PLANNING BOARD
RULES AND REGULATIONS GOVERNING
THE SUBDIVISION OF LAND

Adopted October 11, 2017

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SECTION 1000. PURPOSE AND AUTHORITY

1100. Purpose

These subdivision rules and regulations are hereby enacted, in accordance with the provisions of G.L. c. 41, s. 81M, for the purpose of protecting the safety, convenience, and welfare of the inhabitants of the Town of Sterling, by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of the Planning Board and of the Board of Appeals under these regulations and 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 securing safety in the case of fire, flood, panic, and other emergencies; for insuring compliance with the protective by-law, for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other municipal equipment, and street lighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the town, and with the ways in neighboring subdivisions.

1200. Authority

These Rules and Regulations have been adopted under the authority vested in the Planning Board of the Town of Sterling by G.L. c. 41, s. 81Q, as amended. The Planning Board shall be the agency responsible for the administration of the Rules and Regulations and shall have all of the powers assigned to it by G.L. c. 41, ss. 81K to 81GG, inclusive.

SECTION 2000. GENERAL REGULATIONS

2100. Definitions

For the purposes of these Rules and Regulations the following words and terms used herein are hereby defined or the meaning thereof explained, extended, or limited as stated in G.L. c. 41, s. 81L as amended. Other terms or words or phrases not defined herein or in the Subdivision Control Law shall be construed according to the common and approved usage of the language, but technical words and phrases and such other terms or phrases as may have acquired a particular and appropriate meaning in law shall be construed and understood according to such meaning.

Abutter shall mean (a) an owner of land sharing a common property line with the owner of land referred to in a subdivision application and (b) an owner of land which is directly across a way from the frontage of said subdivision land.

Applicant shall mean the owner of the land referred to in an application filed with the Planning Board, or the owner's duly authorized representative.

Board shall mean the Planning Board of the Town of Sterling.

Easement shall mean a right acquired by a public authority or other person for use or control of property for utility or other designated public purpose.

Flood Plain District shall mean the Flood Plain District as established at Section 4.4.1 of the Sterling Protective By-law.

Frontage shall have the same definition as that used in the Protective By-law.

Lot shall mean an area of land in common ownership, with definite boundaries used, or set aside and available for use, as the site of one or more buildings.

Lot, corner shall mean a lot which has legal frontage on both a public way and on a proposed subdivision way, and which shall be shown on a subdivision application and shall be considered a part of that plan, except for lots which have adequate frontage on existing ways to conform to zoning requirements for a building lot.

Massachusetts DPW Standard Specifications for Highways, Bridges and Waterways shall refer to the latest edition with amendments.

Massachusetts General Laws Annotated or G.L. shall mean the General Laws of the Commonwealth of Massachusetts, Ter. Ed., with all additions thereto and amendments thereof. In the case of a rearrangement of the General Laws, any citation of particular sections herein set forth shall be applicable to the corresponding sections in the new codification.

Definitions Continued

Municipal Services shall mean sewers, surface water drains, and other private or public utilities including water pipes, gas pipes, electric lines, cable television lines, telephone lines, fire alarm lines, and their respective appurtenances.

Owner shall mean, as applied to real estate, the person (hereinafter defined) holding the ultimate fee simple title to a parcel, tract, or lot of land, as shown by the record in the appropriate Land Registration Office, Registry of Deeds, or Registry of Probate.

Permanent Benchmark shall mean a permanent reference point with the elevation accurately established by stone bounds and referenced to the United States Coast and Geodetic Survey datum.

Person shall mean an individual, partnership, corporation, or two or more individuals or a group or association of individuals, having common or undivided interests in a tract of land.

Protective By-Law shall mean the zoning by-law of the Town of Sterling.

Roadway or Street shall mean that portion of the way, right-of-way, or street layout which has been prepared and constructed for vehicular traffic.

Street Categories:

Cartway shall be defined as set forth in the Sterling Protective By-Law and elsewhere in these rules and regulations. Cartways are only allowed in Performance Zone I.

Collector shall mean a street with anticipated traffic equivalent to that generated by 50 homes or more, or which serves abutting land zoned for business or industry.

Dead-End shall mean a street or a combination of streets which has only one means of ingress from or egress to a collector or minor street.

Lane shall mean a dead-end street as shown on a subdivision plan. A lane may serve as access to no more than six (6) dwelling units unless and until it has been converted to a through street via submission and approval of a subsequent new or amended subdivision plan as defined by the subdivision rules and regulations in effect at the time of said submission.

Minor shall mean a street which cannot qualify as a lane but which can be expected to handle less traffic than a collector street and which serves no abutting land zoned for business or industry.

Definitions Continued

Subdivision shall mean "(t)he division of a tract of land into two or more lots and shall include re-subdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required; such frontage shall be at least twenty feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision." See G.L. c. 41, s. 81L.

Subdivision Control Law shall mean G.L. c. 41, ss. 81K to 81GG, inclusive, and any amendments thereof, additions thereto, or substitutions therefore.

Town shall mean the Town of Sterling.

Way or Right-of-Way shall mean the full strip of land designated as a way, consisting of the roadway, and any planting strips or sidewalks. A way so designated shall be available only for such uses as are customary for ways in the Town, and shall not be available for any private construction such as buildings, fuel tanks, septic systems, fences, or walls.

Yard, front shall mean land extending across the required width of the lot and lying between the street line of the lot and the nearest line of the building. The depth of the front yard shall be the minimum distance between the building and the front lot line.

2200. Procedures

2210. General

2211. All plans, and all procedures relating thereto, shall comply in all respects with the provisions of these Rules and Regulations, unless the Board authorizes a variation there from in specified instances.

2212. Any person desiring to make a subdivision within the meaning of the subdivision control law of any land within the Town shall, before proceeding with the improvement or sale of lots in the subdivision, or the construction of ways, or the installation of municipal services therein, submit to the Board a plan of such subdivision and secure approval by the Board of a Definitive Plan as hereinafter provided.

2213. The Board shall not approve or modify and approve any plan of a subdivision of land, unless all lots and other aspects of such plan conform to the Protective By-law of the Town or a variance from the terms thereof has been granted by the Board of Appeals.

2220. Issuance of Building Permits

The official in the Town authorized to issue building permits shall not issue any permit for erection of a building until first satisfied (a) that the lot on which the building is to be erected is not within a subdivision, (b) that a way furnishing the access to the lot within a subdivision as required by the subdivision control law is shown on a recorded plan and that any conditions endorsed thereon limiting the right to erect or maintain buildings on such lot have been satisfied, and (c) that all other applicable requirements have been met.

2230. Legal Professional and Technical Assistance

The Board may assign as its agents appropriate Town officials, and may hire legal and professional technical assistance to review plans and inspect improvements at the cost of the applicant.

2240. Modification, Amendment, or Rescission

The Board, on its own motion or on the petition of any interested person, shall have the power to modify, amend, or rescind its approval of a plan of a subdivision, or to require a change in a plan as a condition of its retaining the status of an approved plan, after due notice and opportunity to the owner to be heard in accordance with G.L. c. 41, s. 81W, as amended.

2250. **Submission of Plans**

Plans shall not be considered "submitted" until all required documentation has been received by the Board, including fees.

2260. **Fees**

The fees indicated in Appendix A - Planning Board Fee Schedule shall accompany the submittal of application materials of the various plans specified in the Rules and Regulations, to cover costs of processing, legal and technical review, and inspection.

2300. [Reserved]

2400. PLAN BELIEVED NOT TO REQUIRE SUBDIVISION APPROVAL

2410. **Submission**

An Applicant, who wishes to record in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that such plan does not require approval under the Subdivision Control Law, pursuant to G.L. c. 41, §81L and §81P, may submit such an Approval Not Required or "ANR" Plan to the Planning Board, along with a completed Form A – Application for Endorsement of an Plan Believed Not to Require Approval, accompanied by the necessary evidence to show that the plan does not require approval under the Subdivision Control Law, as set forth below, along with the required fee, and request that the plan be endorsed "Approval Not Required Under the Subdivision Control Law."

2420. **Application Form and Copies**

An Applicant shall submit an application on Planning Board Form A, attached hereto, together with:

(a) One original Form A application (fully executed);

(b) One (1) Mylar, and six (6) copies of the ANR Plan;

(c) A copy of the Plan in PDF format; and

(d) All the necessary evidence to show that said ANR plan does not require subdivision approval.

2421. **Required Signatures on Application**

The Form A application shall be signed by the Applicant and the owner (i.e., all owner(s)) of record of all the land proposed to be divided by the ANR plan. The application shall be signed under oath and shall certify that all of the owners of record have executed the application. In addition, the engineer and/or surveyor who prepared the plan shall sign the application and certify that the plan (referring to the date and last revision date of the plan submitted), as prepared, to the best of his/her knowledge, conforms to all of requirements of the Regulations.

2422. **Required Application Fee**

An Applicant shall submit the required fee as set forth below:
$200 base fee, plus $75 per lot.

2423. **Delivery of Application**

An ANR plan shall be submitted to the Planning Board no later than seven (7) calendar days prior to the next scheduled meeting for inclusion on that meeting's agenda or by registered mail. (See, G.L. c.41, §§81O, 81P and 81T.)

2424. **Filing with Town Clerk**

An Applicant shall file, by delivery or registered mail, a written notice with the Town Clerk stating the date of submission of such a plan to the Planning Board under G.L. c.41, §81T.

2425. **Effective Date of Subdivision Control Law**

The Town accepted the provisions of the Subdivision Control Law on Circa 1954.

2426. **ANR Plan Requirements**

An ANR plan shall satisfy all of the requirements set forth below.

2426.1 **Preparation**

An ANR plan shall be of a minimum dimension of ELEVEN inches by SEVENTEEN inches (11" X 17") but shall not exceed a dimension of twenty-four inches by thirty six inches (24" x 36"), and shall be drawn at a minimum scale of one inch equals eighty feet (1"=80') and a maximum scale of one inch equals forty feet (1"=40'). Applicants should be aware of the requirements and limitations of the T.O.S. "Regulations for the Designation of Scenic Roads and Alterations of Trees and Stone Walls Thereon," adopted March 31, 2004.

2426.2 **Contents**

An ANR plan shall contain, but shall not necessarily be limited to, the following information and shall be based upon an on the ground survey:

1. Name, address, telephone number and e-mail address of the Applicant and each owner of record for the land to be divided under the ANR plan.
2. North point, date, scale, legend.
3. Each lot shall be numbered for identification.
4. Date of ground survey performed and seal and signature of the registered professional who prepared said plan.
5. Name, address and seal of the Registered Professional Engineer and Registered Land Surveyor who prepared, signed and stamped said plan.
6. Names and addresses of all abutters from the most recent Town tax list to be listed on the identified parcel(s).
7. The Assessing Map reference for the land proposed to be divided.
8. Existing and proposed boundary lines, dimensions and areas of each of the parcels and lots shown on said plan, with all bounds, keyed into the Massachusetts grid system. At least two bounds shall reference the corresponding Massachusetts grid coordinates. If the division is within 500 feet of a highway or road which has been laid out by the Town of Sterling, Worcester County Commissioners, or the Massachusetts Department of Transportation, the division shall also be tied into two or more permanent points or bounds of the existing highway or road by bearing and distance.
9. Existing and proposed lines of streets, ways and easements and whether each is a public or private way.
10. Zoning classification and location of any zoning district boundaries that may lie within the locus.

