempt the land within such subdivision from the operation of the Subdivision Control Law except with respect to lots which had been sold and were held in ownership separate from that of the remainder of the subdivision when said law went into effect in the city or town, and to rights of way and other easements appurtenant to such lots.

2.5 Development Impact Statement:

2.5.0 Components: The Planning Board may require a developer of a subdivision of more than one building on a lot to submit a Development Impact Statement (DIS) on the effects the proposed action has or will have on :

(1) the immediate neighborhood or land area, (2) surrounding neighborhoods or land areas, and (3) the community at large.

The DIS shall include a detailed assessment of the probable impacts of the proposed action on a wide variety of environmental, fiscal, and socioeconomic elements and factors. Environmental impacts shall mean any destruction, damage, or impairment and eutrophication of rivers, streams, floodplains, lakes, ponds, or other surface or subsurface water resources; destruction of wetlands, open spaces, natural areas, topography, parks, or historic districts or sites. The Development Impact Statement shall contain detailed information describing the nature and extent of the proposed work and its environmental impact; all measures being utilized to minimize environmental damage; any adverse short-term and long-term environmental consequences which cannot be avoided should the work be performed; and alternatives to the proposed action and their environmental consequences.

Fiscal and socioeconomic impacts shall include traffic circulation and safety, neighbor character, school enrollment, public facilities, associated fiscal expenditures and revenues, effect on housing, and other development activity.

2.5.1 Procedure: Upon submission to the Planning Board of a Preliminary/Definitive Subdivision Plan, the applicant is required to submit a general statement of notification of the proposed action summarizing the following points:

- (1) A brief description of the proposed action and the area(s) or activities affected;
- (2) Existing baseline conditions with a summary of probable impacts;
- (3) A brief analysis of available alternatives and their effect.

DIS cost borne by applicant

Based on a review of the above three items, the Planning Board will determine whether a complete Development Impact Statement will be the responsibility of the applicant. The DIS shall be prepared by a registered professional engineer or member of the American Institute of Certified Planners.

Board waiver powers

The Board may waive any sections of the requirements which it deems non-applicable to the proposed project or may require additional information on any aspect of the requirements.

2.6 Procedures:

2.6.0 All plans and all procedures relating thereto shall in all respects comply with the provisions of these Rules and Regulations, unless the Board authorizes a variation therefrom in specified instances.

Conditions for building permit issuance

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

2.6.2 The Board may assign as its agents appropriate Town agencies or officials and may from time to time hire professional assistance to review plans and inspect improvements at the cost of the applicant.

Modifying, amending, or rescinding a plan

2.6.3 The Board, on its motion or on the petition of any interested person, shall have the power to modify, amend, or rescind its approval of a plan of a subdivision, or to require a

change in a plan as condition of its retaining the status of an approved plan after due notice and opportunity to the owner to be heard in accordance with Section 81W of Chapter 41 of the General Laws as amended. The time requirements shall be the same as in the case of the Definitive Plan.

SECTION 3

PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS

3.0 Pre-submission Review: 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 Planning Board in order that general approaches and potential problems can be freely explored. Pencil sketches, 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 special circumstances, this pre-submission review may eliminate need for such a Preliminary Plan.

3.0.1 Fees

3.0.1.1 The fee for a Preliminary Plan shall be five hundred (\$500.00) dollars plus fifty cents (\$0.50) per lineal foot of roadway as shown on the plan. Said fee shall apply to the fee for any Definitive Plan arising from said Preliminary Plan. The minimum fee for a Definitive Plan shall be one thousand (\$1000.00) dollars plus one dollar (\$1.00) per lineal foot of roadway as shown on the plan.

3.0.1.2 All expenses for advertising, mailing, notices, secretarial services, engineering, professional planning review, and legal review as deemed necessary by the Planning Board, and plans, construction, inspection, recording, and filing of documents, and all other expenses in connection with the Preliminary Plan, Definitive Plan, and development of a subdivision through final inspection and approval shall be borne by the applicant in addition to the filing fee.

3.0.1.3 The applicant shall place a sum in escrow with the Ashby Planning Board and the Town of Ashby to be used in paying these costs. The amount will be determined by the Planning Board based on estimates made from similar subdivisions and shall be added to as needed, within thirty (30) days of request by the Planning Board.

3.0.1.4 Upon endorsement of a Definitive Plan, the developer shall place a sum in escrow with the Ashby Planning Board and the Town of Ashby in an inspection account to be used for the inspection schedule (Section 4.16). The amount will be determined by the Planning Board based on estimates made from similar subdivisions and shall be added to as needed within thirty (30) days of request by the Planning Board. Any sum remaining in escrow at the time of approval shall be credited to this account.

3.0.1.5 Failure of an applicant to comply with the requirements of this section shall be adequate cause for disapproval of the plan.

3.1 Preliminary Plan:

Residential Preliminary Plan optional

Non-residential Preliminary Plan mandatory

3.1.0 General: A Preliminary Plan of a subdivision should be submitted for discussion and approval by the Board in cases of residential subdivisions and said plan shall be submitted in cases of non-residential subdivisions. The submission of such a Preliminary Plan will enable the subdivider, the Board, other municipal agencies, and owners or 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.

Application requirements

Application shall consist of submission of the original and four copies of Form B, the application fee together with the plan and four (4) copies thereof, one copy of which shall be transmitted to the Planning Board to the Board of Health. Applications and plans shall be submitted to the Planning Board by delivery (receipt required) or by registered mail, followed by the filing of a copy of Form B indicating the date of said submission with the Town Clerk either by delivery (receipt required) or registered mail.

3.1.1 Contents:

3.1.1.0 The Preliminary Plan shall be drawn by a Massachusetts registered surveyor, landscape architect, or engineer, or member of the American Institute of Certified Planners, on paper 22 by 34 inches, in pencil, at a scale of not greater than one inch equals one hundred feet. Four prints shall be filed with the Planning Board. Said Preliminary Plan shall show all the information set forth in Paragraph 3.1.1.1 below, so as to form a clear basis for the preparation of the Definitive Plan.

3.1.1.1 "Preliminary Plan" shall mean a plan of a proposed subdivision or resubdivision of land showing:

- (1) The subdivision name, boundaries, north point, date, scale, legend, and title "Preliminary Plan";

- (2) The names of the record owner and the applicant and the name of the designer or surveyor;
- (3) The names of all abutters, as determined from the most recent tax list;
- (4) The existing and proposed lines of streets, ways, easements, and any public areas within the subdivision in a general manner;
- (5) The proposed system of drainage, including adjacent existing natural waterways, in a general manner;
- (6) The proposed sanitary sewer system and water distribution system, in a general manner;
- (7) The approximate boundary lines of proposed lot, with approximate areas and dimensions;
- (8) The names, locations, and widths of adjacent streets. Proposed existing sight distances shall be indicated;
- (9) The topography of the land in a general manner at 5' contour intervals;
- (10) The natural resources in a general manner including but not limited to wetlands, waterways, fields, and significant vegetation.
- (11) The cultural resources in a general manner including but not limited to existing stone walls, views, existing trails, monuments, and markers.
- (12) An index plan at a scale of one inch equals 200 feet (1"=200') (when multiple sheets are used);
- (13) A locus plan at a scale of one inch equals 1000 feet (1"=1000') on all preliminary plans;
- (14) Zoning districts of all areas shown on the plan;
- (15) The applicant is urged to prepare mylar overlays and a Development Impact Statement with the Preliminary Plan in order to expedite the Planning Board review.
- (16) A sketch plan of the applicant's contiguous, unsubdivided land, if such land exists.
- (17) During discussion of the Preliminary Plan the complete information required for the Definitive Plan and the financial arrangements (Section 3.2.2) will be developed.

3.1.2 Approval and Disapproval: The Planning 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 final approval of the Definitive Plan.

The Planning Board may also disapprove a plan. A disapproval shall be accompanied by a detailed statement of reasons for the action. Disapproval does not disqualify the plan but does record the Planning Board's position that changes may be required for Definitive Plan approval.

