

Town of Bernardston

**RULES AND REGULATIONS**

**GOVERNING THE SUBDIVISION OF LAND**

Adopted June 28, 1988

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## Town of Bernardston Rules and Regulations Governing the Subdivision of Land

### SECTION 1000: PURPOSE AND AUTHORITY

#### 1100. Purpose

These subdivision rules and regulations are hereby enacted, in accordance with the provisions of M.G.L.A. ch. 41, s.81M, for the purpose of protecting the safety, convenience, and welfare of the inhabitants of the Town of Bernardston, by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become a 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 applicable zoning by-laws, for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police and other municipal equipment, street lighting and other requirements where necessary in a subdivision; and for coordination 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 Bernardston by M.G.L.A. Ch. 41, 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 M.G.L.A. ch. 41, sections 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 defined or the meaning thereof explained, extended, or limited as stated in M.G.L.A. ch. 41, 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 Bernardston

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

FRONTAGE shall mean the length of common boundary between a lot and a street legally qualifying to provide frontage for the division of land (see Town Zoning by-law, Article VI, and M.G.L.A., ch. 41, s81L). Frontage is to be measured continuously along one street line between side lot lines and their intersection with the street line, or in the case of a corner lot, to the midpoint of the corner arc. Lots with interrupted or discontinuous frontage must demonstrate that the required length along the street may be obtained from one (1) continuous boundary, without any totally of discontinuous frontage sections.

FRONTAGE CORNER LOT shall mean frontage calculated to the midpoint of the corner arc.

LOT shall mean an area of land in one 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 part of that plan.

MASSACHUSETTS GENERAL LAWS ANNOTATED of MGLA 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.

MUNICIPAL SERVICES shall mean sewers, surface waters drains, and other private or public utilities including water pipes, gas pipes, electric 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 of association of individuals, having common or undivided interests in a tract of land.

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

STREET CATEGORIES:

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 street system which has only one means of ingress from or egress to a collector or minor street.

Lane – shall mean a dead-end or loop street or set of streets which cannot serve as access to more than twenty dwellings and cannot be extended.

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

Paper shall mean any way or right-of-way show on a plan or sketch but which has not been constructed or otherwise prepared for vehicular traffic.

SMALL PROJECTS shall mean any development plan showing at least two (2) lots, but not more than six (6) lots.

SUBDIVISION shall mean “the 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 (1) a public way of 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 there one 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, or 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 in which two or more buildings were standing when the subdivision control law went into effect in the city of town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.” M.G.L.A. ch 41, s. 81L.

SUBDIVISION CONTROL LAW shall mean M.G.L.A. ch 41, s 81K to 81GG, inclusive, and any amendments thereof, additions thereto, or substitutions therefor.

TOWN shall mean the Town of Bernardston

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 usch 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 therefrom 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 with the zoning by-laws 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, or (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.

2230. Professional and Technical Assistance. The Board may assign as its agent appropriate Town officials, and may from time to time hire professional 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 M.G.L.A. ch. 41, s. 81W, as amended.

2205. Submission of Plans. The following fees shall accompany the submittal of application materials of the various plans specified in the Rules and Regulations, to cover costs of processing and engineering and planning checks. In the event that the Board determines that expert technical opinion is necessary for unusual or special circumstances relating to a subdivision or its impact, the cost of that expertise shall be paid by the subdivider. All filing fees accompanying the submittals or a Preliminary Plan shall be credited towards the filing fee required for submission of a Definitive Plan.

- |                          |                             |
|--------------------------|-----------------------------|
| a) Approval Not Required | \$40 plus \$15 for each lot |
| b) Preliminary Plans     | \$100 plus \$50 per lot     |
| c) Definitive Plans      | \$500 plus \$200 per lot    |

2300. Reserved

2400. Plan Believed Not to Require Approval

2410. Any person who wishes to cause to be recorded in the registry of Deeds or to be filed with the Land Court a plan land and who believes that said plan does not require approval under the Subdivision Control Law, may submit to the Board said plan, five (5) prints thereof, the filing fee in Section 2260, here, and two (2) copies of a properly executed Form A – Application for Endorsement of a Plan Believed Not to Require Approval, accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination. The Board will review the plan to determine whether it is a subdivision. Failure by the Board to take action within (21) days of the date of submission will result in approval of the plan.’

2420. Said plan shall be of a minimum dimension of nine and one-half inches by fourteen inches (9 1/2” x 14”) but not to exceed a dimension of twenty-four inches by thirty six inches (24”x36”), and shall contain the following information:

- a. Identification of the plan by the name of the owner of record and the location of the land question;
- b. The statement “Approval Under the Subdivision Control Law Not Required,” and sufficient space for the date, and all signatures of the members of the Board;
- c. Zoning classification and location of any zoning district boundaries that may lie within the locus of the plan;
- d. In case of creation of a new lot, the remaining land area and frontage of the land in the ownership of the applicant, if any;
- e. Notice of any decisions by the Zoning Board of Appeals, including but not limited to variances and special permits regarding the land or any buildings thereon;
- f. Names of abutters from the latest available Assessor’s record unless the applicant has knowledge of any changes subsequent to the latest available records;
- g. Distance to the nearest permanent monument;
- h. Location of all existing buildings, including setback and side and rear yard designations.

#### 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, M.G.L.A. ch. 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 streets within a subdivision shall be considered to provide adequate access, where prior to construction on any such access will be in compliance with the Subdivision Regulations for right-of-way width, pavement width, maximum grade, and sight distance requirements applicable to ways within a subdivision.

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

## SECTION 3000. SUBMISSION AND ACTION

3100. Pre-submission Review. Prior to investing in extensive professional design costs for preparation of subdivision plan, 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.

3200. Preliminary Plan.

3210. Submission. A Preliminary Plan of a subdivision may be submitted by the subdivider 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 M.G.L.A. ch.41, s 81S. The submission of such a Preliminary Plan shall be made on Form B – Application of Approval of a Preliminary Plan – and will enable the subdiviser, 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 Plan 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 specified in Section 2260, above. This fee shall be credited towards the fee required for submission of a Definitive Plan. The applicant shall subsequently give written notice to the Town Clerk by delivery or by registered mail that such Preliminary Plan has been submitted, stating the date of such submission. The copies of the plan may be examined by the public during regular business hours of the Town Hall.

3211. Any plan submitted by a subdivider to the Board which does not conform with the requirement herein pertaining to a “Pertaining Plan” shall not be so designate, shall be returned to applicant with a statement as to its deficiency, shall not be reviewed or approved by the Board until said deficiency is corrected and any time limits for action on a plan

3220. Contents. The Preliminary Plan may be drawn on tracing paper with pencil, preferably at a scale of one (1) inch equals (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 waterway, in a general manner, but including drainage both within and adjacent to the subdivision;
- i. approximate boundary lines of proposed lots, with approximate area and dimensions;
- j. estimates of the grades of proposed streets of profiles, where required by the Board;
- k. Major sit features such as existing stonewalls, fences, buildings, large trees and wooded areas, rock bridges and outcroppings, and swamps and other water bodies.
- l. Location of proposed and existing underground and overhead municipal utilities, including by not limited to, water, sewer, gas, and electric.

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 the R&Rs 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. Field Trip. After the regular Board meeting at which the Preliminary Plan is first discussed, or a Definitive Plan submitted without prior Preliminary Plan, the Board may schedule a field trip to the site of the proposed subdivision, accompanied by the applicant and his agents or representatives. In Order to facilitate field inspection and review of the site of the proposed subdivision, temporary staking will be required along the center line of all proposed roads in the subdivision before said field trip, or if impractical, the Board may permit a suitable alternative procedure.

3240. Approval. The Board shall, in conformance with G.L. Ch. 41, s 81S, approve such Preliminary Plan with or without modifications, or disapprove such Preliminary Plan, with reasons therefore. One copy of the Preliminary Plan, with reasons for disapproval of modification will be returned by the Board to the subdivider within seven (7) days of written notification of the Town Clerk required below.

