

Burlington Planning Board

Rules and Regulations Governing the Subdivision of Land in Burlington, MA

As Adopted on April 28, 1988 and Amended on December 7, 1989, June 21, 1990,
March 17, 1994, October 17, 2002 and May 3, 2012



Planning Board

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Amendments

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SECTION 1: AUTHORITY, PURPOSE AND DEFINITIONS

1.1 Authority

Under the authority vested in the Planning Board of the Town of Burlington by MGL, Chapter 41, Sections 81-K through 81-GG including future amendments, said Board hereby adopts these Rules and Regulations governing the subdivision of land in Burlington. Such Rules and Regulations shall be effective on April 29, 1988. (The date they are sent to the Register of Deeds and the Recorder of the Land Court.) Amended, December 7, 1989, June 21, 1990, March 17, 1994, October 17, 2002 and May 3, 2012.

This part of the Burlington Planning Board's Rules and Regulations shall be known and may be cited as the "Burlington Subdivision Rules and Regulations", and hereinafter referred to as "Rules and Regulations."

1.2 Purpose

As set out in Section 81-M, MGL Chapter 41, the purposes of Subdivision Control Law are to protect the safety, convenience and welfare of the inhabitants of Burlington by regulating the laying out and construction of ways in subdivisions, and to ensure sanitary conditions in subdivisions and the provision of parks and open space areas where appropriate. The powers of the Planning Board under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for 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 safety in the case of fire, flood, panic and other emergencies; for ensuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision 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; for coordinating the ways in a subdivision with each other and with the public ways in the town in which they are located and with the ways in neighboring subdivisions; and for the encouragement of the use of solar energy and the protection of solar access.

In addition to these purposes of the Subdivision Control Law, these Rules and Regulations are intended to implement the Planning Board's development objectives, policy decisions and design standards.

1.3 Definitions

For the purpose of these Rules and Regulations, the following words shall have the following meanings.

Applicant: The person who applies for the approval of a plan or the endorsement of a plan. The applicant shall be the owner, or owners of all the land included in the plan for which approval of the Planning Board is required.

An agent, representative or assign may act for an owner provided the owner submits written confirmation of designating an agent. A corporation shall submit evidence as to the officers having authority to sign on behalf of the corporation.

Approval or Acceptance: Approval or Acceptance of the Planning Board shall be the affirmative vote of a minimum of four of its members.

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

Certified (or endorsed): Shall mean that a plan has been signed in accordance with Section 2.14 in the General Provisions Chapter of these Rules and Regulations in order to permit the plan to be recorded.

Collector Street: A street used primarily to connect local streets to arterial streets. It carries moderate volumes of traffic. Less than twenty-five (25%) percent of the average daily traffic of a collector is normally attributed to through traffic.

Curb Inlet: An inlet grate with an opening or openings in a vertical plane.

Dead End Streets/Cul-de-sacs: A street or portion of a street which joins another street at only one end.

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

Drain: A channel or pipe that carries drainage water.

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

Elevation Reference: The datum plane for elevation measurements. The town-wide reference in Burlington is the United States Geodetic Survey (USGS) data.

Endorsed: See Certified.

Engineer: A person registered or legally permitted to practice professional engineering in the Commonwealth of Massachusetts.

Gross Floor Area: The floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features.

Horizontal Curve: The portion of the highway line along which a change in alignment occurs in the horizontal plane.

Lane: A short street, cul-de-sac, or court, or a street with branching lanes. The primary purpose of a lane is to conduct traffic to and from dwelling units to other streets. Usually, there is no through traffic.

Local Street: A street that provides direct access to abutting properties only; this category includes cul-de-sacs and loop streets.

Lot: A lot shall mean an area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings. The term "one ownership" means an undivided ownership by one person or by several persons whether the tenure be joint, in common, or by the entirety.

MGL: Massachusetts General Laws.

Major Arterial Street: A street of regional significance with high volumes of traffic used primarily to carry traffic between and through towns. It is generally not intended as a residential street.

Minor Arterial Street: A street which is used to provide movement between major and minor arterial and collector streets. It carries relatively high volumes of traffic. At least twenty-five (25) percent of the average daily traffic volume is normally attributed to through traffic.

Owner: The owner of record as shown by the records of the Southern District Middlesex County Registry of Deeds or Land Court.

Recorded: Shall mean recorded in the Southern District Middlesex County Registry of Deeds, except that as affecting registered land it shall mean filed with the recorder of the Land Court.

Right-of-Way (also street or way): Is the entire strip of land including roadway, shoulders, curbing extending from the property line on one side to the property line on the other side.

Roadway (traveled way, road): Is the improved portion of the right of way intended to be used for vehicular travel.

Rules and Regulations: The "Rules and Regulations Governing the Subdivision of Land in Burlington, Mass." as adopted and amended by the Planning Board pursuant to Section 81-Q of the Subdivision Control Law.

Sanitary Sewer: A sewer that carries wastewater.

Sidewalk: A way within the right of way of a street normally parallel to the roadway designed primarily for pedestrian use.

Sight Distance: Sight distance is the length of road visible ahead to the driver of a vehicle.

Storm Drain (also called storm sewer): A drain system that carries storm water, surface water and the discharge from subsurface drains, but does not carry wastewater.

Stormwater Runoff: The portion of the precipitation which flows over the ground surface during and for a short time after a storm.

Street Alignment: Alignment is sometimes referred to as the ground plan of the road, but most frequently it is considered to be the sequence of straight lines and curves which defines the location and direction of the road.

Subdivision: The division of a tract of land into two or more lots, including re-subdivision, except for those land divisions which are deemed not to constitute a subdivision under the Subdivision Control Law as outlined in Section 4 of these Rules and Regulations.

Subdivision Control Law: The power of regulating the subdivision of land granted by MGL Chapter 41, Sections 81-K to 81-GG.

Submission Date (or Filing Date): The date when an application is considered to have been filed with the Planning Board. A plan is considered submitted when it is delivered to the Planning Board office, the Town Clerk's office, or to a Planning Board meeting, or when it is mailed by registered mail to the Planning Board. If additional required application material is submitted after the initial submission date, the additional information will be considered part of the application only if the applicant consents in writing to a new submission date.

Surveyor: A person registered or legally permitted to practice land surveying in the Commonwealth of Massachusetts.

Tributary Area: When the surface runoff contributes to the flow at a particular location, the area is said to be tributary to the location.

Utilities: Private and Municipal services, which include sanitary sewers, storm water drainage systems, water supply piping, fire alarm conduits, natural gas, electric, telephone and cable television lines and all appurtenances to these systems.

Vertical Curve: The portion of the highway line along which change in alignment occurs in the vertical plane.

Way, Public: Any street which has been accepted as a public way pursuant to MGL Chapter 82, or any way established by Court Decree to be a public way by dedication, prescription or otherwise.

Other definitions shall be as used in the MGL Chapter 41, Sections 81-K to 81-GG and reference to Boards, Departments, and Officials shall mean such Boards, Departments, and Officials in the Town of Burlington unless otherwise clearly indicated by reference or intent.

SECTION 2: GENERAL PROVISIONS

2.1 Separability

If any provision of these Rules and Regulations or the administration thereof shall be held unconstitutional, invalid or void, it shall not affect any other provision of these Rules and Regulations or the administration thereof.

2.2 Reference to Statute

For matters not covered by these Rules and Regulations, MGL Chapter 41, Section 81-K to 81-GG inclusive, as may be amended from time to time, shall govern.

2.3 Authority to Undertake a Subdivision

No person shall make a subdivision within the meaning of the Subdivision Control Law nor proceed with the improvement or sale of lots, the construction of ways, or the installation of municipal services therein, unless and until a Definitive Subdivision Plan has been submitted to and approved by the Planning Board and only then in accordance with the conditions of approval and the procedures set out in these Rules and Regulations.

2.4 Completeness of Application

Before the Planning Board may act on an application filed pursuant to these Rules and Regulations, the Board shall first determine whether the submitted application is complete and properly submitted. In order for an application to be considered a proper submittal, the Provisions of the Submission requirements, and the Plan Form and Contents requirements shall be fulfilled.

If additional required application material is submitted after the initial submission date, the date when all required items or data are furnished to the Planning Board shall be considered the legal date of submission for the entire application. In order to have the additional information considered part of the application, the applicant shall complete Form C-1 and Form S acknowledging the new submission date and file them with the Planning Board and Town Clerk.

If an application is determined not to be a proper submittal, it shall be denied without need of a public hearing but with prior written notice to the applicant that the Planning Board will be considering whether the application is a proper submittal. A determination that an application is not a proper submittal shall be filed with the Town Clerk within seven (7) days following the vote of the Planning Board.

2.5 Waiver of Specific Rules and Regulations

Pursuant to MGL Section 81-R, the Planning Board may waive strict compliance with these Rules and Regulations in any particular case where such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law. A waiver shall be approved only by a motion which gives reasons why the waiver is appropriate, and which motion shall be supported by two-thirds (2/3) of the Members of the Planning Board. The Planning Board may make their approval of a waiver conditional upon certain requirements for the proposed subdivision.

If an applicant wants certain requirements waived for a plan submitted pursuant to these Rules and Regulations, the request for waiver shall be submitted together with the application. The request for waiver shall state the particular rule and regulation for which a waiver is requested and give the justification for the waiver.

2.5.1 Waiver of a Submission Requirement

Where an applicant has requested the waiver of a filing or submission requirement, the Planning Board must make the finding that the waived requirement would not be in violation of State Law nor impair the ability of the Planning Board, or other Town Boards and officials, to understand the nature and impacts of the proposed plan. In addition, the Planning Board must find that the waived requirement would not impair the ability of the Planning Board to process the application. Where a waiver is requested from a submission requirement and the request is not granted, the application may be determined not to be a proper submittal and the application denied on that basis. Alternatively, the Planning Board may grant the applicant's request for an extension in order to submit the required material and circulate it to other Boards.

2.5.2 Waiver of a Development Standard

Where an applicant has requested the waiver of a development standard, the Planning Board must make the finding that the waived requirement would not impair the functioning, long term maintenance nor appearance of the future development of the land shown on the plan, and would not result in an adverse impact for the areas adjacent to the land shown on the plan, and would be consistent with the Planning Board's development objectives. Where a waiver is requested for a development standard and the request is not granted, that rule or regulation may be used as the basis for denial of the application or the imposition of a condition of approval.

If the Planning Board fails to be able to make the findings to grant a waiver, the waiver shall be considered denied.

If a waiver request is submitted after the submission of the application, the applicant shall complete Forms C-1 and S, and an extended time period for the Planning Board to review the application will be accordingly established, and information pertaining to the waiver request shall be provided to the Board. The extended time period given to the Planning Board to

consider the waiver request shall be equal to the time period between the first application submittal date and the filing of the waiver request.

If no waiver request is submitted, the non-compliance with these Rules and Regulations may provide the basis for determining that the application is not a proper submittal or that it should be denied.

2.6 Consent of Property Owner Required for all Applications

When the applicant does not own the property shown in a plan filed with an application pursuant to these Rules and Regulations, the applicant shall state the nature of his or her interest in the property and shall submit the written consent of the property owner by having the property owner appropriately endorse the application for plan approval. An application made by someone other than the property owner shall not be considered a proper submittal unless the consent of the property owner has been submitted. Where the owner is a corporation, corporate documents must be submitted indicating who has signing authority to enter into agreement on behalf of the corporation.

2.7 Withdrawal

An applicant may withdraw a submitted plan by filing with the Planning Board and the Town Clerk a written request for withdrawal (see Form R for sample language). If the request is filed before public notice is given in the case of a Definitive Subdivision Plan or before a Preliminary Subdivision Plan is shown on a Planning Board agenda, the withdrawal request does not require Planning Board approval. If the withdrawal request is submitted later, Planning Board approval by a majority vote is required.

2.8 Extension

An applicant may request an extension to the statutory limits for the Planning Board to take action on an application in order to provide additional time to discuss issues related to an application filed pursuant to these Rules and Regulations. The request shall be made in writing on Form S, giving a description of the application and plan, the date of filing, the statutory deadline for action, any previously approved extensions, the length of the requested extension, and the proposed date for final action.

A copy of the request for an extension, once approved, shall be filed with the Town Clerk.

2.9 One Dwelling Per Lot

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the Town, without the consent of the Planning Board. The Planning Board's consent may be conditioned

upon the providing of adequate utilities and ways furnishing access to each site for such building in the same manner as otherwise required for lots within a subdivision.

2.10 Rights of Others in Land Shown on a Plan

The approval of a plan by the Planning Board does not affect any rights others may have in or over the land being divided or subdivided, nor does it give the applicant the right to perform work on land owned by others. The Planning Board assumes any plans submitted for its consideration to be correct, unless evidence is presented to the contrary. The acquisition of necessary rights and the presentation of complete and correct information to the Planning Board are responsibilities of the applicant and the failure to do so, including the failure or inability to obtain all necessary permits, licenses, releases, or rights, may constitute a reason for disapproval of a plan or rescission of the approval of a Definitive Subdivision Plan.

2.11 Notice to Town Clerk of the Filing of an Application

Every person submitting an application to the Planning Board for approval of a Preliminary Subdivision Plan, a Definitive Subdivision Plan, or an Approval Not Required Plan shall give written notice to the Town Clerk by delivery or by registered mail, postage prepaid, that such a plan has been submitted to the Planning Board. The notice shall describe the land to which the plan relates in sufficient detail for identification and shall state the date when the plan was submitted and the name, address, and day time telephone number of the property owner, and of the person making the application if different from the property owner. A copy of the completed application form shall be submitted with the Notice to the Town Clerk.

2.12 Certified List of Abutters

A Certified List of Abutters must be prepared on Form E. It shall include the names and mailing addresses of all property owners within three hundred (300) feet of the boundaries of the parcel of land being subdivided. The names and mailing addresses shall be as shown on the most recent tax list and shall be certified as to its completeness and accuracy by the Assessors' Office. A Certified List of Abutters is required as part of an application for a Definitive Subdivision Plan. While not required by State Law, submission of a certified abutters list and notification of abutters for a Preliminary Subdivision Plan is strongly encouraged by the Planning Board.

Amended March 17, 1994

2.13 Submission of Plans to the Planning Board

It is the preference of the Planning Board that the submission of plans for the Planning Board's consideration be done by delivering all required application materials to the Planning Board office during weekday office hours. However, the Planning Board will accept other procedures for submission as provided for in MGL Chapter 41, Sections 81-0, 81-T and 81-U.

Submission materials filed with the Planning Board shall be the property of the Town and a copy of all submission materials shall be retained in the Planning Board office files.

2.14 Certification

Certification of Approval Not Required (ANR) Plans shall be by signature of the Planning Board Chairman following an affirmative vote of at least four (4) Planning Board members at a public meeting determining that the plan does not show a subdivision. The signature of four (4) Planning Board members may serve as a certification in lieu of the Chairman's signature.

Certification of the approval of a Definitive Subdivision Plan shall be by the signatures of at least four (4) Board members on the first page of the plan and by the signature of the Planning Board Chairman on subsequent pages in the plan. The signature of four (4) Planning Board members may serve as a certification in lieu of the Chairman's signature.

2.15 Elevation Data

Elevation data shall be given using United States Geodetic Survey (USGS) data.

SECTION 3: SUBDIVISION FEES

3.1 Approval Not Required Plans

Application fee for a plan adjusting lot lines but not creating any new lots:

\$100.00 for plans showing up to three (3) lots.
For plans showing four (4) or more lots, \$100.00 plus
\$20.00 for every lot over three (3) lots.

Application fee for a plan creating new lots:

\$200.00 for plans creating up to three (3) new lots.
For plans showing four (4) or more lots, \$200.00 plus
\$50.00 for every lot over three (3) lots.

Surcharge for plans filed less than seven (7) days before the next regularly scheduled meeting and more than nineteen (19) days before the second regularly scheduled meeting following the application date:

\$250.00.

The surcharge is to cover the cost of staff reviewing the plan on short notice or scheduling a special Planning Board Meeting in order to act on the plan following staff's review.

3.2 Preliminary Subdivision Plans

Preliminary Subdivision Plan -- Residential.

Application fee -- \$300.00 plus \$20.00 per lot shown within the subdivision.

Preliminary Subdivision Plan -- Nonresidential.

Application fee -- \$500.00 plus \$40.00 per acre within the subdivision.

3.3 Definitive Subdivision Plans

Definitive Subdivision Plan -- Residential.

Application fee if no Preliminary Subdivision Plan was submitted -- \$1,000.00 plus \$60.00 per lot.

Application fee if Preliminary Subdivision Plan was submitted -- \$700.00 plus \$40.00 per lot.

Definitive Subdivision Plan -- Nonresidential

Application fee -- \$1,000.00 plus \$80.00 per acre.

3.4 Submission of an Amended Plan

To rescind disapproval of a Definitive Subdivision Plan where the amended plan is substantially similar to the denied subdivision and the amended plan has been submitted within sixty (60) days of when the decision disapproving the subdivision plan was filed with the Town Clerk -- \$500.00.

To submit an Engineering Change pursuant to Section 7.2.1 -- \$200.00.

To amend an approved plan pursuant to Section 7.2.2 -- \$500.00.

To rescind an approved plan pursuant to Section 7.3 -- \$500.00.

Amended March 17, 1994/Fees amended May 3, 2012

3.5 Resubmission of Plans

Where the subdivider withdraws a Preliminary or Definitive Subdivision Plan and resubmits within sixty (60) days or submits a revised Subdivision Plan or additional information or documentation prior to the public hearing, particularly to complete an incomplete application, the subdivider shall pay a resubmission fee in addition to consenting to a revised filing date as a condition of the Planning Board considering the additional material as part of the application.

Preliminary Subdivision Plan:	Residential	\$ 50.00
	Nonresidential	\$100.00
Definitive Subdivision Plan:	Residential	\$100.00
	Nonresidential	\$150.00

Revised plans or additional information submitted in response to issues or questions raised in the plan review process where such information is not needed to make the submitted application complete shall be accepted and considered as part of the submission without a resubmission fee and new filing date.

3.6 Refund Upon Withdrawal

There shall be no refund for the withdrawal of an Approval Not Required Plan. However, the applicant may resubmit a revised ANR Plan without a new fee within thirty (30) days of the withdrawal.