3.2 Definitive Plan

3.2.0 General: A Definitive Plan shall be governed by the Subdivision Regulations in effect at the time of such plan or in effect at the time of the submission of a Preliminary Plan provided that a Definitive Plan evolved therefrom shall have been submitted to the Planning Board within seven (7) months from the date of submission of the Preliminary Plan.

Applicable zoning if amendments made

A Definitive Plan shall be governed by the zoning in effect at the time of submission of each plan or a Preliminary Plan from which a Definitive Plan is evolved in accordance with the provisions of Section 6 of Chapter 40A of the General Laws of the Commonwealth.

Any person submitting a Definitive Plan shall give written notice thereof to the Town Clerk by delivery or registered mail; such notice shall identify the tract, the date of submission and the name and address of the owner.

Submittal requirements

The applicant shall file the original mylar drawing of the Definitive Plan Map, seven (7) contact prints, seven (7) copies of a Development Impact Statement with the Planning Board, and the application fee. (The requirement for a Development Impact Statement may be waived by the Planning Board based on a demonstration of the non-applicability of requirements by the applicant). The applicant shall also file one set of contact prints and a Development Impact Statement with the Board of Health. The original drawing and a copy of the Development Impact Statement will be reserved for signatures to be returned to the applicant after approval or disapproval by the Planning Board. The

format for a Development Impact Statement may be found in Section 2.5 and Appendix A. The application shall consist of the following:

3.2.0.0 Original reproducible drawings at 1"=40' of the Definitive Plan consisting of the Plot Plan, Site Plan, Street Plan, and Drainage Plan (storm water management and drainage) with reproducible copies of the original drawings including a mylar or reproducible cloth copy of the Plot Plan, and seven(7) contact prints thereof, dark line on white background. The reproducible copies and the original Plot Plan will be returned to the applicant after approval or disapproval.

3.2.0.1 Four copies of a properly executed application Form C.

3.2.0.2 Evidence that the Definitive Plan conforms to the approved Preliminary Plan or that the Definitive Plan includes the modifications required by the Board's action on the Preliminary Plan.

3.2.0.3 In the event that the Planning Board determines that expert technical opinion is necessary for unusual or special circumstances about a subdivision and its impact, the cost of that expertise shall be paid by the applicant.

3.2.0.4 A Designer's Certificate (Form D).

3.2.0.5 Results of percolation tests required by the Board of Health.

3.2.0.6 A list of the names and address of all abutters as they appear on the most recent tax list.

3.2.0.7 A copy of a Municipal Lien certificate referencing the property or properties and dated less than six (6) months prior to the submission date.

3.2.1 Contents: The Definitive Plan shall be prepared by a surveyor and an engineer and consist of the following:

3.2.1.0 General Requirements

3.2.1.0.0 Plan shall be drawn clearly and legibly in black India ink upon mylar.

3.2.1.0.1 Plan size shall be 22 inches high by 34 inches wide and shall have a 2 inch border on the left side and 3/4 inch border on all other sides.

3.2.1.0.2 The scale shall be 1"=40' horizontal and 1"=10' vertical.

3.2.1.0.3 A title block shall be located at the lower right hand corner and shall contain the subdivision name, the surveyor's and/or engineer's name and seal, the name and address of the owner and/or applicant, and the date.

3.2.1.0.4 An inset location map at a scale of 1"=1000', showing the proposed roads and the subdivision in relation to the surrounding street system furnished on the first sheet.

3.2.1.0.5 Suitable space, located at the lower left hand corner, shall be reserved for recording the action of the Board, the date, and the signatures of the Board. Additionally, space shall be reserved for certification by the Town Clerk that no appeal has been filed within the statutory 20 days appeal period.

3.2.1.0.6 All elevations with a base of Town Datum where possible. Where existing bench marks do not exist within a reasonable distance from the subdivision, at least two permanent bench marks shall be set.

3.2.1.0.7 Relative error of closure shall not be greater than 1:12,000. A signed statement to this effect shall appear on the tracing.

3.2.1.1 Plot Plan: The Plot Plan shall include:

3.2.1.1.0 Names of all abutters as they appear on the most recent tax list including owners of land separated from the subdivision only by a street.

3.2.1.1.1 Existing and proposed lines of streets, lots, right-of-ways, easements, and public or common areas within the subdivision. The proposed names of proposed streets shall be shown in pencil until they have been approved by the Town Clerk. The purpose of easements shall be indicated.

3.2.1.1.2 Location, names, and present widths of streets bounding, approaching, and within three hundred (300) feet of the subdivision.

3.2.1.1.3 Boundary lines, areas in square feet, and dimensions on all proposed lots, with all lots designated numerically and in sequence. The boundary lines and areas of other adjoining land of the applicant not included in the subdivision shall also be shown.

3.2.1.1.4 Location and description of existing bench marks.

3.2.1.1.5 Location and description of existing and proposed bounds.

3.2.1.1.6 Where the owner or subdivider also owns or controls unsubdivided land adjacent to or across the street from that shown on the Definitive Plan, the applicant shall submit a sketch plan showing a possible or prospective street layout and the present drainage, natural and constructed, for such adjacent land, unless such a plan has already been submitted to the Board with a Preliminary Plan.

3.2.1.1.7 Location and description of all existing and proposed easements of any nature on the land to be subdivided.

3.2.1.2 Site Plan: The Site Plan shall include:

3.2.1.2.0 Items 3.2.1.1.2 through 3.2.1.1.4 required under Plot Plan.

3.2.1.2.1 Major site features such as waterways, wetlands, and water bodies, existing stone walls, fences, buildings, large trees, rock ridges and outcroppings, and scenic vistas.

3.2.1.2.2 Existing and proposed topography within 50 feet outside the subdivision with a 2-foot contour interval, unless the Board agrees that the natural surface of the ground may be adequately represented by contours with larger intervals or by figures of elevation.

3.2.1.2.3 Existing and proposed building and those parts of building within 50 feet outside the property.

3.2.1.2.4 Location of all the following improvements unless specifically waived in writing by the Board: street paving, sidewalks, street lighting standards, all utilities above and below ground (i.e. telephone, cable television, gas), curbs, gutters, storm drainage, all easements, and hydrants.

3.2.1.2.5 Location and placement of all erosion and sediment control measures needed and proposed for the protection of the site during and after construction on the site.

3.2.1.2.6 The route followed by all drainage discharging from the subdivision to the primary receiving watercourse or other large body of water. If the surface water drains will discharge onto adjacent existing streets or onto adjacent properties not owned by the applicant the applicant shall present evidence from the Highway Superintendent or the owner of adjacent property to the Board that such discharge is satisfactory and permitted.

3.2.1.2.7 A statement of the distance and location of the nearest fire pond or hydrant.

3.2.1.2.8 The location and capacity of any proposed fire ponds or other bodies of water to be accessed by a hydrant as well as a statement of any easements for the maintenance of same.

3.2.1.3 Street Plan: The Street Plan shall consist of both a plan and profile with the corresponding stationing on the same sheet and shall include the information indicated below.

Where more than one sheet is required, the stationing shall overlap by at least 100 feet.

3.2.1.3.0 Sidelines, permanent line (in pencil), sidewalk lines (in pencil), widths and names on all existing and proposed streets.

3.2.1.3.1 Existing and proposed property lines extending approximately 50 feet beyond the street sidelines.

3.2.1.3.2 Centerline and sideline street layout data including all curve data, bearings, centerline stations, and centerline angles of intersecting streets. Sideline point of curvature and point of tangent shall be referred by centerline stationing where sideline curves exist and centerline curves do not.

3.2.1.3.4 Street profile showing existing centerline grade (dashed line) and proposed centerline grade (solid line) with elevations at every even 50 foot station shown, except in a vertical curve where they shall be shown on every even 25 foot station. Existing right side line and left side line grades shall also be shown.

3.2.1.3.5 All vertical curve data, including curve length, PVC, PVI, and PVT with elevations and low or high points.

3.2.1.3.6 Location and description of all existing bench marks.

3.2.1.3.7 Location and description of existing and proposed bounds.

3.2.1.3.8 Location, purpose, and width of all easements outside of street sidelines.

3.2.1.3.9 Location, names, and present widths of streets bounding, approaching, and within reasonable proximity of the subdivision.