3241. Approval of a Preliminary Plan, with of 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. ch. 41, s. 81L, and the action of 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. Any person submitting a Definitive Plan of a subdivision of land to the Board for approval shall file therewith the following:

- a. eleven (11) prints of the Definitive Plan, dark line on white background. Prints will be referred to other town officials for review;
- b. accompanying statements as required in Sections 3330 and 3340, below;
- c. one (1) properly executed Application Form (Form C), Abutter's List (List D), and Designer's Certificate (Form E), in accordance with forms on file with the Board (Appendix);
- d. the fee required in Section 2260, above. In the event that the Board determines that expert technical opinion is necessary to review unusual or special circumstances regarding a subdivision or its impact, the cost of the expertise shall be paid by the subdivider, as provided in Section 2230.

3311. Any plan submitted by a subdivider to the Board which does not conform with the requirements herein pertaining to a 'Definitive Plan' shall not be designated, shall not be deemed "submitted," shall be returned to applicant with a statement as to its deficiency, shall not be reviewed or approved by the Board until said deficiency is corrected, and any time limits for action on a plan shall not commence until the submission is complete in all respects.

3312. The applicant shall file by delivery or by registered mail written notification with the town Clerk stating that a Definitive Plan has been submitted in accordance with G.L. c.41, s81T, as amended, with the date of submission of the Definitive Plan, accompanied by a copy of the Application Form.

3313. The applicant shall file tow (2) copies of the Definitive Plan and one (1) copy of the Application Form (Form C) and one (1) copy each of Form D, and Form E 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 other such 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 sheet. 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 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 of subdivider also owns or controls unsubdivided 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 unsubdivided land is developed, and shall also show the present drainage for such unsubdivided 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 most recent local tax list;
- 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;
- i. location and outline of all existing buildings and site features such as existing stonewalls, fences, large trees and wooded areas, rock ridges, and outcroppings, swamps, floodplain areas, waterbodies and watercourses, 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;
- k. acreage of each lot, lot lines, bearings and length thereof in conformity with the Zoning by-law in each case;
- l. location of existing and proposed monuments, hydrants, public utility facilities, water pipes, fire ponds, and wells within the subdivision;
- m. park of open space suitably located for conservation, playground, or recreation purposes within the subdivision, if any;

- 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;
- o. location and purpose of all existing and proposed easements;
- p. location and species of proposed street trees, and/or individual trees of 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 plans and profiles must show, in addition to the proposed grade, present elevations of the center line and both sides of proposed streets at fifty (50) foot stations;
- s. approximate proposed location of principal building on each lot to comply with the provisions of the Zoning by-law, whenever uncertainty exists or upon the request of the Board, the Board of Health, of the Conservation Commission;
- t. location of a minimum two (2) benchmarks
- u. suitable space to record the action and signatures of the Board members on each sheet of the Definitive Plan;
- v. location of existing and proposed, underground and overhead municipal utilities, including but not limited to water, sewer, gas and electric, and indicating size, type, and location of easement;
- w. location of subsurface test pits as required by the Board. The Board will not normally require more than one (10 pit per (1) proposed lot, locations to be selected after consultation with the Board of Health and the Conservation Commission;
- x. detail of typical cross-section of roadway showing all features; detail of catch-basin, manhole, headwall, sidewalk, and subdrain;

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 sewerage 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 R&Rs, pursuant to Section 5200, herein.

#### 3340. Environmental Analysis

3341. An Environmental Analysis shall be submitted for any subdivision creating frontage potentially allowing ten (10) or more lots. For small scale projects not to exceed (10) lots, the Board may require such analysis if it determines that unusual or special circumstances relating to a subdivision or its impact exist. The scope of such analysis shall include as much of the following information as determined by the Board to be necessary for plan evaluation. The analysis shall be prepared by a registered Architect, Landscape Architect, Civil Engineer, or combination therein as determined by the Planning Board.

3342. The analysis shall include the following concerns:

- a. Effects upon important wildlife habitats, outstanding botanical features, and scenic or historic environs, and ways of avoiding or mitigating such impacts;
- b. Capability of soils, vegetative cover, and proposed erosion control efforts to support proposed development without danger of erosion, silting, or other instability. Any evidence of surface flooding or drainage difficulties;
- c. Relationship to the requirements of M.G.L.A. ch.131, ss.40 and 40A, as amended (The Wetlands Protection Act);
- d. Traffic safety analysis, including sight distances where proposed streets meet existing ones;
- e. Visual analysis, including impact on views from existing public ways, and methods used to give prominence to natural over man-made features in the landscape, or reasons for not doing so;
- f. For subdivisions average less than 40,000 square foot lot area per dwelling unit, analysis of impact upon ground and surface water quality and level including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the proposed development;
- g. For subdivision located in whole, or in part, within the Water Resource Protection District (s) as provided for in Section 4300 of the Zoning By-laws, analysis of open and closed drainage system alternatives, examining effects upon surface and groundwater quality and supply and upon the concentration and speed of transport of contaminants;
- h. Impact upon municipal services:
  - 1) anticipated impact on schools;

- 2) quantity and temporal distribution of traffic;
- 3) expected population;
- 4) police and fire protection;
- 5) road maintenances;
- 6) snow removal.

#### 3400. REVIEW

3410. Board of Health as to Suitability of the Land. The applicant shall file with the Board of Health two 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 application shall stake all proposed lots and mark proposed lot numbers on said lots for identification to facilitate review by the Board of Health.

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. The Planning Board shall within ten (10) days after submission of a Definitive Plan transmit to the following indicated town officials one (1) print of the Definitive Plan. 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:

- a. 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;
- b. As to location, size and species of street trees: the Tree Warden;
- c. As to the form of easements, covenants, and performance guarantees: the Town Counsel or Special Town Counsel;
- d. As to the location of hydrants, fire ponds, and with regard to fire safety: the Fire Chief;
- e. As to the street safety: the Police Chief;
- f. As to the construction of the street system: the Board of Selectmen or the Highway Superintendent;

- g. As to the development impact upon surface and groundwater quality and supply: the Water Commissioner;

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.. c.41, s81T, as amended. A copy of said notice shall be mailed to the applicant and to all owners of land submitted on Form D – Certified List of Abutters.

#### 3500. PERFORMANCE GUARANTEE

3510. Final Approval with Bond Surety. Before approval of a Definitive Plan, the subdivider 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 ten (1) percent of all of any part of the improvements specified in Section 4000, or follow the procedure set forth in 3520, below. Letters of credit are not acceptable. Passbooks shall be accompanied by a form assigning same to the Town of Bernardston. 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 of security if filled or deposited shall be approved as to form and manner of execution by the Town Counsel or Special Town Counsel, as to sureties by the Town Treasurer, and shall be contingent on the completion of such improvements not later than one (1) year after the occupancy of the first residence, or two (2) years of date of bond or deposit, whichever first occurs. Failure to so complete may constitute grounds for recission of approval by the Board. 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 legal fees, public bidding, and additional town staff time.

3520. Final Approval with Covenant. Instead of filing a bond or depositing surety, the subdivider 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. Covenants and state 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.

#### 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 registered 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 as notified the Board that no appeal has been filed. The Certificate of Approval shall not include acceptance of streets by the Town as public ways, as this approval is obtained by vote at Town Meeting.

3620. Recording of a Plan. Within thirty (30) days after the return of an approved plan, the applicant shall cause to be recorded in the Franklin 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. Release of Bond or Covenant. Fore the Board shall release the interest of the Town in a performance bond or a deposit, or in the case of approval with covenants, issue a release of a covenant, all held pursuant to Section 3500, above, the applicant shall:

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 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 it 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 exposed to one complete winter environment (December 1 – March 31) 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 improvement required under Section 4000, or the performance of any covenant with respect to any lot, the applicant shall send by registered 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 statements 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 refund the bond or deposit to the person who furnished the 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. 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 may submit Form M – Release of Covenant – when applying for the release of a lot from a covenant.

## SECTION 4000. REQUIRED IMPROVEMENTS

### 4100. GENERAL

4110. Design Guidelines. All subdivision 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 100 feet of a waterbody, 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. vehicular use of collector streets to avoid traffic on streets providing house frontages;
- b. visual prominence of the landscape;
- c. legal and physical protection of views from public ways;
- d. use of curvilinear street patterns.

4120. Conformance with Zoning By-law. All lots shown n the plan shall conform with the requirements for area, dimensions, frontage, buildable area, and all other requirements of the Zoning By-law of the Town.