11. Topographical lines for all proposed lots with two-foot contour
12. Any present or proposed public areas within the property.
13. Location of all existing buildings or structures, if any, including setback and side and rear yard designations of any existing structures on any remaining adjoining land owned by the Applicant and dimensions of yards relating to such structures. A note shall be placed on the plan as follows: "Endorsement of this plan shall not be deemed to be a verification of the location of the structures shown or setbacks indicated."
14. Proposed or existing permanent monuments.
15. The limits of all wetlands or a notation that there are no wetlands, if none exist. If wetlands limits exist, then a note shall be placed on the plan as follows:
    Endorsement of this plan shall not be deemed to be a verification of the location of the wetlands shown on this plan and can be verified only by a current plan approved by the Conservation Commission.
16. A locus map at a minimum scale of 1" = 1000' extending a minimum of one-half mile beyond the property limits.
17. Location of any easement, public or private, across the land, with a designation as to the use of the same.
18. A signature block shall be placed on the plan that provides sufficient space for the date of endorsement and the signatures of the members of the Planning Board.
19. In any instance in which ANR endorsement of a plan is sought based upon the assertion that the plan shows a division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect into separate lots on each of which one of such buildings remains standing, under G.L. c.41, §81L, ¶13, the Applicant shall provide information to satisfy the Planning Board that:
    A. The buildings are presently substantial in nature.
    B. The buildings were substantial in nature and in existence on or before the effective date of the Subdivision Control Law in the Town of Sterling.
    C. The buildings were on the same tract of land on or before the effective date of the Subdivision Control Law in the Town of Sterling.
    D. Each of the new parcels to be created for each of the buildings will qualify as a "lot" within the meaning of G.L. c.41, §81L.
    E. Section 310 CMR 15.010 if applicable.

In the event that the Planning Board votes to endorse such an ANR Plan, a note shall be placed on each of the new parcels created as follows:

This parcel was created as a separate parcel under G.L. c.41, §81L, 13 and zoning compliance requirements shall be followed prior to conveyance of the parcel as a separate lot with a building that may be occupied either by: (1) obtaining a special permit that a lawfully pre-existing, nonconforming lot may be extend, changed or altered so as to allow the proposed division and conveyance; or (2) obtaining a variance to address all nonconformities.

20. A note shall be placed on every ANR plan as follows: "Approval Under the Subdivision Control Law Not Required".

21. A note shall be placed on every ANR plan as follows: "Endorsement of this plan shall not be an indication, express or implied, that the parcels or structures shown on this plan conform to applicable zoning requirements."

22. If a parcel is shown on the plan that does not have frontage as required by the Zoning By-Law, each such parcel shall contain the following notation: "Not a building lot without further zoning relief."

2430. **Planning Board Action**

Applicants shall be notified when their ANR plan has been placed onto the Planning Board agenda. The Planning Board shall review the ANR plan to determine whether it is a subdivision within the meaning of the Subdivision Control Law and whether it conforms to the standards for endorsement of an ANR Plan. Specifically, the Planning Board shall determine whether each and every lot shown on the plan has the minimum frontage required by the Zoning By-Law on a suitable way per G.L. c.41, §81L. The Planning Board shall also determine whether vital, direct, practical, and traversable access exists from an abutting way to the buildable portion of the lot(s). Such access shall be safe and convenient for travel.

2431. **Endorsement**

If the Planning Board determines that the ANR plan does not require approval under the Subdivision Control Law, a majority of the Planning Board or its ANR Agent shall, without a public hearing and within twenty-one (21) days of submission, endorse on the plan the words "Approval under the Subdivision Control Law Not Required," together with any reasonable notations to indicate that: (1) endorsement shall not constitute a determination as to zoning compliance; (2) in particular cases, that further zoning relief shall be required if endorsement is obtained under G.L. c.41, §81L, ¶13.

2432. **Denial of Endorsement**

If the Planning Board determines that an ANR plan does require approval under the Subdivision Control Law or does not conform to the standards for endorsement hereunder, it shall within 21 days of submission of said plan, notify the Applicant and the Town Clerk in writing that in the Planning Board's opinion the plan shows a subdivision and cannot be endorsed and return the Mylar plan to the Applicant.

2433. **Constructive Endorsement**

The failure of the Planning Board to take final action within twenty-one (21) days of submission to endorse or refuse endorsement for a plan submitted under G.L. c.41, §§81L and 81P may result in a constructive endorsement as provided for by state law.

2434. **Distribution of Prints and Original Tracing**

One copy of the endorsed ANR plan shall be retained by the Planning Board for its files. An endorsed copy shall be forwarded to the Town Clerk, Building Department, Assessors, Board of Health and DPW. The Mylar shall be returned to the Applicant for recording in the Worcester Registry of Deeds or for registration with the Land Court. No construction shall commence in accordance with the endorsed ANR plan until it has been duly recorded.

2500. Access Adequacy Regulations

2510. General

Plans shall be endorsed as not requiring approval under the Subdivision Control Law and subdivision plans shall be approved only if each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, G.L. c. 41, ss. 81K - 81GG.

2520. Standards of Adequacy

Streets within a subdivision shall be considered to provide adequate access if, and only if, complying with the standards established in the Planning Board's Subdivision Rules and Regulations. Ways providing access to lots developed pursuant to G.L. c. 41, s. 81P shall normally be considered adequate for access if said way is shown on an approved subdivision plan or as a public way on the Sterling Official Map as adopted under G.L. c. 41, ss. 81E-81H. Existing ways providing access to streets within a subdivision shall be considered to provide adequate access if there is assurance that prior to occupancy on any lots, access will be in compliance with the standards set forth in Section 2521 or 2522, below:

2521. Table of Minimum Access Standards for Development Potentially Served*

	1-6 Dwelling Units/Unpaved Road	1-6 Dwelling Units/Paved Road	7 or More Dwelling Units or Any Nonresidential Use
Surface Type	Gravel	3" bituminous concrete	3" bituminous concrete
Minimum Gravel Base (in.)	12	12	12
Minimum Right of Way Width (ft.)	40	40	50
Minimum Surface Width (ft.)	16	16	20
Minimum Sight Distance (ft.)	75	75	125
Maximum Grade (%)	6	10	10

*The number of dwelling units in the "development potentially served" shall be determined by the Planning Board based upon limitations annotated on the plan creating the lots in question or on review of other pertinent information.

2522. The Planning Board may determine, following consultation with the Police Chief, Fire Chief, and Board of Selectmen, that the way in fact will be sufficient to serve the needs for access and utilities to serve potential uses of land abutting on or served by the way in question.

2523. In all cases there must be adequate provision of utilities and drainage facilities without reliance on Town expenditures which have not previously been authorized by Town Meeting.

2530. **Obligations**

The Board may require, as a condition of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate a strip of land for the purpose of widening access ways to a width as required in these regulations, above, and that applicant make physical improvements within such way or compensate the town for the cost of such improvements in order to meet the standards specified above.

2540. **Waiver of Access Rules**

The Board may waive strict compliance with these access regulations only upon its determination, following consultation with the Selectmen, Superintendent of Streets, Police Chief, and Fire Chief, that the way in fact will be otherwise sufficient to serve the needs for access to serve potential uses of land abutting on or served by the way in question.

2600. Waivers

Strict compliance with these Rules and Regulations may be waived when, in the judgment of the Board, such action is in the public interest, not inconsistent with the Subdivision Control Law, and promotes public health and safety.

SECTION 3000. SUBMISSION AND ACTION

3100. Pre-Submission Review

Prior to investing in extensive professional design costs for preparation of subdivision plans, the applicant is invited to review the proposed development of the parcel of land with the Board, in order to explore general conditions involving the site and to discuss potential problems. Pencil sketches, which need not be professionally prepared, will assist in this discussion, and should show the critical features of a Preliminary Plan. In some cases, this pre-submission review may eliminate the need for the formal submission of a Preliminary Plan.

3200. Preliminary Plan

3210. Submission

A Preliminary Plan of a subdivision may be submitted by the sub-divider to the Board and through the Board to the Board of Health for discussion and approval, modification or disapproval by the Board. Notice of submission shall be provided to the Town Clerk in accordance with G.L. c.41, s. 81S. The submission of such a Preliminary Plan shall be made on Form B and will enable the sub-divider, the Board, the Board of Health, other municipal agencies, and owners of property abutting the subdivision to discuss and clarify any aspects of or problems with such subdivision before a Definitive Plan is prepared. For this reason, the Board strongly encourages the submission of such Preliminary Plans in every case. Seven (7) copies of the Preliminary Plan shall be submitted to the Board at a regularly scheduled meeting, together with the fee set forth in Appendix A - Planning Board Fee Schedule. Copies of the plan may be examined by the public during regular business hours of the Town Hall.

3211. Within seven (7) days of the submittal date of an application, or within seven (7) days of any subsequent submittal date in response to a determination that any such application was incomplete, the Planning Board or its agent shall review said application and inform the applicant and the Town Clerk in writing as to whether said application is deemed complete and properly submitted. An application shall be deemed complete only where the applicant has provided all of the information required by these regulations, with the appropriate number of copies and in the appropriate format. If said application is determined to be incomplete or improperly submitted, the applicant shall receive written notice from the Planning Board or its agent listing the items or information needed for a complete and proper application. When the application is deemed complete and properly submitted by the Planning Board or its agent, it shall notify the Town Clerk in writing of the final submittal date. The final submittal date shall be the date that the completed and properly submitted application is received by the Planning Board. For applications that have been deemed incomplete, the applicant must agree in writing to any new submittal date in order for any additional information or material to be considered part of the original application.