3.2.1.4 Drainage Plan: (storm drainage). The drainage plan with the corresponding stationing on the same street and shall include the information indicated below. Where more than one sheet is required, the stationing shall overlap by at least 100 feet.

3.2.1.4.0 Sidelines, widths, and names of all existing and proposed streets.

3.2.1.4.1 Centerline curve data and bearings required in Item 3.2.1.3.2 under Street Plan.

3.2.1.4.2 Existing and proposed street drain profiles with grades, except the existing street grades. Pipe length between manholes, invert elevations, and slopes of pipes shall also be shown.

3.2.1.4.3 Finished invert elevations for the storm drains at 50 foot intervals.

3.2.1.4.4 Location and description of all existing bench marks.

3.2.1.4.5 Location and description of all existing and proposed bounds.

3.2.1.4.6 Location, width, and purpose of all easements outside of street sidelines.

3.2.2 Before the endorsement of approval of a definitive plan of a subdivision, the developer shall:

a: specify in writing the time within which the construction of ways and the installation of municipal services shall be completed, which time shall be two (2) years unless the developer stipulates otherwise.

b: file a performance bond by surety or deposit of money or negotiable securities in the amount determined by the Board to be sufficient to cover the cost of all or any part of the improvements plus a ten percent (10%) contingency factor or follow the procedure outlined in Section 3.2.2.1 or 3.2.2.2.

Bonds or Surety

3.2.2.0 Approval with Financial Performance Guarantees (Surety Bonds, Money, Three Party Lender Agreement, or Letters of Credit). The applicant shall either file a surety company performance bond or provide a deposit of money or negotiable securities, including letters of credit, in an amount determined by the Planning Board in consultation with the appropriate Town departments, to be sufficient to cover the cost of all or any part of the improvements specified in these regulations at State (or, if applicable, Federal) prevailing wage rates” not covered by a covenant under "b" below, and to cover the costs of inspections, record plans, street acceptance plans, and legal work, and a 20% contingency/inflation factor. Warranty principal shall be not less than 15% of the estimated cost of those components of the entire project which shall be dedicated for public use and shall cover workmanship and materials. If financial performance guarantees are used, at least two lots in a subdivision which can be built on must be covered by a covenant (under 3.2.2.1 below) to insure that all work, including legal work, is completed.

Letters of Credit, three-party agreement for lender retention of funds, surety bonds and other financial performance guarantees must be drafted so that the only

requirement that must be met for the Planning Board to draw on the letter is to notify the financial institution (grantor) that:

"We have incurred liability by reason of the failure of the applicant/developer/owner, within ninety days of the expiration of this letter, to complete the construction of their project (insert name of subdivision and plans) in accordance with the definitive subdivision plans and submittal, the subdivision approval, the Ashby Zoning Ordinance, and the Rules and Regulations Governing the Subdivision of Land in Ashby. The amount drawn, which may be more than required to complete the project, will be held in a segregated bank account until the work can be bid competitively and the bid awarded and paid for or until the contract for the work is otherwise let and the work paid for. Any excess over the cost of completing the work will be returned to the grantor."

Such bond, deposit of money or negotiable securities, shall be approved as to form, the surety or financial institution, and manner of execution by the Planning Board.

- For any surety bond:
 - a. The surety must agreed that any litigation stemming out of the bond will take place in Massachusetts
 - b. The bond must include the name and address of the person to be served for any legal action.
 - c. The bond must specifically include the terms above.
 - d. No expiration date may be allowed in the bond (the bond must be valid until the work is complete) and the warranty performance period has been completed.

Reasons for modification

Modification process

If the Board shall decide at any time during the term of the performance bond that:
(a) improvements have been installed in a satisfactory manner in sufficient amount warrant reduction in the face amount of such and, or
(b) the character and extent of the subdivision requires additional improvements, previously waived, then the Board may modify its requirements for any or all such improvements and the face value of such performance bond shall thereupon be reduced or increased respectively by an appropriate amount. Such a reduction will only occur upon a review of costs by the Board's Consultant Engineer, a positive vote of the Planning Boards, and the submittal of a letter to the Town Treasurer informing him of the Board's decision.

Covenant Chapter 41, Section 81U MGL

3.2.2.1 Approval with Covenant. Instead of filing a bond or depositing money, the applicant may fulfill a covenant (see Appendix A, Form E), executed and duly recorded concurrent with recording the subdivision approval by the owner of record, running with the land, that no lot in the subdivision shall be sold and no building erected thereon until such ways, services and, whenever applicable, temporary turnarounds are constructed and installed, and until record plans, street acceptance plans, and other required work are accepted by the Planning Board in accordance with these Rules and Regulations so as to adequately serve the lots.

Such covenant shall be inscribed on the Definitive Plan or on a separate document referred to on the plan and delivered to the Planning Board. The Planning Board shall turn over the covenant agreement to Town Counsel, who shall review its contents and forward his comments in writing to the Planning Board. Upon approval of the covenant by the Planning Board, the applicant shall note the Planning Board's action on the Definitive Plan and the Planning Board shall record the covenant, endorsed Definitive Plan, and other appropriate documents at the South Middlesex Registry of Deeds (see Section 6:06.6).

Form E, Approval with Covenant Contract

In this case, before endorsement of approval of a Definitive Plan, there shall be filed by the subdivider a properly executed Approval with Covenant Contract in accordance with Form E, Appendix B.

3.2.2.2 Completion Time Schedule. The Performance Guarantee, whether by bond, deposit of money, letter of credit, or covenant, as previously described herein, shall be contingent upon the completion of such improvements, and the required a one year warranty on as required in these Rules and Regulations within a maximum period of two (2) years of the date of such bond, deposit of money, or covenant. There shall be at least a three (3) month period between the completion date of all improvements and one year warranty period and the expiration date of any bond, deposit of money, or letter of credit. Said three (3) month period shall give the Town the opportunity to collect the financial performance guarantee so that it will be able to complete the necessary improvements in case (a) the developer is unable to do so; and/or (b) the Planning Board denies any requests for an extension of time. "Warranty" shall include all workmanship and materials.

Upon written request from the applicant, the Planning Board may, at its discretion, grant an extension of time, and such agreement shall be executed and affixed to the financial performance guarantee or covenant.

In the case of a surety company bond, such an agreement for an extension shall not be effective until the surety delivers to the Planning Board a written statement that the surety agrees to the proposed alteration of the completion schedule and that such alteration shall not relieve or affect the liability of the surety company.

Failure to complete all improvements as required by these Rules and Regulations within the time allotted shall cause the Planning Board (a) to draw upon the performance guarantee (surety bond, deposit of money, letter of credit) in order to complete said improvements; and/or (b) schedule a Public Hearing in order to rescind approval of the subdivision in accordance with appropriate sections of Chapter 41, Section 81, of M.G.L.

Form G or H, Certificate of Release from Covenant

Prior to delivering to the subdivider a Certificate of Release (Forms G, H) whereby the restrictions relating to the lot or lots listed therein shall be terminated, the Board shall determine to its satisfaction that such improvements have been completed so as to adequately serve such lot or lots, in part by requiring that the subdivider submit to the Board the following:

Written report from the Board of Health

3.2.3 Review by Board of Health as to Suitability of the Land: If the Board of Health is in doubt as to whether any of the land in the subdivision can be used as building sites without injury to the public health it shall so notify the Planning Board in writing. Any approval of the plan by the Planning Board shall then only be given on condition that the lots or land as to which such doubt exists shall not be built upon without prior consent of the Board of Health, and shall endorse on the plan such condition, specifying the lots or land to which said condition applies.

3.2.3.1 The Clerk of the Planning Board shall transmit one (1) copy each along with a request for a written statement to the:

- a) Town Counsel for review of easements, covenants, and performance guarantees,
- b) the Highway Superintendent and the Planning Board agent for review of the design of the street system, location of easements, monuments, street lights, and drainage system,
- c) the Fire Department for review of the location of hydrants and adequacy of water supply,
- d) the Conservation Commission for review of environmental impacts,
- e) the Selectmen.