4130. Access to Residential Subdivision.

4131. A way providing access to any residential subdivision must be within the Town limits. Any 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, and 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.

4132. No subdivision plan shall be approved unless the street system shown assures physical access to each lot without reliance on common driveways.

4140. Open Space

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 tat 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 playground use shall not include wetlands, ledge or other land unsuitable for recreation purposes. However, land designated for other recreational or conservation al purposes may include any land determined acceptable by the Board.

4143. Any open space, park, or playground shall provide at least fifty (50) feel 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 drains and appurtenances thereto 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 specification shall conform to the current requirements of the “Commonwealth of Massachusetts, Standard Specifications for Highways and Bridges, Boston, Massachusetts” as supplemented, and shall be under the supervision of the Board, official, or agent designated by the 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. Due consideration shall also be given by the applicant to the attractiveness of the street layout 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.

4213. Subdivision containing ten (10) or more lots shall have at least two (2) noncontiguous street connections with a street or streets either existing or shown on an approved subdivision plan for which a performance guarantee has been filed, unless otherwise authorized by the Board.

4214. 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. Intersections shall be separated by not less than four hundred (400) feet on collector streets, and two hundred (200) feet elsewhere.

4223. Street jobs with centerline offsets of less than one hundred twenty-five feet shall be avoided. The minimum centerline radii of curved streets shall conform to the following:

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

4224. All reverse curves on collector streets shall be separated by a tangent at least one hundred (100) feet in length.

4225. Property lines at street intersections shall be rounded or cut back 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 required at intersections of lanes with minor streets.

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  
Lane: Forty (40) feet right-of-way  
Twenty (20) feet pavement

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: ten (10) percent  
Minor streets: fifteen (15) percent  
Lanes: fifteen (15) percent

4243. All changes of grade exceeding one (1) percent shall be connected by vertical curves of sufficient length to provide the following safe stopping distance for motor vehicle traffic:

Collector streets: 275 feet  
Minor streets: 150 feet  
Lanes: 125 feet

4244. 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 travelled way.

4245. 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.

4246. 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 unstable material required to be removed

4250. Dead-end streets

4251. A dead-end street, whether temporary or permanent, shall not have a centerline length in excess of 800 feet from the travelled edge of the dead-end street, except as provided below. Where the subdivision creates more than ten (10) lots, a dead-end street, whether temporary or permanent, shall not have a centerline length in excess of 500 feet from the travelled edge of the intersecting street to the furthest travelled edge of the dead-end street.

4252. A 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. A dead-end street shall be provided at the closed end with a turn-around having an outside roadway diameter of at least one hundred (100) feet, and a property line diameter of at least one hundred twenty-five (125) feet.

4254. Temporary dead-end streets shall also provide a 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.

4260. Construction of Roadways.

4261. Each street shall be constructed on the centerline of the right-of-way, unless otherwise authorized by the Board.

4262. 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.

4263. Preparation of the Roadway

- a) All material shall be removed for the full length and width of the roadway, to a depth of at least fifteen (15) inches below the finished surface as show on the profile plan; however, if the Board determines that the soil is soft or spongy, or the soil contains undesirable material, such as clay, sand, tree stumps, stones over six (6) inches in diameter, or any other material detrimental to the subgrade, a deeper excavation below the subgrade shall be made per the directions of the Board or its designated agent.
- b) After removal of materials from the roadway, pipes shall be laid.
- c) The excavated area below the subgrade shall be filled to subgrade with clean bank gravel or other well-compacted material, that is of a similar nature as the excavated material and which is satisfactory to the Board or its designated agent.
- d) The entire roadway shall then be rolled, forming the subgrade with a 3/8" per foot crown.

e) An inspection of the subgrade shall be made by the board or its designated agent before any foundation gravel is spread. All underground utilities, including telephone and electricity shall be installed prior to the placing of the roadway surface.

f) The gravel base shall be spread in two layers per the Standard Specification for Highways and Bridges (SSH&B) Section 401.60-Gravel Sub-base.

The bottom layer or eight inches shall be spread and rolled with a gravel meeting SSH&B standard M.1.03.0 type A (no stones over 6 inches in diameter); the top layer of four inches shall be spread and rolled with a gravel meeting SSH&B standard M.1.03.0 type B (no stones over 3 inches in diameter).

g) The roadway shall have a crown of 3/8 inches per foot and be paved with a bituminous pavement to the standards of SSH&B Section 460 – Class 1 Bituminous Pavement. The paving shall consist of a binder course of 2½ inches compacted measure on collector streets, or 1½ inches on other streets, followed by a finish course of 1½ inches compacted measure. All compacting shall be done by a minimum 10-ton roller.

4270. Shoulders. Roadways shall have shoulders in conformance with the following widths:

Collector streets:	5 feet
Minor streets:	5 feet
Lanes:	3 feet.

#### 4300. STORMWATER 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 point along streets, to control erosion, and to intercept stormwater runoff along streets at intervals reasonably related to the extent and grad of the area being drained. Where determined to be appropriate to the Board, stormwater may be carried on the surface of the ground and recharged (herein ‘open systems’) rather than piped to surface water (herein ‘closed system’). Peak stream flows and runoff 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.

4320. Standards. Facility design shall accommodate the following standards:

Storm sewers and swales:	10 year storm
Detention basins:	25 year storm
Culverts, other stream crossings:	50 year storm

All tributary areas shall be assumed to be fully developed in accordance with the zoning By-law unless publicly owned or deed restricted. Calculations shall be based on the Soil Conservation

Service Modified Soil Cover Complex Method, unless the Board waives this requirement for unusually simple circumstances. Water velocities in pipes and paved gutters shall be between two and ten feet per second, and shall not exceed five feet per second on paved surfaces.

4330. Storm Sewers. All drain pipes shall be at least twelve (12) inches inside diameter, and made of reinforced concrete conforming to Massachusetts Department of Public Works (DPW) specifications for Class III pipe, or such higher class as may be required by depth of cover. Depth of cover shall not be less than thirty-six (36) inches.

4340. Structures. Except where drainage swales are used, catch basins shall be required on both sides of the roadway on continuous grade at intervals of not more than 300 feet. Any catch basins and manholes used shall be at least six (6) feet deep and four (4) feet in diameter, using inside measurements. No catch basins shall serve as manholes. Construction shall be of concrete blocks or precast concrete units, plastered on the outside. Manhole covers and grates shall be in conformance with SSH&B Specification 201, designed and placed so as to cause no hazard to bicycles.

4350. Swales. Drainage swales shall have cross-sectional area adequate to carry a 10-year storm, and constructed as follows:

- .75% - 4% slope: 4 inches of loam, seeded
- 4%-10% slope: 4 inches minimum size angular stones to a water depth of one foot, with a twelve (12) inch gravel subbase per SSH&B standard M.1.03.0 Type A

4360. Waterways. Applicant may be required to construct safety fencing around open brooks and tributary ditches during the course of the subdivision construction where slope, bank stability, stream depth, or flow rate cause, in the opinion of the Board, safety hazards.

4370. Connections. Proper connections shall be made with any existing drains in adjacent streets or easements which are found to be adequate to accommodate the drainage flow from the subdivision. In the absence of such facilities, the subdivider shall be required to properly extend drains from the subdivision to dispose of all drainage from the subdivision in a manner approved by the Board, and to secure for the Town any necessary drainage rights.

4380. Excavations. No excavations for storm sewers, catch basins, manholes, or other related facilities shall be backfilled until inspected by the Board or its designated agent.

4390. Floodplain District. All subdivision proposals shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of the proposed subdivision is located within the floodplain district established in the Zoning by-law, currently Section 3430, the proposal shall be reviewed in conformance with the following:

4391. The proposal shall be in conformance with Section 3430 of the Zoning by-law.

4392. The proposal is designed consistent with the need to minimize potential flood damage, including the location and construction of all public utilities and facilities, such as gas, electrical, and water systems.

4393. Adequate drainage systems have been provided to reduce exposure to flood hazards, and base flood elevation (level of the 100-year flood) data shall be provided for proposal where the land to be subdivided exceeds five (5) acres, for that portion within the Floodplain District.

#### 4400. MUNICIPAL SERVICES

4410. Evidence shall be submitted to satisfy the Board of Health that adequate and potable water supply is available for each lot in the subdivision.