3220. **Contents**

The Preliminary Plan may be drawn on tracing paper with pencil, preferably at a scale of one (1) inch equals forty (40) feet, or other suitable scale acceptable to the Board, shall be clearly designated as "Preliminary Plan", and shall show:

A. subdivision name, boundaries, north point, date, and scale;

B. name and address of record owner, applicant, and designer, engineer, and surveyor;

C. names of all abutters as determined from the most recent Town tax list;

D. existing and proposed lines of streets, ways, easements, and public areas within the subdivision;

E. location, direction, names, and present widths of streets and public or private ways bounding, approaching, or within reasonable proximity of the subdivision;

F. location, names, and present widths of streets bounding, approaching, or near the subdivision;

G. topography of the land in a general manner, including contours at a scale required by the Board;

H. proposed system of drainage, including existing natural waterways, in a general manner, but including drainage both within and adjacent to the subdivision;

I. approximate boundary lines of proposed lots, with approximate areas and dimensions;

J. estimates of the grades of proposed streets or profiles, where required by the Board;

K. major site features such as existing stonewalls, fences, buildings, large trees and wooded areas, rock ridges and outcroppings, wetlands within 100 feet of the subdivision, perennial streams within 200 feet of the subdivision, and other water bodies;

L. identification of any land area lying within five hundred (500) feet of any property valued under the provisions of G.L. c. 61A, as amended.

3221. The Preliminary Plan shall be accompanied by a statement of existing zoning, any easements, covenants, and restrictions applying to the area proposed to be subdivided, and a list of any waivers from these Regulations requested by the applicant.

3222. During discussion of the requirements set forth in Section 3220, the complete information required for the Definitive Plan (Section 3320) and the financial obligations of the applicant (Section 3500) will be developed.

3230. **Site Visit**

After the regular Board meeting at which Preliminary Plan is first discussed, or a Definitive Plan submitted without prior Preliminary Plan, the Board and/or its agent may schedule a site visit to the proposed subdivision, accompanied by the applicant and his agents or representatives. In order to facilitate inspection and review of the site of the proposed subdivision, temporary staking will be required along a sideline of all proposed roads in the subdivision before said site visit, or if impractical, the Board may permit a suitable alternative procedure.

3240. **Decision**

The Board shall, in conformance with G.L. c.41, s. 81S, approve such Preliminary Plan with or without modifications, or disapprove such Preliminary Plan with reasons therefore.

3241. Approval of a Preliminary Plan, with or without modifications, does not constitute approval of a subdivision. Such approval does facilitate the final approval of a subdivision through submittal of a Definitive Plan.

3242. The Board shall notify the Town Clerk in writing of its decision on a Preliminary Plan in accordance with G.L. c.41, s.81S, as amended.

3243. The submission of a Preliminary Plan for examination by the Board shall not be deemed the submission of a Definitive Plan of a subdivision of land for approval by the Board under G.L. c.41, s.81L, and the action or decision of the Board as to such Preliminary Plan shall not prejudice its action or decision as to the Definitive Plan.

3300. Definitive Plan

3310. Submission

A Definitive Plan of a subdivision may be submitted by the sub-divider to the Board for review and approval, modification or disapproval by the Board. Notice of submission shall be provided to the Town Clerk in accordance with G.L. c.41, s. 81S. The submission of such a Definitive Plan shall be made on Form C - Application for Approval of a Definitive Plan. Any person submitting a Definitive Plan of a subdivision of land to the Board for approval shall file therewith the following:

A. nine (9) prints of the Definitive Plan, dark line on white background. Prints will be referred to other town boards and departments for review;

B. accompanying statements as required in Sections 3330 and 3340, below;

C. one (1) properly executed Application Form and any other required forms on file with the Board (see Appendix);

D. the fee set forth in Appendix A - Planning Board Fee Schedule;

E. a certified list of abutters signed by the Board of Assessors with business sized envelopes, stamped with sufficient postage for certified return receipt mail and addressed to each abutter.

3311. Within seven (7) days of the submittal date of an application, or within seven (7) days of any subsequent submittal date in response to a determination that any such application was incomplete, the Planning Board or its agent shall review said application and inform the applicant and the Town Clerk in writing as to whether said application is deemed complete and properly submitted. An application shall be deemed complete only where the applicant has provided all of the information required by these regulations, with the appropriate number of copies and in the appropriate format, including fees. If said application is determined to be incomplete or improperly submitted, the applicant shall receive written notice from the Planning Board or its agent listing the items or information needed for a complete and proper application. When the application is deemed complete and properly submitted by the Planning Board or its agent, it shall notify the Town Clerk in writing of the final submittal date. The final submittal date shall be the date that the completed and properly submitted application is received by the Planning Board or its

Submission Continued

agent. For applications that have been deemed incomplete, the applicant must agree in writing to any new submittal date in order for any additional information or material to be considered part of the original application.

3312. The applicant shall file by delivery or by certified mail written notice with the Town Clerk stating that a Definitive Plan has been submitted in accordance with G.L. c.41, s.81T, as amended, with the date of submission of the Definitive Plan, accompanied by a copy of the Application Form.

3313. The applicant shall file one (1) copy of the Definitive Plan and one (1) copy of the Application Form with the Board of Health.

3320. **Contents**

The Definitive Plan shall be prepared by a Registered Professional Engineer and/or Land Surveyor, and shall be clearly and legibly drawn in black India ink upon tracing cloth or Mylar, and shall be 24" x 36" in overall dimensions, with a one inch margin left on one 24" edge of each sheet for filing purposes. The prints shall be at a scale of not less than one (1) inch equals forty (40) feet, or such other scale as the Board may prescribe as adequate to show details clearly. Profiles of proposed streets shall be drawn to the same horizontal scale as the Plan, and with vertical scale ten (10) times larger unless otherwise permitted by the Board, on separate tracing cloth or Mylar of the same dimensions as the Plan sheets. If multiple sheets are used to show the subdivision, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall show the following information:

A. subdivision name, boundaries, north point, date, and scale;

B. a locus map at a scale of one (1) inch equals one thousand (1000) feet showing the proposed streets in relation to existing streets in the immediate vicinity;

C. name and address of record owner, applicant, and engineer or surveyor, with seal;

D. where the owner or sub-divider also owns or controls un-subdivided land adjacent to or directly across the street from the land shown on the Definitive Plan, the applicant shall submit a sketch plan showing possible or prospective street layout in the event that such un-subdivided land is developed, and shall also show the present drainage for such un-subdivided land, natural and constructed;

E. boundary lines of bordering adjacent land or of land across the street from property being subdivided and names of abutters thereon as determined from the certified list of abutters;

F. existing and proposed lines of streets, ways, easements, and any public or common areas within the subdivision;

G. location, direction, names, and present widths and grades of streets and public or private ways bounding, approaching, or within reasonable proximity of the subdivision;

H. sufficient data to determine the location, direction, and length of every street and way line, lot line, and boundary line so as to establish these lines on the ground. The location of base lines and necessary data from which bearings and elevations may be determined; may be furnished by the County Engineer's Office. Should the Town establish a co-ordinate system, all street corners must be tied into the nearest triangulation station. The relative error of closure of property line traverse shall not be less than 1 part in 12,000. A signed statement to this effect shall appear on the engineer's Mylar or tracing cloth drawing. A copy of traverse notes shall be furnished to the Board upon request;

I. location and identification of all existing buildings and site features such as stonewalls, fences, large trees and wooded areas, rock ridges and out-croppings, flood plain areas, wetlands within 100 feet of the subdivision, perennial streams within 200 feet of the subdivision, and other water bodies, including depth of water and direction of flow within or adjacent to the proposed subdivision;

J. existing and proposed topography with two (2) foot contours based on mean sea level datum, or at a suitable interval as required by the Board. All buildings and physical features of abutting property that are within fifty (50) feet of the boundary must be shown.

K. acreage of each lot, lot lines, bearings and length thereof in conformity with the Protective By-Law in each case, boundaries of zoning districts if the land to be subdivided lies in more than one (1) district, boundaries of Aquifer and Water Resource Districts , if any;

L. location of existing and proposed monuments, hydrants, public utility facilities, water pipes, fire ponds and cisterns, and wells within the subdivision;

M. park or open areas suitably located for conservation, playground, or recreation purposes within the subdivision, if any;

Contents Continued

N. proposed storm drainage of land, including existing natural waterways and the proposed disposition of water from the proposed subdivision to either adequate natural drainage channels or artificial means of disposal thereof. Four copies of a runoff plan and calculations using the rational formula (as described in Seelye's Design Data Book for Civil Engineers, latest edition), based on a ten-year expectancy period, to determine necessary pipe sizes which can be no less than twelve (12) inches in diameter. Roadways crossing brooks with a drainage area in excess of ten (10) acres shall be based on a twenty-five (25) year expectancy period. Pipe size, capacity, depth of flow and velocity of flow shall be included;

O. location and purpose of all existing and proposed easements;

P. location and species of proposed street trees, and/or individual trees or wooded areas to be retained within forty (40) feet of the sidelines of each street;

Q. street plans and profiles must show the percent of grade, radii and length of curves, the point of curvature, and the point of tangency of curves;

R. street profiles on the centerlines and sidelines of proposed streets at a horizontal scale of one inch equals forty feet and vertical scale of one inch equals four feet, or such other scale acceptable to the Board. Profiles shall show elevation of sills of all existing structures. Present and proposed elevations must be shown at least every 50 feet and must refer to the town base, mean sea level, if bench available within two thousand (2,000) feet of subdivision. Profile plans of roadways and appurtenances shall be derived from "on the ground" topography. Profile plans shall show roadway cross-sections together with locations of proposed underground utilities including sanitary and storm sewer lines, water lines and their appurtenances, along with details of all structures, headwall, and retaining walls;

S. approximate proposed location of principal building on each lot to comply with the provisions of the Protective By-Law, whenever uncertainty exists or upon the request of the Board, the Board of Health, or the Conservation Commission;

T. location of a minimum of two (2) benchmarks;

Contents Continued

U. suitable space to record the action and signatures of the Board members on each sheet of the Definitive Plan in the lower right hand corner;

V. location of existing utilities, underground or overhead, indicating size, type, and location of easement;

W. an overlay at the same scale as the Definitive Plan showing the SCS interpretation of suitability for on-site sewage disposal, or showing USGS surficial geology, or both. Board of Health sanctioned testing required under Title 5 (310 CMR 15.00) may be substituted for this overlay. Test pit logs for locations selected by the Planning Board and shown on one of the above overlays, with not less than one (1) pit per four (4) proposed lots, selected to reveal general patterns of subsurface characteristics, after consultation with the Board of Health and the Conservation Commission;

X. where connection to the public water system is not proposed, information indicating why such connection is not feasible, description of provisions to be made for water for fire fighting, and information adequate to allow determination of compliance these regulations regarding potable water quality and quantity;

Y. an Erosion and Dust Control Plan, indicating the erosion and dust control measures to be employed, including description of locations of temporary stockpiles, spoil areas, temporary drainage systems, slope stabilization techniques, sediment basins, etc., and narrative description of how dust is to be controlled and how erosion from individual lots onto streets and into drainage systems is proposed to be controlled and, in the case of subdivision of more than fifteen (15) lots, review comments on the Plan by the Conservation Commission and by the Soil Conservation Service or by others acceptable to the Board as expert in soil erosion;

Z. identification of any land lying within five hundred (500) feet of any property valued under the provisions of G.L. c. 61A, and, if any portion of any building lot is to lie within such distance, the following plan annotation shall be included:

Note: activities on land within five hundred (500) feet of property valued under the provisions of G.L. c. 61A may be affected by the provisions of the Sterling Agricultural District By-Law.