3.2.4 Public Hearing: Before approval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Board at the expense of the applicant at least fourteen days prior thereto by advertisement in a newspaper of general circulation in the Town of Ashby. A copy of said notice shall be mailed to the applicant and to all owners of land abutting upon the subdivision as appearing on the most recent local tax list as certified by the assessors.

3.2.5 Approval Conditional upon Compliance with the Wetlands Protection Act: Any plan approved by the Board, with or without condition, which is revised in order to comply with the Wetlands Protection Act (Massachusetts General Laws, Chapter 131, Section 40, as amended), shall constitute a revised plan and shall be resubmitted to the Board for review and approval.

3.2.6 Approval Conditional upon Compliance with Massachusetts Environmental Policy Act Regulations (MEPA): Where applicable, any approval by the Planning Board will be conditional upon full compliance with the Massachusetts Environmental Policy Act Regulation, (301 CMR 11.00)

Planning Board endorsement after twenty-day appeal period

3.2.7 Certificate of Approval of Plan: The action of the Board shall be in the form of a letter to the Town Clerk. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its action. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Board, but not until the statutory twenty day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed.

Approval is not acceptance of streets

3.2.7.1 Final approval of the Definitive Plan does not constitute the layout or acceptance by the Town of streets with a subdivision.

3.2.7.2 The endorsement of plan approval shall be valid for a period of two (2) years from the date of said approval or other such period as specified in 3.2.0 through 3.2.2. Prior to the expiration date of the said approval period, the developer and/or owner shall request in writing to the Planning Board an extension of time to complete. Failure to request extension of time prior to the expiration of said approval period shall result in the Planning Board notifying the Building Inspector that subdivision approval has expired and no additional building permits should be issued for said development. The request for extension shall state the reasons for the extension and the length of time requested. The extension shall not, in any case, exceed the period of the original approval.

3.2.8 Recording of Plan: Within ten (10) days after the definitive Plan, as approved and endorsed, has been recorded at the Middlesex County Registry of Deeds and, in the case of registered land, with the recorder of the Land Court, the applicant shall notify the Board in writing of such recording, covenants or agreements, if any. Following plan

approval, endorsement, and recording, the applicant shall provide the Board with one mylar, five prints of the Definitive Plan, one of which shall be certified by the Registry of Deeds as having been recorded, and one copy of final covenants and restrictions, noting book, page number, and date of recording for each. One copy of the Definitive Plan shall be transmitted to the Building Inspector and the Board's Consultant Engineer by the Planning Board.

Failure to comply with the procedural and other requirements of these Rules and Regulations may result in rescission of approval given hereunder by the Board.

Authority to rescind approval
MGL Chapter 41 Section 81-W

3.2.9 Revocation of Approval: The Board reserves the right to revoke granted approval of a Definitive Plan in accordance with Section 81-W of the Subdivision Control Law. Notice of such action shall be given to the applicant, the Town Clerk, and the Middlesex County Registry of deeds.

Request for Release of Funds (Form I)

3.2.10 Release of Performance Guarantee: Upon the partial or full completion of improvements required under Section 4, herein, and/or the approved Definitive Subdivision Plan, security for the performance of which was given by Bond, Surety, or Mortgage Agreement, the applicant shall provide a duly completed Form I, Request For Release of Funds. A partial release of funds, and certification of completion in no way releases the applicant from the requirements of filing complete As-Built drawings. If the Board determines that said construction or installation has not been completed, it shall specify to the applicant in writing the details wherein said construction and installation fails to comply with the requirements contained under Section 4. Upon failure of the Board to act on such application within forty-five (45) days after receipt of the application by the Planning Board, all obligations under the bond shall cease and terminate by operation of law, and any deposit shall be returned and any such covenant shall become void. In the event that said forty-five (45) day period expires without 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 may issue a certificate to such effect, duly acknowledged, which may be recorded.

3.2.11 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:

As-Built drawings

3.2.11.0 The applicant shall file with the Board a certified copy of the Definitive Plan of the required subdivision (or, in the case of approval with covenant, of the street or streets serving the lots for which a release is desired). The plans shall provide record information of the subdivision improvements as actually constructed as required under "As-Built Drawings", Section 4.19. Certification shall be by the designer and surveyor employed by the applicant at his or her own expense, and shall indicate that all streets, sidewalks, storm drains, utilities, and their appurtenances have been constructed in accordance with the lines and grades of said plan and are accurately located as shown thereon.

3.2.11.1 The Board shall obtain in writing from the Board's Consultant Engineer that all work required by these rules and regulations has been inspected by the Engineer and completed in each street in the subdivision (or the street or streets serving the lots in question), and that the Engineer has approved the methods, construction, and materials used in the performance of such work.

3.2.11.2 The Board shall obtain in writing from the Board of Health a statement that each already installed on-lot sewerage system was installed in accordance with the Ashby Board of Health rules and regulations and Title V State Environmental Code and each on-lot water system was installed in accordance with the standards of the Board of Health.

3.2.11.3 The applicant shall execute an instrument, a form approved by the Board transferring to the Town or to an approved public utility company without cost, valid unencumbered title to all utilities constructed and installed in the subdivision or approved portion thereof, and conveying to the Town or approved public utility company without cost and free of all liens and encumbrances, perpetual rights and easements to construct, inspect, repair, renew, replace, operate, and forever maintain such utilities, with any manholes, pipes, conduits, and other appurtenances, and to do all acts incidental thereto, in, through, and under the whole of all streets in the subdivision or approved portion thereof, and if any such utilities have been constructed and installed in land not within such streets, then in, through, and under a strip of land extending 10 feet in width on each side of the centerline of all such utilities.

3.2.12 Rescission: Failure of the developer to record the Definitive Plan within six months of its endorsement, or to either initiate construction or improvements or sell lots in a subdivision or portion thereof within two years of the approval of the Definitive Plan, shall constitute sufficient reason for the rescission of such approval in accordance with the requirements of Section 81-W, Chapter 41, General Laws.

3.2.13 Fee to Streets and Easements: The applicants shall retain title to the fee of each street, road, way, or walkway in the subdivision, and shall convey to the Town said fee without encumbrance. The applicant shall also convey to the Town any easement

right within or appurtenant to the subdivision. Notation that this is to be done shall be placed upon the Definitive Plan.

SECTION 4
REQUIRED IMPROVEMENTS IN SUBDIVISIONS, DESIGN STANDARDS,
AND CONSTRUCTION SPECIFICATIONS

4.0 Basic Requirements:

4.0.0 The subdivider shall provide all of the improvements required herein to be installed at his or her own expense. All work done under this section shall be done under the direction of the Board or its agents. No aforementioned bond or covenant shall be released until all streets have been in place over at least one winter (December 1 to April 15) and full approval in writing of all work done under this section is received from the Board's Consultant Engineer. In addition, the following minimum specifications shall govern the installation of all roadways, utilities and other improvements in all subdivisions.

4.0.1 Clearing and Grubbing of Right-of-Way: Trees over four inches in diameter located more than five (5) feet from the proposed edge of pavement shall require permission of the Board if removal is desired by the developer. All other trees and shrubs shall be removed within the right-of-way as dictated by sound design and landscaping.

4.0.2 Responsibility: The responsibility for adequate drainage shall rest with the developer. This shall include the risk involved in connecting with existing drainage facilities provided by the Town. Where property adjacent to the subdivision, but within the same watershed, is not subdivided, provision shall be made for proper projection of the drainage systems by continuing appropriate drains and easements to the exterior boundaries of the subdivision at such size and grade as will allow for such projection. Drainage rights which are appropriate, sufficient, and necessary to accommodate drainage from the subdivision and adjacent areas shall be secured for the Town.

4.0.5 Utilities: All new gas, telephone, electricity, and cable antenna television lines shall be installed underground.

4.0.6 Roads, Berms, and Curb Cuts: Wherever a sidewalk or bicycle path intersects a roadway, curb cuts shall be provided at intersections. Roadways, berms, curbs, curb cuts, and shoulders will be constructed in accordance with the Town of Ashby, Street Construction Specifications.