If a Preliminary Subdivision Plan is withdrawn before it appears on a Planning Board agenda, and, if the applicant does not wish to file a revised plan, fifty (50%) percent of the application fee shall be refunded.

If a Definitive Subdivision Plan is withdrawn prior to the public noticing for the public hearing, and the applicant does not wish to submit a revised plan, seventy-five (75%) percent of the application fee shall be refunded. If the plan is withdrawn after the noticing but before the public hearing is opened, and the applicant does not wish to file a revised plan, forty (40%) percent of the application fee shall be refunded.

If a Definitive Subdivision Plan is withdrawn after public noticing and after the public hearing is opened, the application shall be deemed processed and no refund shall be granted.

3.7 Construction Inspection Fees

Prior to the Planning Board endorsing a Definitive Subdivision Plan for recordation, the applicant shall pay a fee equal to one (1%) percent of the estimated construction cost of the required subdivision improvements. Such fee is intended to offset in part the costs to the Town of inspecting the subdivision during construction.

3.8 Payment for Additional Professional Services

The Planning Board may require the applicant to pay the cost of professional engineering consultation for the Planning Board if it determines that such services are necessary in order for the Planning Board to adequately evaluate a submitted Definitive Subdivision Plan and take final action on the plan.

3.9 Costs of Legal Advertising and Filing

All expenses for legal notice advertising space, abutter notification, and for the recording and filing of plans and documents shall be paid by the applicant.

3.10 Project Review Fees

Any applicant who submits a Preliminary or Definitive Subdivision Plan for approval may be required to submit a project review fee in accordance with the following provisions of this section:

1. When reviewing an application for Definitive Subdivision Plan Approval, the Planning Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts. The Planning Board may require that applicants pay a "project review fee" consisting of the reasonable costs incurred by the Planning Board for the employment of outside consultants engaged by the Planning Board to assist in the review of a proposed project.
2. In hiring outside consultants, the Planning Board may engage engineers, planners, lawyers, urban designers, or other appropriate professionals who can assist the Planning

Board in analyzing a project to ensure compliance with these Rules and Regulations. Such assistance may include, but not be limited to, analyzing the application, inspecting the project during construction or implementation, and monitoring the project for compliance with the Planning Board's decision.

3. Funds received by the Planning Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Planning Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a project review fee shall be grounds for denial of the application.
4. At the completion of the Planning Board's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Planning Board with documentation establishing such succession in interest.
5. Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and shall be taken only within twenty (20) days after the Planning Board has mailed or hand delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an education degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Planning Board shall stand.

Amended June 21, 1990

SECTION 4: PLANS NOT REQUIRING APPROVAL UNDER SUBDIVISION CONTROL LAW

4.1 Purpose

Any applicant who wishes to record a plan of land in the Registry of Deeds or the Land Court, and who believes that the plan does not require approval under the Subdivision Control Law, may apply to the Planning Board for a determination that the subject plan does not require subdivision approval.

4.2 Submission Requirements

Any applicant who submits a plan of land for a determination that approval is not required shall file with the Planning Board the following:

1. A properly executed application Form A.
2. The required filing fee.
3. The mylar or linen reproducible and six (6) copies.
4. Statement of the basis upon which the applicant claims that approval under Subdivision Control Law is not required.
5. Documentation in support of the basis for the "Approval Not Required."
6. Consent of the property owner to the filing of the plan shall be submitted if the applicant is not the property owner.
7. ACAD drawing file or files, compatible with the Town's CAD systems, reflecting the proposed lots or revised lot lines.

Every applicant submitting a plan of land for a determination that approval is not required shall give written notice to the Town Clerk as described in section 2.11.

Amended October 17, 2002

4.3 Plan Form and Contents

The plan submitted for a determination that approval is not required shall show the following:

1. Plan title, boundaries, north arrow, date and scale.
2. Locus.

3. Name and address of record owner, the applicant if different from the owner, and the engineer or surveyor.
4. Seal and signature of engineer or surveyor.
5. Names of all abutting property owners as they appear in the most recent tax list. Abutting properties shall be labeled as to ownership.
6. Location of existing and proposed permanent bounds, clearly differentiated.
7. The entire parcel of land which is being divided, or where lot lines or easement lines are being created or modified. All adjacent parcels held by the property owner or applicant also shall be shown in their entirety.
8. The name and width of the right of way providing frontage and access to the lots shown on the plan and the extent of the paved improvements within the right of way.
9. All existing lot lines, lot areas, and easements.
10. All proposed lot lines, lot areas, lot frontages, and easements. Proposed lots shall be numbered for identification.
11. Location of all existing structures, rights-of-way, easements, lots, and roadways.
12. Topography with contour lines at intervals of five (5) feet or less.
13. Surface water drainage for the entire parcel.
14. The location of wetland areas.
15. Sufficient data to determine location, width, direction and length of every street and way line, lot line, and boundary line.
16. Suitable space for certification by the Planning Board.
17. Zoning classification and location of any zoning district boundaries which lie within the locus of the plan.
18. Notation of any variance issued as to the land or buildings within the parcel giving the Burlington Board of Appeals Case Number, date granted and description of the variance.
19. Any additional notations which may be required pursuant to Subsections 4.6 and 4.7 of these Rules and Regulations.

4.4 Review and Decision Process

The Planning Board in considering an application for a determination that approval is not required shall first determine whether the application is a proper submittal. If the Planning Board determines that the application is not a proper submittal, the application shall be denied without prejudice. If the application is determined to be a proper submittal, the Board may consider the application.

If the Planning Board determines that the plan does not require approval under the Subdivision Control Law, the Planning Board shall without a public hearing and within twenty-one (21) days of the submission of the plan to the Planning Board endorse on the plan the certification that "Planning Board approval under subdivision control law is not required." Such endorsement shall not be withheld unless the plan shows a subdivision or the applicant has submitted insufficient evidence to substantiate the basis for claiming that the plan does not show a subdivision as provided in MGL Chapter 41, Section 81-L.

If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it shall send written notice by certified mail to the applicant of this determination and shall also give written notice of the determination to the Town Clerk within twenty-one (21) days of the plan submission.

If the Planning Board fails to act upon such a plan, or fails to notify the Town Clerk of the Planning Board's action, within the required time period, the Planning Board shall be deemed to have determined that approval under the subdivision control law is not required and the Board shall make such an endorsement on the plan. Should the Planning Board fail to do so, upon the request of the applicant, the Town Clerk shall issue a certificate that the plan is approved because of the Planning Board's failure either to act on the plan within the specified time period and/or to file with the Town Clerk notice of its action.

One print of the plan shall be retained in the files of the Planning Board with a notation of the Planning Board's action and copies of the plan and Planning Board action shall be sent to the Inspector of Buildings, the Engineering Department, and the Assessor.

4.5 Approval Criteria

The Planning Board shall determine that approval is not required if and only if each of the lots shown on the plan, or altered by the plan, meets one or all of the following criteria:

1. The lot has frontage on:
 - a. A public way or a way which the Town Clerk certifies in writing to the Planning Board is maintained and used as a public way. In determining whether a way has been used and maintained as a public way, the Planning Board shall require that written evidence from the Town Clerk be submitted by the applicant to substantiate that the way is under public maintenance under vote of the Town, and has been in continuous and substantial use by the general public without

permission of the landowners for at least twenty (20) years. Sporadic use, use by a few persons, or use by agreement of the abutters shall not suffice.

- b. A way shown on a plan previously approved and endorsed in accordance with Subdivision Control Law.
- c. A way in existence when the Subdivision Control Law became effective in Burlington which the Planning Board finds has sufficient width, suitable grades, adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon, and for the installation of municipal services to serve such land and the existing and future buildings on such land.

In making a determination in the adequacy of a way, the Board shall consider the following conditions:

- 1) Is the right of way at least forty (40) feet wide and of reasonable horizontal alignment?
- 2) Does the existing horizontal and vertical alignment of the roadway provide safe visibility?
- 3) Is the roadway constructed to a minimum width of eighteen (18) feet paved and with adequate provisions for drainage?
- 4) Is the roadway surface adequate to accommodate the vehicular traffic to be generated by the division of land.
- 5) Have provisions been made for adequate public utilities to each lot shown on the submitted plan?

The frontage shall be at least the minimum frontage distance required by the Burlington Zoning Bylaw. Further, such frontage shall provide adequate access to each lot and to uses allowed on each lot under zoning.

Where direct access to a lot from the abutting street is not possible due to nonaccess strips or easements or due to steep grades, wetlands, watercourses or other physical constraints, the Planning Board may consider the lot as not having sufficient frontage to allow a division of land without approval under the Subdivision Control Law.

- 2. If the lot does not have frontage as described in Section 4.5.1, the lot has been clearly marked on the plan to be joined to and made part of an adjacent lot also shown on the plan and is not intended to be a separate lot.
- 3. If the lot does not have frontage as described in Section 4.5.1, the lot is part of a division of a parcel of land, which division creates separate lots, each of which contains an existing building which was standing on the parcel when the Subdivision Control Law went into effect in Burlington.

In determining that approval is not required, the Planning Board shall state the reason why the plan is not subject to subdivision control law in the motion of approval.

The Planning Board shall not endorse plans that do not show the creation of new lot lines. Plans showing new easements or confirming existing lot lines will be accepted by the Registry of Deeds or Land Court in accordance with MGL Chapter 41, Section 81X if they bear the Certificate of a Registered Land Surveyor that the property lines and lines of streets as shown on the plan are as they exist.

4.6 Endorsement of Plan not in Compliance with Zoning

The Planning Board may endorse plans that show lots that do not conform with the Town's zoning requirements where required by State Law. However, in such circumstances, the Planning Board shall require that the following wording be placed on the plan above the block for Planning Board endorsement:

"This plan has been endorsed for recording purposes only as required by Mass. General Laws, Chapter 41, Section 81P and the lots shown on this plan may be in violation of the Burlington Zoning Bylaw."

4.7 "Approval Not Required" Plans for Land in an Incomplete Subdivision

Where an "Approval Not Required" Plan is endorsed for land shown on a subdivision which has not been accepted as completed by the Planning Board, or creates new frontage on a way in an incomplete subdivision where the land itself is not part of the subdivision, the plan shall have the following wording:

"The endorsement of this non-approval shall in no way affect or derogate from the obligations of the owner, his successors or assigns under the approval of a certain subdivision _____ name . granted _____ date _____ recorded at Middlesex South District Registry of Deeds, (or Land Court) Book _____, Page _____ together with all security agreements relative thereto and subsequent amendments if any."

Amended March 17, 1994

SECTION 5: PRELIMINARY SUBDIVISION PLAN

5.1 Purpose

Prior to submitting a Definitive Subdivision Plan for approval, an applicant may submit a Preliminary Subdivision Plan for residentially zoned land and shall submit a Preliminary Subdivision Plan for non-residentially zoned land. A Preliminary Subdivision Plan shall be circulated to the Planning Board, the Board of Health and other Town Boards and officials for discussion and approval, conditional approval, or disapproval by each Board. The submission of a Preliminary Subdivision Plan will enable the subdivider, the Planning Board, the Board of Health, and other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of the proposed subdivision before a Definitive Subdivision Plan is prepared and submitted. There is no formal noticing requirement other than that which is described in Section 2.11.

5.2 Submission Requirements

Any applicant who submits a Preliminary Subdivision Plan shall file with the Planning Board the following:

1. A properly executed application Form B.
2. Required filing fee.
3. Twelve (12) copies of the Preliminary Subdivision Plan.
4. Proof of separate filing with the Board of Health.
5. Consent of the property owner to the filing of the plan shall be submitted if the applicant is not the property owner.

Each applicant shall give written notice to the Town Clerk as described in Section 2.11.

It is recommended that each applicant submit a certified abutters list and provide at least seven (7) days prior notice to the abutters of the date of the Planning Board meeting at which the Preliminary Subdivision Plan will be discussed.

Amended March 17, 1994

5.3 Plan Form and Contents

The Preliminary Subdivision Plan shall be prepared by a Registered Professional Engineer or Registered Land Surveyor, and shall bear the professional seal and signature. The Plan shall be drawn clearly and legibly on linen or mylar sheets that are 24 inches by 36 inches, with a 1-1/2 inch left hand margin and all others 3/4 inch, and contain the following:

1. Subdivision name, boundaries, north arrow (indicate whether true, magnetic, or grid), locus, date, legend, and the title, "Preliminary Subdivision Plan".
2. Names and addresses of the record owner, the subdivider, the designer, and engineer or surveyor.
3. Names of all abutting property owners taken from the Certified List of Abutters. Abutting properties shall be labeled as to ownership.
4. Location, names, improved widths, and exterior lines of existing streets abutting, providing access to, or approaching in close proximity to the proposed subdivision. The existing streets shall be marked as to whether they are accepted or unaccepted ways.
5. Location, names, proposed improved width, and exterior lines of all proposed streets within the subdivision. State whether the proposed streets will be offered for acceptance to the Town.
6. Boundaries and character of all existing and proposed easements within or immediately adjacent to the subdivision.
7. Boundaries of any existing or proposed areas dedicated to public use.
8. The entire parcel being subdivided shall be shown on the Preliminary Subdivision Plan. The parcel shall include all contiguous property in the ownership of the subdivider or in the same ownership as any of the land being subdivided. If the applicant wishes to have some portion of such land designated in the Preliminary Subdivision Plan as not a part of the subdivision, the applicant must submit to the Planning Board a determination from the Inspector of Buildings that the land so excluded is a legally separate and buildable lot.
9. Proposed boundary lines of lots, with dimensions and areas indicated.
10. Layout of proposed storm and surface drainage system. This shall include the general location and size of drain lines, culverts, trenches, catchbasins, manholes, and other structures in the proposed drainage system. The proposed drainage plan shall indicate the location of bodies of water and wetlands, both within and adjacent to the subdivision, particularly if they will be receiving drainage discharge from the subdivision. The applicant shall submit sufficient information to indicate the general volumes, rates, flows, etc., that would be generated by the subdivision and must be accommodated by the drainage system.
11. The topography shown with contour intervals of not greater than two (2) feet. Figures of elevation to represent the natural surface may be provided in addition to contours.

The inclusion of the following information on the Preliminary Subdivision Plan is strongly recommended by the Planning Board to ensure that the Planning Board has all the relevant information to provide the applicant with as thorough a review as possible of the proposed subdivision. This information is required for a Definitive Subdivision Plan submission.

1. Existing improvements within the subdivision, including buildings, fences, paving, and utility lines.
2. Location of ponds, watercourses, large boulders, or other prominent features within or adjacent to the subdivision.
3. All boundaries of zoning districts which intersect the proposed subdivision, including the location of wetlands as shown on the Burlington Wetland District Maps.
4. All deed lines within the subdivision, if the subdivision includes more than one deed, and the deed references.
5. Location and sizes of all existing and proposed sewer and water lines.
6. The proposed method of sewage disposal: municipal sewer or septic field. General location of proposed septic fields and alternative fields.
7. Estimates of projected water use and sewage generated for uses in other than single family zoning districts. The calculation shall be based on typical development for the zoning district at maximum build-out and use the standards contained in Manual #9, "The Design and Construction of Sanitary and Storm Sewers", of the American Society of Civil Engineers, or such other publication or method as may be accepted by the Planning Board.
8. A center line profile of all proposed streets and ways; existing grade shall be shown for each side line as well as along the center line.
9. A minimum of a forty (40) foot wide right of way for access to adjoining properties or remainder parcels unless deemed unnecessary by the Planning Board.
10. The One Hundred (100) Year Flood Profile as shown on the National Flood Insurance Program Maps issued by the Federal Emergency Management Agency (FEMA).

5.4 Review and Decision Process

The Planning Board in considering a Preliminary Subdivision Plan shall first determine whether the applicant's submission constitutes a proper submittal. If the Planning Board determines that the application is not a proper submittal, the application shall be denied without prejudice. If the application is determined to be a proper submittal the Planning Board may consider the application.

Within forty-five (45) days after the proper submittal of the plan to the Planning Board and the Board of Health, each board shall notify the applicant by certified mail of their decision regarding the Preliminary Subdivision Plan. The Town Clerk shall also receive written notice of each Board's decision within forty-five (45) days after proper submittal. Each Board may

approve the Preliminary Subdivision Plan, with or without modification, or disapprove the plan, stating the reasons for the disapproval.

Disapproval of a Preliminary Subdivision Plan does not prevent the submission of a Definitive Subdivision Plan. Approval of a Preliminary Subdivision Plan does not constitute approval of a subdivision. No registrar of deeds shall record a Preliminary Subdivision Plan.

5.5 Approval Criteria

Insofar as the information submitted as part of a Preliminary Subdivision Plan permits, the criteria for approval of a Definitive Subdivision Plan shall be used in reviewing a Preliminary Subdivision Plan.

SECTION 6: DEFINITIVE SUBDIVISION PLAN

6.1 Submission Requirements

The applicant shall give written notice to the Town Clerk as described in Section 2.11. In cases where a Preliminary Subdivision Plan has been submitted, the Definitive Subdivision Plan will be substantially similar to a Preliminary Subdivision Plan and shall reflect all required modifications by the Planning Board or shall be considered a new filing.

Any applicant who submits a Definitive Subdivision Plan to the Planning Board shall file with the Board the following:

1. A completed Form C.
2. If the applicant is not the property owner, consent of the property owner to the filing of the subdivision application shall be submitted.
3. The required filing fee.
4. The mylar or linen reproducible of the Definitive Subdivision Plan and twelve (12) blue or black line prints of each, and a CAD drawing file or files, compatible with the Town's CAD system.
5. Proof of submission of two (2) copies of the application and the plan to the Board of Health.
6. A Certified List of Abutters (Form E).
7. A location plan of the subdivision at a scale of one hundred (100) feet to the inch showing the exterior lines of all proposed streets in the subdivision and their location in relation to one or more existing streets or portions thereof. The plan shall be sufficiently accurate so that the Assessor's Map may be placed over the location plan for purposes of actual transfer. The location plan shall also show the location of existing buildings on all lots contiguous to the proposed subdivision. Each existing building shall also have indicated the elevation of the lowest floor such as residential cellars and basements. The location plan is for informational purposes only and shall not be deemed to be part of the "plan" for the purposes of Section 6 of MGL Chapter 40A.
8. A sketch plan showing a possible or prospective street layout for any adjacent un-subdivided land owned or controlled by the owner or applicant of the subdivision. Abutting or adjoining land area shown on sketch plan is for informational purposes only and shall not be deemed to be part of the "plan" for the purposes of Section 6 of the MGL Chapter 40A.
9. Drainage calculations prepared by a Registered Professional Engineer in accordance with Section 11 of these Rules and Regulations.