AA. Where located within the Flood Plain District, base flood elevation (the level of the one hundred [100] year flood) data for proposals greater than five (5) acres;

BB. An engineer's estimate of materials with quantities required to construct roadway, utilities and appurtenances for plan as submitted.

3330. **Accompanying Statements and Data**

The Definitive Plan shall be accompanied by four (4) copies of the following written statements:

A. Existing zoning and any easements, covenants, and restrictions applying to the area proposed to be subdivided.

B. Logs of results of all test pits made.

C. Data and proposed arrangements for water supply, sewerage, and sewage disposal, including all appurtenances, as required by the Board of Health.

D. Drainage calculations prepared by the applicant's engineer, including design criteria, drainage area and other information sufficient for the Board to verify the size of any proposed drain, swale, drainfield, culvert, bridge, or catch basin. Said calculations are to be made separately for each drainage facility showing its location, the total upstream drainage area, the percentage of impervious surfaces in the drainage area, the runoff per acre, the design runoff, facility size, slope and capacity, and the velocity of water through it. Describe any areas subject to ponding or flooding, existing or proposed flood control or wetland easements, estimated increase of peak runoff caused by altered surface conditions, and methods to be used to return water to the soils.

E. A complete list of any waivers requested from these Subdivision Rules and Regulations, pursuant to Section 5300, herein.

3340. **Development Impact Statement (DIS)**

The impact of the proposed subdivision is to be described according to the following criteria, except that in the case of subdivisions containing 20 or fewer units, the Board will normally waive some or all of these requirements. Unless this requirement is waived by the Board, the DIS shall be prepared by an interdisciplinary team including a Registered Landscape Architect or Architect, a Registered Professional or Civil Engineer, and a Registered Surveyor.

A. **Physical Environment**

1. Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, location of significant viewpoints, stone walls, trees over 16 inches in diameter, trails and open space links, and indigenous wildlife.

2. Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

B. **Surface Water and Subsurface Conditions**

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

2. Describe any proposed alterations of shore lines, marshes, or seasonal wet areas.

3. Describe any limitations imposed on the project by soil and water conditions and methods to be used to overcome them.

4. Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the development. For subdivisions located in whole or in part within the Town's Aquifer Protection and/or Water Resource Protection District, as established in the Protective By-Law, this shall include an analysis of drainage system alternatives, examining the concentration and speed of the transport of contaminants.

Development Impact Statement (DIS) Continued

C. **Circulation Systems**

1. Explain the reasons for location of streets and intersections as shown on the Definitive Plan, with specific reference to criteria set forth in Section 4100, below.

2. Project the number of motor vehicles to enter or depart the site per average day and peak hour. Also state the number of motor vehicles to use streets adjacent to the proposed subdivision per average day and peak hour. Such data shall be sufficient to enable the Board to evaluate

   a. existing traffic on streets adjacent to or approaching the proposed subdivision,

   b. traffic generated or resulting from the proposed subdivision, and

   c. the impact of such additional traffic on all ways within and providing access to the proposed subdivision. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for implementing the study, shall be attached to the DIS.

D. **Support Systems**

1. Water Distribution: Discuss the types of wells proposed for the site, means of providing water for fire-fighting, and any problems unique to the site.

2. Sewage Disposal: Discuss the type of system to be used, suitability of soils, procedures and results of percolation tests, and evaluate impact of disposal methods on surface and groundwater.

3. Refuse Disposal: Discuss the location and type of facilities, the impact on existing Town refuse disposal capacity, hazardous materials requiring special precautions.

4. Fire Protection: Discuss the type, location, and capacity of fuel storage facilities or other flammables, distance to fire station, and adequacy of existing fire fighting equipment to confront potential fires on the proposed site.

D. **Support Systems Continued**

5. Recreation: Discuss the distance to and type of public facilities to be used by residents of the proposed site, and the type of private recreation facilities to be provided on the site.

6. Schools: Project the increase to the student population for nursery, elementary, junior high school, and high school levels, also indicating present enrollment in the nearest public schools serving these categories of students.

E. **Phasing**

Where development of the subdivision will require more than one (1) year, indicate the following:

1. Describe the methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles. Describe the approximate size and location of portion of the parcel to be cleared at any given time and length of time of exposure.

2. Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into subdivision development.

3400. Review of Definitive Plans

3410. Board of Health as to Suitability of the Land

The applicant shall file with the Board of Health one set of prints of the Definitive Plan. The Board of Health shall, within forty-five (45) days after filing of the plan, report to the Board in writing and shall make specific findings as to which, if any, of the proposed lots shown on such plan cannot be used for building sites without injury to the public health, or is unsuitable because of drainage conditions. The Board of Health shall make specific findings and state reasons therefore in such report, and, where possible, shall make recommendations for the adjustment thereof. The Board of Health shall determine the extent of soil evaluation, which may include deep test holes, percolation tests, and test borings, and shall determine the number of tests to be required. At the time of the filing of the Definitive Plan, the applicant shall stake all proposed lots and mark proposed lot numbers on said lots for identification to facilitate review by the BOH.

3420. **On-site Wastewater Disposal**

Notwithstanding Section 3410, a permit to construct an individual sewage disposal system for sanitary wastewater disposal shall be obtained from the Board of Health for each individual lot prior to the issuance of a building permit. A condition shall be recorded on the Definitive Plan as follows: "No building or structure shall be built or placed upon any lot without a permit from the Board of Health."

3430. **Other Town Officials**

Before approval of a Definitive Plan is given, the Board will obtain appropriate checks on the engineering and survey information shown on said plan, and written statements that the proposed improvements shown are laid out to the satisfaction of the official, as follows:

3431. As to the design of the street system, location of easements, and design of sewerage, water, and drainage systems, including appurtenances: the planning consultant or engineer designated by the Board;

3432. As to location, size, and species of street trees: the Tree Warden.

3433. As to the form of easements, covenants, and performance guarantees: Planning Board Legal Counsel.

3434. As to location of hydrants, fire ponds and cisterns, and with regard to fire safety: the Fire Chief.

3435. As to street safety: the Police Chief.

3440. **Public Hearing**

Before approval, modification, or disapproval of a Definitive Plan is given, a public hearing shall be held by the Board. Notice of such hearing shall be given in accordance with the provisions of G.L. c.41, s.81T, as amended. A copy of said notice shall be mailed, by certified mail, to the applicant and to all owners of land submitted on the Board of Assessors' Certified List of Abutters.

3450. **Decision**

After the public hearing, the Board in due course will approve, modify and approve, or disapprove the Definitive Subdivision Plan submitted. Criteria for action by the Board shall be the following:

Decision Continued

3451. Completeness and technical adequacy of all submissions;

3452. Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others because of possible natural disasters, traffic hazard, or other environment degradation;

3453. Conformity with the requirements of Sections 3000 and 4000 herein, and the Protective Zoning By-Law;

3454. Determination, based upon the Development Impact Statement, 3340 above (where submitted), that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

3500. Performance Guarantee

3510. Final Approval with Bond or Surety

Before endorsement of a Definitive Plan, the sub-divider shall either file a performance bond, or deposit money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost plus thirty (30) percent of all or any part of the improvements specified herein, or follow the procedure set forth below. Letters of credit are not acceptable. Passbooks shall be accompanied by a form assigning same to the Town of Sterling. A bond estimate may be requested by the Board; such estimate shall remain effective for 90 days. The estimate shall reflect the cost for the Town to complete work under adverse conditions which may necessitate legal fees, public bidding, and additional town staff time. Ordinarily the Board shall require an amount covering the total cost of construction of all roads and other improvements within and without the subdivision. Such bond or security if filed or deposited shall be approved as to form and manner of execution by the Planning Board Legal Counsel and as to sureties by the Town Treasurer. Such bond or security shall be contingent on the completion of such improvements not later than four (4) years from the date of the endorsement of the definitive plan. Failure to so complete shall result in the automatic rescission of the approval of the definitive plan by the Board, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period.

Performance Guarantee Continued

3511. In determining the amount of the bond or surety, the Board shall be guided by the following formula in setting the sum of the security:

A. the Board's estimate of the cost to complete the work; plus

B. a ten percent margin of error; plus

C. an appropriate rate of inflation over a five year period.

3520. **Final Approval with Covenant**.

Before endorsement of a definitive plan, instead of filing a bond or depositing surety, the sub-divider may request approval of the Definitive Plan on condition that no lot in the subdivision shall be sold and no building shall be erected thereon, until the improvements specified in Section 4000 are constructed and installed so as to adequately serve said lot or lots. Such covenants shall be executed and duly recorded by the owner(s) of record, and shall run with the land. Proposed covenants shall be submitted with the Definitive Plan, and shall be approved as to form by the Town Counsel or Special Town Counsel. Such covenant shall state that the improvements shown on the definitive plan shall be completed not later than four (4) years from the date of the endorsement of the definitive plan. Failure to so complete shall result in the automatic rescission of the approval of the definitive plan by the Board, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period. Covenants and stated conditions therein shall be referred to on the plan and recorded in the Registry of Deeds. The subdivider shall promptly, after recording, send a copy of the covenant, showing book and page number, to the Board.

3530. **Converting Covenant to Another Performance Guarantee**

If the applicant desires that lots be released from a covenant and that the improvements remaining to be constructed or installed be secured by another form of performance guarantee, a formal written request shall be sent to the Planning Board by certified mail which sets forth and includes:

A. The extent and scope of remaining work to be completed to satisfy the requirements for the construction or installation of all required ways and municipal services; and,

B. An estimate, pursuant to these Regulations, which reflects all remaining costs related to the construction of all required ways and installation of all required municipal services; and,

Performance Guarantee Continued

C. The form and type of guarantee being given to the Planning Board to secure all remaining improvements.

The Planning Board or its agent will make a determination as to 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.

3540. Converting Bond, Deposit, or Agreement to Covenant

If the applicant 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, deposit of money or negotiable security, or agreement and mortgage previously furnished to secure such construction and installation, the applicant shall submit to the Planning Board a reproducible tracing and three (3) contact prints of the reproducible tracing of the definitive subdivision plan, limited 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 applicant. Certified copies of all documents which the applicant records at the Registry of Deeds shall be provided to the Planning Board as set forth in these Regulations.

3600. Endorsement and Recording

3610. Certificate of Approval

The action of the Board with respect to any Definitive Plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by certified mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for such modification or disapproval. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Board, but not until the statutory twenty (20) day appeal period has elapsed following the filing of the certificate of the Board's action with the Town Clerk and said clerk has notified the Board that no appeal has been filed.