4.0.7 Sidewalks and Bicycle Paths: Unless the Board determines that the pedestrian movement is otherwise provided for, sidewalks on both sides of the roadway, having a width of not less than five (5) feet shall be constructed between the roadway and the right-of-way, as close to the latter as practicable, and generally parallel with the roadway. Pedestrian access other than by routes parallel with roadways may be permitted, provided easements are established. The Planning Board may require a bicycle path from four (4) to eight (8) feet in width within a subdivision. In certain cases the sidewalk requirement may be waived where bicycle paths are provided.

4.0.8 Ground Water Drainage: As construction progresses, unforeseen ground water conditions may be encountered which require additional subdrains or curtain drains. These conditions include potential problems if construction is in progress at a time of low water table or other dry conditions. The Board reserves the right to require appropriate systems to address unforeseen conditions.

4.0.9 Retaining Walls: Retaining walls shall be installed where deemed necessary by the Board, and they shall be designed by a Registered Professional Engineer.

4.0.10 Erosion Control: Proper temporary and permanent erosion and sedimentation control will be required, at the discretion of the Planning Board, and/or its agent(s). Measures shall include, not be limited to, staked hay bales, sediment control fences, temporary seeding, proper storage of materials, and limiting excessive cuts and fills.

4.0.11 Trees and Plantings:

4.0.11.1 Existing Trees: Trees on the site, specially those over twelve (12) inches in diameter should be preserved. Following is a list of recommended measures for the protection of trees:

- (a) There shall be no operation of heavy equipment or storage of any materials under said tree within its natural drip line.
- (b) Wherever possible, no grading or filling should be done within the drip line.
- (c) Supplemental irrigation shall be provided to new trees as needed during the summer months to aid growth.
- (d) No bituminous concrete paving or vehicle parking should be located under conifers. No more than twenty percent (20%) of the area under an deciduous trees' natural drip line may be so paved.
- (e) All drainage from paved areas should be directed away from root zones.

4.0.11.2 Street Trees:

- (a) The subdivider is required to plant suitable broad-leaved deciduous trees along roads or ways between roadway and sidewalk, unless specifically exempted by the Board. All trees shall be the equivalent of well-rooted nursery-grown stock free of injury, harmful insects, and diseases. They shall be well-branched and of sound structure.
- (b) Large-growing trees shall be spaced at intervals of 50 feet, medium-growing trees at intervals of 40 feet, and small-growing trees at intervals of 30 feet. Trees on one side of the street may be set either opposite or diagonally to trees on the

opposite side. If overhead wires are present, large or medium-growing trees to be planted along the same side as such wires should be planted within the set-back area of the property rather than adjacent to the paved way. Small-growing trees with low-branching characteristics should be planted within the front yard set-back area in all cases.

(c) Minimum acceptable sizes of trees to be planted shall be as follows:

- Large-growing: 2-1/2" trunk diameter, caliper 1' above ground.
- Medium-growing: 2-1/2" trunk diameter, caliper 1' above ground.
- Small-growing: 9' crown height, 5' spread.

(d) Planting operations shall be as specified in Section 8, Subsections A,C,E, and F of the Recommended Standard Specifications for Planting Trees, Shrubs, and Vines, compiled and issued by the Associated Landscape Contractors of Massachusetts, Inc.

(e) Requirements for support stakes, guy wire and cable, ground anchors, hose, and wrapping material shall be those contained in Section 6 of the Recommended Standard Specifications for Planting Trees, Shrubs and Vines, compiled and issued by the Associated Landscape Contractors of Massachusetts, Inc.

(f) The subdivider shall be responsible for maintenance of planted trees and replacement of those which have died or become diseased from the time of planting through one full year.

4.0.11.3 Bank Plantings:

(a) All cut or fill bankings with slopes greater than 3:1 must be planted with suitable, well-rooted, low-growing plantings. All plants shall be the equivalent of nursery-grown stock in good health, free from injury, harmful insects, and diseases.

(b) Perennial grass turf installed as sod is an acceptable alternative for the planting of banks.

(c) If bank plantings are of a type which are properly spaced at close intervals, 8" to 12" of loam shall be spread over the entire bank. If the plantings are to be widely spaced they may be planted in loam pits.

(d) Mulch (wood chips or equivalent) shall be spread to a minimum depth of 6" among plants for weed and erosion control.

(e) The subdivider shall be responsible for maintenance of bank plantings and replacement of those which have died or become diseased from the time of planting through one full year.

4.0.11.4 Corner Plantings: Requirements for plantings adjacent to street intersections shall be the same as those for Bank Plantings with the following exceptions:

(a) Turf may be provided by seeding as well as by planting sod.

(b) Bushy shrubs and herbaceous plantings that would tend to obscure visibility are not permitted within twenty (20) feet of the intersection of the curbs adjacent to the corner lot.

4.0.11.5 Grass Strip: All cleared areas of a right-of-way, not to be planted with ground cover plantings, including all disturbed area over all culverts in drainage easements, shall be loamed with not less than six (6) inches compacted depth of good quality loam, seeded with lawn grass seed. Seeding shall be done at appropriate times of the year and in a manner to insure growth of grass. No utility poles, transformers, signs or similar items shall be placed within the grass plot within three (3) feet of the edge of the pavement (i.e., Place at back of sidewalk).

4.0.12 Street Signs: Street name signs of a design conforming to the type in general use in the Town shall be furnished, set in concrete and erected at all street intersections prior to the occupancy of any house on the street. They will be provided with "break-away" sign supports. Signs may be purchased from the supplier of signs for the Town of Ashby Highway Department, and shall be installed prior to the release of occupancy permits by the Building Inspector.

4.0.13 Street Lights: Installation of street light shall be governed by standards and styles approved by the Planning Board and on file with the Fitchburg Gas and Electric Light Company.

4.0.14 Guard Rails: Guard rails and fences shall be installed at any location where slopes off of the proposed street exceed 3:1.

4.0.15 Fire Protection: Adequate provision shall be made for the supply of water for fire protection. This may include natural or manmade retention ponds. These ponds shall be accessed by at least one hydrant of a type approved by the Ashby Fire Department. Where, in the opinion of the Board, the provision of water for fire protection is inadequate, construction of such water supplies will be required.

4.1 Streets: Streets shall be constructed in all subdivisions at no expense to the Town and shall be constructed in conformance with these regulations. The applicant is encouraged to review the latest edition of "Residential Streets", published by the American Society of Civil Engineers (ASCE) for guidance on comprehensive street design.

4.1.0 Location and Alignment:

4.1.0.0 All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular travel and natural drainage with no drainage pockets, and so that they are adjusted to the topography and provide the minimum number of intersections with existing and collector streets. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.

4.1.0.1 Provision satisfactory to the Board shall be

made for the proper projection of streets, or rights of ways for access to adjoining property which is not yet subdivided.

4.1.0.2 Reserve strips prohibiting access to streets or adjoining property shall not be permitted except where, in the opinion of the Board, such strips shall be in the public interest.

4.1.0.3 Offset street intersections with centerline offsets of less than 175 feet shall not be allowed.

4.1.0.4 Dead-end streets shall not be longer than 800 feet unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions. Length shall be measured from the intersection of the dead-end street with the centerline of intersecting street. For purposes of this section any proposed street that intersect solely with a dead-end street shall be deemed to be an extension of that street.

4.1.0.5 Dead-end streets and their extensions shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 100 feet and a property line diameter of at least 120 feet.

4.1.0.5.0 A dead-end street shall not have a grade greater than two percent (2%) for the last one hundred (100) feet at the closed end.

4.1.0.5.1 Temporary dead-end streets shall similarly provide for a turnaround, which may be located in part on easements over lots so long as contractual assurance is provided that, upon extension of the street, the terminated turnaround will be removed and replaced with loam and appropriate planting.

4.1.0.6 The minimum centerline radii of curved streets shall be not less than the following:

- Minor Streets - 50 feet
- Collector Streets - 150 feet

4.1.0.7 Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty degrees.