10. Where applicable, a Determination of Applicability from the Burlington Conservation Commission and a map reflecting soil conditions found on the parcel to be divided shall be submitted. Such map may reflect mapped soil designations from the most recent Middlesex County Soil Survey. However, the Planning Board may require more detailed on-site investigations as may be warranted by existing site conditions and indications.
11. Copies of all existing easements, covenants and restrictions applying to the area that is proposed to be subdivided and applying to areas outside the proposed subdivision where those easements will be used to provide services to the land proposed to be subdivided.
12. The road centerline layout shall be test bored to a minimum depth of six (6) feet to determine that the soil can adequately support the proposed roadway. A boring log shall be provided at a maximum of one hundred (100) foot intervals, to include the low spots. Where sub-surface conditions are not adequate, the applicant shall submit the proposed construction technique to ensure that the road will be adequately constructed.
13. A plan showing existing grades and proposed grades necessary to permit the construction of the roadway, driveways and future buildings and the installation of utilities. The proposed grade shall accurately show the topography and drainage patterns needed to permit future development for each lot in the proposed subdivision. Any need to add or remove material, to or from the lot, or to alter drainage patterns in order to fully develop the lot, in accordance with applicable zoning regulations, shall be quantified and documented for the Definitive Subdivision Plan.
14. The applicant shall provide estimates of projected water use and sewage generated for uses in other than single family zoning districts. The calculation shall be based on typical development for the zoning district at maximum build-out and use the standards contained in Manual #9, "Design and Construction of Sanitary and Storm Sewers", of the American Society of Civil Engineers, or such other publication as may be accepted by the Planning Board.
15. A declaration of whether the proposed street or streets within the subdivision will be offered for public acceptance or will be maintained as private ways. If the proposed street or streets are proposed for public acceptance, the applicant will be responsible for preparation of all street acceptance documents prior to the final release of the subdivision. If proposed for private ownership and maintenance, the applicant shall propose provisions for long term maintenance and may be required to place endorsements on subdivision plans and deeds indicating town services such as snow plowing and street repair are not available, and prepare any necessary covenants, to the satisfaction of the Planning Board. When a proposed way will not be offered for public acceptance, long-term provisions for maintenance must be presented to the Planning Board prior to endorsement of the Definitive Subdivision Plan.
16. A completed impact statement as described in Section 6.5.

17. Where access to the subdivision is over an unaccepted way, the applicant must give proof of entitlement to take access over that way. A way in an unaccepted subdivision shall not be used nor considered as access to a proposed Definitive Subdivision Plan.
18. Provisions to provide street lighting for the proposed subdivision shall be under taken at the time or before the Definitive Subdivision Plan is submitted.
19. The Planning Board may require the applicant to furnish, at the applicant's expense, such additional information or certified professional engineering data supportive of the applicant's subdivision plan as the Planning Board deems necessary or desirable in order for it to further evaluate the plan under consideration, prior to taking action on the plan.

Amended March 17, 1994 and October 17, 2002

6.2 Plan Form and Contents

The Definitive Subdivision Plan shall be prepared, signed and sealed by a Registered Professional Engineer and/or a Registered Land Surveyor. The Plan shall be clearly and legibly drawn in accordance with the recording rules adopted by the South Middlesex Registry of Deeds in Massachusetts. The Plan shall be at a scale of 1 inch = 40 feet or such other scale as the Planning Board approves prior to the plan being submitted. Sheet sizes shall be 24 inches by 36 inches with margins of 1.5 inches on the left and all others 3/4 of an inch. If multiple sheets are used they shall be accompanied by an index sheet showing the entire subdivision. The plan shall be drawn in black ink on mylar or linen.

Control datum shall be clearly stated on the plans. All surveys shall originate at control monuments that have been established by either the National Geodetic Survey (NGS) to the State of Massachusetts and have an accuracy of at least Second Order, as defined by NGS. All plans shall utilize the horizontal datum of the Massachusetts State Plane Coordinate System NAD83 and the NAVD88 vertical datum. All measurements shall be in feet.

The Definitive Subdivision Plan drawings shall contain the following information:

1. Subdivision name, boundaries, north arrow (indicate whether true, magnetic or grid), locus, date, scale, legend, and the title, "Definitive Subdivision Plan." The locus plan of the subdivision shall show the boundaries of the subdivision and its relationship to adjacent lots and existing ways. The scale of the locus plan shall not be smaller than 1 inch = 500 feet. The locus plan is for informational purposes only and shall not be deemed to be part of the "plan" for the purposes of Section 6 of MGL Chapter 40A.
2. All drawings shall have a title block containing the name and section designation of the subdivision, the name of the record owner and the applicant and the name, seal and signature of the Registered Professional Engineer or Registered Land Surveyor, designation of drawing with reference to the matter shown thereon and number of the drawing. See sample title block layout, Appendix III.

3. Names and addresses of the record owner, the subdivider and the designer, engineer, or surveyor.
4. The names of all abutting property owners, taken from the Certified List of Abutters.
5. Suitable space for the certification by the Planning Board on the top sheet of the Definitive Subdivision Plan, and suitable space for signature or initials of the Planning Board Chairman on each successive sheet. Where there are conditions of approval, or the completion of required improvements are to be secured by a covenant, or there are covenants attached to land within the subdivision in conjunction with the subdivision approval, these shall be referenced on the Definitive Subdivision Plan. Space shall also be provided to note that the subdivision was conditionally approved.
6. The entire parcel of land being subdivided shall be shown in the Definitive Subdivision Plan. The plan shall include all contiguous property in the ownership of the subdivider or in the same ownership as any of the land being subdivided. If the applicant wishes to have some portion of such land designated in the Definitive Subdivision Plan as not part of the subdivision, the applicant must submit to the Planning Board a determination from the Inspector of Buildings that the land so excluded is a legally separate and buildable lot.
7. The names, existing improved widths, and exterior lines of existing ways, bounding, providing access to, or approaching in close proximity to the subdivision; the boundaries of existing areas dedicated to other public uses and the location and character of other existing easements within or adjacent to and serving the subdivision.
8. The boundary lines, areas in square feet, and dimensions of all proposed lots with all lots designated numerically and in sequence.
9. Proposed street addresses for each new lot being created will be assigned by the Inspector of Buildings only after Planning Board approval of a Definitive Subdivision Plan.
10. Sufficient data including lengths, bearings, radii, and central angles to determine the exact location, direction, and length of every street and way line, lot line, boundary line, and sufficient data to establish these lines on the ground.
11. Location and outlines of the following:
 - a. All existing improvements within the subdivision including buildings, fences, paving, utilities lines walls, etc. Where there are existing buildings, they shall be identified as to their use, and the number of existing parking spaces available for the buildings shall be shown.
 - b. Site features such as ponds, wetlands, flood plains One Hundred (100) Year Flood Profile, water bodies, water courses, stone walls, fences, trees greater than twelve (12) inches in diameter at three (3) feet above ground, wooded areas, rock, ridges,

- boulders greater than two (2) cubic yards, and rock outcroppings within the subdivision.
- c. Waterways and water bodies adjacent to the subdivision within three hundred (300) feet shall also be shown, particularly if they are part of the proposed system of drainage.
 12. All deed lines within the subdivision, if the subdivision includes more than one deed and the deed references.
 13. The boundaries of any bordering vegetated wetland as defined by MGL Chapter 131, "The Wetlands Protection Act", shall be shown. For any lot which contains such wetland areas, the area in square feet of wetlands contained within the boundaries of the lot shall be shown.
 14. Location of all permanent monuments properly identified as to whether existing or proposed. Bounds to be set at tangent points and at turning points on way lines and property lines.
 15. All boundaries of zoning districts which intersect the proposed subdivision, including the location of wetlands as shown on the Burlington Wetland District Maps.
 16. Existing and proposed topography for the entire subdivision at contour interval of not greater than two (2) feet or such other interval as may be approved by the Planning Board prior to the submission of the plan. Existing contours must be shown extending three hundred (300) feet beyond the property to be subdivided.
 17. Layout of the proposed storm and surface drainage system showing the size and location of existing and proposed surface and subsurface water drains and their appurtenances. The applicant shall also provide the supporting data and design analysis, including plans and profiles showing the location and size of drain lines, culverts and trenches, design of catchbasins and manholes and such other information as may be required to define the drainage provisions. All such information shall be stamped and signed by a Registered Professional Engineer.
 18. Layout of the proposed water supply and sewer systems showing the size and location of existing and proposed lines and their appurtenances. The applicant shall also provide supporting data and design analysis, including plans and profiles, as may be required to define and explain the water and sewer systems.
 19. Water and sewer service laterals shall be shown and have tie-ins at the street line. The plan shall also show elevation of sewer laterals for each at property line.
 20. The lowest floor elevation for development on each lot in the proposed subdivision shall be shown.
 21. The location and base elevation of existing and proposed fire hydrants.

22. The names, widths and exterior lines of proposed public ways, the boundaries of other proposed public areas within the Definitive Subdivision Plan, and the location and type of proposed easements within or adjacent to the subdivision.
23. Width and location of existing and proposed driveways for each lot within the subdivision and along the roadway providing access to the subdivision for a minimum distance of one hundred and fifty (150) feet from the boundary of the subdivision.
24. Any special construction features, deviating from or not covered by standard specifications, shall be shown on detail drawings. Such detail drawings may be incorporated as part of a utility plan or profile or may be executed on separate sheet or sheets and shall provide information as to dimensions, locations, inverts, rim elevations, elevations, materials, etc., of the construction details involved. The requirement for detail drawings shall be applicable, but not limited to, bridges, culverts, structurally stabilized slopes, utility piping encased in concrete, ditches and brooks shaped or constructed to a definite cross-section, dams and spillways, steps within the exterior lines of the street and similar construction features.
25. The location of other existing or proposed underground utilities such as gas and electric lines, and other underground conduits or cables.
26. The proposed general location of street lighting.
27. The information required should be placed on separate sheets as necessary to make the plans legible and clear. The following general groupings are suggested where the information cannot readily be shown on a single plan.
 - a. Boundaries of the subdivision, names of abutters, proposed right of way, lot lines, areas and dimensions, easements, adjacent streets, zoning districts, driveways, monuments, etc.
 - b. Proposed lot lines, topography, grading, bodies and streams of water, wetlands, existing improvements, natural site features, etc.
 - c. Proposed lot lines, utility installations including structures, easements, etc.

Some information, such as the location of lot lines and the right of way shall be located on each sheet in order to permit the various sheets to be related to each other.

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6.3 Form and Content of Way and Profile Plans

The following must be shown on Way and Profile Plans:

1. A separate layout plan for each proposed street in the subdivision, at a horizontal scale of 1 inch = 40 feet, showing for each street the proposed exterior lines, centerline, points of tangency, length of tangents, length of curves, intersection angles, radii of curves, and the location of permanent monuments and benchmarks, together with all lot lines,

buildings, and other major features within forty (40) feet of the exterior lines of such street. The layout plan shall also show the size and location of all storm drains, water mains and sewers within the street, together with their appurtenances. All water gate boxes, mains, and service, shall be shown with the tie-ins so that they may be located by measurements. Sidewalks and planting strips shall also be shown on the layout plan if proposed or required for the subdivision.

2. Cross section or sections of each roadway, properly located and identified by station number, at such intervals along the street as will adequately indicate any variations in its section. The sections shall show sidewalks, utilities, depth of utilities, depth of gravel, crown of road, thickness of surface and materials. Slope of the side of the roadway to the property line shall also be shown.
3. Directly above or below the layout plan of each proposed street, a profile shall be drawn at a horizontal scale of 1 inch = 40 feet and a vertical scale of 1 inch = 4 feet. The profile for such street shall show existing center line grades in fine solid lines, existing exterior right side line in fine black long dark broken lines, existing exterior left side line in fine black short dark broken lines, and proposed finished center line grades in heavy solid lines. Proposed grade elevations shall be shown by figures at beginning and end, and at fifty (50) foot stations, except on vertical curves where they shall be shown at twenty-five (25) foot stations. Rate of gradient in percentage shall also be shown. All elevations shall refer to Massachusetts Geodetic datum, unless in the opinion of the Planning Board, suitable benchmarks are not readily available, and alternative benchmarks are authorized by the Planning Board prior to the submission of the plans. Profiles shall also indicate the location of any intersecting public or private ways, and the location of existing and proposed storm drains, water mains, and sewer and their appurtenances, and other utilities. The profile shall show the rates of grade for sewers, storm drains, and water mains.
4. The material type for existing and proposed storm drains, water mains, and sewers shall be given and shall conform to the material specifications of these Rules and Regulations unless waived by the Planning Board.
5. Profile of drainage showing rates of grade.
6. The proposed center line profile of each way shall show the elevations of intersections of tangents, fifty (50) foot stations, rates of slope vertical curves, and data pertaining thereto in figures for each twenty-five (25) foot station.
7. High points and low points of vertical curves shall be calculated and shown on said profiles.
8. Profiles on easements and on the exterior lines of ways at a horizontal scale of 1 inch = 40 feet and vertical scale of 1 inch = 4 feet, or such other scale as may be approved by the Planning Board prior to the submission of the plan. All subdivision profiles and road grade levels will be established using certified benchmarks within the Town of Burlington.

6.4 Additional Information Required for On-site Sewage Disposal

If the subdivision is proposed for service by on-site or on-lot sewage systems, the applicant shall submit to the Board of Health a copy of the plan showing the location of the proposed system on each lot, and the results of either a soil or percolation test prepared in accordance with the requirements of Title 5 of the Environmental Code of the Commonwealth of Massachusetts, the results of which tests shall be certified individually by an engineer or sanitarian experienced and recognized as qualified to make and certify such tests.

The proposed layouts of sewage disposal must be designed by a Registered Professional Engineer.

Typical septic tanks and drain fields shall be shown for each lot. Variations in soil conditions and in the size or arrangement of disposal systems shall be indicated accurately.

All subsurface disposal systems shall meet the requirements set forth in Title 5 of the Environmental Code of the Commonwealth of Massachusetts and any subsequent amendments, and the supplementary Rules and Regulations to Title 5 entitled, "Maximum Requirements for the Subsurface Disposal of Sanitary Sewerage", prepared by the Burlington Board of Health.

It is the policy of the Planning Board to discourage on-site subsurface sewage disposal systems. However, the Board recognizes that there will be instances where public sanitary sewers are not available.

6.5 Impact Statement

The applicant shall submit an impact statement, the purpose of which is to enable the officials of the Town to determine what methods are used by the applicant to promote the environmental health of the community and to minimize adverse effects on the natural resources and the Town's roads and utilities.

In reviewing the statement, the Planning Board will consider the degree to which impact on Town roads and utilities is mitigated, to which storm water is recycled back into the ground, the maintenance and improvement of the flow and quality of surface water, the preservation or promotion of wildlife refuges, historic sites, unique geological, botanical and archaeological features, existing or potential trails, access to open space areas, and the health and safety of the inhabitants of the area.

The Planning Board may waive any section, or sections, of the statement which it deems inapplicable to the proposed subdivision. The developer should discuss the requirements with the Planning Board prior to preparation of the statement.

The statement shall describe the following:

1. Physical Environment and The Proposed Subdivision

Describe the subdivision and its relationship to the surrounding area.

Provide a tabulation of the total area being subdivided, the total area of lots, the total area dedicated for streets, drainage or utilities, and the total area reserved for recreation, parks or other open land.

Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, scenic and historical features, trails and open space links, indigenous wildlife, and how the subdivision will affect these features.

Describe the likely future development that will be placed on the lots in the subdivision. For commercially zoned land, the maximum potential gross floor area shall be given.

Describe any impacts on archaeological or historical resources, rare or irreplaceable natural areas, including the habitat of endangered species. Describe how the subdivision will affect these features.

State the proximity to transportation, shopping and educational facilities.

Describe any proposed recreational facilities, including active and passive types, age groups participating, and whether such recreational facilities and open space are available to all residents.

2. Surface Water and Soils

Describe the location, extent, and type of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the project.

Describe the methods to be used during construction to control erosion and sedimentation; i.e. use of sediment basins and type of mulching, matting, or temporary vegetation; describe the approximate size and location of land to be cleared at any given time and length of time of exposure; covering of soil stockpiles; and other control methods used. Evaluate the effectiveness of the proposed methods and their effect on the surrounding areas.

Describe the permanent methods to be used to control erosion and sedimentation. Include description of:

- a. Any areas subject to flooding or ponding;
- b. Proposed surface drainage system;

- c. Proposed land grading and permanent vegetative cover;
- d. Methods to be used to protect existing vegetation;
- e. The relationship of the development to the topography;
- f. Any proposed alterations of shore lines, marshes or seasonal wet areas.
- g. Any existing or proposed flood control or wetland easements;
- h. Estimate increase of peak runoff caused by altered surface conditions, and methods to be used to return water to the soils.

If on-site sewage disposal is proposed, evaluate the impact of such methods on surface water, soils, and vegetation.

3. Sub-Surface Condition

Describe any limitations on the proposed project caused by subsurface soil and water conditions, and methods to be used to overcome them.

Describe the procedures and findings of percolation tests conducted on the site.

Evaluate the impact of sewage disposal methods on the quality of subsurface water.

4. Town Service

Describe the estimated traffic flow at peak periods, the likely circulation pattern, and changes in level of service or safety for vehicles and pedestrians. The scope of the area evaluated for traffic impacts should be related to the volume of traffic that could be generated by future developments in said subdivision, and by what routes in the roadway systems that traffic will likely use.

Describe the effect of the project on public sewer system.

Describe the effect of the project on the Town water supply and distribution system.

Describe the effect of the project on the natural gas and electrical power distribution system.

Describe any special impact on municipal and governmental services.