Endorsement and Recording Continued

3611. After the Definitive Plan has been approved and endorsed, the applicant shall furnish the Board with nine (9) blueprints and the original thereof. The Planning Board upon receipt of the blueprints and the original, shall send one (1) blueprint to each of the following Board or Supervisors of the Town of Sterling: Fire Department, Conservation Commission, Board of Health, Board of Assessors, Municipal Light Board, Building Department and Department of Public Works, and shall retain the original and two copies for its own files.

3612. Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

3620. **Recording of Plan**

Within thirty (30) days after the return of an approved plan, the applicant shall cause to be recorded in the Worcester County Registry of Deeds, and in the case of registered land with the recorder of the Land Court, a copy of the approved Definitive Plan and accompanying covenants and agreements, if any. Following plan approval, endorsement, and recording, the applicant shall provide the Board with five (5) prints of the Definitive Plan, one of which shall be certified by the Registry of Deeds as having been recorded, and one (1) copy of final covenants and restrictions, noting book, page number, and date of recording for each. One copy of the Definitive Plan shall be forwarded to the Building Inspector by the Board.

3700. Evidence of Satisfactory Performance

3710. **Submission**

Before the Board shall finally release a performance bond or a deposit, or in the case of approval with covenants, issue a final release of a covenant, all held pursuant to Section 3500, above, the applicant shall:

Evidence of Satisfactory Performance Continued

3711. File with the Board a certified copy of the layout plan of each street in the subdivision marked "As Built". In the case of approval with covenants, the applicant may show only the street or streets serving the lots for which a release is desired on the layout plan. Certification shall be by a Registered Professional Engineer or Land Surveyor, and shall indicate that streets, storm drains, sewers, water mains, and their appurtenances have been constructed in accordance with said plan and are accurately located as shown thereon.

3712. Obtain and submit to the Board written evidence, on a check list to be provided by the Board, that the required improvements, as set forth herein, have been completed to the satisfaction of the official listed below:

A. for the planting of any required street trees: Tree Warden;

B. for the placing of monuments and construction of all other required improvements and the performance of all other required work: Planning Board and/or its designated agent;

C. for streets and drainage, as in conformance with the approved Definitive Plan: Planning Board and/or its designated agent;

D. for underground wiring, water mains, sanitary sewers, storm sewers, hydrants, fire ponds, and fire alarms, as in conformance with the approved Definitive Plan: Planning Board and/or its designated agent.

3713. The applicant shall submit written evidence that all of the required improvements stated in Section 3712 have been in place twelve months without damage, or, if damage has occurred, that such damaged improvements have been repaired to the satisfaction of the Board.

3800. Release of Performance Guarantee

Upon completion of the improvements required under Section 4000, or the performance of any covenant with respect to any lot, the applicant shall send by certified mail to the Town Clerk a statement, in duplicate, that said construction or installation in connection with any bond, deposit, or covenant has been completed in accordance with the requirements of Section 4000. Such statement shall contain the name and address of the applicant, and the date of filing with the Town Clerk. The Town Clerk shall forthwith furnish a copy of the statement to the Board. If the Board determines that said construction or installation has been completed, in accordance with Section 3700, above, it shall release the interest of the Town in such bond or deposit and return the bond or deposit less any portion thereof as may be stated in the Board's Order of Conditions for the Subdivision, pending final receipt of the Board approved As Built Plan and the Town Counsel approved deed for the Way(s) including any easements, to the person who furnished same, or issue a release of covenant in a form acceptable for recording. If the Board determines that said construction or installation has not been completed, it shall specify to the applicant in writing the details wherein said construction or installation fails to comply with the provisions of Section 4000. Upon failure of the Board to so notify the applicant within forty-five (45) days after the receipt by the clerk of said statement, all obligations under the bond shall cease and terminate by operation of law, and deposit shall be returned, and any covenant shall become void. In the event that such forty-five (45) day period expires without notification by the Board, or without the release and return of the bond, or the return of the deposit, or the release of the covenant, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which shall be recorded by the applicant.

3810. Ways and Services

The Board shall release from covenants only those lots for which installation and construction of ways and services has been completed, in accordance with these Rules and Regulations. The applicant shall submit the appropriate form when applying for the release of a lot from a covenant.

3820. Pavement

The Board shall not release any bond, deposit, or covenant nor shall a building permit be granted for any lot until the first course of pavement has been installed with manhole covers and other structures set therein at the level of such first course.

SECTION 4000. REQUIRED IMPROVEMENTS

4100. General

4110. Design Guidelines

All subdivisions shall be designed, and improvements made by the developer, consistent with the requirements of Section 4000, Required Improvements, and shall be designed to do the following:

4111. **Reduce, to the extent possible:**

A. the volume of cut and fill;
B. area over which existing vegetation will be disturbed, particularly in those areas within 200 feet of a water body, having a slope of more than 15%, or overlying easily eroded soils;
C. number of mature trees removed;
D. extent of waterways altered or relocated;
E. visual prominence of man-made structures or uses not necessary for safety or orientation;
F. erosion and siltation;
G. flood damage;
H. number of driveways exiting onto existing streets;
I. disturbance of important wildlife habitats, outstanding botanical features, and scenic or historic environs.

4112. **Increase, to the extent possible:**

A. visual prominence of the landscape;
B. legal and physical protection of views from public ways;
C. street layout facilitating south orientation of houses;
D. use of curvilinear street patterns.

4113. The location of proposed streets, parks and open spaces shall be designed so as to minimize the number of probable house sites located within five hundred (500) feet of any property valued under the provisions of G.L. c. 61A. Where reasonable designs could substantially reduce the proximity of house sites to agricultural land but are not employed, an explanation for failure to do so shall be provided to the Board by the applicant.

4120. Conformance with Protective By-Law

All lots shown on the plan shall conform with the requirements for area, dimensions, frontage, buildable area, and all other requirements of the Protective By-Law of the Town.

4130. **Access to Residential Subdivisions**

4131. A way providing access to any residential subdivision must be within the Town limits. Any other access to a subdivision through another town requires certification by that town that the way in question is in accordance with the subdivision rules and regulations of that town, that any bond posted for construction in that town is adequate, and that the way provides adequate access for police, fire, and emergency vehicles as well as the expected traffic generated by the subdivision.

4140. **Open Spaces**

4141. Before approval of a plan, the Board may require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall be of reasonable size, but generally not less than five (5%) percent of the area of the land to be subdivided, after considering the location and quality of the land to be set aside. The minimum area acceptable for later public acquisition shall be three (3) acres. The Board may by appropriate endorsement on the plan require that no building be erected on such park or parks without the approval of the Board for a period of three (3) years.

4142. Land designated for park or playground use shall not include wetlands, ledge, or other land unsuitable for recreation purposes.

4143. Any open space, park, or playground shall provide at least fifty (50) feet of continuous frontage on a street. Pedestrian ways may be required by the Board to provide access from nearby streets on which the open space, park, or playground has no frontage. Such parks or playgrounds may be required to have maintenance provided by covenants and agreements acceptable to the Board, until public acquisition is completed, but in no case longer than three (3) years.

4150. **Wetlands Protection**

The Board may condition its approval of a Definitive Plan upon the issuance of an "Order of Conditions" by the Conservation Commission of the Town, pursuant to the Wetlands Protection Act, G.L. c. 131, s. 40.

4160. **General Construction Standards**

4161. All streets, street drains, catch basins, and appurtenances thereto, including but not limited to those listed in Section 4400, Municipal Services, shall be installed without expense to the Town.

4162. All right of way lines, drain lines, and underground municipal services shall be laid out as to line and grade by a Registered Professional Engineer or a Registered Land Surveyor.

4163. All construction details, materials, methods, and specifications shall conform to the current requirements of the "Commonwealth of Massachusetts, Standard Specifications for Highways and Bridges, Boston, Massachusetts" as supplemented.

4164. Areas within the subdivision used previously for the extraction of gravel or borrow shall be regraded, loamed, and in sod before final release of the performance guarantee is authorized by the Planning Board. All construction debris, refuse, and other solid waste shall be removed from the site, as will all surplus construction material, before final release of the performance guarantee is authorized by the Planning Board.

4200. Streets

4210. Location

4211. All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular travel and natural drainage with no drainage pockets, and that they are adjusted to the topography and provide the minimum number of intersections with existing and collector streets. Streets shall be continuous and in alignment with existing streets as far as is practicable. Due regard shall also be given by the applicant to the attractiveness of the street layout so as to promote the maximum livability and amenities in the subdivision.

4212. Provision shall be made by the applicant, satisfactory to the Board, for the proper projection of streets, or for access to adjoining property, if any, which has not yet been subdivided. In the alternative, the Board may limit or prohibit the projection of streets to adjoining property where such action is in the public interest.

4213. Streets will ordinarily be required adjacent to parks, playgrounds, and schools, to provide proper access and policing of such areas.

4220. Alignment

4221. Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at an angle less than sixty (60) degrees.

4222. Centerline offsets for intersecting streets shall not be less than one hundred fifty (150) feet.

4223. All intersections and approaches to intersections shall be cleared of any obstructions to the motorist's view and will be so maintained.

4224. No street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be allowed. The minimum centerline radii of curved streets shall conform to the following:

Collector streets:	300 feet
Minor streets:	150 feet
Lanes:	125 feet

4225. Sight distances of at least two hundred (200) feet in each direction shall be provided at intersections, except that three hundred (300) feet shall be provided at intersections with state-numbered highways or collector streets or other streets having a speed limit of 40 MPH or greater. At such intersections, the Planning Board may require intersection designs with longer turning radii and safe acceleration and deceleration features, including increased street width, increased curb radii, and use of traffic islands for channelization.

4226. All reverse curves on collector streets shall be separated by a tangent at least one hundred (100) feet in length.

4227. Property lines at street intersections shall be rounded or cut back to provide for a right of way radius of not less than twenty-five (25) feet, except that a right of way radius of not less than fifteen (15) feet may be allowed at intersections of lanes with minor streets. Pavement lines at intersections will be rounded to provide for a curb radius of not less than twenty-five (25) feet except that a curb radius of not less than fifteen (15) feet may be allowed at intersections of lanes with minor streets.

4228. Street intersections shall not be less than five hundred (500) feet apart nor more than fifteen hundred (1500) feet apart in Neighborhood Residential Zones, and not less than six hundred (600) feet apart or more than twenty two hundred (2200) feet apart in Rural Residential Zones.