4.1.0.8 Property lines at street intersections shall be rounded to a radius of not less than twenty-five feet at intersections with a collector street and twenty feet for intersections involving only minor streets.

4.1.0.9 Roadways shall be constructed for the full length and width. The centerline of such roadway shall coincide with the centerline of the street right-of-way, unless a minor waiver is specifically approved by the Board.

4.1.0.10 All reverse curves on collector streets shall be separated by a tangent at least one hundred (100) feet long.

4.1.0.11 Subdivisions containing twelve (12) or more lots shall have at least two (2) separate means of access/egress with a street or streets either existing or shown on an approved subdivision plan for which a performance guarantee has been filed.

4.1.0.12 Streets shall not be built within twenty-five (25) feet of any watercourse, except where a stream crossing has been approved by the Conservation Commission. A street may cross land which is flood prone provided the lots served may be reached by another means of access which is not subject to periodic flooding.

4.1.1 Width:

4.1.1.0 The width of a street right-of-way and traveled ways shall not be less than the following:

	Right of Way	Traveled Way
Minor Street	40 feet	22-feet
Collector Street	50 feet	28 feet

Greater width shall be required by the Board when deemed necessary for present and future vehicular travel.

4.1.1.1 The Street Section shall comply with typical Street Sections contained in appendix C herein.

4.1.2 Grade:

4.1.2.0 Grades of streets shall not be less than 0.5% Grades shall not be more than 6.0% for collector streets; 8.0% for minor streets.

4.1.2.1 On any street where the grade exceeds 6.0% on the approach to an intersection or cul-de-sac, a leveling area with a slope of not more than 4.0% shall be provided for a distance of not less than 100 feet measured from the nearest exterior line of the intersecting street.

4.1.2.3 Street grades shall be designed in relation to existing grades such that the volume of cuts and fills made within the right-of-way approximately balance, except to offset peat, boulders, or other unusable material to be removed.

4.1.3 Adequate Access:

4.1.3.0 The Planning Board will evaluate the adequacy of the existing and resulting roadway network system to support the vehicular and pedestrian traffic flows generated by a proposed subdivision. The following criteria will be employed in this evaluation:

- (a) The existing and resulting level of service (LOS) at all affected intersections.
- (b) The existing and resulting volume to capacity ratios of adjoining road-ways.
- (c) The geometric design of all existing and resulting affected intersections.
- (d) The physical condition of existing roadways, including, but limited to, pavement width, pavement condition, horizontal and vertical alignments, sight impairments, surface drainage facilities, and pedestrian facilities.

4.1.3.1 The Planning Board will require the following minimum post-development standards for the surrounding public ways.

- (a) Affected intersection shall operate at a Level of Service "C" or better.
- (b) Volume to capacity ratios shall not exceed .50 on adjoining roadways used for access or egress from the subdivision.
- (c) All geometric designs of affected intersections shall conform to the minimum roadway design requirements of these regulations.
- (d) The physical condition of existing public ways used for access or egress from the subdivision shall conform to the minimum roadway design requirements of these regulations including, but not limited to, pavement width, pavement condition, horizontal and vertical alignments, sight distances, surface drainage facilities, and pedestrian facilities.

4.1.3.2 The Planning Board will require the applicant to provide all needed improvements, at no cost to the Town, to meet the minimum standards established above to ensure adequate access for a proposed subdivision. Suitable evidence shall be provided that such improvements are permitted by the Highway Superintendent or other such government body supervising the roadways affected.

4.1.3.3 No subdivision plan shall be approved unless the Planning Board, following its public hearing and consultation with the Fire Chief, Police Chief, Highway Superintendent and the Selectmen, determines that access will be adequate in light of the expected traffic without reduction in the level of service or the creation of hazard in the adjoining public way. In no case will a subdivision plan be approved in which access is only from a way that does not meet the standards in section 2.1.5.1

4.1.3.4 Access to any residential subdivision shall be within the Town limits. Any access to a subdivision through another town requires certification from that town that the street is accordance with the plans and subdivision requirements of that town and that the bond posted is adequate and that the access is adequate for expected traffic.

4.1.4 Preparation of Roadway:

4.1.4.0 Clearing: The roadway shall be cleared of all obstructions of any kind for a distance equal to the sum of the specified width of the pavement plus the required shoulder and any sidewalk or swale on each side of the pavement. A greater width may be required at corners and on the inside of curves for visibility.

4.1.5 Street Subgrade:

4.1.5.0 All materials shall be removed for the full length and width of the roadway (pavement and shoulder), to a depth of at least fifteen (15) inches below the finished surface as shown on the profile plan; provided, however, that if the soil is soft and spongy, or contains undesirable material such as clay, sand pockets, tree stumps, stones over six (6) inches in diameter, or an other material detrimental to the subgrade, a deeper excavation below the subgrade shall be made.

4.1.5.1 All pipes and utilities shall be laid as specified in Sections 4.7, 4.8, and 4.9.

4.1.5.2 An inspection must be made of the subgrade by the Board's Consultant Engineer before any foundation gravel is spread.

4.1.5.3 The excavation shall be back-filled to three (3) inches below subgrade and well compacted with approved gravel consisting of hard durable stone and coarse sand practically free from loam and clay, uniformly graded and containing no stone having a dimension greater than six (6) inches.

4.1.6 Street Subbase

4.1.6.0 Before the base is spread, the gravel borrow subbase shall be shaped to a true depth of 12 (12) inches conforming to the Typical Street Sections included herein. The subbase installation shall be in conformance with the Massachusetts Departments of Public Works Standard Specifications for Highways, Bridges, and Waterways, as last revised, Section 401. It shall be compacted to 95% maximum density in layers not exceeding eight inches in depth, except the last layer shall be at least 3 (3) inches graded base.

4.1.7 Street Surface

4.1.8.0 The surface course shall be laid in two separate operations, consisting of a 1-1/2 inch binder course of Class I bituminous concrete, Type I-1 and a 1-1/2 inch surface course of Class I bituminous concrete, Type I-1 in accordance with Section 460 of the above given state specification. The roadway shall be paved to the full width specified. The finished surface must be uniformly placed true to

line and grade to form a close, even union around all curbs and projecting frames. It is the contractor's responsibility to see that all manhole frames are at street grade to 1/4 inch below grade (not projecting) and accessible for their intended use.

4.1.8.1 Cable TV, electricity, telephone conduits, gas connections, and any other utilities shall be installed to the lot line (back of sidewalk) prior to the surfacing of the road.

4.2 Sidewalks

4.2.0 Sidewalks shall be provided on both sides of streets unless at the discretion of the Planning Board, one sidewalk will adequately serve the anticipated pedestrian traffic. In some cases, it may be desirable to provide for a meandering alignment where preservation of significant trees is warranted.

4.2.1 Sidewalks shall be not less than five (5) feet in width on collectors and four (4) feet on minor streets and shall be located so that the back of the sidewalk conforms to the lot line.

4.2.2 The sidewalks shall have a transverse slope or crown of 1/4 of an inch per foot, sloping towards the street.

4.2.3 Preparation of the base shall be accomplished by removing material to a depth of ten (10) inches below finished design grade. Any soft spots of undesirable material shall be removed and replaced with gravel. The excavated area shall be filled with a minimum eight (8) inches of gravel and well compacted (i.e. two passes of roller or vibratory compactors).

4.2.4 Forms shall be set to grade, then a one (1) inch compacted binder and one (1) inch surface course of Type I bituminous concrete shall be placed, except at driveways where the binder thickness shall be two (2) inches.

4.2.5 At all intersections the sidewalks shall be constructed across the grass plot to the edge of the traveled way.

4.2.6 In addition, public off-street walk-ways, bikeways, or bridle paths may be required by the Board to provide circulation or access to schools, playgrounds, parks, shopping, transportation, open space, or community facilities, or to break up long blocks, or for such other reason as the Board may determine. Such ways may or may not be part of normal sidewalk provisions, but they shall not be a part of any lot in the subdivision.