Provide an estimate of the number of new school attending children to be generated by the subdivision, and number of total new persons added to the Town's population. In addition, projected net tax and other revenues over anticipated municipal costs are strongly encouraged to be submitted to assist the Planning Board in obtaining an

understanding of the total fiscal impact of the proposed subdivision upon Town resources.

5. Source of Analytic Data

In preparing the environmental impact statement, the applicant shall state the reference source and the criteria used in calculating projected traffic impacts, and the water, sewer and drainage amounts.

6.6 Review and Decision Process

6.6.1 Circulation

Within three (3) working days of receiving a complete Definitive Subdivision Plan application, the Planning Board shall send one copy of the application materials to the following boards, departments, and officials for their review and recommendations:

Fire Department
Police Department
Inspector of Buildings
Town Engineer
Department of Public Works
Board of Selectmen
Recreation Commission
Conservation Commission

The Board of Health shall receive two (2) copies directly from the applicant.

1. Board of Health Review

The Board of Health shall submit a written report to the Planning Board within forty-five (45) days of the submission of the complete application for Definitive Subdivision Plan to the Planning Board. The Board of Health shall also send a copy of their report to the applicant. The report shall recommend approval, approval subject to conditions, or disapproval of the plan. In the event of a recommendation of disapproval, the Board of Health shall make specific findings as to the basis of denial. The Board of Health shall determine which, if any, of the lots shown on the plan cannot be used for building sites without injury to public health. For any lots that are disapproved, the Board of Health shall include specific findings and the reasons for the disapproval and, where possible, make recommendations for adjustment that would render the lots acceptable as building sites.

Failure of the Board of Health to submit a written report within the forty-five (45) day limit shall be construed to be approval by the Board of Health. Should the Planning Board approve a Definitive Subdivision Plan on which the Board of Health did not submit a report, the following wording shall be added to the plan:

"The Board of Health is deemed to have approved this Definitive Subdivision Plan because no written report was received within the required time period."

If the lots are to be serviced by on site sewage disposal systems, the failure of the Board of Health to act within forty-five (45) days shall not be construed to be approval of the method of sewage disposal.

2. Review by other Town Boards and Officials

Except for the Board of Health, all other boards, departments, and officials shall report their recommendations in writing to the Planning Board within thirty-five (35) days of the date the Planning Board transmits a copy of the application to them.

Any report submitted to the Planning Board by a reviewing board, department, or official shall be considered by the Planning Board in making its decision on a Definitive Subdivision Plan. The Planning Board may also request any board, department, or official to jointly review the plan with the Planning Board and/or provide information regarding the Definitive Subdivision Plan at the public hearing.

The Planning Board shall make available to the applicant copies of any report submitted by a board, department, or official, and any letters of comment received from the general public.

6.6.2. Legal Notice and Public Hearing

Before approval, approval subject to conditions, or disapproval of a Definitive Subdivision Plan by the Planning Board, the Planning Board shall give legal notice and hold a public hearing.

Legal notice includes:

1. Publication of a legal notice in a newspaper of local circulation for two (2) consecutive weeks, the first notice not less than fourteen (14) days prior to the hearing. The notice shall include sufficient description of the subject property for identification and give the date, time, and place of the hearing. The applicant shall be responsible for paying the cost of the notice and shall submit proof of payment at least one (1) week prior to the public hearing.
2. Notice shall be mailed by the applicant, certified return receipt, to all owners of property shown on the Certified List of Abutters.

6.6.3. Board Action and Written Decision

The Planning Board in considering a Definitive Subdivision Plan shall first determine whether the applicant's submission constitutes a proper submittal. If the Planning Board determines that the application is not a proper submittal, the application shall be denied without prejudice. If the application is determined to be a proper submittal, the Planning Board may consider the application.

Following the public hearing, the Planning Board shall vote to approve, approve subject to conditions, or disapprove the proposed Definitive Subdivision Plan and shall file a written decision with the Town Clerk.

A copy of the decision as filed and certified by the Town Clerk shall be sent by registered mail to the applicant.

The decision shall be filed with the Town Clerk within ninety (90) days of the filing of a complete submission for a Definitive Subdivision Plan for which a Preliminary Subdivision Plan has been filed, and within one hundred and thirty-five (135) days for a Definitive Subdivision Plan for which no Preliminary Subdivision Plan has been filed. However, upon the written request of the applicant and consent of the Planning Board, these time periods may be extended.

Approval. If the plan is approved, the mylar or linen reproducible of the Definitive Subdivision Plan shall be certified by the Planning Board as provided for in Section 8.1.

Approval by failure of Planning Board Action. Failure of the Planning Board to take final action and file with the Town Clerk notice of their action regarding a Definitive Subdivision Plan within the required time periods, or such further time as may be agreed upon at the written request of the subdivider, shall be deemed to be an approval of that plan. Notice of any extension of time shall be filed by the Planning Board with the Town Clerk.

Approval of the Definitive Subdivision Plan does not constitute acceptance by the Town of the ways within a subdivision. Acceptance of a way must be accomplished in accordance with statutory requirements.

Disapproval. If the plan is disapproved, the Planning Board shall state in detail where the plan does not fulfill the Subdivision Rules and Regulations or the recommendations of the Board of Health.

6.6.4 Approval Criteria

A Definitive Subdivision Plan shall not be approved if it does not meet one or more of the following criteria.

1. No subdivision shall be approved unless:
 - a. It complies with these Rules and Regulations, with the applicable provisions of zoning and other Town bylaws and regulations, and with the General Laws of the Commonwealth of Massachusetts. Proposed subdivisions shall also conform to overall development policies and plans adopted by the Planning Board, and shall adhere to the principles of correct land use, sound planning, and good engineering judgment.
 - b. The Planning Board may permit exceptions where, in its opinion, if the exception were granted, the proposed Definitive Subdivision Plan would still meet the requirements of public safety, including reasonable precautions against possible natural disasters, of traffic safety and convenience, of adequate water supply, storm water drainage, sewage disposal, and is designed with due regard to the rights, health, and welfare of Burlington's residents, including the future residents of the proposed subdivision.
 - c. If an exception requires some formal approval, such as a variance or a special permit under the provisions of the Zoning Bylaw, such formal approval shall be secured by the applicant prior to or concurrent with the Planning Board having to take final action on the Definitive Subdivision Plan under statutory time limits. Failure to secure such formal approval of exceptions may provide the basis for a conditional approval or denial.
2. The application materials are complete, properly filed, technically correct, and found to be complete in accordance with Section 2.4.
3. The Planning Board may disapprove a plan if the applicant owns land adjacent to that shown on the proposed subdivision plan, which land is determined not to be a separate and buildable parcel by the Inspector of Buildings, and fails to furnish sufficient data to enable the Planning Board to relate the proposed plan to the applicant's remaining land. Such data shall include the lines of proposed ways, lots, approximate grades, and such other details as the Planning Board may reasonably require.
4. No plan of a subdivision shall be approved unless all of the lots shown on the plan comply with the Town's Zoning Bylaw. If a specific variance may be in the best interests of the Town, the applicant may request an extension and the Planning Board may grant such an extension and refer the applicant to the Board of Appeals to seek the necessary variance prior to the Planning Board taking final action on the subdivision. However, an extension granted by the Planning Board to allow an applicant to seek a variance, in no sense shall constitute a recommendation by the Planning Board for a variance.
5. Where a parcel contains existing buildings, no subdivision shall be approved in which the proposed lot lines would make the existing buildings or uses nonconforming with respect to building coverage, setbacks, required parking, or other requirements of the Zoning Bylaw.

6. No subdivision shall be approved:
 - a. Unless the streets therein connect to and area accessible from a public way or an existing private way open to public and in which the applicant has the necessary rights.
 - b. If the Planning Board determines that roads providing access to the subdivision will fail to meet acceptable engineering standards for adequate capacity to handle expected additional traffic from development in the proposed subdivision. Intersections impacted by traffic from the proposed development shall not fall below a level of service (LOS) of D.
7. No plan of a subdivision shall be approved unless the ways shown on the plan comply with the following requirements:
 - a. All streets in the subdivision are designed so that, in the opinion of the Planning Board, they will provide for safe vehicular and pedestrian travel. Due consideration shall also be given by the applicant to the attractiveness of the street layout in order to enhance or preserve the existing or proposed residential environment. In cases where a nonresidential subdivision is proposed, due consideration of the street layout in context to abutting properties and uses will also be given.
 - b. Provision satisfactory to the Planning Board has been made for the proper projection of streets, or for access to adjoining property which is not yet subdivided. Proposed ways shall continue to the exterior boundary of the plan unless the Planning Board determines that a lesser extent of roadway shall be in the public interest. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips restrict access in accordance with the public interest.
 - c. All streets shall be in alignment with existing ways in the roadways system, as far as practicable, and at the same or greater widths. Ways shall be continuous, and shall compose a convenient system with connections adequate to ensure free movement of vehicular traffic.
 - d. As a condition of approval, the Planning Board may require that slope easement and/or retaining walls be provided on the plan to provide for more gradual slopes and to support the street or adjacent land. Construction of retaining walls shall be in accordance with Massachusetts DPW Standards.
8. The Planning Board may decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the public utilities aforesaid within two (2) years of the date of approval.

All new subdivisions with streets proposed for public acceptance will include provisions for the long-term maintenance of all new roadway systems. These

provisions will contain a release clause which will allow private maintenance provisions to be ceased upon formal street acceptance by the Town.

9. The Planning Board may require, as a condition of approval, that the common portions of the water, sewer, drainage system, and the roadway system, be offered to the Town for public acceptance. The Planning Board, however, may alternatively require that the common portions of the water, sewer, drainage system, and the roadway system be privately maintained; and, if such systems are required or proposed to be private, in perpetuity, the subdivider must propose adequate provisions for the long-term maintenance of these facilities, which is satisfactory to the Planning Board.
10. No subdivision shall be approved unless the proposed improvements are in compliance with the development standards of these Rules and Regulations.
11. Except as otherwise provided, a subdivision shall not be approved:
 - a. Unless the drainage at the boundaries of the subdivision is unchanged in rate, volume, concentration, and velocity. However, an applicant may propose a method of drainage and/or drainage improvements in which the rate, volume, concentration or velocity of drainage is changed. However, such alternative drainage shall be subject to the discretionary review and approval of the Planning Board. The Planning Board may decline to approve an alternative drainage plan that does not improve drainage, particularly downstream, with respect to flooding, erosion control, etc.
 - b. Storm drains, culverts, and related installations, both surface and sub-surface, shall be designed to provide for safe unimpeded flow of natural water courses, drainage of low areas along streets, and to intercept storm water run off along streets at intervals reasonably related to the surface type, grade, and of the acreage area drained. Proper connection shall be provided to the existing drainage system and drains shall be extended to adjacent lands so as to provide for their future continuation. Drainage depending on flow over streets or land outside the subdivision shall not be approved unless appropriate easements are first obtained.
12. Where the proposed method of drainage will increase the rate, volume, concentration or velocity of discharge into a water course, the downstream community shall be advised, and their input requested prior to final action on the subdivision.
13. No subdivision shall be approved unless:
 - a. The subdivision is in compliance with the rules and regulations of the Board of Health, and with the recommendations of the Board of Health, or
 - b. The subdivision is subject to conditions of approval that will cause the subdivision to be in compliance with the Board of Health recommendations.

Any conditions required by the Board of Health shall be inscribed on the plan or contained in a separate document referred to on the plan.

14. No subdivision plan shall be approved unless there is adequate water supply, in terms of quantity, quality, and water pressure, for future development on the property, taking into account the servicing of other development which has already received approval.
15. No subdivision plan shall be approved unless there is adequate capacity in the sewer system for the discharge from future development on the property, taking into account the servicing of other development which has already received approval.
16. Water mains, laterals, and appurtenances shall be designed to provide adequate water service for the needs of future development and for fire protection. The minimum size of a water main shall normally be eight (8) inches. Water mains shall connect to municipal water supply system and shall extend to the boundary of the subdivision where there is adjacent undeveloped or developed land using private wells. The system shall be designed to form a continuous loop with existing or proposed water mains. Dead-end mains are not permitted.
17. Sanitary sewers including all appurtenances shall be designed to serve all lots in a subdivision and to provide connection to municipal sewerage system. Sewers shall extend to the boundaries of the subdivision where there is adjacent land not on sewer. No portion of a sewerage system shall be approved if it requires a connection to municipal system over land of other owners, unless appropriate easements are first obtained.
18. The names of streets are sufficiently unique to provide for easy identification and are in keeping with the character of Burlington.

In no case shall streets be proposed with names which are duplicative or sound like other existing ways within the Town. Applicants will consult with both the Police and Fire Departments prior to proposing street names so that emergency services will not be comprised with respect to new street names which may be similar to or sound like existing streets.

19. No subdivision shall be approved where there is a remainder parcel if the Planning Board is not satisfied that the access and utility servicing for the remainder parcel will be adequate to accommodate the additional lots or development which could potentially be located on the remainder parcel in accordance with existing zoning.
20. As a condition of approval, the Planning Board may require the plan to show a park or parks suitably located for recreation and other public purposes, and for providing light and air. Such park or parks shall not be unreasonable in relation to the land being subdivided and to the prospective uses of such land. The Planning Board may require by appropriate endorsement on the plan that no building be erected upon such park or parks without its written approval for a period of three

(3) years from the date of the approval of the subdivision. If the Town does not purchase the park sites within three (3) years, the subdivider may request that the park restriction be removed.

SECTION 7: CHANGING A FINAL DECISION REGARDING A DEFINITIVE SUBDIVISION

7.1 Revoking a Denial

In accordance with MGL Chapter 41, Section 81-U, the Planning Board must revoke its disapproval of a Definitive Subdivision Plan where the subdivider submits an amended plan that corrects those aspects for which the Planning Board denied the plan and where the plan still conforms otherwise to these Rules and Regulations.

Where the amended plan is substantially similar to the denied definitive plan and is submitted within sixty (60) days after the date the Planning Board's final decision was filed with the Town Clerk, it shall be considered an extension of the original application. Where the amended plan is substantially different or is filed more than sixty (60) days after the date the Planning Board's final decision was filed with the Town Clerk, it shall be considered a new application.

To request the Planning Board's consideration of a revocation of a denial, the subdivider shall file the following:

1. A summary statement describing the changes that have been made to the Definitive Subdivision Plan.
2. The mylar or linen reproducible of the Definitive Subdivision Plan as amended and twelve (12) blue or black line prints.
3. Required filing fee for a plan amendment.
4. To the extent that information filed with the original application is affected by the proposed changes, revised application material in support of the proposed amendments.

The amended plan must be circulated, noticed and considered following a public hearing in accordance with the same requirements as for the original submission, set out in Section 6.6.

Where the Planning Board determines that the amendments are sufficient to remove the deficiencies which caused the Planning Board to deny the originally submitted plan, the Planning Board shall revoke its denial, and approve the amended Definitive Subdivision Plan with such conditions as may be appropriate and in accordance with the Rules and Regulations.

Where the Planning Board determines that the amendments are not sufficient, the Planning Board shall deny the amended plan stating in detail where the amended plan is deficient according to the Rules and Regulations.

Amended March 17, 1994

7.2 Amending an Approved Plan

Occasionally, a subdivider wishes to make changes to an approved plan. Depending on the nature and impact of the proposed change, the Planning Board may consider the change to be minor and treat it as an engineering change or may determine that the change is substantial and represents an amendment to the plan.

7.2.1 Engineering Change

Where the Planning Board determines that a change is minor in nature and does not change the adequacy, acceptability or character of the subdivision, the access, and the utility services, such a change may be considered an engineering change. In order to request an engineering change, the subdivider shall submit a written request, a redlined subdivision plan showing the location and nature of the change, and calculations or documentation related to the requested change.

The Planning Board shall determine first if the requested change is appropriate to be considered as an engineering change. If it is appropriate, the Planning Board shall then determine if the requested change is acceptable and shall by motion either approve or deny the change. The Planning Board may impose conditions as part of permitting a field change in order to ensure that the change does not affect the suitability of the subdivision. The Planning Board may submit the requested change to other Town Boards or departments for comment. If the Planning Board determines that the change is not an engineering change, the requested change may be resubmitted as an amendment to the Definitive Subdivision Plan.

7.2.2 Amendment to an Approved Plan

Where the Planning Board determines that a change is substantial and represents an amendment to the plan, the proposed amendment shall be re-circulated, noticed, and considered by the Planning Board following a public hearing in accordance with the same requirements as for the original submission in accordance with Section 6.6.

In order to request the Planning Board's consideration of an amendment to an approved Definitive Subdivision Plan, the subdivider must submit application material in accordance with Section 6.1.

The Planning Board shall evaluate the proposed amendment in accordance with the approval criteria set out in Section 6.6.4. and may approve, approve with conditions, or deny the proposed amendment giving the basis for the denial in accordance with Section 6.6.3.

Any plan showing a revision of an approved subdivision plan and submitted prior to the complete release of all lots or sureties in that portion of the subdivision affected by such revisions, shall bear a notation referring to the original subdivision plan. An amendment to the plan may require a change in the performance guarantee. These changes may include the revision of the required improvements secured by a covenant as described in Section 8.2.(1) or a change in a surety as described in either Section 8.2.(2) or 8.2.(3).

7.3 Modification or Rescission of a Definitive Subdivision Plan

In accordance with MGL Chapter 41, Section 81-W, the Planning Board, on its own motion or on the petition of any person interested, shall have power to modify, amend, or rescind its approval of a Definitive Subdivision Plan, or to require a change in a plan as a condition retaining approval. All of the provisions of the Subdivision Control Law relating to the submission and approval of a plan of a subdivision shall, so far as apt, be applicable to the approval of the modification, amendment, or rescission of such approval and to a plan which has been changed under this section.

The Planning Board may take action under this section where there are circumstances or new information which causes the Planning Board to question whether the Definitive Subdivision Plan, as approved, is or will remain in conformity with the requirements of the Subdivision Rules and Regulations.