4420. Electricity and telephone service shall be provided to each lot. All electrical, telephone and other utility wires shall be placed below ground in a subdivision, unless the Board determines that such placement is not feasible or is not in the best interests of the Town.

4430. 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.

#### 4500. OTHER IMPROVEMENTS

##### 4510. Sidewalks

4511. Required Locations. Sidewalks within street right-of-ways shall be provided as follows:

Collector streets:	one side
Minor streets:	one side
Lanes:	one side

4512. Width and Alignment. Sidewalk pavement shall be five (5) feet wide for all street categories. Except at intersections, sidewalks shall be separated from the travelled 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. The pavement shall be Class 1 Bituminous Pavement rolled to 1½ inches in thickness, with proper cross-slope.

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) in cut; one to one (1:1) where cut is comprised of ledge; three to one (3:1) 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 and natural surroundings as exist, with plantings chosen accordingly.

4530. Street Trees. Street trees, not less than twelve (12) feet in height, or two (2) inches in caliper, and of a species approved by the Board or the Tree Warden, shall be planted on each side of every street in the subdivision, wherever, in the opinion of the Board or the Tree Warden, existing woodlands or suitable individual trees are not retained. Trees shall be located outside exterior street lines, and at such distance there from, and at such spacing as the Board or the Tree Warden shall specify.

4540. Curbing and Berms. Curbing shall be installed on both sides of all streets and may consist of bituminous concrete or other materials as required by the Board. Where open swale drainage is employed, the Board may waive these requirements.

4550. Driveway Entrances. In order to keep surface water from roadways from draining onto individual lots, driveway entrances shall be constructed so that they slope towards the roadway for a minimum distance of four (4) feet, at not less than 1 inch per foot.

4560. Monuments.

4561. Street lines shall have bounds placed at all angle points, at the beginning and end of all curves, and every 1,000 feet on straight sections. Such bounds shall be of solid granite, or reinforced concrete, not less than three feet long and not less than five inches square.

4562. Four major corners of each lot shall be marked with bounds to be of the same quality as specified in Section 4561.

4563. Monuments shall be installed only after all construction which would disturb them has been completed, and shall have their tops a minimum of three inches above final grade surface.

4564. Placement and accurate location of all monuments shall be certified by a Registered Land Surveyor, and indicated on the plan required in Section 3712.

4565. Where it is not possible due to rock or ledge, to install monuments as specified in Sections 4561 and 4562, lead filled drill holes or other acceptable means of permanent monumentation shall be used.

4570. Street Signs. The developer shall provide and erect permanent street signs to designate the name of each street in the development. Said signs shall conform to the specifications of those used by the Town and shall be securely installed by the developer at all street intersections or junctions, at least eight (8) feet above ground level. Streets will be named by the applicant.

4580. Clean-up. 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 artificially created hazards.

4600. Easements

4610. 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. Where a subdivision is traversed by a water course, drainage way, stream, channel, the Board may require that a stormwater 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.

## 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 subdivider at least three (3) full working days in advance by written notice to the Board and its duly authorized representative.

5120. Inspections Required. The subdivider 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 systems: during installation of drain pipes, culverts, catch basins, and all related construction, and prior to any backfilling.

5123. Underground utilities: following laying of telephone, water, sewer, gas, electric 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 paced over until inspected and approved by the Board or its duly authorized representative.

### 5200. VARIATIONS

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

5210. Small Projects. Where the Definitive Plan shows at least 2 lots, but not more than 6 lots, the Planning Board may normally waive some of the requirements for a Definitive Plan, as set forth in Sections 3320 and 3330, and in Section 4000, "Required Improvements," particularly where such Small Projects will be situated on a parcel of more than 15 acres. Nothing in this Section 5210 shall be deemed to require waivers from the Planning Board for any Definitive Plan for a Small Project.

Applicants for Small Project approval should submit a pre-Preliminary Plan for review by the Board pursuant to Section 3100, herein, detailing requested waivers for the development.

5300. REFERENCE

For matters not covered by these Rules and Regulations, reference is made to G.L. c.41, ss81K-81GG, inclusive as amended.

5400. 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.

5500. 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

FORMS A – P

**FORM A**

APPLICATION FOR ENDORSEMENT OF PLAN  
BELIEVED NOT TO REQUIRE APPROVAL



See Section 2400 of the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston. Two (2) copies of this form, filled out and signed, must be submitted to the Planning Board along with the original mylar and five (5) prints of the plan. Fees are \$40 for one lot and \$15 for each additional lot. Make checks payable to *Town of Bernardston*.

To THE PLANNING BOARD:

The undersigned, believing that the accompanying plan of his/her property in the Town of Bernardston does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Law is not required.

Name of Applicant(s): \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Name of Registered Land Surveyor: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Deed of Property Recorded in Franklin County Registry of Deeds:      Book # \_\_\_\_\_ Page # \_\_\_\_\_

Zoning District \_\_\_\_\_ Lot# \_\_\_\_\_ Tax Map# \_\_\_\_\_

Location and description of property by reference to the Tax Map:

\_\_\_\_\_  
\_\_\_\_\_

Board of Appeals/Planning Board decisions pertaining to land or buildings:

\_\_\_\_\_  
\_\_\_\_\_

Reason(s) plan does not constitute a subdivision: \_\_\_\_\_

\_\_\_\_\_

Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_

FORM B

APPLICATION FOR APPROVAL OF A  
PRELIMINARY SUBDIVISION PLAN



See Section 3200 of the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston. Two (2) copies of this form, completed and signed, must be submitted to the Planning Board along with seven (7) prints of the Preliminary Plan. The fees are \$100 plus \$50 for each lot. (These fees will be credited toward the fees required for submission of a Definitive plan.) Please make checks payable to *Town of Bernardston*.

Date of Submission: \_\_\_\_\_

To THE PLANNING BOARD and BOARD OF HEALTH:

The undersigned herewith submits the accompanying Preliminary Plan of a subdivision of property located in the Town of Bernardston, for review and approval under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston.

Name of Subdivider: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Name of Owner of Land: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Owner's Phone #: \_\_\_\_\_

Name of Registered Land Surveyor: \_\_\_\_\_

Surveyor's Address: \_\_\_\_\_

Surveyor's Phone #: \_\_\_\_\_

Deed of Property Recorded in Franklin County Registry of Deeds: Book # \_\_\_\_\_ Page # \_\_\_\_\_

Zoning District \_\_\_\_\_ Map# \_\_\_\_\_ Parcel# \_\_\_\_\_

Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_

**FORM C**

APPLICATION FOR APPROVAL OF A  
DEFINITIVE SUBDIVISION PLAN

See Section 3300 of the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston.

See also Section 3313 for filing requirements with the Board of Health.

Two (2) copies of this form, completed and signed, together with eleven (11) prints of the Definitive Plan, and the original, should be submitted to the Planning Board.

Date of Submission: \_\_\_\_\_

To THE PLANNING BOARD:

There undersigned herewith submit the accompanying Definitive Plan of a subdivision of property located in the Town of Bernardston, for approval under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston.

Name of Subdivider: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Name of Owner of Land: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Owner's Phone #: \_\_\_\_\_

Name of Registered Land Surveyor: \_\_\_\_\_

Surveyor's Address: \_\_\_\_\_

Surveyor's Phone #: \_\_\_\_\_

Deed of Property Recorded in Franklin County Registry of Deeds:      Book # \_\_\_\_\_ Page # \_\_\_\_\_

Location and description of property by reference to the Town Atlas/TaxMap: \_\_\_\_\_

Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_





**FORM E**  
**DESIGNER'S CERTIFICATE**

TO THE PLANNING BOARD:

We hereby certify that the accompanying plan entitled \_\_\_\_\_

\_\_\_\_\_

Dated \_\_\_\_\_ is true and correct to the accuracy required by the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston; that it is a subdivision of (describe locus) \_\_\_\_\_ acres conveyed by \_\_\_\_\_ to \_\_\_\_\_

By a deed dated \_\_\_\_\_ and recorded in the Franklin County Registry of Deeds, Book No. \_\_\_\_\_, Page No. \_\_\_\_\_

\_\_\_\_\_  
Registered Land Surveyor

\_\_\_\_\_  
Registration No.