4.3 Curbing and Shoulders

4.3.0 Curbing shall be installed along the edge of each roadway in all streets.

4.3.1 Curbing shall consist of Class I bituminous concrete, Type I-1, Cape Cod style berms except along the curve at all intersections and cul-de-sacs, driveway openings, and catchbasin inlets where standard granite curbing is required.

4.3.2 Bituminous concrete curbing shall conform to the specification of Type 3 curbing in Section 501 of the Massachusetts Department of Public Works Specifications for Highways, Bridges, and Waterways and shall be twelve to fifteen (12-15) inches wide at the bottom, four (4) inches wide at the top, and six (6) inches high.

4.3.3 Granite curbing shall conform to the specification of Type VA curbing in Section 501 of the Massachusetts Department of Public Works Specifications for Highways, Bridges, and Waterworks and shall be six (6) inches wide by eighteen (18) inches high and shall be laid with a seven (7) inch reveal.

4.3.4 All catchbasins shall have granite inlet stones. Where bituminous concrete berm meets the granite inlet a three (3) foot granite transitions stone shall be installed at each end of the basin inlet stone.

4.4 Grass Strip

4.4.0 Grass strips shall be provided on each side of the roadway between the roadway and the sidewalk on the side of the street. Where no sidewalk is to be install, the grass strip shall extend between the roadway and the street side line. The minimum width shall be as follows:

Collector:	5 feet if with a sidewalk 10 feet if no sidewalk
Minor:	5 feet if with sidewalk 10 feet if no sidewalk

4.4.1 The finished grade of such planting strips shall be 3/4 inch/foot sloping toward the roadway. Where unusual physical land characteristics or topographical conditions exist, the Board may approve the construction of a planting strip at a slope greater than 3/4 inch/foot provided the finished slope will not project above or below a plane sloped two (2) horizontal to one (1) upward or downward from the edge of the roadway, and provided such variation is indicted on the Definitive Plan.

4.4.2 The strip shall have a nine (9) inch gravel foundation and the top four (4) inches of planting strips shall consist of good quality loam, screened, raked, and rolled with at least a 100-pound roller to grade. The loam shall be fertilized and seeded with lawn grass seed applied in sufficient quantity to assure adequate coverage, rolled when the loam is moist.

4.4.3 The Board may require such banks and all other disturbed areas adjacent to the traveled way to be loamed and seeded to grass. However, it is suggested that consideration be given to the surrounding growth and terrain. Roadsides should be made

to blend with the woods or natural surroundings that exist, and plantings in such areas should be chosen accordingly.

4.4.4 The subdivider shall be responsible for replacing all dead or diseased plantings for one full year from the time of planting.

4.5 Street Trees

4.5.0 Existing trees, which in the opinion of the Board are suitable for street, shall be preserved, and where such are inadequate, new trees shall be provided on both sides of all streets in accordance with the provisions of Section 4.0.11 herein.

4.5.1 The subdivider shall be responsible for replacing all dead or diseased plantings for one full year from the time of planting.

4.6 Bounds

4.6.0 Granite bounds shall be installed on the street sideline at all points of curvature where the sideline changes direction, and at other points where, in the opinion of the Board's Consultant Engineer, permanent bounds are necessary.

4.6.1 Bounds shall be not less than six (6) inches square and three (3) feet, thirty (30) inches long.

4.6.2 The tops shall be set flush with the finished street sideline grade and shall be set in well-tamped binding gravel. The point of each bound shall be marked by 3/8 inch drill hole in the top.

4.6.3 No permanent bound shall be installed until all construction which would destroy or disturb the bound is completed.

4.6.4 The developer's engineer or surveyor shall furnish the Board's with a letter certifying that bounds have been placed precisely as indicated on the Definitive Plan.

4.7 Street Names and Street Name Signs

4.7.0 Street names shall be approved by the Town Clerk/

4.7.1 Street name signs shall be installed at each street intersection at diagonally opposite corners and shall bear the names of both intersecting streets.

4.7.2 Street name signs shall be of a design conforming with street name signs used by the Town.

4.7.3 Temporary stop signs, conforming to Town regulations for size and color, shall be required at all intersections with public ways. The applicant shall be responsible for installing permanent stop signs at the completion of the project as requested by the Police Department.

4.8 Storm Drainage

4.8.0 Adequate facilities for the disposal of surface water shall be installed. Proper connection shall be made to any public drainage system naturally serving the area. Where, in the opinion of the Board, if no public drainage system is located within a reasonable distance from the subdivision, provision shall be made for extension of the system to a natural outlet.

4.8.1 The system for the disposal of surface water shall be designed so that the post-development peak rate of run-off does not exceed the pre-development peak rate of run-off. Proper hydrological calculations must be submitted to substantiate this requirement.

4.8.2 The quantity of storm water carried by the storm drain system shall be determined by the TR-20 method, and the design storm shall be twenty-five (25) years, except for bridge(s), culvert(s), and detention basin(s), in which case it shall be designed for the one hundred (100) year event.

4.8.3 Pipe drains, consisting of Class III or such higher class as may be required by depth of cover, reinforced concrete pipe, PVC, ductile iron PVC, aluminum, or approved equal of comparable strength, shall have a minimum diameter of twelve (12) inches and shall be constructed so as to have a minimum of four feet of cover.

4.8.4 Catchbasins shall be located on both sides of the roadway on continuous grades at intervals of not more than two hundred and fifty (250) feet, at all sags in the roadways, and near corners of the roadway at intersecting streets. Drain manholes shall be constructed at every change in grade and alignment of storm pipes, and at connections to catchbasins and shall be of the type specified by the Ashby Department of Public Works. In no case, however, shall the distance exceed two hundred and fifty (250) feet. Stormwater shall not be permitted to cross any roadway upon the surface.

4.8.5 Structures: Except where swales are used, catchbasins will be required on both sides of the roadway on continuous grade at intervals of not more than two hundred and fifty (250) feet. Any catchbasins and manholes used shall be at least seven and one-half (7-1/2) feet deep and four (4) feet in diameter (inside measurements), with a thirty-six (36) inch or greater sump below pipe invert and shall be constructed of concrete blocks or precast concrete units, plastered on the outside. Manhole covers and grates shall be in conformance with Massachusetts DPW Specification 201, designed and placed so as to cause no hazard to bicycles.

4.8.6 Swales: Drainage swales shall have cross-sectional area adequate to carry a twenty-five (25) year storm, and be treated as follows:

Slopes	Treatment
0.75%-4%	6" of loam seeded
4%-10%	6" min. dimension angular stones for a water depth of 1

foot, with a 12" gravel
subbase (SSH&M 1.03.0
type A)

Additionally, rip-rap aprons shall be provided at all discharge and intake points for culverts and head walls.

4.8.7 Where feasible, post-development stormwater flow should be equivalent to the pre-development stormwater flow. Post-development stormwater-flow should be directed through detention basins, to enter the nearest open stream channel. The detention basin shall serve to control the out flow to a flow not to exceed the pre-development flow.

4.8.8 No excavations for storm sewers, catchbasins, manholes, or related facilities shall be back filled until inspected.

4.8.9 Flood Plain District: All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Flood Plain District established under the Ashby Zoning Ordinance, it shall be reviewed to assure that:

- (a) The proposal is in compliance with the Zoning Ordinance.
- (b) The proposal is designed consistent with the need to minimize flood damage, and
- (c) All public utilities and facilities, such as gas, electrical, and telephone systems, shall be located and constructed to minimize or eliminate flood damage, and
- (d) Compensatory flood storage on a 1:1 ration will be required, and
- (e) Adequate drainage systems shall be provided to reduce exposure to flood hazards, and
- (f) Base flood elevation (the level of the one hundred (100) year flood) data shall be provided for proposals greater than five (5) acres for that portion within the Flood Plain District.

4.9 Easements

4.9.0 Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twenty (20) feet wide.

4.9.1 Where a subdivision is traversed by a water course, drainage way, channel, or stream, the Board may require that there be provided a storm water easement or drainage right-of-way of a minimum width of twenty (20) feet to conform substantially to the lines of such water course, drainage way, channel, or stream and to provide for construction or other necessary purposes.