In order to consider a modification or rescission of an approved Definitive Subdivision Plan, the Planning Board shall give public notice in accordance with Section 6.6.2. and shall also notify the subdivider, the owners of record of the land contained within the subject Definitive Subdivision Plan, and any mortgagors in the same manner as abutters. The notice shall indicate whether the Planning Board is considering modification or rescission, give the reason for considering the modification or rescission, and describe the proposed modification or the impact of the rescission. The Planning Board shall conduct a public hearing on the modification or rescission and shall hear the reasons of the subdivider, the property owners, the mortgagors, and any interested individual as to why the modification or rescission should or should not be approved. Following the public hearing, the Planning Board shall approve or deny the modification or rescission and shall file notice of its decision with the Town Clerk in accordance with Section 6.6.3. The Planning Board shall also advise the subdivider, owners of record, and any mortgagors of their decision by certified mail.

No modification, amendment, or rescission of the approval of a Definitive Subdivision Plan shall affect the lots in such subdivision which have been sold or mortgaged in good faith and for a valuable consideration subsequent to the approval of the plan, or any rights appurtenant to the lots, without the consent of the owner of such lots, and of the holder of the mortgage or mortgages, if any, for such land. However, the Planning Board may modify, amend, or rescind an approved subdivision without the consent of the lot owners and mortgagors if the Planning Board makes a finding that the proposed modifications, amendments, or rescission does not affect any lots or rights appurtenant to the lots or when there has been a sale to a single grantee of either the entire parcel of land shown on the subdivision plan or of all the lots not previously released by the Planning Board.

7.4 Recordation of a Modification, Amendment, or Rescission

For unregistered land no modification, amendment, or rescission of the approval of a plan, nor change in a plan under this section, shall take effect until:

1. The plan as originally approved, or a copy of the original plan, and a certified copy of the vote of the Planning Board making such modification, amendment, rescission or change, and any additional plan referred to in such vote, have been recorded,

2. An endorsement has been made on the plan originally approved as recorded referring to such vote and where it is recorded, and
3. Such vote is indexed in the grantor index under the names of the owners of record of the land affected.

So far as registered land is concerned, no modification, amendment, or rescission of the approval of a plan, nor change in a plan, under this section shall take effect until such modification, amendment, or change has been verified by the Land Court pursuant to MGL Chapter 185, and in case of rescission, modification, amendment, or change not so verified, until ordered by the Court pursuant to MGL Chapter 185, Section 114.

7.5 Revision of Private Ways

The Planning Board may use the procedure of rescission to discontinue and abandon private ways and may establish or revise the exterior lines, profiles (grades), and names of such private ways previously approved under the Subdivision Control Law or shown on a plan recorded prior to the date said law became effective in the Town of Burlington and not laid out or maintained by the Board of Selectmen or other public authorities. The procedure for such modification or discontinuance of private ways and the establishment or revision of the exterior lines, grades, or names shall follow the procedure for the submission, processing, and approval of Definitive Subdivision Plans, including the requirements for the construction of ways and the installation of utilities, where applicable. Lots sold or mortgaged in good faith and for a valuable consideration and any rights appurtenant to such lots shall not be affected by any action of the Planning Board under this section, except with a written consent of the owners and mortgagees of such lots. The action of the Planning Board under this section shall become effective in accordance with Section 8.3 of these Rules and Regulations.

7.6 Rescission For Failure to Record Plan or Construct Improvements

If no guarantee for required improvements is provided and the plan is not recorded within six (6) months of the expiration of the twenty (20) day appeal period or the settlement of any appeal, the Definitive Subdivision Plan approval may be rescinded by the Planning Board.

If required subdivision improvements have not commenced within one (1) year of the recordation of the Definitive Subdivision Plan, that shall be grounds for the rescission of the Definitive Subdivision Plan approval by the Planning Board.

If work on the required subdivision improvements is not completed within two (2) years of the recordation of the Definitive Subdivision Plan, that shall be grounds for the rescission of the Definitive Subdivision Plan approval by the Planning Board.

Failure of the developer to comply with all applicable Town Zoning Bylaws and requirements of the Conservation Commission under the Wetlands Protection Act, or unauthorized departure from any agreements made or plans submitted, whether or not at the direction of other public

agencies, shall constitute reason for the Planning Board to consider rescission of such approval, in accordance with the requirements and procedures of MGL Chapter 41, Section 81-W.

Pursuant to MGL Chapter 41, Section 81, the Planning Board shall not endorse an approved Definitive Subdivision Plan until the required twenty (20) day appeal period has expired, and until an approvable method to secure and guarantee the construction of ways and installation of municipal services has been presented to the Planning Board.

SECTION 8: IMPLEMENTATION OF AN APPROVED DEFINITIVE SUBDIVISION PLAN

8.1 Endorsement of the Plan

Before requesting that the Planning Board endorse the Definitive Subdivision Plan, the subdivider shall be the owner of record, agent, or representative.

Unless an appeal is taken from the action of the Planning Board to the Massachusetts Courts, and a written notice of such appeal is received by the Town Clerk within twenty (20) days of the Town Clerk receiving written determination of the Planning Board's final action, the Town Clerk shall endorse the Definitive Subdivision Plan with a certificate that no appeal has been filed. Endorsement shall be made by a majority of the Planning Board on the top sheet of the plan, with the signature or initials of the Planning Board Chairman on any or all successive sheets. The Planning Board shall endorse an approved Definitive Subdivision Plan only after the Town Clerk has certified that no appeal has been filed. The Planning Board shall require that the Definitive Subdivision Plan contain reference to its Conditions of Approval or any instrument describing such conditions.

If an appeal is filed, the Planning Board shall endorse the plan only if the appeal is not successful in overturning the approval and no further court appeal is initiated within the permitted time limits.

If a Definitive Subdivision Plan is approved by the failure of the Planning Board to act within the required time, the Town Clerk shall issue a certificate stating the date of submission of the plan, any extensions to that time period that were recorded with the Town Clerk, that the Planning Board has failed to file notice of final action with the Town Clerk within the required time and that the approval by failure of the Planning Board to act has occurred. If twenty (20) days following the issuance of the certificate pass without notice of an appeal, the Town Clerk shall at the request of the applicant endorse the subdivision plan certifying that no appeal has been received.

8.2 Provision of Performance Guarantee

Prior to endorsement by the Planning Board of a Definitive Subdivision Plan, the subdivider shall provide for long-term provisions for the maintenance of proposed streets within the subdivision. Such provisions shall be in the form of a recordable instrument. The subdivider, or any heir or successor, shall be bound by such provisions until such time as the street or streets are formally accepted by the Town.

Before endorsing an approved Definitive Subdivision Plan the Planning Board shall require that the subdivider file with the Planning Board a performance guarantee to secure the construction of ways and the installation of municipal services. The following section outlines the kinds of performance guarantees permitted under MGL Chapter 41, Section 81-U. The guarantees are of two kinds: a covenant as described in Section 8.2.(1) and sureties as described in Section 8.2.(2)

and 8.2.(3). While the method may be selected and varied from time to time by the subdivider or successor in interest, the Planning Board prefers the use of a covenant and may submit other forms of performance guarantee to Town Counsel for review as to form, and manner of execution.

Listed below are the methods by which the installation of ways and municipal services are secured, and which are allowed and specified in MGL Chapter 41, Section 81-U:

- (1) By a covenant, executed and duly recorded by the owner of record and running with the land, providing that the ways and services shall be constructed to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed. However, a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any such lot, subject to that portion of the covenant which provides that no lot shall be built upon until such ways and services have been provided to serve such lot; and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant, of either the entire parcel of land shown on the Definitive Subdivision Plan or of all lots not previously released by the Planning Board. A deed of any part of the subdivision in violation hereof shall be voidable by the grantee prior to the release of the covenant but not later than three (3) years from the date of such deed. See Form H-1 for covenant format.

This covenant shall be referred to on the Definitive Subdivision Plan as follows:

"A Conditional Approval Covenant between the Burlington Planning Board and _____(the subdivider and owner) to secure the completion of required ways and utilities has been executed and is recorded at the Middlesex South County Registry of Deeds with this plan."

- (2) By a deposit of money or negotiable securities, or by proper bond, sufficient in the opinion of the Planning Board to secure performance of the construction of ways and the installation of municipal services required for lots in the subdivision shown on the plan, each bond or deposit shall be contingent upon the construction and such installation within such period as the Planning Board shall determine.

All cost estimates submitted by the subdivider shall be reviewed by the Town Engineer for adequacy. The bond amount submitted to the Planning Board shall include 25% of the subtotal taken as contingency against any damages to the subdivision and estimated inflation, and 10% of the subtotal taken as contingency to cover administrative overhead, and bidding for the completion of the outstanding subdivision improvements in the event that the subdivision is declared in default.

If the Planning Board shall decide at any time during the term of the performance guarantee that the character and extent of the subdivision requires additional improvements, previously waived, then the Planning Board may modify its requirements in accordance with MGL Chapter 41, Section 81-W for any or all such improvements and the face value of such performance bond, or amount of deposit of money or value of securities may be increased by an appropriate amount. Such increase

may be requested by the Planning Board and consented to by the applicant, or imposed through the procedure for amending an approved Definitive Subdivision Plan, set forth in Section 7.3 and 7.4 of these Rules and Regulations.

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

Amended March 17, 1994 and October 17, 2002

8.3 Time Period and Extensions for Construction of Required Improvements

Construction of all required improvements shall be completed within two (2) years of the date of recordation of the approved Definitive Subdivision Plan.

A subdivider may request an extension to the two (2) year period in which the required improvements must be constructed. The request must be submitted in writing to the Planning Board stating what further time period to complete the required improvements is required and the reasons why an extension is requested. The Planning Board may grant an extension of not more than one (1) year on the motion of four members. More than one (1) extension may be granted.

As a condition of permitting the extension, the Planning Board shall have the right to revise the amount of sureties to ensure that sufficient adequate funds to insure the completion of the required improvements are retained and shall have the right to revise the covenant to reflect the increased construction period and any additional conditions to ensure satisfactory completion of the subdivision improvements. The cost estimate to complete the required improvements shall be reviewed by the Town Engineer, and any bonds held by the Planning Board shall be adjusted as necessary to reflect any increased cost of construction, and to require that the bond amount include 25% of the subtotal taken as contingency against any damages to the subdivision and estimated inflation, and 10% of the subtotal taken as contingency to cover administrative overhead, and bidding for the completion of the outstanding subdivision improvements in the event that the subdivision is declared in default.

Amended October 17, 2002

8.4 Recording of the Plan

After the Definitive Subdivision Plan has been endorsed and an acceptable performance guarantee has been provided to the Planning Board, the applicant shall arrange with the Planning Board staff to record the endorsed plan together with any related easements,

covenants, Conditional Approval Covenant, and any other required documents. The applicant is responsible for paying the cost of such recordation.

Following the recordation, the applicant shall provide to the Planning Board a mylar copy of the recorded plan, eight (8) black line or blue line copies of the plan, and duplicate certified copies of any documents recorded by the subdivider with the Registry of Deeds. Upon receipt of the mylar and copies of the subdivision, the Planning Board shall file one print of the Definitive Subdivision Plan with each of the following:

Building Inspector
Town Engineer
Assessor
Board of Health
Conservation Commission
Fire Department

Where the subdivision has been approved subject to a Conditional Approval Covenant as noted on the Definitive Subdivision Plan, the Inspector of Buildings shall not issue a permit for the construction of a building on any lot within the subdivision until receipt from the Planning Board of a copy of Form G or Form G-1, releasing the lot from the building and transfer of title restrictions of the Covenant.

Amended March 17, 1994

8.5 Calculation of Amount of Guarantee

The amount of a bond or deposit of money required shall include, but shall not be limited to:

1. The estimated costs of all materials to be used in the construction of proposed ways and other public improvements calculated by linear foot, cubic yard, square foot, and other appropriate itemizations of quantities. All other related installation and construction costs, including but not limited to engineering fees, construction management, supervision fees, contingencies, and any increased cost due to inflation over the proposed construction period, and
2. Amount of estimated cost to complete as-built plans, and street acceptance plans for ways proposed to be offered for acceptance as public ways, plus
3. Amount of increased construction and contingency costs estimated for a period of twice the proposed construction completion date, plus one year.

The amount of such guarantee shall be recalculated in the manner provided herein when the applicant may request this or when the construction completion date is requested to be extended by the applicant, and the agreement shall be amended accordingly.

The sum of any such financial guarantee may, from time to time, be reduced by the Planning Board and the obligations of the parties thereto released by said Board in whole or in part.

Amended March 17, 1994

8.6 Use of Performance Guarantee In Case of Default

If the developer fails to complete such work to the satisfaction of the Planning Board and in accordance with all applicable agreements, plans, regulations, and specifications, the Planning Board shall be entitled to enforce such bond or to use such deposit or other securities for the benefit of the Town to the extent necessary to complete all such required work without delay. The performance guarantees shall be used to cover all costs to the Town of completing such construction and installation.

The Town, at its option, may enter upon the premises and itself or through others supply whatever materials and perform whatever work it deems necessary to remedy such failure and complete all work called for to be performed by the applicant.

If the financial guarantee posted by the applicant is not sufficient to complete the required subdivision improvements and/or to remedy any failure of installed improvements, the Town at its option may initiate proceedings to recover the additional costs necessary from the subdivider to correct and complete all required work. The proceedings shall include an amendment to the approved subdivision plan in accordance with Sections 7.3 and 7.4 to increase the amount of the financial security. If the subdivider does not provide the additional security, the Planning Board may initiate action in the Massachusetts Courts to ensure compliance.

8.7 Procedures for Release or Reduction In Performance Guarantee

Upon completion of some or all of the improvements for which a performance guarantee was given, the subdivider may request a full or partial release of the bond, deposit, or covenant by sending a statement of completion and a request for release by registered mail to the Planning Board and Town Clerk.

Such written request shall be accompanied by two (2) copies of a certificate by a Registered Professional Engineer which shall describe work completed in the subdivision and its conformity with the approved Definitive Subdivision Plan. The Planning Board, upon receipt of such written notice and certificate, shall consult with the professional staff, General Development Inspector and/or Town Engineer to determine whether the subdivider or developer has complied with all requirements of the Approved Definitive Subdivision Plan and these Rules and Regulations.

In the event of deviation from the Approved Definitive Subdivision Plan, such deviation shall be described in the certificate from the Registered Professional Engineer, and shall be accompanied by two (2) copies of the street layout plan and road profile showing the deviation. Any such deviation shall be reviewed in the manner described in Section 7.2 of these Rules and Regulations.

If the Planning Board determines that said construction or installation has been completed in accordance with these Rules and Regulations, it shall release the full or partial interest of the Town in such land, or deposit to the person who furnished the same, or release the covenant or

specific lots within the covenant by an appropriate instrument, duly acknowledged, which may be recorded (see Form G and Form Q).

If the Planning Board determines that required construction or installation has not been completed, it will specify the details wherein the construction or installation fails to comply with its Rules and Regulations in a notice sent by registered mail to the applicant and delivered to the Town Clerk. If the Planning Board fails to so notify the Town Clerk and the applicant within forty-five (45) days of receipt of a request for release of security, as described above, the deposit or bond shall be returned and any covenant shall become void. In the event that the forty-five (45) day period expires without such specification or without release of the security, the Town Clerk shall issue a certificate to such effect, duly acknowledged.

8.8 Requirements for a Partial Release of a Covenant

8.8.1. Request

For a partial release of a covenant, surety, or deposit, the subdivider shall submit a written request as set forth in Section 8.7, detailing what work is claimed to be satisfactorily completed, and which lots, if any, are to be released.

The subdivider or developer shall also provide a detailed estimate, specifying the remaining incomplete improvements and their construction costs, and shall calculate the amount of guarantee to secure the remaining work.

8.8.2 Partial Release of a Surety

The Planning Board, if satisfied that the work has been satisfactorily completed as specified in the subdivider's/developer's request, and satisfied that the proposed reduced amount of surety is sufficient to cover the cost of completing the remaining work, shall accept a new surety in the revised amount and release the previously provided surety.

8.8.3 Partial Release of Lots from a Covenant

When only a portion of the streets and other improvements shown on the Definitive Subdivision Plan have been constructed or installed and a release of covenant is requested, the Planning Board shall consider as satisfactorily completed only such lengths and parts as will in and of themselves form convenient and adequate systems without the necessity of further extension or improvement, and shall consider as eligible for release only such lots as front on, are connected, or are otherwise served by such streets, utilities, and other improvements. Work on the ground adjacent to a particular lot will normally be considered by the Planning Board as work necessary to adequately serve such lot, regardless of the degree to which the lot is dependent on said work for its access or utility service.

No release of lots from the restrictions of a covenant shall be granted by the Planning Board, unless the subdivider constructs a temporary turn-around at the end of the constructed portion of each street in the subdivision (except where such street ends in a junction with another existing street) and such other interim facilities as are necessary to provide a reasonable operating system of streets and utilities. The subdivider shall also propose appropriate arrangements for later disposition of such interim facilities as temporary turn-arounds which must be acceptable to the Planning Board as part of the partial release.

8.9 Conversion of a Covenant to Another Performance Guarantee

If the developer desires that lots be released from a covenant and secure by means of another form of guarantee or surety the remaining public improvements related to a subdivision, a formal written request shall be given to the Planning Board which sets forth and includes:

1. The extent and scope of remaining work to be completed to satisfy the requirements for the installation of all proposed ways and municipal services,
2. An estimate, pursuant to Section 8.5 of these Regulations, which reflects all remaining costs related to the construction of all proposed ways and the installation of municipal services, and
3. The form and type of guarantee being given to the Planning Board to secure all remaining improvements.

The Planning Board, in consultation with its professional staff and other municipal departments, will make a determination on the sufficiency of the submitted estimate, and, if such estimate is accepted, a new performance guarantee will be given to the Planning Board. Upon acceptance by the Planning Board of the new performance guarantee, all applicable lots shall be released from the covenant.

8.10 Conversion of a Surety to a Covenant

If the developer desires to secure, by means of a covenant, the construction of ways and the installation of municipal services in a portion of a subdivision for which no building permits have been granted nor any lots have been sold, and to have the Planning Board release the bond, deposits, or negotiable securities previously furnished to secure such construction and installation, the developer shall submit to the Planning Board a cloth tracing and three (3) copies of the Definitive Subdivision Plan, limited only to that part of the Plan which is to be subject to such covenant. Upon approval of the covenant by the Planning Board, reference thereto shall be inscribed on such section of the Plan, and it shall be endorsed by the Planning Board and recorded with the covenant at the expense of the developer. Certified copies of all documents which the developer/subdivider records at the Registry of Deeds shall be provided to the Planning Board as set forth in Section 8.4 of these Rules and Regulations.