\_\_\_\_\_  
Registered Professional Engineer

\_\_\_\_\_  
Registration No.

**FORM F**  
RECEIPT FOR DEFINITIVE SUBDIVISION PLAN

Board of Health  
Town of Bernardston, MA

RECEIVED FROM \_\_\_\_\_

- \_\_\_\_\_ (2) Prints of a Definitive Subdivision Plan
- \_\_\_\_\_ (1) FORM C
- \_\_\_\_\_ (1) FORM D
- \_\_\_\_\_ (1) FORM E
- \_\_\_\_\_ (1) Each of Accompanying Documents:
  - \_\_\_\_\_ Statement of Existing Zoning, Easements, Covenants, Restrictions applying to land to be subdivided
  - \_\_\_\_\_ List of Waivers requested from Subdivision Rules and Regulations;
  - \_\_\_\_\_ Logs of results of all test pits made;
  - \_\_\_\_\_ Data and proposed arrangements for water supply, sewerage and sewage disposal;
  - \_\_\_\_\_ Drainage Calculations.
- \_\_\_\_\_ (1) Environmental Analysis (if applicable)

FOR A SUBDIVISION ENTITLED \_\_\_\_\_

---

Application for approval for which has been made to the Planning Board for the Town of Bernardston, and for which prior approval is required by the Board of Health, Town of Bernardston.

\_\_\_\_\_  
By Town of Bernardston Board of Health

\_\_\_\_\_  
Date

**FORM G**  
RECEIPT FOR DEFINITIVE SUBDIVISION PLAN

Planning Board  
Town of Bernardston, MA

RECEIVED FROM \_\_\_\_\_

- \_\_\_\_\_ (2) Prints of a Definitive Subdivision Plan
- \_\_\_\_\_ (1) Reproducible original plan
- \_\_\_\_\_ (1) FORM C
- \_\_\_\_\_ (1) FORM D
- \_\_\_\_\_ (1) FORM E
- \_\_\_\_\_ Filing fee (minus amount of Preliminary Plan filing fee)
- \_\_\_\_\_ (1) Each of Accompanying Documents
  - \_\_\_\_\_ Statement of Existing Zoning, Easements, Covenants, Restrictions applying to land to be subdivided
  - \_\_\_\_\_ List of Waivers requested from Subdivision Rules and Regulations;
  - \_\_\_\_\_ Logs of results of all test pits made;
  - \_\_\_\_\_ Data and proposed arrangements for water supply, sewerage and sewage disposal;
  - \_\_\_\_\_ Drainage Calculations.
- \_\_\_\_\_ (1) Environmental Analysis (if applicable)

FOR A SUBDIVISION ENTITLED \_\_\_\_\_

Application for approval for which has been made to the Planning Board for the Town of Bernardston, and for which prior approval is required by the Board of Health, Town of Bernardston.

\_\_\_\_\_  
By Town of Bernardston Planning Board

\_\_\_\_\_  
Date

**FORM H**  
**LEGAL NOTICE**  
**TOWN OF BERARELSTON**  
**PUBLIC HEARING**

The Planning Board for the Town of Bernardston will hold a Public Hearing on (DATE), 20--, at the Town Hall, Bernardston, MA at (TIME) p.m. to discuss a proposed subdivision of land entitled \_\_\_\_\_, and shown on a plan dated \_\_\_\_\_ and submitted by \_\_\_\_\_. This subdivision consists of \_\_\_\_\_ acres to be divided into \_\_\_\_\_ lots. It is located at \_\_\_\_\_, Town of Bernardston, MA

Plans for the proposed subdivision may be seen at the Town Clerk's office and the Office of the Planning Board during regular business hours.

**FORM I**

**CERTIFICATE OF ACTION  
DEFINITIVE PLAN**

(1) copy of this certification is to be filed with the Town Clerk, for the Town of Bernardston.

\_\_\_\_\_, 20\_\_

This is to certify that the Planning Board for the Town of Bernardston, Massachusetts has this day  
APPROVED WITH MODIFICATIONS or DISAPPROVED a Definitive Plan entitled

\_\_\_\_\_  
\_\_\_\_\_, located at  
\_\_\_\_\_ and submitted by  
\_\_\_\_\_.

Dated: \_\_\_\_\_, 20\_\_.

This Definitive Plan is disapproved or approved with modifications for the following reason(s):

\_\_\_\_\_  
Planning Board  
Town of Bernardston

**FORM J**

**PERFORMANCE BOND – SURETY COMPANY**

\_\_\_\_\_, 20 \_\_\_\_

AGREEMENT made this date between the Town of Bernardston and

\_\_\_\_\_.

KNOW ALL MEN/WOMEN be these presents that \_\_\_\_\_ (hereinafter PRINCIPAL), and \_\_\_\_\_ (hereinafter SURETY), a corporation duly organized and existing under the laws of the State of \_\_\_\_\_, and having a usual place of business in \_\_\_\_\_, hereby binds and obligates himself/itself/his or its executors, administrators, devisees, heirs, successors, and assigns to the Town of Bernardston, a Massachusetts municipal corporation, in the sum of \_\_\_\_\_ dollars.

The condition of this obligation is that the PRINCIPAL shall fully and satisfactorily observe and perform in the manner, and in the time therein specified, all of the covenants, conditions, agreements, terms and provisions contained in the application (FORM C) signed by the PRINCIPAL and dated \_\_\_\_\_, 20 \_\_\_\_, under which approval of a Definitive Plan of a subdivision entitled \_\_\_\_\_ and dated \_\_\_\_\_, 20 \_\_\_\_, has been or is hereafter granted by the Planning Board for the Town of Bernardston, then this obligation shall become void; otherwise said agreement shall remain in full force and effect and the aforesaid sum shall be forfeited by the SURETY and paid to the Town of Bernardston who may use these funds, or any part thereof, to satisfy and complete the obligor's obligations on said subdivision.

The SURETY hereby assents to any and all changes and modifications that may be made of the aforesaid covenants, conditions, agreements, terms and provisions to be observed and performed by the PRINCIPAL, and waived notice thereof.

In witness whereof we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_  
(title)

BY \_\_\_\_\_  
(title)

**FORM K**

**PERFORMANCE BOND – SECURED BY DEPOSIT**

\_\_\_\_\_, 20\_\_\_\_

AGREEMENT made this date between the Town of Bernardston and \_\_\_\_\_

\_\_\_\_\_.

KNOW ALL MEN/WOMEN by these presents that \_\_\_\_\_  
(hereinafter PRINCIPAL), hereby binds and obligates himself/itself/his or its executors, administrator,  
devises, heirs, successors, and assign to the Town of Bernardston, a Massachusetts municipal corporation,  
in the sum of \_\_\_\_\_ dollars and has secured this obligation by the deposit with the  
Treasurer of the Town of Bernardston, Massachusetts, as Bank Book No. \_\_\_\_\_ drawn  
on the \_\_\_\_\_ made out to the Town of Bernardston for  
\_\_\_\_\_ dollars (all), or \_\_\_\_\_  
\_\_\_\_\_ of said to be used to insure that the PRICIPAL shall fully and  
satisfactorily observe and perform in the manner, and in the time therein specified, all of the covenants,  
conditions, agreements, terms and provisions contained in the application (FORM C) signed by the  
PRINCIPAL and dated \_\_\_\_\_, 20\_\_\_\_, under which approval of a Definitive Plan of a  
subdivision entitled \_\_\_\_\_ and dated  
\_\_\_\_\_, 20\_\_\_\_, has been or is hereafter granted by the Planning  
Board for the Town of Bernardston, then this obligation shall become void; otherwise said agreement shall  
remain in full force and effect and the aforesaid sum shall be forfeited by the SURETY and paid to the  
Town of Bernardston who may use these funds, or any part thereof, to satisfy and complete the obligor's  
obligations on said subdivision.