4230. **Widths**

The minimum width of streets shall conform to the following:

Collector streets:	Sixty (60) feet right of way Thirty (30) feet pavement
Minor streets:	Fifty (50) feet right of way Twenty-four (24) feet pavement
Lanes:	Forty (40) feet right of way Twenty (20) feet of pavement
Cartways*:	Forty (40) feet maximum right of way Twenty (20) feet maximum of road surface

***Cartways are allowed only in Performance Zone I**

4240. **Grades**

4241. Centerline grade for any street shall not be less than seventy-five hundredths (.75) of one percent.

4242. Maximum centerline grades shall conform to the following:

Collector streets:	seven (7) percent
Minor streets:	ten (10) percent*
Lanes:	ten (10) percent*
Cartways:	ten (10) percent*

*on continuous grades of 400 feet or less. On longer grades, reduce by 2%.

4243. On any street where the grade exceeds 6% on the approach to an intersection, a staging area with a slope of not more than 4% shall be provided for a distance of at least forty (40) feet from the nearest edge of the traveled intersecting way.

4244. Proposed centerline grade shall not be more than ten (10) percent above or below existing centerline grade unless the Board specifically waives this provision due to unusual topographic circumstances.

4245. To the extent feasible, street grades shall be designed in relation to existing grades so as to approximately balance the volume of cut and fill made within the right of ways, except to offset peat, boulders, or other unusable material required to be removed.

4250. **Lanes or Dead-end Streets**

4251. A lane or dead-end street, whether temporary or permanent, shall not serve more than six (6) dwelling units, nor have a centerline length in excess of 675 feet from the right of way edge of the intersecting street to the furthest right of way edge of the dead-end street. In cases where the corner lots at the intersection of the proposed street and existing street is part of the subdivision plan. In the case of a lane with one or both corner lots being pre-existing buildable lots the 675 feet will be measured from the mean of their back lot lines where they intersect with proposed road. The Board may waive this provision due to unusual topography or other conditions.

4252. A lane or dead-end street shall not have a grade in excess of three (3) percent for the last one hundred (100) feet of its closed end.

4253. Lanes or dead-end streets shall be provided at the closed end with a circular turn-around having a minimum paved radius of fifty-seven (57) feet and a maximum paved radius of sixty-eight (68) feet. The right of way radius around the turn-around shall be ten (10) feet greater than the paved radius. The turn-around shall be provided with an unpaved center island with a twenty (20) foot radius and will be landscaped as per Section 4531.

4254. Temporary dead-end streets shall also provide the turn-around set forth in Section 4253, which may be located in part on easements over lots, so long as contractual assurance is provided that upon extension of the street in question, the turn-around shall be removed and replaced with proper plantings and landscaping. Turnarounds shall permit maneuvering without backing.

4255. Only lanes and cartways may be permitted to be dead-end streets.

4256. Permanent dead-end water mains shall not be allowed. Easements shall be provided where necessary to allow for extension or looping of mains through subsequent development. Such extension or looping shall be at the expense of the sub-divider where required by the Board. This Section may be waived by the Board upon the recommendation of the DPW Superintendent provided that the dead end line be provided with a fire hydrant within the right of way at the far end of the cul-de-sac, beyond the last water tap, suitable for water line flushing purposes.

4260. Construction of Roadways

4261. Each street shall be constructed on the centerline of the right of way; the centerline of the paved surface shall coincide with the centerline of the right of way. Pavement specifications shall be shown on detail plans submitted with the Definitive Plan.

4262. The Planning Board may require slope easements where retention cannot be adequately handled within the required right of way.

4263. The roadway shall be cleared of all obstructions of any kind for a distance equal to the sum of the specified width of the pavement, plus the required shoulder, sidewalk or swale on each side of the pavement. A greater width may be required at corners and on the inside of curves for visibility.

4264. At least one (1) week prior to commencement of street construction, the Department of Public Works shall be notified by certified mail of the intended commencement. The Department of Public Works shall, upon receipt of such notification, appoint an agent and instruct said agent to make continuing inspections of the work to insure that the requirements listed below are adhered to. The inspecting agent shall furnish the subdivider with a check list of steps to be completed. The subdivider shall not proceed with any steps until all prior steps have been signed by the Inspector as satisfactorily completed. The completed check list is to be returned to the Planning Board. Failure to submit completed check list may be deemed sufficient cause for the Board to withhold final approval of the roadway construction.

Construction of Roadways Continued

4265. Forming the Sub grade

All top soil, sub-soil, rocks, ledge and other unsuitable material shall be excavated to provide a gravel base depth of at least two (2) feet within the traveled way, eight (8) inches for shoulders and sidewalks. Unless a permit is granted by the Town for the removal of loam and top soil, said material will be stock-piled on the premises for final landscaping of roadway shoulders and adjacent house lots. The depth of excavation may be reduced by written authorization of the Department of Public Works if the existing base is certified by the plan engineer as clean gravel meeting state specifications for construction. A greater depth of excavation may be required in any area where the sub-grade material (clay, peat, etc.) will not support the roadway, or drainage conditions require more gravel to establish a firm foundation. Prior to placement of the gravel base course, the entire sub-grade surface shall be thoroughly compacted by means of a three (3) wheel roller weighing not less than ten (10) tons or equivalent pneumatic tired or vibratory compactors. After compacting, the surface shall show no deviation in excess of two (2) inches from the grades indicated on the drawings. No gravel base course shall be placed in any sub-grade area until said area has been inspected and approved by the Department of Public Works or its agent.

4266. Placing and Compacting Base Course Materials

Base course gravel shall be placed in maximum lifts of eight (8) inches compacted depth. The final lift is to be a finer gradation with no stones larger than three (3) inches in diameter. The base course gravel shall be placed not less than two (2) months prior to surfacing. All drainage and utilities are to be installed prior to placing base course gravel. The base course gravel, once approved, is not to be disturbed by digging without written authorization of the Department of Public Works.

Construction of Roadways Continued

4267. Conditioning of Base Course Prior to Surfacing

The surface of the base course will be inspected and tested for tolerances by the Department of Public Works or its agent. Any deviations in excess of the required tolerances shall be corrected by the sub-divider as directed. Any ruts or soft yielding areas in the base course shall be corrected by removing unsuitable material, adding suitable material, reshaping and recompacting as directed. The base course, immediately before surfacing, shall be fine graded to three and one-half (3.5) inches below final grade as shown on the profiles on the Definitive Plan, with the grades of the street further apart than fifty (50) feet. Grading shall be by means of a self-propelled road grader and such hand labor as may be required.

4268. Application of Permanent Surface A permanent type pavement of Class I Bituminous Concrete, Type I-1 shall be placed in strict accordance with the Mass. Dept. of Public Works Standard Specifications for Highways, Bridges, and Waterways, Section 460.0 through 460.62. Said pavement shall be laid in two (2) courses, consisting of two and one-half (2.5) inches compacted thickness of base mixture and one and one-half (1.5) inch compacted thickness of top mixture. The completed pavement shall have a uniform compacted thickness of four (4) inches. No permanent surface will be applied after November 1st unless authorized in writing by the Department of Public Works.

4269. Drainage structure frames and utility boxes shall be set to the binder grade. The frames and boxes shall be raised to finish grade and set in a concrete collar just prior to final paving.

4270. **Shoulders**

4271. Roadways shall have shoulders in conformance with the following widths:

Collector streets:	5 feet
Minor Streets:	5 feet
Lanes:	5 feet

4272. Shoulders shall be pitched at three-eighths (3/8) inch to the foot towards the curb or swale.

4273. Shoulders shall have an eight (8) inch gravel foundation, four (4) inches of topsoil (after rolling), and be planted in accordance with Section 4530.

4300. Storm Water Management

4310. General

Storm drains, culverts, swales, detention basins, and related facilities shall be designed to permit the unimpeded flow of all natural water courses, to ensure adequate drainage at all low points along streets, to control erosion, and to intercept storm water runoff along streets at intervals reasonably related to the extent and grade of the area being drained. Where determined to be appropriate to the Board, storm water may be carried on the surface of the ground and recharged (herein, "open system") rather than piped to surface water (herein, "closed system"). Peak storm discharge rate at the boundaries of the subdivision in a twenty-five (25) year frequency storm shall be no higher following development than prior to development, unless authorized by the Board after consultation with the Conservation Commission, and determination that the receiving wetlands or water bodies may absorb the increase, or that the provision of detention capacity is sufficient. In the Flood Plain District, adequate drainage systems shall be provided to reduce exposure to flood hazards.

4320. Full Build Out

Storm water run-off calculations for proposed conditions should use general land use conditions that assume full build out within the existing zoning requirements. Less conservative values may be applied to determine peak storm discharge rate when coupled with enforceable land use restrictions.

4330. Storm Drains

4331. Except where drainage swales are used, catch basins will be required on both sides of the roadway on continuous grades at intervals of not more than two-hundred and fifty (250) feet. Storm drains and culverts shall be no less than twelve (12) inches inside diameter and shall be of greater size if required by design considerations. All drains shall have a minimum of three (3) foot cover, except where reinforced concrete pipe is used and there the minimum cover shall be two (2) feet. Pipe approved by the Massachusetts Department of Public Works (DPW) shall be installed in accordance with DPW requirements. The sub-divider shall specify the class of pipe to be used.

Storm Drains Continued

4332. Proper connections shall be made with any existing drains in adjacent streets or easements where they may exist and prove adequate to accommodate the drainage flow from the subdivision, and in the absence of such facilities, or the adequacy of the same, it shall be the responsibility of the developer to extend drains from the subdivision as required a manner determined by the Department of Public Works, or Planning Board.

4333. Side drains during construction may be required by the Department of Public Works. Six (6) inch subdrains, five (5) feet off the side line may be required in all cuts over three (3) feet.

4340. **Catch Basins**

Catch basins shall be provided with grates installed and approved as to design by the Board. Manholes shall be provided at changes in direction, whenever there is a change in size of pipe, and so as to eliminate the draining of one basin into another basin. Catch basins and manholes shall be constructed with standard concrete. Catch basins shall be fitted with a grease trap of a design to be approved by the Board and with a minimum two-foot sump available below the trap inlet. Catch basins will be provided with granite curb inlets with a six (6) inch reviel and with three (3) inch vertical openings along the entire length of the grates. The curb inlets will be blended to the bituminous berms with beveled granite transition pieces. Where the curb inlets are located on a curve they will be curved to match the curvature of the paved surface.

4350. **[Reserved]**

4360. **[Reserved]**

4370. **Certificate of Occupancy**

No certificate of occupancy shall be issued for any dwelling unit in a subdivision until the storm water management system is fully operational.

4400. Municipal Services

4410. **CATV, Other, Electricity and Telephone Service**

Electricity, telephone service, other, and CATV if available shall be provided to each lot, and if not, conduit shall be provided to each lot. All electrical, telephone, and other utility wires shall be placed below ground in conduit, unless the Board determines that such placement is not feasible or is not in the best interests of the Town.