8.11 Requirements for Final Release and Durability of Required Improvements

No subdivision shall be accepted and no final release of a performance guarantee shall be given by the Planning Board until:

1. The integrity of road pavement and drainage has been verified following a full winter in place. The Planning Board shall retain a surety in the sum of fifteen (15%) percent of the total cost of improvements which shall be released following the verification that the utilities have withstood the winter or have been repaired to the Planning Board's satisfaction.
2. Any required planting areas have been installed for a sufficient time and are in a healthy condition so that the Planning Board may be satisfied that the vegetation has been established. The required time period shall be one (1) year plus whatever time through to July 1st for grassed area and two (2) years plus whatever time through to July 1st for shrubs and trees. The Planning Board shall retain a surety in the amount of five (5%) percent of the total cost of improvements to ensure the establishment of the vegetation.
3. All improvements proposed in the Definitive Subdivision Plan have been completed and have been verified as completed by the General Development Inspector or Town Engineer.

8.12 Conveyance of Utilities and Services

Before the Planning Board will release a surety bond or deposit, or in the case of a covenant, issue a Certificate of Performance, for subdivisions in which the ways and utilities are proposed to be offered for acceptance as public ways, the developer shall execute an instrument transferring to the Town valid, unencumbered title to all sanitary sewers, storm water drains, water mains and all appurtenances thereto constructed and installed in the subdivision and conveying to the Town, without cost and free of all liens and encumbrances, perpetual rights and easements to construct, inspect, repair, renew, replace, operate, and forever maintain such sanitary sewers, storm water drains, water mains, and all appurtenances thereto and to do all acts incidental thereto, in, through and under the whole of all streets in the subdivision, and if such sewers, storm water drains, water drains, and water mains have been constructed and installed in land not within such streets, then in, through and under the easements, as shown on the Definitive Subdivision Plan, and where no easements are shown, in, through, and under a strip of land extending ten (10) feet in width on each side of the centerline of all such sewer drains and water mains. The above shall not be construed to relieve the developer and his successors in title to a portion of land or street in the subdivision of responsibility to complete all construction, as required by developer's covenants and agreements with the Town, and to thereafter maintain all streets and utilities in a satisfactory condition until they are accepted by the Town. (See Form N.)

Acceptance by the Planning Board of the improvements required for a Definitive Subdivision Plan does not constitute the laying out or acceptance of by the Town of any streets, bikeways, or footpaths within a subdivision.

The subdivider shall retain title to the fee of each street, path, or easement in or appurtenant to the subdivision until conveyed to the Town and accordingly accepted; and the subdivider shall maintain and repair the roads and drainage facilities in a manner satisfactory to the Planning Board during that period.

If the subdivider chooses not to offer the right-of-way and other access easements in fee to the Town, this shall be noted on the Definitive Subdivision Plan and the subdivider will have proposed and implemented mechanisms for perpetual maintenance.

If the subdivider declared the intent to offer the right-of-way and other access easements to the Town, the subdivider shall submit all necessary documentation for street acceptance, including "Street Acceptance" Plans in a form acceptable to the Registry of Deeds and the Town Engineer, legal descriptions, easements, list of owners and mortgagees of lots having rights in the street, and any grants of rights necessary, for use by the Town for formal acceptance of the way by Town Meeting. A Street Acceptance Plan shall be prepared pursuant to the requirements of Section 8.14. Any "As-built Plan" prepared pursuant to Section 8.13 shall not be suitable for use as a Street Acceptance Plan.

Where a portion of a subdivision is serviced by an on-lot sewerage system or systems, the Planning Board shall not release the subdivision until satisfied that such system or systems were installed in accordance with the requirements of Title 5 of the Environmental Code of the Commonwealth of Massachusetts and the Burlington Board of Health.

Amended March 17, 1994

8.13 Progress and Final As-Built Plan

A. Progress As-built Plan:

Upon installation of the sewer, water, gas, and/or underground electrical systems and prior to the installation of the pavement binder course, the subdivider shall submit to the General Development Inspector and the Planning Board office, definitive data identifying the location and elevation of all structures and services for such sewer, water, gas and/or electrical systems, including clean-outs, shut-off valves, and lateral stubs serving each lot in the subdivision. This information shall be presented as a "Progress As-Built Plan", which shall indicate the actual location of the subdivision improvements completed to date."

B. Final As-built Plan:

Upon completion of construction, and before release of a performance guarantee, the subdivider shall have prepared and submitted "Final As Built Plans" at the same scale as the street plans, which shall indicate the actual location of all of the following:

1. Boundaries of the right of way;
2. Boundaries of roadway improvements;

3. Driveway locations;
4. Permanent monuments;
5. Location and inverts, with elevation, of the required utilities, hydrants and drainage including the location, with ties, and depth of sewer and water laterals serving each lot;
6. Location of any other underground utilities, such as natural gas, electricity, telephone lines, and street lighting;
7. Lot boundaries; and,
8. Centerline stationing.

A Registered Land Surveyor or Registered Professional Engineer retained by the developer/subdivider, shall certify the completion of the construction of the ways and services as shown in the Final As-built Plans and certify the accuracy of the Final As-Built Plans themselves. The Final As-Built Plans must be to the satisfaction of the Planning Board in terms of their content and form. Certification of monumentation, as required in Section 10.9, may be made upon the Final As-built Plan. Upon determination by the Planning Board that the Final As-built Plan is satisfactory, the Developer shall submit to the Planning Board a CAD drawing file or files of such plan, compatible with the Town's CAD systems.

Amended March 17, 1994 and October 17, 2002

8.14 Street Acceptance Plan

For ways proposed to be offered to the Town as public ways, the subdivider shall have prepared and submitted a "Street Acceptance Plan" prior to the final release of the performance guarantee. Such plans shall be suitable for recording at the Registry of Deeds. At a minimum, Street Acceptance Plans shall contain the following information:

1. Title block indicating the name of the subdivision, the name of the way, the name and address of the subdivider, the name and address of the engineer and/or surveyor, and the date of preparation;
2. Locus map;
3. The boundaries and area of the right of way;
4. The location and identification of the owners of lots and all properties abutting the way;

Additional pertinent information as may be required by the Town Engineer or the Planning Board shall be provided on the plan. Such plans shall be accompanied by deeds, easements, and other appropriate documentation required for the conveyance of the way to the Town. Any As-Built Plan prepared pursuant to Section 8.13 shall not be suitable for use as a Street Acceptance Plan.

Amended March 17, 1994

**SECTION 9: SUBDIVISION OF LAND WITHIN THE 100-YEAR FLOOD PLAIN
(ADDITIONAL REQUIREMENTS)**

9.1 Land Within the 100-Year Flood Plain

If any portion of the land shown in a subdivision is located within the One Hundred (100) Year Flood Plain, as defined in the following section, the following additional regulations shall apply.

The One Hundred (100) Year Flood Plain shall include all areas designated A, A0 and A1 through A30 on maps entitled, "Flood Insurance Rate Maps (FIRM), Town of Burlington, Mass.", dated July 5, 1984, Community Panel Numbers 250185-0001B through -0004B, prepared by the Federal Emergency Management Agency (FEMA), as amended from time to time.

9.2 Additional Submission Requirements

1. Submitted Subdivision Plans, both Preliminary and Definitive, must clearly show the following:
 - a. The portion of the land proposed for subdivision that is located within the One Hundred (100) Year Flood Plain.
 - b. The elevation of the one hundred (100) Year Flood as shown on the maps entitled "Flood Boundary and Floodway Maps, Town of Burlington, Mass.", dated July 5, 1984, Community Panel Numbers 250185-0001B through -0004B, prepared by the Federal Emergency Management Agency (FEMA), as amended from time to time, and as shown in the publication entitled, "Burlington Flood Insurance Study", dated January 5, 1984, and published by the Federal Emergency Management Agency. Where the elevation of the One Hundred (100) Year Flood is not provided on the FEMA maps, flood elevation data from other sources, including Federal, State, and local agencies shall be used. The determination of a flood elevation from sources other than FEMA maps and publications shall be subject to the review and approval of the Planning Board.
2. For any proposed lot that lies partially or wholly within the One Hundred (100) Year Flood Plain, the submitted Subdivision Plans, both Preliminary and Definitive, shall show a potential building site and how a building located on that site would be protected from flooding.
3. For any public utilities, particularly water, sewer, gas, and electrical, located within the One Hundred (100) Year Flood Plain, the applicant shall indicate what location and construction design measures are proposed to ensure that the potential for flood damage has been eliminated or minimized.

4. Drainage calculations prepared by a Registered Professional Engineer shall be submitted showing how the proposed subdivision drainage will accommodate a One Hundred (100) Year Flood.

9.3 Additional General Requirements for Approval

In addition to the requirements for approval contained elsewhere in these Rules and Regulations, the following additional requirements shall be fulfilled for subdivisions that are located partially or wholly within the One Hundred (100) Year Flood Plain.

1. The subdivision must be designed so that each lot will have an adequate building site that will minimize the susceptibility of future development on that lot to flood damage. The proposed building site shall not be located within the Floodway as designated on the maps entitled "Flood Boundary and Floodway Maps, Town of Burlington, Mass.", dated July 5, 1984, Community Panel Numbers 250185-0001B through -0004B, prepared by the Federal Emergency Management Agency (FEMA), as amended from time to time.
2. All public utilities, including water, sewer, gas, and electrical shall be located and constructed to minimize or eliminate the potential for flood damage to these utilities.
3. The drainage system for the subdivision shall be designed to minimize the potential for flood damage to buildings and public utilities.
4. The roadways within the subdivisions shall be located and constructed to eliminate or minimize the possibility that the roadway would be impassable or unsafe in a One Hundred (100) Year Flood.

SECTION 10: DESIGN STANDARDS

10.1 General Requirements of Streets

All of the following street requirements shall apply unless waived or varied by the Planning Board.

All streets which are part of the main highway system shall be coterminous with adjoining links and at the same or greater widths, except as hereinafter specified.

Ways shall be continuous and, where possible, in alignment with existing ways. All proposed ways shall compose a convenient system with adequate connections to ensure full movement of vehicular travel. All angles in street lines shall be eased with curves having a center line radius of one hundred (100) feet minimum. Center lines of opposing streets shall be spaced a minimum of one hundred and fifty (150) feet apart. There shall be a minimum sight distance of one hundred and fifty (150) feet for all local streets. Minimum sight distances for other than local streets shall be designed in accordance with the American Association of State Highway and Transportation Officials (AASHTO) Standards for design speeds of roads.

If adjoining property is not subdivided, consideration shall be given to the possibility of future connections. Proposed ways shall continue to the exterior boundary of the plan unless otherwise approved by the Board.

In no case shall storm water run-off be allowed to intrude more than three (3) feet on the travel way from the curblines during a twenty-five (25) year storm.

10.2 Width and Grade of Way

No major or minor arterial way shall be less than fifty (50) feet between lot lines or less than forty (40) feet on a local street or collector street. The Planning Board may also require a forty-four (44) foot or greater layout when anticipated vehicular traffic necessitates such width.

A minimum of a one (1%) percent grade shall apply for any way, and the minimum transverse slope (crown) shall be one-fourth (1/4) inch per foot as shown in the attached illustration of a typical layout. Grade of ways shall not exceed eight (8%) unless waived by the Planning Board. Grades within cul-de-sacs shall be a minimum of one (1%) percent and a maximum of four (4%) percent, maintaining a constant grade along the centerline of the roadway (measured in a linear or tangent fashion.) No portion of the cul-de-sac as measured along the centerline shall be on a vertical curve.

The transitions in longitudinal grade of every way shall be effected by means of vertical curves of sufficient length, in the opinion of the Planning Board, in consultation with the Town Engineer, to provide for adequate sight distances.

The paved width of a way shall vary between twenty-six (26) feet and thirty-four (34) feet or greater, depending on the approved roadway layout. For residential subdivision ways which serve no more than ten (10) lots and are permanent dead end streets, the Planning Board, in consultation with professional Town staff, may approve a pavement width less than twenty-six (26) feet, but generally not less than twenty (20) feet.

Amended March 17, 1994 and October 17, 2002

10.3 Intersection of Ways

The grading at intersections shall be designed to provide both safe and convenient travel.

All intersections of ways shall be at an angle of ninety (90) degrees if possible, but otherwise at an angle approved by the Planning Board. In no case shall angles at intersections be less than sixty (60) degrees. Layout lines at all intersections shall provide a radii of not less than twenty-five (25) feet.

The number of ways converging at any one (1) point shall be kept to a maximum of four (4).

Amended March 17, 1994

10.4 Dead End Streets/Cul-de-sacs

Permanent dead end streets shall serve no more than ten (10) lots of legal frontage. Dead end ways that are approved must be provided with a turning circle having an outside layout radius of not less than fifty (50) feet, and a pavement radius of not less than forty (40) feet. A typical cul-de-sac layout design is provided in Appendix IV. The Planning Board, where appropriate to the needs of vehicular access and public safety, may specify a greater radius.

Those dead end ways which shall eventually carry traffic to another way shall have a temporary turning circle having an outside pavement radius of not less than forty (40) feet. Areas within the temporary circle that may be abandoned or conveyed as part of an adjacent lot or continuation of the way, shall be appropriately designated and dimensioned as separate parcels of land. A note shall be added to the plan designating to which lot each parcel "will be added to and become a part of" upon extension of the way (MGL Chapter 41). Additionally, the plan shall provide notation that such parcels are not to be considered buildable by themselves, and that such parcels do not constitute the minimum lot area requirements for adjoining lots at the time of submission of the Definitive Subdivision Plan.

The Planning Board may require, where appropriate, that a planted area be placed within the turning circle of a cul-de-sac. (See Section 10.13.)

Amended March 17, 1994

10.5 Curbing

The Planning Board prefers the use of granite curbing throughout subdivisions. As a second alternative, the Planning Board prefers the use of precast concrete curbing. At a minimum, sloped granite curbs shall be required at all intersection points of ways. Curved vertical or sloped granite curbing shall be provided for all curb line radii of fifty (50) feet or less. Vertical granite curb inlets shall be provided at the back of all catch basins.

Where bituminous concrete curbing is provided, it shall be properly placed so as to provide smooth transition at locations where there is alignment with vertical granite curbing reveals. All curbing shall be installed and prepared in accordance with Massachusetts DPW "Standard Specification for Highways and Bridges, 1973 ed." and as amended.

Amended March 17, 1994

10.6 Sidewalks and Driveways

Sidewalks shall be provided and placed as directed by the Planning Board. Proposed cement sidewalks will meet the following specifications:

Cement Concrete Sidewalks

Surface - 4" cement concrete (all entrained class D, one course).

Foundation - 8" gravel borrow, compacted in 4" lifts.

Bituminous Concrete Sidewalks

Surface - 2 1/2" Class I Bituminous Concrete Pavement Type I-1 (1 1/4" surface course material over 1 1/4" binder course material).

Foundation - 8" gravel borrow, compacted in 4" lifts.

All sidewalks, unless otherwise directed by the Planning Board, shall be installed with a minimum of four (4) feet in width and no less than three (3) feet of clearance in all locations. At all intersections, sidewalks shall be constructed to provide handicapped accessible curb cuts in accordance with the standards of the Massachusetts Architectural Access Board and the Americans with Disabilities Act of 1990.

There shall be constructed in all streets or sidewalks within a subdivision an opening for a driveway on each lot. Driveways shall have a minimum curb opening of fourteen (14) feet unless waived by the Planning Board.

Amended March 17, 1994

10.7 Tree Belt

All areas between the exterior paved street line and individual lot lines which are not occupied by approved sidewalks shall be loamed, rolled, and seeded, and two (2) street trees shall be provided for each lot within the subdivision in such area.

Where sidewalks are provided, street trees shall be planted within the street right-of-way between the area designated for sidewalks and the sideline of the street pavement, and shall be placed at intervals of approximately fifty (50) feet on center, but no closer than thirty-five (35) feet. (See Section 10.12.)

10.8 Fire Hydrants/Alarm System

The placement of Fire Hydrants will be subject to the approval of the Planning Board. Fire hydrants will be provided in all subdivisions spaced not more than five hundred (500) feet apart. Hydrants shall also be placed within all cul-de-sac areas.

Fire alarm signal equipment shall be installed within subdivisions when deemed advisable by the Fire Chief. Such equipment will be dedicated to the Town along with other utilities.

10.9 Monuments

Granite monuments, unless otherwise permitted by the Planning Board, shall be set at all intersections, angle points, points of change in direction or curvature of streets, and at the two (2) property corners which abut the right-of-way on all new lots. Monuments located in the street right-of-way shall be spaced no more than five hundred (500) feet apart or other such distance so that a set bound is visible in both directions.

Granite monuments shall be four (4) feet long by six (6) inches square with the top surface hammer-dressed to a six (6) inch by six (6) inch area. Such monuments shall be set with their tops at the proposed surface grade, unless the Town Engineer otherwise directs, and shall be set in bank run gravel. A three-eighths (3/8) inch diameter by a one (1) inch deep hole shall be drilled in the top of all stone bounds or monuments.

The subdivider shall set granite monuments, or other permanent markers as specified by the Planning Board, at all points designated on the Definitive Subdivision Plan. A certificate shall be required from the Registered Land Surveyor, certifying that "the bounds are set, and have been rechecked after a reasonable time and are now in correct position". This certificate is filed in duplicate with the Town Engineer and Planning Board before requesting release of a bond or other performance guarantee.

10.10 Parks/Open Space

In order to meet the objectives of the MGL Chapter 41, the Planning Board may require, where reasonable and appropriate to the context, a plan to show a park or parks suitably located for playground and recreation purposes. Such park or playground shall not be unreasonable in area in relation to the land to be subdivided or uses anticipated.

The Planning Board may, by appropriate endorsement on the plan, require that no building be erected upon such park and/or open space area for a period of not more than three (3) years without Planning Board approval. Failure of the Town to purchase or accept for dedication such land shall be deemed to free the owner from restrictions.