In witness whereof the undersigned has hereunto set his/her hand and seal this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
PRINCIPAL

By \_\_\_\_\_  
(title)

**FORM L**

**STATUTORY COVENANT**

KNOW ALL PERSONS BY THESE PRESENTS that whereas \_\_\_\_\_, having its usual place of business at \_\_\_\_\_, \_\_\_\_\_, MA, is the owner of land for which a petition was filed with the Bernardston Planning Board ("Board" for approval of a certain Definitive Subdivision Plan entitled \_\_\_\_\_: Plan dated \_\_\_\_\_ as revised through \_\_\_\_\_ and prepared by \_\_\_\_\_, and has requested the Board to approve such plan without requiring a performance bond, (see Plan No.: \_\_\_\_\_ of 20 \_\_\_\_\_, Franklin County registry of Deeds, recorded herewith.)

NOW, THEREFORE, WITNESSETH that in consideration of the Board's approving said plan without requiring a performance bond, and in consideration of One Dollar in hand paid, receipt whereof is hereby acknowledged, the undersigned covenants and agrees with the Town of Bernardston as follows:

1. This agreement shall run with the land and shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned. It is the intention of the undersigned and it is hereby understood and agreed that this Covenant shall constitute a covenant running with this land included in the aforesaid subdivision and shall operate as restrictions upon said land.
2. The undersigned will not sell any lot in the subdivision or erect or place any permanent building on any such lot until the construction of ways and the installation of municipal services necessary to adequately serve such lot have been completed in the manner specified in the aforesaid application, and in accordance with the covenants, agreements, terms, conditions, and provision thereof. It is understood and agreed that lots with the subdivision shall, respectively, be released from the foregoing conditions upon the recording of a certification of performance executed by a majority of the Board and enumerating the specific lots so released.
3. The undersigned represents and covenants that it is the owner in fee simple of all of the land included in the aforesaid subdivision and that there are no mortgages described below and subordinated to this covenant and the present holders of said mortgages have assented to this Covenant. A Mortgagee who acquired titles to the mortgaged premises or part thereof may sell any lot subject to the terms and conditions of this Covenant. The undersigned further represents that to the best of its knowledge and belief there are no liens of attachments of encumbrances of any nature save the hereinafter subordinated mortgages, any encumbrances appearing on a certificate of municipal liens issues by the Town of Bernardston, and such easements as are related to the development of the subject property.
4. All drainage facilities and associated structures, including pipe, loaming, and seeding, shall be completed to the satisfaction of the issuance of any Certificate of Occupancy by the Building Inspector.
5. The construction of all ways and the installation of all municipal services shall be completed in accordance with the applicable Rules and Regulations of the Board before \_\_\_\_\_ unless an



extension of time is granted by the Board. Failure to so complete without an extension of time shall automatically rescind approval of the plan.

6. No lot shall be released from the Statutory Covenant pursuant to G.L. c. 41, s.81U and no Certificate of Occupancy shall be granted by the Building Inspector without first obtaining Board of Health approval for a sewage system on the lot. Copies of all approved septic design shall be submitted to the Planning Board for grading approval. If, in order to obtain a permit for an approved disposal system from the Board of Health, fill or grading is required to the extent that, in the opinion of the Planning Board, the drainage pattern would be adversely affected, then the Planning board may require an amended plan and revised drainage calculations.
7. Approval by the planning Board of the Plan shall not be treated as, nor deemed to be, approval by the Board of Health for a permit for the construction and use on any lot of an individual sewage system. No building or structure shall be placed on any lot without consent of the Board of Health.
8. This subdivision will be subject to a Conservation Commission Notice of Intent. Prior to release of any lots, the developer's engineer shall certify that the subdivision plan is consistent with the drainage design and plans as may be finally approved by the Bernardston Conservation Commission or the Massachusetts Department of Environmental Quality Engineering as part of an Order of Conditions. Drainage, erosion, and sedimentation and any other plans which may be finally approved by the Conservation Commission shall be made a part of this subdivision with a sequential identifying sheet number. If there is any inconsistency between the submitted Subdivision Plan and the plans as may be approved by the Conservation Commission, the applicant shall submit an amended plan to the Planning Board for approval. Said amended plan shall be accompanied by a letter setting forth any and all changes from the submitted Subdivision Plan and shall include three (3) sets of revised drainage calculations, if applicable.
9. (reserved for specific requirements)
10. This Covenant shall take effect upon the endorsement of said subdivision plan and shall be recorded with the Franklin County Registry of Deeds; appropriate marginal reference shall be placed on the plan making reference to this Statutory Covenant.

For corporate authority, see Clerk's Certificate at Franklin County Registry of Deeds Book No. \_\_\_\_\_, Page No. \_\_\_\_\_.

Executed as a sealed instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

By: \_\_\_\_\_  
Name and Title

Notarized

SUBORDINATION AND CONSENT

For the consideration paid, the \_\_\_\_\_ of \_\_\_\_\_, the present holder a mortgage of real estate dated \_\_\_\_\_ and record dint he Franklin County Registry of Deeds in Book No. \_\_\_\_\_, Page No. \_\_\_\_\_, and holder of construction mortgage, security agreement, assignment of rents and leases, etc. ) hereby consents to the grant of said Statutory Covenant and subordinates said security instruments to the Statutory Covenant shall have the same status, force, and effect as through executed and recorded before the execution and recording of said security instruments.

IN WITNESS WHEREOF, the said \_\_\_\_\_ has caused its corporate seal to be hereto affixed and these presents signed, acknowledged, and delivered in its name and behalf by \_\_\_\_\_, its \_\_\_\_\_ hereto duly authorized this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

BANK OR LENDER

By:

\_\_\_\_\_  
Name and Title

Notarized

**FORM M**

**CERTIFICATE OF PERFORMANCE**

\_\_\_\_\_, 20 \_\_\_\_

THE UNDERSIGNED, being a majority of the Planning Board of the Town of Bernardston, Massachusetts, hereby certify that the requirements for work on the ground called for by the Restrictive Covenant dated \_\_\_\_\_, 20 \_\_\_\_\_, and recorded in the Franklin County Registry of Deeds, Book No. \_\_\_\_\_, Page No. \_\_\_\_\_, have been completed to the satisfaction of the Planning Board as to the following designated lots: \_\_\_\_\_

\_\_\_\_\_

Shown on a Plan entitled \_\_\_\_\_, and dated \_\_\_\_\_, 20 \_\_\_\_\_ and recorded with the Franklin County Registry of Deeds, Book No. \_\_\_\_\_, Page No. \_\_\_\_\_, and said lots are hereby released from the restrictions as to sale and building specified thereon.

Planning Board for the Town of Bernardston, Massachusetts

BY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss. \_\_\_\_\_, 20 \_\_\_\_

Then personally appeared \_\_\_\_\_, one of the above named members of the Planning Board for the Town of Bernardston, Massachusetts and acknowledged the foregoing instrument to be the free act and deed of said planning board, before me.

\_\_\_\_\_

**FORM N**

**RELEASE OF LOTS  
PROVISION OF SURETY**

\_\_\_\_\_, 20 \_\_\_\_

THE UNDERSIGNED, being a majority of the Planning Board of the Town of Bernardston, Massachusetts, hereby certify that sufficient surety, in the opinion of the Town Treasurer, has been provided for the cost of the completion of the ways and certain services necessary to provide access and services to certain lots, hereinafter designated, in accordance with the provision of the Restrictive Agreement date, \_\_\_\_\_, 20 \_\_\_\_, and recorded in the Franklin County Registry of Deeds, Book No. \_\_\_\_\_, Page No \_\_\_\_\_, said lots being shown on a plan entitled

\_\_\_\_\_  
\_\_\_\_\_,  
recorded with the Franklin County Registry of Deeds, Book No. \_\_\_\_\_, Page No. \_\_\_\_\_ and said lots are hereby released from the restrictions as to sale and building specified in said Restrictive Agreement.