4.9.2 Conservation Restrictions

(a) Water courses shall be located within easements conforming substantially with the lines of their course, who width shall not be less than twenty (20) feet and whose

boundaries shall not be closer than five (5) feet horizontally from the annual high water line. No building shall be constructed and no paving shall be permitted within such easement except as permitted under the Zoning Ordinance. Water courses shall remain open except at street crossings.

(b) In any subdivision, the developer may grant to the Town a conservation restriction over any portion of the subdivision providing the area subject to restriction has the approval of the Conservation Commission and the Board of Selectmen.

4.10 Grading of Slopes

4.10.0 All slopes resulting from grading of streets and sidewalks shall not exceed one (1) foot to three (3) feet horizontal in fill; one (1) foot to three (3) feet in cut; and one (1) foot to three-quarters (3/4) foot in ledge.

4.10.1 Slope easements or retaining wall shall be employed where slopes cannot be contained within street sidelines.

4.10.2 Grass strips and driveway entrances shall be so graded as to prevent surface water on the street from draining onto private land, except at designated ponding and collection areas.

4.11 Open Space

4.11.0 The applicant shall consider the relationship of the proposed subdivision to the Town of Ashby Open Space and Recreation Plan. This consideration shall include proposals for amenities within the subdivision which conform to the stated objectives of said plan.

4.11.1 The Board may require that an area of developable land be reserved for a possible park or parks. In no event shall the required reserved area exceed five (5) percent of the total area of the subdivision.

4.11.2 Such reservation shall be made where particular natural features, abutting public land, or potential neighborhood need for recreation space make later public acquisition desirable.

4.11.3 Any open space or playground land shall be provided with appropriate frontage on a street, and pedestrian ways will normally be required to provide access from each of the surrounding streets, if any, on which the open space, park, or playground has no frontage. Further, such parks and/or playgrounds may be required to have maintenance provided for by covenants and agreements acceptable to the Board, unless public acquisition is accomplished by the community.

4.12 Protection of Natural Features

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

4.12.1 Outside of street right of ways, no trees over 15 inch caliper measure at 4 feet above existing grade shall be removed or have the grade level altered by more than 6 inches within the drip line of said tree without the approval of the Planning Board after consultation with the Conservation Commission.

4.12.2 Historic sites shall not be disturbed unless specifically waived in writing by the Board.

4.12.3 Disruption of natural topography should be minimal. Removal of earth off site shall not be permitted unless specifically waived by the Board in writing. Any request for waiver under this section shall specify the total amount of earth to be removed from the site and the time period in which such removal will take place.

4.13 Industrial Subdivision

4.13.0 Industrial subdivisions shall comply with all requirements of these Subdivision Regulations except as noted in this Section.

4.13.1 All streets shall be constructed as collector streets and all appropriate design standards shall apply except as noted in this Section.

4.13.2 Curb radii shall not be less than fifty (50) feet.

4.13.3 The width of the traveled way shall be thirty-four (34) feet.

4.13.4 Roadway grades shall not exceed eight percent (8%).

4.13.5 Dead-end streets shall not exceed eight hundred (800) feet in length unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions.

4.13.6 Street lights shall not be required unless, in the opinion of the Board, such street lighting is necessary for safe travel within the subdivision.

4.14 Safety

4.14.0 All precautions should be taken by the developer and his subcontractors to observe common-sense safety requirements.

4.14.1 Excavations greater than five (5) feet in depth, and soil piles higher than five (5) feet, or materials stacked in an unsafe manner shall not be allowed unless the area is adequately protected.

4.14.2 Overnight parking and refueling of construction vehicles should not occur within fifty (50) feet of identified wetland or water body.

4.14.3 Adequate provision must be made for fire protection.

4.15 Cleaning Up and Restoration of Damage

4.15.0 Before sale of a lot, the subdivider shall clean up any debris thereon caused by street construction and installation of utilities. All areas within the street lines damaged, destroyed, or altered in construction operations shall be restored to satisfaction, and the builder is responsible for a period of one year from the time of the sale.

4.16 Inspection The Board's Consultant Engineer's office and/or DPW shall be given at least forty-eight (48) hours notice of work scheduled in order that it may make inspections at the following stages:

4.16.0 After excavation and trenching, before placement of utilities or foundation material

4.16.1 During placement of storm drain lines;

4.16.2 After placement of drainage structures, before backfilling;

4.16.3 Foundation gravel to be approved before placement;

4.16.4 After placing gravel, before placing paving;

4.16.5 As required for confirmation of extent of completion for release of security verifying:

- placement of surface pavement
- sidewalks
- curbing
- street signs
- grading outside traveled way
- trees
- bounds
- clean-up

4.16.6 As required to advise on requested departures from plans as approved.

4.16.7 Other inspections as required by the Fire Department shall also be facilitated through reasonable notice.

4.16.8 The inspection of the work shall not relieve the developer of any of his obligations to fulfill the requirement of the Subdivision Regulations.

4.16.9 When deemed necessary, the Planning Board may require that an independent engineer be hired at cost to the developer to inspect any or all aspects of a subdivision. The engineer shall be chosen by the Planning Board.

4.17 As-Built Drawings

4.17.0 Upon completion of the roadways, the developer shall have the original plans and profiles of the Definitive Plan, as approved by the Board, corrected and certified by his engineer or surveyor to show the actual as-built locations and grades of all utilities, roadway profiles and any changes authorized by the Board.

4.17.1 These changes shall be drawn with indelible ink and the plan shall be marked "As-Built Drawings" in the lower right-hand corner.

4.17.2 As-built revisions to the Street Plan showing all monuments, street widths, distances, bearings, and complete curve data for all street sidelines and easements shall be utilized as Street Acceptance Plan, and the plan so marked. The surveyor shall place a certification of the plan stating, "The street or streets or portions thereof shown have been set as shown." The plan shall be signed by the surveyor, and his stamp shall be affixed thereto.

4.18 Variation

Strict compliance with the requirements of these rules and regulations may be waived when, in the opinion of the Planning Board, and upon application by the subdivider that said requirements are unnecessary, such action is in the public interest, and not inconsistent with the Subdivision Control Law.

4.19 Reference:

For matters not covered by these rules and regulations, reference is made to Sections 81-K to 81-GG, inclusive, of the Subdivision Control Law.

SECTION V ADMINISTRATION

5.0 Authority

5.0.0 The Board shall be the administrative agency of these regulations and shall have all the powers assigned them by Section 81K to GG of Chapter 41 of the General Laws.

5.0.1 The Board may assign as their agents appropriate Town agencies or officials and may from time to time hire professional assistance to review plans and inspect improvements at the cost of the subdivider (see Sections 4.16 and 5.2).

5.0.2 The Board on its own motion or on the petition of any interested person shall have the power to modify, amend, or rescind its approval of a Plan of a subdivision, or to require a change in a Plan as a condition of its retaining the status of an approved plan.

5.1 Waiver of Compliance

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgement of the Board, such action is in the public interest and not inconsistent with the intent of the Subdivision Control Law. In waiving strict compliance the Board may require such alternative conditions as will serve substantially the same objective as the standards of regulations waived.

5.2 Inspection

5.2.0 Inspection will be carried out at appropriate times during the development of the subdivision in accordance with Section 4.16.

5.2.1 The Board may make arrangements with a professional person or firm to carry out such inspection on behalf of the Town.

5.2.3 The developer has the responsibility to insure that the approved plans are implemented. Use of qualified persons to furnish adequate and timely engineering supervision during construction is required. Surveillance and field revisions by Town officials cannot be construed as fulfilling this responsibility.

5.3 Separability

If any section, paragraph, sentence, clause, or provision of these Regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged, and the remainder of these Regulations shall be deemed to remain valid and effective.

5.4 Amendments

These Regulations or any portion thereof may be amended, supplemented, or repealed from time to time by the Board after a public hearing, on its own motion or by petition.

5.5 Invalidation by State Law

Any part of these Regulations subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into conformity with the new or amended law and shall be deemed to be effective immediately, without recourse to a public hearing and the customary procedures for amendment or repeal of such regulations.