10.11 Signs

Signs of the type and character used on public ways in the Town of Burlington bearing the name of the way approved by the Planning Board shall be provided on all intersections of ways in the subdivision.

Where a continuation of an existing public way has not become a public way, a sign shall be placed indicating that such way is not a public way. Temporary street signs shall be maintained by the developer during construction.

Safety and traffic control signage, including "STOP" signs and any other signs deemed to be required by the Planning Board, in consultation with Town public safety personnel, shall be provided and installed by the developer.

Amended March 17, 1994

10.12 Trees and Other Plantings

Every effort shall be made to preserve existing trees within the proposed right-of-way as well as within individual lots shown on the subdivision.

The species of street trees selected shall be of a Zone 6 hardiness and shall be of licensed nursery stock with good root development and branching characteristics, and with a one (1) year warranty. Existing trees may be preserved as required street trees if approved by the Planning Board.

The minimum size of street trees shall be two and one-half (2 1/2) inches in caliper, measured four (4) feet from the ground level, and eight (8) to ten (10) feet of height in place.

Street trees shall be planted in holes of a depth and width of two (2) times the root ball diameter. Trees shall be planted at their proper depth and in good quality topsoil and shall be securely staked.

Street tree species shall be approved by the Planning Board.

All cut and fill slopes subject to erosion and contiguous to the way shall be planted with suitable well rooted, low growing plant materials. Plants and/or perennial grass shall be suited to the adjoining landscape and located to provide adequate cover. The Planning Board may require the planting of sod and the use of other erosion control measures where warranted.

10.13 Cul-de-sac Plantings

Where cul-de-sac plantings are required, they shall be landscaped using one or more of the following options:

1. Planting of perennial grass by either sod or seed on a six (6) inch depth of loam;
2. Planting of nursery-grown, well-rooted shrubs and ground cover;

3. Retaining existing vegetation, if approved by the Planning Board.

10.14 Construction of Ways

Prior to any preparation for the construction of ways, forty-eight (48) hours notice shall be given to the DPW Superintendent and General Development Inspector.

The following construction and installation standards shall apply:

1. The area between property lines within the right-of-way shall be cleared and grubbed except for those trees intended to be preserved as street trees.
2. All excavation shall conform to the lines and grades shown on the approved Definitive Subdivision Plan. Where mucky soils, ledge or clay is encountered within the right-of-way, it shall be removed entirely and, where necessary, replaced with ordinary borrow or other materials specified in Massachusetts DPW "Standard Specifications for Highways and Bridges, 1973 ed", and as amended. Where water is encountered, or is expected to be encountered within four (4) feet of the finished grade of the street, subsurface drainage of a design acceptable to the Town Engineer and/or DPW Superintendent, shall be constructed.
3. Boulders or ledge shall be removed to a depth of at least twenty-four (24) inches below final grade when within the paved area. Extensive ledge areas may require installation of interceptor subdrains or perforated pipe. Where street and shoulder grades require more than two (2) feet of cut or fill, the Planning Board may require retaining walls along abutting property lines unless a suitable alternative is shown, such as a one to two (1:2) Earth Slope to serve as a roadway stabilizer. In such cases, a "Slope Easement" of adequate width shall be required.
4. The type of surfacing of every way should be such that it will carry expected traffic for a twenty (20) year or greater period without excessive costs for maintenance. Roads, in general, shall consist of a twelve (12) inch sub-base with eight (8) inches of suitable gravel applied in two (2), four (4) inch lifts, and four (4) inches of crushed stone compacted to not less than ninety-five (95%) percent of maximum dry density with a twelve (12) ton, three (3) wheel roller. The wearing surface is to be of Class I Bituminous Concrete Type I-1, a minimum of three (3) inches consisting of a one and a half (1 1/2) inch base course of "binder mix" and a one and a half (1 1/2) inch finish course, to be laid true to line, grade, width, and crown by a self-powered paver with fully automated controls for both longitudinal and transverse slope.
5. All successive strips or joints shall be made while the mix is hot; all joints shall be raked before finish-rolled to obtain tightly sealed joints. When new mix is to butt against existing surfaces, these joints shall be clean and then painted with an approved emulsion.

6. No pavement shall be allowed to be laid after frost has penetrated the base more than one (1) inch, or after the air temperature remains at or below freezing for more than a day.
7. No paving shall be done under any adverse conditions without the consent of the DPW Superintendent or Town Engineer.
8. Wet base or other "soft" conditions must be remedied before paving will be allowed to continue.
9. Any portions of pavement not meeting with the approval of the DPW Superintendent and General Development Inspector shall be removed and replaced. Improper installation of road surface or sub-base material may be considered grounds for revocation of Definitive Subdivision Plan approval.
10. Unless otherwise specified herein, all materials used in the construction of ways shall conform to Massachusetts DPW "Standard Specifications for Highways and Bridges, 1973 ed.", and as amended.

10.15 Utility Installations

Prior to any installation of utilities, no less than forty-eight (48) hours notice shall be given to the DPW Superintendent and the General Development Inspector. The following provisions and construction standards shall apply:

1. Pipe and utility installations shall be made on solid foundations, necessitating that fill portions of roadways be compacted to ninety-five (95%) percent of optimum density before trenches shall be dug for utility installation.
2. All sewers, surface water drains, water pipes, and any other underground facilities, together with appurtenances shall be installed only after the subgrade of the way has been established; such subgrade shall be inspected by the DPW Superintendent, General Development Inspector, or his or her department delegate before any installation is made. Grade stakes must be available to verify the subgrade.

Backfilling and tamping shall be done in accordance with State Specifications and at the request of the Town Engineer, DPW Superintendent, or General Development Inspector. Utilities shall not be backfilled until installation meets with the approval of one of the foregoing parties.

3. Connections for sewer, drains, water and electric service from the main structures in the way shall be extended into each lot whether or not there is a building thereon except that the Planning Board, in consultation with the Board of Health, may waive such requirement, in whole or part, in the case of a lot to be used for a park, playground, or other purpose deemed appropriate.

4. All underground installations, including surface water drains, shall be installed and all ways constructed by the subdivider at his or her own expense, in accordance with the grades approved by the Planning Board, in consultation with the Town Engineer and/or DPW Superintendent. The subdivider shall comply with the details and specifications shown on the attached plans and details of roadway construction.
5. The subdivider shall protect all utilities and appurtenances installed under these specifications from any and all damage, until the subdivision is completed and approved as a whole by the Planning Board. Any damage to utilities prior to release by the Planning Board of a performance guarantee, or acceptance by the Town of the subdivision road, shall be repaired in a manner satisfactory to the DPW Superintendent and the Planning Board. The full cost of such repair shall be borne by the subdivider.
6. Underground facilities and appurtenances not installed in accordance with the final grades approved by the Planning Board, shall be removed and reset to proper grade at the expense of the subdivider.
7. The placement of electric light poles shall be coordinated with the Office of the Town Engineer and the local electric utility company.
8. A supplementary plan showing locations of underground wiring, transformers, poles and lighting (including the type of fixture and lumens), shall be submitted to the Planning Board after the Definitive Subdivision Plan is recorded at the Registry of Deeds.
9. Fire alarm and terminal boxes shall be installed in accordance with the standard specifications established by the Fire Department.
10. Installation or extension of gas lines shall be coordinated by the subdivider with the appropriate utility company, and shall be reflected on the Definitive Subdivision Plan.
11. The Planning Board may allow or require that electric distribution lines be placed underground within the right-of-way layout with appropriate connections provided to each lot. In such cases, the subdivider shall coordinate installations with the electric utility company and shall provide, where directed, the appropriate number of conduits for primary and secondary electric distribution lines, street lighting, telephone cable, fire alarm lines, and, where appropriate, cable T.V. lines. The cost for all installation shall be borne by the subdivider and the local utility company.

10.16 Easements

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

Where a subdivision is traversed by a water course, drainage way, channel, or stream, the Planning Board may require that a storm water easement or drainage right-of-way be provided

of adequate width to conform to the lines of such water course, drainage way, channel or stream, and to provide for construction, resource protection, or other necessary purposes.

Where a subdivider proposes a one to two (1:2) slope for the stabilization and support of a roadway, and where said slope must be carried beyond the layout of the road right-of-way, the Planning Board may require that a "Slope Easement" of adequate width be provided.

10.17 Water System and Sewer Facilities

All water and sewer systems and facilities shall be installed in accordance with the Massachusetts DPW "Standard Specifications for Highways and Bridges, 1973 ed.", as amended, unless otherwise specified herein.

Materials to be used are specified in Appendix I of these Rules and Regulations.

All water mains are to be looped unless waived by the Planning Board. Reasonable provisions shall be made for extension of the water main to adjoining property, including installation of water gates and manholes if necessary. Appropriate easements for such facilities shall be required.

10.18 Maintenance of Roadway and Underground Utilities

Until such time as all covenants and performance guarantees are released, and a roadway has been formally accepted by the Town, the subdivider shall be responsible for maintaining the roads within a subdivision in a condition which meets with the satisfaction of the DPW Superintendent and the preceding requirements.

SECTION 11: STORM DRAINAGE

11.1 General Requirements

Storm water run-off shall be disposed of through a combination of storage and controlled release. Drainage systems shall be designed according to the following principles and criteria:

1. **Peak Flows:** Property shall be developed in such a manner as to maximize storm water recharge on the site and to minimize direct overland run-off into adjoining streets and watercourses. Peak flows at the boundaries of the subdivision shall be no higher following development than before development. In addition, all storm water run-off flows at the boundaries of the subdivision shall be no higher following development than before development.
2. **Capacity:** Drainage systems shall have adequate capacity to handle all storm water run-off presently flowing through the subdivision, as well as to dispose of any additional run-off generated by the proposed development up to and including the run-off from a one hundred (100) year storm using the following methods:
 - a. Drainage facilities designed to carry storm water flows through the subdivision site will be designed to have adequate capacity to handle and dispose of flows generated from a twenty-five (25) year frequency storm of twenty-four (24) hour duration. Flows shall be conveyed through the site, following natural drainage patterns, wherever possible, in a manner which shall maintain the ratio of run-off to infiltration at the same percentage as under natural conditions.
 - b. Detention facilities shall be provided to handle all run-off which exceeds the percolation capacity of the site, up to and including the run-off generated from a one hundred (100) year, twenty-four (24) hour storm. All detention facilities which are proposed must be reviewed by the DPW Superintendent prior to submittal of a Definitive Subdivision Plan. The subdivider shall provide the DPW Superintendent and Planning Board with the applicable design standards and capacity information relating to such a facility. The proposed design will be stamped by a Registered Professional Engineer at the time a Definitive Subdivision Plan is filed.
3. **Release Rate:** The combination of storage and design release rate shall not result in a storage duration of greater than seventy-two (72) hours. Maximum depth of storm water retention areas shall be four (4) feet. Detention area side slopes shall be kept as close as possible to natural land contours, ten (10%) percent or less wherever possible.
4. **Outlet Structures:** Outlet control structures shall be designed as simply as possible and shall require little or no attention for proper operation.
5. **Emergency Overflow:** Each storm water detention area shall be provided with a method of emergency overflow in the event of a storm in excess of a one hundred (100) year frequency type.

6. **Natural Patterns:** Natural drainage patterns shall be used wherever possible. All existing watercourses shall be left open unless approval to close them is obtained through the Conservation Commission. All new open watercourses shall be appropriately seeded, sodded, paved or rip-rapped.
7. **Alteration:** Any alteration of land on the site shall be such that changes in existing patterns of drainage shall not adversely affect properties outside the subdivision by increasing the amount of flow or rate of peak flow.
8. **Structured Systems:** Where soil conditions or topography make natural drainage systems impractical and where existing drains in adjacent streets or easements are adequate in capacity to accommodate the drainage flow from the subdivision, a structured system shall be used and appropriate connection to the existing Town drainage system shall be made, where possible.

Where storm water run-off is intercepted and directed to on-site leaching or detention systems, proper documentation of such system(s) and its capacity shall be submitted to the DPW Superintendent for approval prior to submittal of the Definitive Subdivision Plan to the Planning Board.

In such instances, catch basins shall be required on both sides of the street on continuous grade at intervals of not more than three hundred (300) feet, at low points in the street, and near the corners at intersecting streets.

9. **Calculations:** Hydraulic calculations, prepared by a Registered Professional Engineer, shall be submitted to substantiate all design features of any proposed drainage system. Computations for run-off shall be made in accordance with standard engineering practice, acceptable to the Town Engineer and Planning Board and the method of calculation shall be noted.
10. **Drainage Easements:** Where it is necessary to carry drainage across lots within the subdivision, storm water easements shall be provided, of such width and construction as will be adequate to accommodate the volume and velocity of the run-off. However, in no case shall the easements be less than twenty (20) feet in width.

When a proposed drainage system will carry water across land outside the subdivision boundaries to an approved outfall, appropriate drainage rights shall be secured by the subdivider and shall be referenced on the Definitive Subdivision Plan.

11. **Miscellaneous Criteria:**
No detention and retention structures shall be constructed and maintained within the layout of any proposed way, whether proposed to be private or public.

No new stormwater system may discharge untreated stormwater directly to or cause erosion in wetlands or surface waters or groundwater.

Annual recharge to groundwater shall be maintained through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate, or if possible, increase, the annual recharge from the pre-development or existing site conditions.

The stormwater management system shall comply with the Department of Environmental Protection's (DEP) Storm Water Management Policy and the requirements of these rules and regulations, regardless of whether the project is subject to the Wetlands Protection Act. Stormwater management systems shall be designed to remove 80% of the average annual load of Total Suspended Solids. To achieve this standard, suitable nonstructural practices for source control and pollution prevention shall be implemented, Best Management Practices (BMP's) shall be implemented and maintained as designed.

The use of infiltration measures and practices without pretreatment is prohibited, except that roof runoff may be separately directly discharged into the groundwater without pretreatment.

Erosion and sediment controls shall be implemented to prevent detrimental impacts to drainage structures during construction or land disturbance activities.

All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed. Such plan shall include identification of the party or parties responsible for operation and maintenance, a schedule for inspection and maintenance, and the routine and nonroutine maintenance tasks to be undertaken. Permitted confined spaces shall be registered with the Fire Department pursuant to OSHA 1910.146.

Connection of footing drains, roof drains, sump pumps or storm drains to a sanitary sewer is prohibited.

The Planning Board may require a fence or vegetated barrier or other safety feature, designed to the satisfaction of the Planning Board, for detention ponds and retention areas for reasons of safety or aesthetics.

Amended October 17, 2002

SECTION 12: INSPECTION PROCEDURES

12.1 General Requirements

The subdivider and/or property owner shall be responsible for requesting inspections at the proper sequence of installation of improvements. Inspections shall be required for all major stages of the subdivision and site plan development process and prior to any release or reduction in a performance guarantee. Inspections shall be required before and after the commencement of the following work:

1. Site layout and controls.
2. Sub-base and roadway layout/preparation.
3. Rough grading, fine grading, and compaction.
4. Installation of water, storm drainage, sewer facilities and their appurtenances.
5. Installation of other underground utilities such as electric, telephone, gas, cable T.V., and fire alarm distribution lines and services.

In no case shall any utility be backfilled until the General Development Inspector has witnessed its installation.

Installations performed without the sanction of the General Development Inspector shall be required to be uncovered by the subdivider/developer before additional improvements can proceed. No work will be accepted without sanction of inspection by the Town of Burlington's General Development Inspector, Town Engineer, or DPW Superintendent.

In addition to the inspections cited above, inspections shall be required to verify the adequacy of the following: binder/finish paving of roadways, sidewalks, curbing, monumentation, way signs, loam and seed, tree planting, site cleanup, As-built drawings. Air testing shall be required by an independent testing company, to verify the operational performance of sewer and water services. Sewer manhole structures shall be water tested.

In no case shall any engineering or site changes which deviate, however marginally, from the approved Definitive Subdivision Plan, be made in the field. It shall be the responsibility of the subdivider and the property owner to immediately report any discrepancies in the field to the Town Engineer and the Planning Board, and other appropriate departments of the Town with jurisdiction relating to the discrepancy, for their review, inspection, and approval. All changes shall be submitted to the Planning Board for review and determination as to whether such change constitutes an "engineering change" or requires the filing of an Amended Definitive Subdivision Plan pursuant to Section 7.2 of these Rules and Regulations.

Certification by a Registered Land Surveyor shall be required to verify proper monumentation. Certification by a Registered Professional Engineer shall be required to verify the proper installation of all water, sewer, and drainage facilities. Certification by the Fire Chief shall be required for fire alarm installation. All such certifications shall be filed in duplicate with the Planning Board.

In all cases where an inspection is requested, the subdivider shall provide both complete and safe access to the General Development Inspector. No less than forty-eight (48) hours of advance notice shall be given to the General Development Inspector on all inspection requests.

Inspections shall be performed between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, unless prior permission is obtained from the DPW Superintendent or Town Engineer to allow inspections to be performed during alternative hours. If inspections are required on weekends or evenings, the subdivider or contractor shall bear the full cost of the General Development Inspector's time, four (4) hours minimum.

Amended March 17, 1994

Appendix I

REQUIRED MATERIALS FOR USE IN UNDERGROUND UTILITIES SUMMARY OF SPECIFICATIONS

I. Storm Drainage

Structures - Precast concrete sections. Concrete barrel blocks allowed for shallow structures, must be parged. All holes shall be filled with appropriate non-shrink grout.

Brick - #1 common red brick, water struck, hard burned, or sewer brick for height adjustment. 6 courses maximum, 2 courses minimum.

Castings - Manholes - LeBaron LT 105 or equal, 8" high frame, round cover embossed "DRAIN".

Catch basins - LeBaron LF 248-2 or equal, 8" high frame, square grate (24" x 24") waffle type (bicycle safe).

Manhole steps - 12" x 12" x 3/4" Aluminum at 12" on center.

Leaching manholes - Cover for H-20 lading, 3/4" perimeter stone and Marafi 140 fabric or equal.

Pipe - Minimum 12" diameter, reinforced cement concrete, bell and spigot. Pipes shall be laid at a constant slope. Any change of horizontal or vertical direction shall be done with a manhole.