Lots designated on said Plan, released hereunder: \_\_\_\_\_

Planning Board for the Town of  
Bernardston, Massachusetts  
BY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FORM O**

**SUBDIVISION INSPECTION CHECKLIST**

Name of Subdivision: \_\_\_\_\_

Name of Road: \_\_\_\_\_

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_, 20 \_\_\_\_\_

Subject of Inspection	Initials of Agent	Date of Inspection
1. Clearing of right-of-way	_____	_____
2. Sub-grade preparation	_____	
3. Below-grade drainage		
4. Sanitary sewer installation		
5. Water installation		
6. Fire alarm installation		
7. Gravel base		
8. Curb installation		
9. Binder course		
10. Surface drainage		
11. Bern installation		
12. Sidewalk construction		
13. Bicycle path construction		
14. Street trees and planting		
15. Grass strips		
16. Street lights		
17. Street signs and monuments		
18. Final clean-up		
19. Wearing course		
20. Final inspection at end of two (2) years		

**FORM P**

**CERTIFICATION of BOUNDS**

I hereby certify that permanent monuments have been accurately installed on \_\_\_\_\_ and are located as described and shown on the “As Built” plan, dated \_\_\_\_\_, 20\_\_\_\_\_ of said roadway submitted to the Planning Board, Town of Bernardston, Massachusetts as required by Section 3700 of the Rules and Regulation Governing the Subdivision of Land in the Town of Bernardston.

Signature \_\_\_\_\_  
Registered Land Surveyor

RESPONSIBILITIES OF DEVELOPERS AND PLANNING BOARDS IN REVIEW OF APPROVAL NOT REQUIRED PLANS;  
PRELIMINARY AND DEFINITIVE PLANS UNDER THE RULES AND REGULATIONS GOVERNING THE SUBDIVISION  
OF LAND IN THE TOWN OF BERNARDSTON, MASSACHUSETTS

EFFECTIVE 6/28/1988

RESPONSIBILITIES OF DEVELOPERS AND PLANNING BOARDS IN REVIEW OF APPROVAL NOT REQUIRED (ANR) PLANS UNDER M.G.L. c.41, SECTION 81P

The Developer	Authority	The Planning Board	Authority
1) Applicant determines if proposed division of land constitutes a subdivision under the meaning of G.L. c.41, section 81L. If NOT, applicant may file an ANR plan with PB			
2) Submission of an ANR Plan A. Applicant files with Town Clerk i. Written notice of ANR submission (Form A) ii. Method: - Hand delivery or - Registered mail	G.L. C. 41, s. 81T	2. Submission of an ANR Plan	G.L. c.41, s.81T
B. Applicant files with PB: i. 5 copies of ANR plan ii. 2 copies of Form A iii. Evidence indicating a finding of ANR status iv. Filing fee in accordance with fee schedule	R&R 2410 (see R&R 2260)	B. PB reviews submittals to determine if the project is of an ANR status by assessing: - if road providing access to ANR site is adequate for fire/police/emergency vehicles - if frontage will provide actual access from the public way to the site; - if each lot has frontage on a public way	Retig v. PB of Rowley  Gifford v. PB of Nantucket & Gallitano v. Bd of Survey and Planning of Waltham  G.L. c.41 s 81L
3) Determination of ANR status A. Upon Approval of ANR status, applicant must record plan with Registry of Deeds	G.L. c.41, s. 81P	3) Determination of ANR status A. If PB determines that plan is an ANR, PB must endorse approval without conditions or modifications and i. forward a written statement to Register of Deeds, signed by a MAJORITY of Board indicating ANR	G.L. c. 41, s.81P



		approval	
B. Upon denial of ANR status, applicant may: i) Submit Plan for review and approval under subdivision R&R, or ii) Appeal determination to Superior Court TIME FRAME: - within (20) days of recordation of PB's determination with Town Clerk - within expiration of time period for PB action	G.L. c.41, s. 81P G.L. c.41, s. 81P G.L. c. 41, s. 81BB	B) If PB denies ANR status, PB must, i. Notify Town Clerk; ii. Notify applicant (Method: written notice, Time Frame: within 14 days of ANR plan submittal)	G.L. c. 41, s. 81P
		c) Failure by PB to: - notify Town Clerk or applicant of its action within (14) days after submission of plan will result in a finding of ANR status for the Plan	G.L. c.41, s. 81P

**RESPONSIBILITIES OF DEVELOPERS AND PLANNING BOARDS IN THE SUBDIVISION REVIEW PROCESS:  
PRELIMINARY SUBDIVISION PLAN AND REVIEW**

The Developer	Authority	Planning Board	Authority
1. Voluntary submission of Pre-preliminary Plan to Planning Board	R&R 3100	1. Voluntary review of Pre-Preliminary Plan submittals	R&R 3100
2. Applicant must determine if Preliminary Plan is required to be submitted A. If development is proposed in: i) residential zone: OPTIONAL ii) non-residential zone: MANDATORY	G.L. c.41, s.81S	2. PB Reviews Applicant's determination of whether submission of Preliminary Plan is optional of mandatory	G.L. c.41, s.81S
3. Submission of Preliminary Plan A. Applicant submits to Town Clerk i) Written Notice of Preliminary Plan submission (Form B) ii) METHOD: - Hand delivery OR - Registered mail	G.L. c. 41, s. 81T & R&R 3200	3. Submission of Preliminary plan A. PB deems Preliminary Plan submitted when all forms, fees and statements accompanying plan are filed i) at a regularly scheduled business meeting, OR ii) filed with the PB at the Town Hall	R&R 3200

<p>B. Applicant submits to PB:</p> <ul style="list-style-type: none"> <li>i) 2 copies – FORM B &amp; all accompanying documents (i.e., existing zoning, easements, list of waivers)</li> <li>ii) (7) copies of Preliminary Plan</li> <li>iii) Applicant fee in accordance with fee schedule</li> <li>iv) METHODS: <ul style="list-style-type: none"> <li>- filing at a regularly scheduled business meeting</li> </ul> </li> </ul>	<p>G.L. c.41, S. 81S &amp; R&amp;R 3220; 3221</p> <p>R&amp;R 2260</p>	<p>B. PB reviews the Preliminary Plan</p> <ul style="list-style-type: none"> <li>i) Town-retained Consulting Engineer reviews plan</li> <li>ii) If the plan fails to conform to zoning by-laws, or subdivision R&amp;R, PB must return plan to applicant, with reasons for non-compliance indicated</li> </ul>	
<p>C. Applicant submits to BoH:</p> <ul style="list-style-type: none"> <li>i) Form B and all accompanying documents</li> <li>ii) (3) copies of Preliminary Plan</li> <li>iii) METHOD: <ul style="list-style-type: none"> <li>- Filing with PB, who will submit plan to BOH</li> </ul> </li> </ul>	<p>G.L. c.41, s. 81S</p>	<p>C. BOH reviews the Preliminary Plan</p> <ul style="list-style-type: none"> <li>i) If the plan fails to conform tot BoH R&amp;R's, BOH must return plan to applicant with reasons for non-compliance indicated.</li> <li>ii) BoH must notify Town Clerk of its decision</li> <li>iii) METHOD: registered mail</li> </ul>	<p>G.L. c.41, s 81s</p>
<p>4. Scheduling of Site Visit</p> <p>A. Applicant's obligations</p> <ul style="list-style-type: none"> <li>i) temporary staking of all proposed roads within sub-dividable parcel</li> <li>ii) accompany PB officials on site visit</li> </ul>	<p>R&amp;R 3230</p>	<p>4. Scheduling of Site Visit</p> <p>A. PB's Obligations:</p> <ul style="list-style-type: none"> <li>i) schedule date of site visit</li> <li>ii) note location of road s &amp; additional information helpful for later review</li> </ul>	<p>R&amp;R 3230</p> <p>At PB's option</p>
<p>5. Applicant submits proposed security arrangements to PB for discussion <u>prior</u> to submission of Definitive Plan</p>	<p>R&amp;R 3222</p>	<p>5. PB allocates time to PB business meeting agenda to discuss preliminary plan</p> <p>WHEN: after receipt of engineer's report</p>	<p>R&amp;R 3230</p>
		<p>6. PB issues Approval of Disapproval of Preliminary Plan</p> <p>A. Decisional Alternatives:</p> <ul style="list-style-type: none"> <li>i) Approval WITH modifications</li> <li>ii) Approval with no modifications, OR</li> <li>iii) Disapproval</li> </ul>	<p>G.L. c.41, s. 81S &amp; R&amp;R 3240</p>
		<p>B. If approval (with/without modifications) or disapproval, PB must:</p>	