4420. **Fire Protection**

Provision shall be made for fire protection in the subdivision. The applicant shall review plans for fire protection with the Chief of the Town Fire Department and reach an agreement as to the method of providing adequate fire protection. A subdivision plan shall be approved only upon presentation of evidence to the Board, subject to the approval of the Fire Chief, that adequate provisions for fire protection have been made. No certificate of occupancy shall be issued for any dwelling unit in a subdivision until all components of the fire protection system are fully operational.

4430. **Street Lighting**

Street lighting shall be provided for those locations where the Planning Board, following consultation with the Selectmen and Municipal Light Board, recommends that the Town maintain lighting; at the minimum there will be a street light at all street intersections and in the center of the turn-around island. Facilities shall be provided in accordance with the Sterling Municipal Light Department's specifications.

4440. **Water**

Evidence shall be submitted to satisfy the Board of Health that adequate and potable water supply is available for each lot in the subdivision.

4441. Whenever feasible, the water supply shall be from a public water supply system.

4442. Where a connection to the public water system is not feasible, the Planning Board shall approve a subdivision only upon its determination that the following provision for fire protection shall be met:

A. A reliable year-round water supply readily accessible to the Fire Department shall be provided from natural or constructed bodies of water, such as ponds, streams or cisterns. Said water supply shall be as designated by the Planning Board after consultation with the Fire Chief.

B. Design, construction and capacity of natural and constructed bodies of water shall be approved by the Fire Department and shall comply with National Fire Protection Association (NFPA) standard 1231, "Water Supplies for Suburban and Rural Fire Fighting."

Water Continued

C. Cisterns shall have a minimum capacity of thirty thousand (30,000), gallons available for firefighting as provided for in NFPA 1231 (ISO requirement, Fire Chief's Handbook, p. 601).

D. Cisterns shall be inspected by the Fire Department during construction.

E. A dry hydrant installed in conformance with NFPA 1231 is required. Height of the suction connection must be approved by the Fire Department.

F. Subdivisions in which all houses have residential Sprinklers installed in conformance with NFPA 13, 13D or 13R shall not require additional fire protection.

4443. Where a connection to the public water system is not feasible, the Planning Board shall approve a subdivision only upon its determination that the well(s) on each lot is likely to be able to provide a sustained yield of five (5) gallons per minute with water quality meeting DEP's "Drinking Water Regulations of Massachusetts," as may be amended from time to time. One (1) test well may be required of the Applicant per ten (10) potential lots, or the Planning Board's determination may be based upon the written statement of a hydro geologist following his analysis of well records on nearby premises, subsurface conditions, and potential sources of contamination.

4444. Subdivisions served by the town's water system shall meet the following specifications:

A. Hydrants shall be spaced no more than five hundred feet (500) apart.

B. Hydrant locations shall be approved by Fire Department.

C. Minimum fire flow requirements (gallons per minute required to control a fire) shall meet National Fire Protection Association standards and be approved by the Fire Department.

4500. Other Improvements

4510. Sidewalks

4511. Required Locations

Sidewalks within street right-of-ways shall be provided as follows:

Collector streets:	Both sides
Minor streets:	One side
Lanes:	One side

4512. Width and Alignment

Sidewalk pavement shall be five (5) feet wide on collector streets, and four (4) feet wide elsewhere. Except at intersections, sidewalks shall be separated from the traveled way by not less than the required shoulder width. Pavement width may vary to reflect or protect existing topography, trees, ledge, and other site features.

4513. Other Walkways

Public off-street walkways, bikeways, or bridle paths may be required by the Board to provide grounds, parks, shopping, transportation, open space, or community facilities, or to break up long blocks, or for any other reason that the Board may determine. No such walkway, bikeway, or bridle path shall be a part of any lot in the subdivision.

4514. Construction

Sidewalks shall have a foundation of eight (8) inches or more of compacted gravel. Sidewalks shall be Portland cement concrete, constructed to the current requirements of the “Commonwealth of Massachusetts, Standard Specifications for Highways and Bridges, Boston Massachusetts” as supplemented. Wheelchair ramps shall be provided and constructed in accordance with the current Mass/Highway “Wheelchair Ramp Standards”.

4520. **Grass Plots and Slopes**

Embankments outside the shoulders and swales shall be evenly graded and pitched at a rate not steeper than two to one (2:1), horizontal to vertical, in cut and three to one (3:1), horizontal to vertical, in fill. The Board may require such banks and all other disturbed areas adjacent to the traveled way to be loamed and seeded to grass, or, after consideration of the surrounding vegetation and terrain, to be blended with such woods or natural surroundings as exist, with plantings chosen accordingly.

4530. **Plantings**

4531. Unpaved areas within the right-of-way which have been stripped by the construction shall be graded to meet the adjoining property with a slope of not more than one (1) foot vertical to two (2) feet horizontal and loamed with at least four (4) inches of good quality topsoil. These areas shall be thickly seeded with perennial grasses or other planting materials approved by the Board.

4532. If the developer finds it necessary to remove any of the Town's trees, or if the Planning Board so requires, the developer shall replace any and all such trees at his own expense. Said trees shall be acceptable to the Planning Board as to the size and species.

4533. Before removing any tree within the existing town right-of-way, the Tree Warden shall be consulted and shall mark all trees that are not to be removed.

4534. Suitable existing trees within the right-of-way, if larger than four (4) inch caliper and located outside the shoulders, shall be preserved. Trees to be retained shall not have grade changed over their root areas more than twelve (12) inches.

4535. Where suitable trees do not exist at intervals of less than forty (40) feet on each side of the street, they shall be provided by the developer.

4536. Trees to be planted shall be well branched, nursery grown stock at least two and one-half (2.5) inch trunk diameter at four (4) feet above ground, and be free of injury, harmful insects, and diseases. They shall be long-lived species adapted to the local environment and approved by the Planning Board.

4537. New plantings shall be guaranteed by the developer for a period of one year from the date of planting.

Planting Continued

4538. Applicants for subdivision of land are reminded that the Scenic Roads Act, G.L. c. 40, s. 15C, is in effect in the Town. Moreover, the Shade Tree Act, G.L. c. 87, should be consulted with regard to any proposed tree removal.

4540. **Curbing and Berms**

Bituminous concrete berms shall be installed on both sides of all roadways in conformity with the "typical roadway cross-section," appended hereto, except where waived by the Board where open drainage systems are being relied upon, and except at intersections with state-numbered highways or collector streets, where sloped granite curbing will be required.

4550. **Driveway Entrances**

Driveway entrances shall be constructed so to prevent drainage onto public ways. Driveways at intersections and cul-de-sacs shall be spaced so as to facilitate snow removal.

4560. **Monuments**

4561. Monuments shall be installed at all street intersections; at all points of change in direction of curvature of the streets.

4562. Monuments must be granite or reinforced concrete, measure a minimum of four inches, by four inches, by four feet (4"x4"x4') and project four (4) inches above finish grade. Reference points are to be drilled in the top of each monument.

4563. Iron rods shall be installed at each lot corner along the street and as necessary to locate any easements to be deeded to the town.

4564. Four major corners of each lot shall be marked with iron rods. Iron rods shall be three-quarter (3/4) inch iron rod set to a depth of not less than four (4) feet below finished grade and to project not more than six (6) inches above finished grade.

4565. Placement and accurate location of all monuments shall be certified by a Registered Land Surveyor, and indicated on the as built plan.

4570. **Signs**

4571. **Street Signs**

As soon as a street is paved, street signs conforming to those placed by the Town shall be erected at each end of the through way and intersections. The word "Private" shall be lettered on a separate sign placed under the street sign. This separate sign shall be removed when the street is accepted by the Town, and replaced, at the entrance to a lane, by a sign that says, "Not a Through Way."

4572. **Advertising Signs**

A. No advertising signs shall be erected that may prevent the clear view of motorists at intersections.

B. All signs shall conform to the Protective By-Law of the Town of Sterling.

4580. **Maintenance and Clean-up**

4581. The entire area of the subdivision must be cleaned up so as to leave a neat and orderly appearance free from debris and other objectionable materials, leaving no unfilled holes, and leaving no other artificially created hazards. A bond or an escrow account may be required to secure performance of this regulation.

4582. The entire area within the right-of-way shall be properly maintained by the developer until accepted by the Town. Immediately prior to such acceptance, all catch basins shall be cleaned. Snow removal and sanding of the streets shall be the responsibility of the developer until such acceptance. An escrow account or maintenance bond may be required to secure performance of this regulation.

4600. **Easements**

4610. **Fire Ponds and Utilities**

Easements for fire ponds and utilities across lots or centered on rear or side lines shall be provided, and shall be at least twenty (20) feet wide.

4620. **Storm Water Easement**.

Where a subdivision is traversed by a water course, drainage way, stream, or channel, the Board may require that a storm water easement or drainage right-of-way be provided of adequate width to provide for free flow of water in its natural course, for construction, or for other necessary purposes.

4700. Flood Plain District

In the Flood Plain District, all public utilities and facilities such as gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage.

4800. Private Driveways

4810. **Topping**

All driveways extending from the completed road surface to the lot lines must have a topping of at least three (3) inches of bituminous concrete. All driveway slopes must end at the street right-of-way, then continue forward to the completed road surface in the same grade as the sidewalk strip and/or shoulder in order to allow proper drainage of surface water.

4820. **Curb Cuts**

Curb cuts for driveways shall be at least ten (10) feet wide and shall have a three (3) foot radius flare at the pavement, except in Non-Residential Subdivisions where they shall be at least twenty-four (24) feet wide and have a thirty (30) foot radius or meet the requirements of Section XI of "The Massachusetts Amendments to the Manual on Uniform Traffic control Devices and the Standard Municipal Traffic Code," dated January, 1987.

4900. Non-Residential Subdivisions

4910. **General**

Any street servicing land in a Commercial or Light Industrial District as defined by the Sterling Protective By-Law or commercial or industrial uses in Performance Zone I as defined by the Sterling Protective By-Law shall be designed as a collector street.

4920. **Requirements**

The requirements of Section 4200 shall be modified as follows: roadway construction shall provide for twenty-four (24) inch gravel foundation, base course of four (4) inch Asphalt Institute Type IV mix, and one (1) inch Class I-1 bituminous concrete finish course, except that this requirement may be reduced where an alternative system is demonstrated to be adequate for anticipated traffic, using the methods specified by the Asphalt Institute Manual Series NO. 1 (MS-1) "Thickness Design."

4930. **Storm Drainage**

Storm drainage shall be designed on the basis of at least eighty percent (80%) impervious coverage on all lots, and lawns rather than natural vegetation in buffers and other remaining areas, unless there are land use restrictions enforceable by the Town, assuring some lower level of impervious coverage and natural vegetation.

SECTION 5000. ADMINISTRATION

5100. Inspection

For the protection of the town and future residents of the subdivision, a series of inspections during the course of construction are required to ensure compliance with the approved Definitive Plan and the Board's Rules and Regulations.