Underdrain - Perforated metal pipe, asphalt coated or SDR 35 perforated PVC.

Note: Oil separator snouts and four (4) foot deep sumps are required for each catch basin. Manhole inverts may be brick or poured concrete.

If it is necessary to remove material around the frame to adjust the structure, concrete will not be allowed as a replacement for reconstructing to match the surrounding roadway.

II. Sanitary Sewer and Services

Structures - Precast concrete sections, made watertight with 2 bitumistic coats both inside and out.

Brick - #1 common red brick, water struck, hard burned, or sewer brick for height adjustment. 6 courses maximum, 2 courses minimum.

- Castings - LeBaron LT 105 or equal, 8" high frame, round cover embossed "SEWER".
- Cross Country man hole. 6" height allowed.
- Manhole steps - 12" x 12" x 3/4" Aluminum at 12" on center.
- Pipes - Gravity - PVC sewer pipe schedule SDR 35 minimum for gravity sewers from main to 10 feet from foundation. Within 10 feet of foundations the Board of Health has jurisdiction. Typically 6" ductile iron under foundation or 4" schedule 40 PVC in normal fill situations. Special criteria govern when 10 feet or closer to water service or main.
- All pipe shall be laid at constant slope. Any change in horizontal or vertical direction shall be done with a manhole.
- Force Main - Pipes either PVC SDR 18 or ductile iron class 52.
- High Point to have air release valve.

Note: At drop sewer manholes, the drop shall be installed outside the manhole and be completely encased in concrete. Inverts and tables shall be made of brick.

If it is necessary to remove material around the frame to adjust the structure, concrete will not be allowed as a replacement for reconstructing to match the surrounding roadway.

III. Water Service and Mains

- Mains - Sizes to be approved by the Planning Board and the DPW Superintendent, typically 8" mains. Mains shall be looped.
- Pipe Main - Cement lined ductile iron water pipe class 52, or shall meet AWWA* standards for water mains. Cement lining will be inspected by the Town before installation. Concrete thrust blocks are required at each bend. Boulders are not permitted as thrust blocks.
- Fittings - Service-type K copper tubing, 3/4" minimum.
All fittings shall conform to State DPW Standards and AWWA* specifications. All gates shall open left. Placement of gates shall be reviewed by DPW and Engineering.

Hydrants - Type Kennedy K-11 Guardian, or equivalent, with open rotation to the left, with concrete thrust blocks at hydrant and main, set 500 feet apart maximum. There shall be a hydrant at the end of every cul-de-sac.

* American Water Works Association

IV. Relation of Water Lines to Sewer Lines

Horizontal Separation - Whenever possible, sewers should be laid at least 10 feet, horizontally, from any existing or proposed water mains. Should local conditions prevent a lateral separation of 10 feet, a sewer may be laid closer than 10 feet to a water main if:

1. It is laid in a separate trench.
2. It is laid in the same trench with the water main located at one side on a bench of undisturbed earth.
3. In either case, the elevation of the crown of the sewer is at least 18" below the invert of the water main.

Vertical Separation - Whenever sanitary sewers must cross under water mains, the sanitary sewer shall be laid at such elevation that the top of the sanitary sewer is at least 18" below the bottom of the water main. When the elevation of the sanitary sewer cannot be buried to meet the above requirement, the water main shall be relocated to provide this separation or reconstructed with slip-on or mechanical joint ductile iron pipe for a distance of 10 feet on each side of the sanitary sewer. One full length of water main shall be centered over the sanitary sewer so that both joints will be as far from the sanitary sewer as possible.

APPENDIX II


Subdivision Control Processing Forms

Form	Title
A	Application for Approval Not Required Plan (ANR)
B	Application for Approval of a Preliminary Plan
C	Application for Approval of a Definitive Plan
C-1	Acceptance by the Planning Board of Additional Required Application Material & New Submission Date
D	Designer's Certificate
E	Certified List of Abutters
F	Amendment, Modification or Recission of Definitive Subdivision Plan Approval
F-1	Notice of Intent - Amendment, Modification or Recission of Definitive Subdivision Plan Approval
G	Certificate of Performance
G-1	Certificate of Performance - Release of Lots in Exchange for Provision of Surety
G-2	Inspection Schedule - Release of Lots or Reduction in Performance Surety
G-3	Reduction in Subdivision Performance Surety
H	Restrictive Covenant
H-1	Conditional Approval Covenant
I	Performance Secured by Deposit of Money
J	Performance Secured by Surety Company
K	Performance Secured by Registered Negotiable Securities
L	Performance Secured by Bank Passbook
M	Performance Secured by Lender's Agreement
N	Conveyance of Easements and Utilities
O	Letter of Transmittal for Review and Comment on a Definitive Subdivision Plan Review Report Form
O-1	Plan Review Report Form
P	Control Form for Processing Subdivision Plan and Construction
Q	Certificate of Completion - Release of Municipal Interest in Subdivision Performance Guarantee
Q-1	Inspection Schedule- Certificate of Completion For the Release of Municipal Interest
R	Request to Withdraw an Application for Preliminary/ Definitive Plan Approval
S	Request for Extension of Statutory Deadline

TITLE BLOCK LAYOUT

APPLICANT OWNER OF RECORD	NAME OF SUBDIVISION AND SECTION IF ANY
	TITLE OR DESIGNATION OF DRAWING AND SCALES
IMPRINT OF DESIGNER'S PROFESSIONAL REGISTRATION STAMP	NAME, TITLE AND ADDRESS OF DESIGNER
	DATE SHEET — OF —

TYPICAL TITLE BLOCK

LEXINGTON DEVELOPMENT CORPORATION	INDEPENDENCE ACRES LEXINGTON, MASS.
	PLAN AND PROFILE OF PHEASANT ROAD (STATION 0+00 TO STATION 5+25) HORIZ.SCALE: 1"=40' VERT.SCALE: 1"= 4'
	JOHN DOE ENGINEERING COMPANY CONCORD, MASS. JUNE 31, 1964 SHEET 2 OF 5

Courtesy of Lexington Planning Board

©Massachusetts Federation of Planning Boards 1972
(Revised 1980)

APPENDIX III SIGNATURE BLOCK LAYOUT

APPLICATION FILED: _____
FINAL PLAN FILED: _____
HEARING DATE: _____
PLAN APPROVED: _____

APPROVED BY :
BURLINGTON PLANNING BOARD

I CERTIFY THAT THIS PLAN WAS
MADE IN ACCORDANCE WITH THE
RULES AND REGULATIONS OF THE
REGISTERS OF DEEDS

DATE R. L.S.

DATE : _____

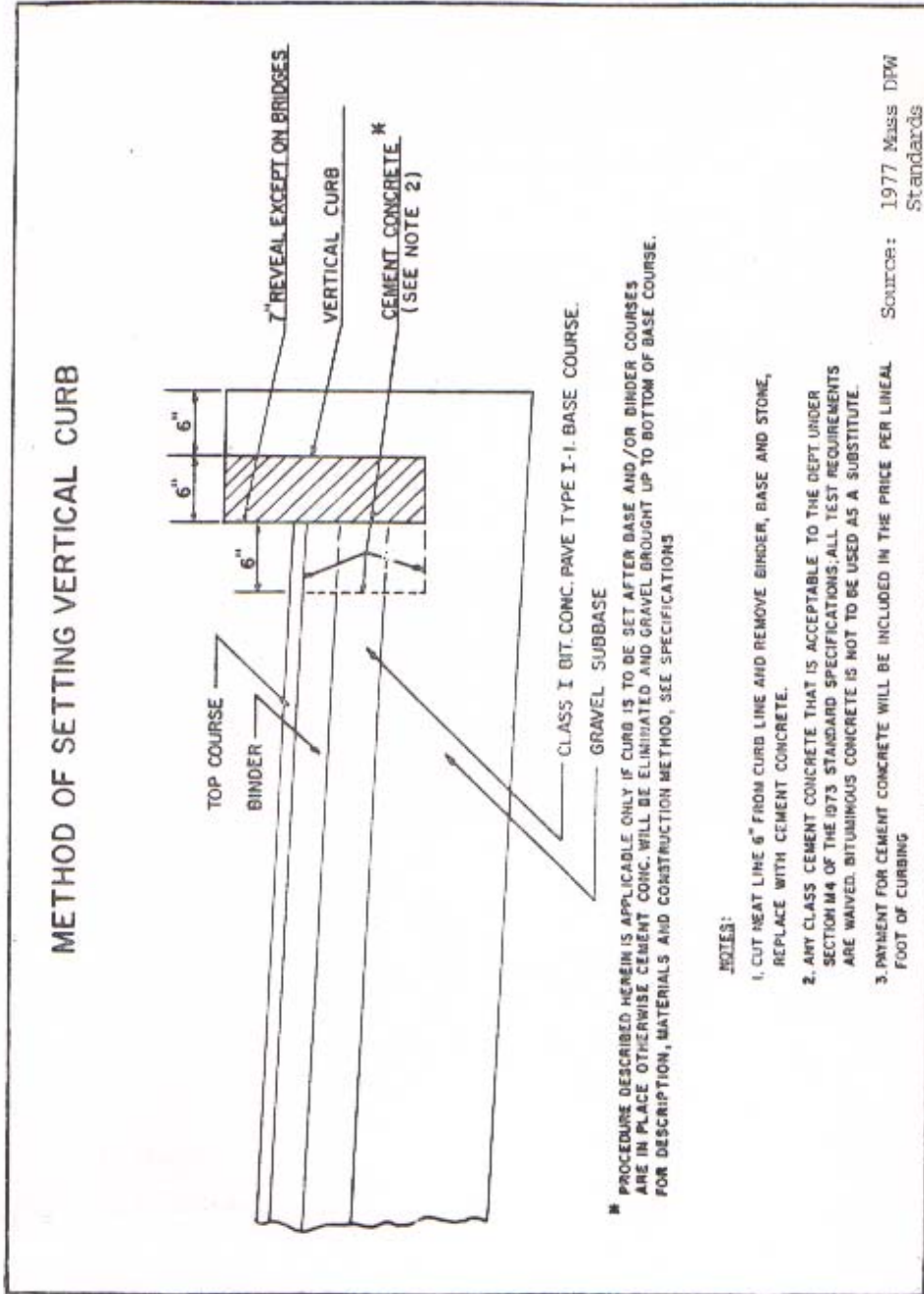
CONDITIONALLY APPROVED IN ACCORDANCE WITH G.L. CHAP. 41 SECT. 81U AS
SHOWN IN AGREEMENT RECORDED HEREWITH.

DATED : _____

I HEREBY CERTIFY THAT NO NOTICE OF APPEAL WAS RECEIVED DURING THE
TWENTY DAYS NEXT AFTER RECEIPT AND RECORDING OF NOTICE FROM THE
PLANNING BOARD OF THE APPROVAL OF THE WITHIN PLAN.

DATE

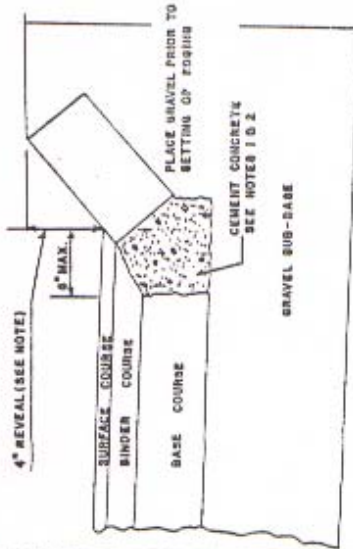
TOWN CLERK



METHOD OF SETTING
PRE-CAST CONCRETE EDGING AND GRANITE EDGING



PRE-CAST EDGING

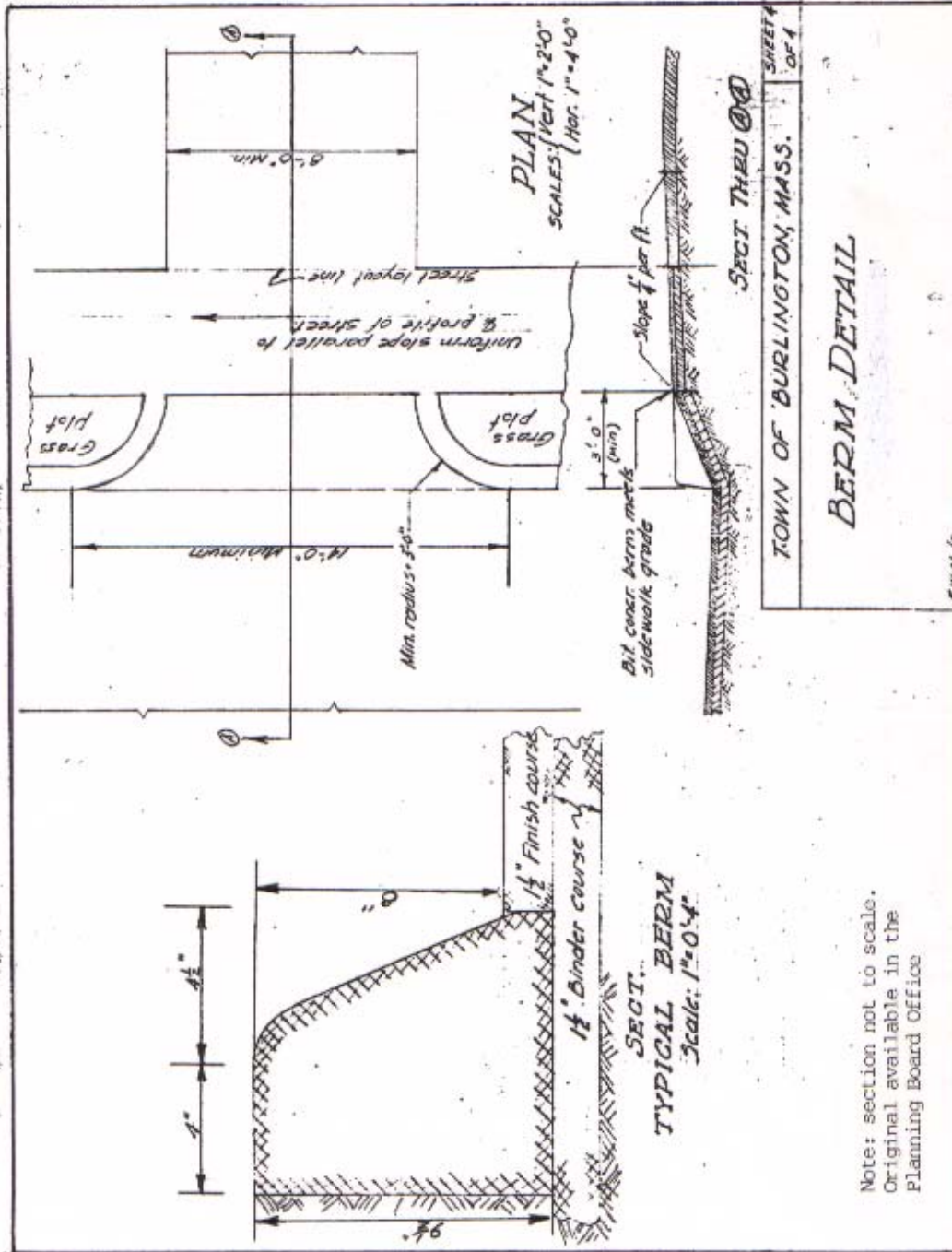


SLOPED GRANITE EDGING

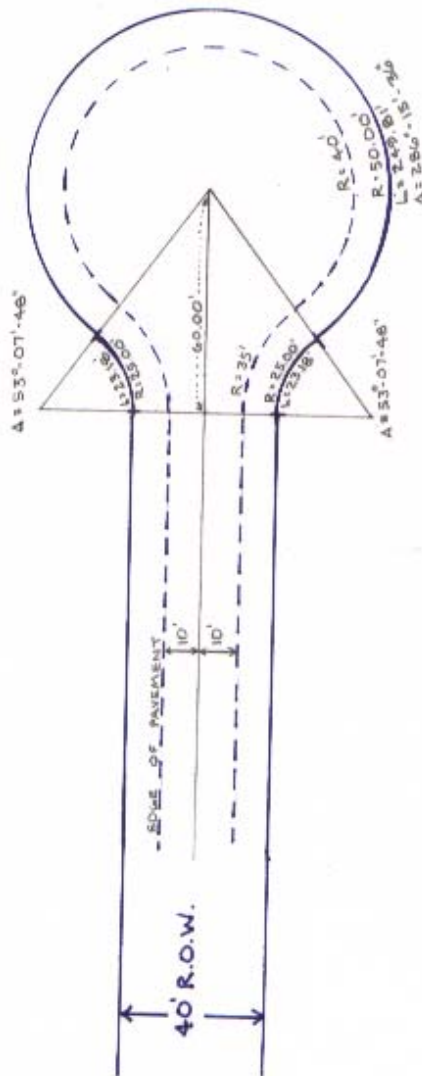
NOTES:

1. ANY CLASS CEMENT CONCRETE THAT IS ACCEPTABLE TO THE DEPARTMENT UNDER SECTION M4 OF THE 1973 STANDARD SPECIFICATIONS; ALL TEST REQUIREMENTS ARE WAIVED, BITUMINOUS CONCRETE IS NOT TO BE USED AS A SUBSTITUTE.
2. PAYMENT FOR CEMENT CONCRETE WILL BE INCLUDED IN THE PRICE PER LINEAL FOOT OF PRE-CAST OR GRANITE EDGING.
3. FOR DETAILS OF PRE-CAST EDGING, SEE 106.4.0
4. THE REVEAL IS TO BE 4" UNDER ALL CONDITIONS.

Source: 1977 Mass. DFW Standards



APPENDIX IV



TYPICAL CUL-DE-SAC LAYOUT

- MINIMUM RIGHT OF WAY WIDTH IS 40 FEET.
- MINIMUM PAVEMENT WIDTH IS GENERALLY 20 FEET.
- MINIMUM CUL-DE-SAC LAYOUT RADIUS IS 50 FEET.
- MINIMUM CUL-DE-SAC PAVEMENT RADIUS IS 40 FEET.

PREPARED BY BURLINGTON PLANNING BOARD
MARCH 1994
SCALE 1" = 40'