5110. **Inspection Requests**

Inspections shall be requested by the sub-divider at least four (4) full working days in advance by written notice to the Board and its duly authorized representative.

5120. **Inspections Required**

The sub-divider shall contact the Planning Board and its duly authorized representative for inspections regarding the following aspects of the subdivision, at the specified times:

5121. Roadbeds: following excavation of the roadbed, but prior to any backfilling.

5122. Drainage system: following installation of drain pipe, culverts, catch basins, and all related construction, but prior to any backfilling.

5123. Underground utilities: following laying of electric, telephone, and fire alarm cable in roadway and to individual dwellings, but prior to any backfilling.

5124. Finished gravel foundation: following application, grading, and compaction of gravel foundation.

5125. Pavement: notice shall be given so that inspection may be conducted during and upon completion of paving.

5126. Final inspection: following completion of roadways, permanent bench marks, curbing, berming, walkways, grading, seeding, and cleanup.

5130. **Backfilling**

No water main, storm drain, catch basin, utility installation, road sub-grade or foundation, or any other item of work designated for inspection, shall be backfilled or paved over until inspected and approved by the Board or its duly authorized representative.

5200. Reference

For matters not covered by these Rules and Regulations, reference is made to G.L. c.41, ss. 81K - 81GG, inclusive, as amended.

5300. Separability

If any section, paragraph, sentence, clause, or provision of these Rules and Regulations shall be adjudged invalid, the adjudication shall apply only to the material so adjudged, and the remainder of these Rules and Regulations shall be deemed to remain valid and effective.

5400. Amendments

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

Appendix A - Planning Board Fee Schedule

STERLING PLANNING BOARD

REGULATIONS GOVERNING FEES

AND

FEE SCHEDULES

Adopted October 11, 2017

SECTION 1. INTRODUCTION.

1.1 Procedural History. On March 17, 1999 the Planning Board held a public hearing, pursuant to G.L. C. 41, s. 81Q and G.L. c. 40A, s. 9 to consider proposed regulations governing fees. On October 11, 2017 the Planning Board held a public hearing, pursuant to G.L. C. 41, s. 81Q and G.L. c. 40A, s. 9 to consider proposed regulations governing fees. At the close of the public hearing, the Planning Board voted to adopt regulations governing fees and a new schedule of fees for review conducted by the Planning Board and its consultants on the various types of applications which come before it. This document, subject to revision from time to time in a manner spelled out herein, constitutes the Planning Board's rules governing the imposition of fees and its current fee schedules.

1.2 Purpose. These regulations and fee schedules have been adopted to produce a more equitable schedule of fees which more accurately reflects the costs of technical and legal review of applications to the Planning Board; to take advantage of the procedures offered by G.L. c. 44, s. 53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Planning Board.

SECTION 2. FEE STRUCTURES AND REGULATIONS.

2.1 General. The Planning Board shall impose reasonable fees for the review of applications which come before it. The Planning Board may impose Administrative Fees and Project Review Fees as may be applicable to the types of applications set forth below.

SECTION 3 ADMINISTRATIVE FEES

3.1 Applicability. An Administrative Fee shall be assessed to offset the expense of review by the Planning Board and its office with regard to all applications set forth in Section 3.3, below.

3.2 Submittal. Administrative Fees shall be submitted at the time of the submittal of the application. Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

3.3 Schedule of Administrative Fees. The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the Sterling Protective By-Law, the Rules and Regulations for the Subdivision of Land, and any listings which may have been compiled from time to time for the benefit of applicants.

A. Approval Not Required (ANR) Plans - $200 base fee, plus $75 per lot.

B. Preliminary Subdivision Plans - $400 plus $175 per lot.

C. Definitive Subdivision Plans - $1000 plus $300 per lot.

D. Modification of a Preliminary Subdivision Plan - $200 plus $100 for each lot affected and for each new building lot created. In addition, a fee of $150 shall be required for the modification of a drainage structure. The total fee required shall be the addition of all fees outlined above.

E. Modification of a Definitive Subdivision Plan - $400 plus $200 for each lot affected and for each new building lot created. In addition, a fee of $300 shall be required for the consideration of a modification of a road and a fee of $150 shall be required for the modification of a drainage structure. The total fee required shall be the addition of all fees outlined above.

F. Special Permit - $500 Modification or extension of special permit shall also require of a fee of $300.

G. Site Plan Review - Review of Site Plans shall require the following application fees, at the discretion of the Planning Board:

1. $600 for sites requiring or containing ten or fewer parking spaces.

2. $800 for sites requiring or containing more than ten parking spaces.

H. Modification of a Site Plan - $400.

I. Extension of a Site Plan - $200.

J. Repetitive Petition - $400 Consideration of a petition for a rehearing from the Zoning Board of Appeals.

3.4 Fees for Revised Applications. Where an Administrative Fee has been calculated by the number of lots or units proposed, and the application is revised after and payment of said fee, the following rules shall apply:

A. If the number of proposed lots or units increases, the applicant shall pay a fee equivalent to the difference between the fee originally paid and the fee that would have been paid had the original submission included these additional lots or units. No review of these additional lots or units shall take place until this additional fee is paid to the Planning Board office, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.

B. If the number of proposed lots or units decreases, a refund of that portion of the application fee predicated on those lots or units shall be granted only if, in the judgment of the planning Board, no cost associated with the review of those lots or units has been yet incurred.

3.5. Fee Waivers. The Planning Board may waive or reduce any Administrative Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.

3.6 Refund. Once the review process has been commenced, the Planning Board shall not refund Administrative Fees, including the case of withdrawal of the application by the applicant, except as provided in Section 3.4.B, above.

SECTION 4. PROJECT REVIEW FEES.

4.1 Applicability. In addition to an Administrative Fee, the Planning Board shall impose a Project Review Fee on those applications which require, in the judgment of the Planning Board, review by outside consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, by-laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

4.2 Submittal. Project Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established pursuant to G. L. c. 44, s. 53G (53G Account). Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

4.3 Schedule of Project Review Fees. The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the Sterling Protective By-Law, the Rules and Regulations for the Subdivision of Land, and any listings which may have been compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted for Planning Board action, only the largest of the applicable Project Review Fees shall be collected for deposit into the 53G Account, and not the sum of those fees.

A. Preliminary Plan, Modification of a Preliminary Plan, Modification of a Definitive Plan, or Modification of a Special Permit:

$3,000 for the first six (6) lots, plus $200 per lot after the first six.

B. Initial Definitive Plan, Special Permit or Site Plan:

For Subdivisions: $4000 plus $600 per lot.

For Special Permits and Site Plan Review: $2,000.

4.4 Replenishment. When the balance in an applicant IS 53G Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Planning Board shall consider whether to require a supplemental Project· Review Fee to cover the cost of the remaining project review.

4.5 Inspection Phase. After the granting of a Special Permit, site plan approval or Definitive Plan approval, the Planning Board "may require a Supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

4.6 Handling of Project Review Fees. The Project Review Fee is to be deposited into a special account as set forth in G.L. c. 44, s. 53G.

A. Outside consultants retained by the Planning Board to assist in the review of an application shall be paid from this account.

B. Project Review Fees shall be turned over to the Town Treasurer by the Planning Board for deposit into a 53G Account.

C. A copy of the latest statement from the banking institution handling the 53G Account shall be forwarded from the office of the Town Treasurer to the Planning Board office as soon as it is received for timely and accurate accounting.

D. The Town Accountant shall prepare a report on activity in the 53G Account on an annual basis.

1. This report shall be submitted to the Selectmen for their review.

2. This report shall be printed in the Annual Report for the Town of Sterling.

E. An accounting of an applicant I s funds held in the 53G Account may be requested by the applicant at any time.

1. The Planning Board shall respond to the request in a timely fashion.

2. This accounting shall include the following information:

   a. The latest statement from the banking institution handling the account, which should include an accurate accumulated interest portion to the closing date of the statement if such statements are subdivided into individual applicants' accounts. Otherwise, a statement of principal and interest, prepared by the Planning Board office, based on the latest statement from the banking institution.

   b. A report of all checks authorized for issuance since that last banking statement.

F. An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.

G. Excess fees in the 53G Account, including accumulated interest, shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the review process, as defined below. For the purpose of this section, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

1. With the approval or disapproval of a Preliminary Subdivision Plan.
2. With the disapproval of a Definitive Subdivision Plan.
3. With the release of the performance bond at the end of construction of an approved Definitive Subdivision Plan.
4. With the final inspection or the approval or disapproval on all other types of applications under the Sterling Protective By-Law, whichever comes later.

4.7. Appeal. The choice of a consultant selected by the Planning Board for the review of an application may be appealed in writing to the Board of Selectman by the applicant, providing such appeal is initiated within two weeks of the initial selection.

A. The Selectmen shall convene a formal hearing within twenty days of receiving a written appeal by an applicant.

B. Two circumstances may disqualify the selected consultant. These conditions constitute the only grounds for an appeal.

1. Conflict of interest; A consultant shall not have a financial interest in the project under review, or be in a position to financially benefit in some way from the outcome of the pending review process. Consultants must be in compliance with the Massachusetts Conflict of Interest Law, G. L. c. 268A.

2. Lack of appropriate qualifications: A consultant shall possess the minimum required qualifications. The minimum qualifications shall consist of either an educational 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.

C. The required time limits for action upon an application by the Planning Board shall be extended by duration of the appeal.

D. If no decision is rendered by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Planning Board shall stand.

E. This appeal shall not prelude further judicial review, if otherwise permitted by law, on the grounds provided for in this section.

SECTION 5. DELINQUENT ACCOUNTS. The following rules apply to fees owed to the Planning Board by applicants:

5.1 Monthly Interest Charge. All fees past due by one month from the date of invoice shall be subject to a monthly interest charge based upon an annual interest rate of 14%.

5.2 Costs of Collection. All costs of collection associate with past due accounts shall be borne by the applicant.

5.3. Current Delinquents. All applicants owing fees to the Planning Board at the time of any amendment to these provisions of the regulations shall be sent the following:

A. A duplicate notice of the amount past due.

B. A copy of the applicable sections of these regulations with all amendments clearly indicated.

C. Notice of a 30 day grace period before the commencement of any changes in interest rates or charges.

SECTION 6. REVISION OF FEE SCHEDULES AND REGULATIONS GOVERNING FEES.

6.1 .Amendment. The Planning Board may review and revise its regulations and fee schedules, from time to time, as it sees fit.

A. Amendments shall be preceded by a public hearing.

B. Any new regulations or alterations to the fee schedule shall take effect upon filing a copy of the amendments with the Sterling Town Clerk.

C. The Planning Board will review its regulations and fee schedule on an annual basis.

1. The Board may waive this provision in any year with a motion carried by a majority of the Board members.