		<ul style="list-style-type: none"> <li>i) return (1) copy of plan to applicant;</li> <li>ii) provide written reasons for modifications or disapproval;</li> <li>iii) notify Town Clerk of PB decision</li> </ul>	
		<p>C. Time period for Notice of Decision:</p> <ul style="list-style-type: none"> <li>i) Town Clerk: upon date of decision OR within (2) days</li> <li>ii) Applicant: (7) days from Notice to Town Clerk</li> </ul>	R&R 3240
		D. Total review period of (45) days from submission of Preliminary Plan	G.L. c.41, S. 81S, as amended

**RESPONSIBILITIES of DEVELOPERS and PLANNING BOARDS in the SUBDIVISION REVIEW PROCESS:  
DEFINITIVE PLAN SUBMISSION and REVIEW**

The Developer	Authority	The Planning Board	Authority
1. Applicant may incorporate any modifications indicated on Preliminary Plan by the PB in drafting Definitive Plan			
<p>2. Submission of Definitive Plan</p> <p>A. Applicant submits to Town Clerk:</p> <ul style="list-style-type: none"> <li>i) Written notice of Definitive plan submission</li> <li>ii) Copy of Application Form (Form C)</li> <li>iii) METHOD: <ul style="list-style-type: none"> <li>- Hand delivery</li> <li>- Registered mail</li> </ul> </li> </ul>	G.L. c.41, s. 81T & R&R 3312	2. Submission of Definitive Plan	G.L. c.41, s. 81T
<p>B. Applicant submits to PB:</p> <ul style="list-style-type: none"> <li>i) (11) prints of Definitive Plan</li> <li>ii) (1) each of Accompanying Forms: <ul style="list-style-type: none"> <li>- Applicant (Form C)</li> <li>- Abutters List (Form D)</li> </ul> </li> </ul>	R&R 3310	<p>B. PB deems Definitive Plan submitted when all forms, fees and statements accompanying the plan are filed at a regularly scheduled business meeting</p> <p>PB reviews the Plan to ensure compliance with subdivision R&amp;R's</p>	

<ul style="list-style-type: none"> <li>- Designer's Certificate (Form E)</li> <li>iii) (4) each of accompanying statements: <ul style="list-style-type: none"> <li>- existing zoning, easements, covenants, &amp; restrictions relating to parcel</li> <li>- list of requested waivers</li> <li>- log results from test pits</li> <li>- proposed arrangement for: water supply and sewerage</li> </ul> </li> <li>iv) Environmental analysis (if applicable)</li> <li>v) Filing fee (minus credits applied if applicant filed a Preliminary Plan)</li> </ul>	<p>R&amp;R 3330</p> <p>G.L. c.41, s.81r</p> <p>R&amp;R 3340</p> <p>R&amp;R 3310; 2260</p>	<p>i) If plan fails to conform, PB must return Plan to applicant with reasons for non-compliance noted</p>	<p>R&amp;R 3311</p>
<p>C. Applicant submits to BoH</p> <ul style="list-style-type: none"> <li>- (2) copies of the Definitive Plan</li> <li>- (1) copy each: <ul style="list-style-type: none"> <li>Applicant (Form C)</li> <li>Abutters List (Form D)</li> <li>Designer's Certificate (Form E)</li> </ul> </li> </ul>	<p>R&amp;R 3313</p>		
<p>3. Review of the Definitive plan</p> <p>A. PB strongly suggests the applicant to work with abutters to negotiate an acceptable plan</p>		<p>Review of the Definitive Plan</p> <p>A. BoH Review:</p> <ul style="list-style-type: none"> <li>- (1) written approval of disapproval WITH REASONS sent to PB and applicant</li> <li>- Time period for Notice of Decision → within 45 days from date Definitive Plan is submitted to the BoH</li> <li>- Failure of BoH to act within (45) day period results in a finding of approval (approval by failure to report must be noted on the Plan)</li> </ul>	<p>G.L. c.41, s.81U</p> <p>G.L. c.41, s81U &amp; R&amp;R 3410</p> <p>G.L. c.41, s81U</p>
		<p>B. PB consultation with other town boards/agents. PB must transmit (1) copy of Definitive Plan to following officials within (10) days of receipt:</p> <ul style="list-style-type: none"> <li>- Consulting engineer</li> <li>- Tree warden</li> <li>- Fire Chief</li> </ul>	<p>G.L. c.41, s81U</p> <p>R&amp;R 3430</p>

		<ul style="list-style-type: none"> <li>- Police Chief</li> <li>- Board of Selectmen or Highway Superintendent</li> <li>- Water commissioners</li> <li>- Conservation Commission</li> </ul> <p>PB must obtain WRITTEN signoff of review of the Plan from each of the above-indicated Boards or Agents</p>	
		<p>C. PB Review:</p> <ul style="list-style-type: none"> <li>i) PB must hold a public hearing</li> <li>ii) Time Period for Decision <ul style="list-style-type: none"> <li>- within 90 days from date Notice of Submission is filed with Town Clerk, so hearing scheduled...</li> </ul> </li> <li>iii) Notice requirements: Content, time, place, subject matter</li> <li>iv) METHOD: newspaper advertisement; duration → once each for (2) successive weeks, first publication at least (14) days prior to day of public hearing</li> <li>v) Mail notice to applicant and Form D abutters</li> </ul>	G.L. c.41, s. 81U
		<p>4. Approval/Disapproval of Definitive Plan</p> <p>A. Approval/Disapproval procedure</p> <ul style="list-style-type: none"> <li>i) PB may take final action on a Definitive Plan after: <ul style="list-style-type: none"> <li>- receipt of BoH report, or</li> <li>- lapse of 45 day BoH reporting period, AND</li> <li>- AND holding of public hearing</li> </ul> </li> <li>ii) Any action on Plan will be by MAJORITY VOTE of PB: <ul style="list-style-type: none"> <li>- all votes certified; with reasons for modifications or disapproval</li> </ul> </li> </ul>	G.L. c.41, S 81U  R&R 3610
		<ul style="list-style-type: none"> <li>iii) PB may waive strict compliance with R&amp;Rs if</li> </ul>	



where parcel is located		<ul style="list-style-type: none"> <li>• inscribe covenant on Plan OR</li> <li>• set out covenant in a separate instrument referred to on the Plan</li> </ul>	
NO FINAL ENDORSEMENT UNTIL EXPIRATION OF (20) STATUTORY APPEAL PERIOD TO SUPERIOR COURT UNDER G.L. CH 41, SECTION 81V			
6. Endorsement of Definitive Plan		6. Endorsement of Definitive Plan A. Once Performance Guarantees are negotiated the PB may give final approval when: <ol style="list-style-type: none"> <li>conditions are satisfied (if imposed on Plan) and,</li> <li>Endorsement: PB members signature on Plan</li> <li>Upon Final Endorsement, PB must return plan to applicant</li> </ol>	R&R 3600  G.L. c.41, s. 81V
7. Recording of Definitive Plan A. Applicant's obligation: <ol style="list-style-type: none"> <li>Record plan in the Registry of Deeds for the county where the parcel is located:             <ul style="list-style-type: none"> <li>• (1) copy of the Definitive Plan</li> <li>• (1) copy of all agreements and covenants</li> </ul> </li> <li>Time Period             <ul style="list-style-type: none"> <li>• within (30) days after return of approved plan</li> </ul> </li> </ol>	G.L. c.41, s.81x  R&R 3620	7. Recording of a Definitive Plan	
B. Applicant files with PB: <ol style="list-style-type: none"> <li>(5) copies of Definitive Plan, (1) of which is certified by Registry of Deeds</li> <li>(1) certified copy of all agreements, covenants</li> </ol>	R&R 3620		
C. Applicant files with Building Inspector: <ol style="list-style-type: none"> <li>(1) copy of the Definitive Plan</li> </ol>			
8. Satisfaction of Performance Guarantees A. Applicant's obligations: <ol style="list-style-type: none"> <li>File with PB:             <ul style="list-style-type: none"> <li>• Certified copy of 'As built' street layout plan (Certified by RPE), Indicate: streets and municipal services built in accordance with definitive Plan</li> </ul> </li> </ol>	G.L. c.41, s.81U  R&R 3711	8. Satisfaction of Performance Guarantees A. PB's obligations: <ol style="list-style-type: none"> <li>PB Review:             <ul style="list-style-type: none"> <li>• 'As built' plan submittal to confirm applicant/RPE's conclusion that street layout is in accordance with Definitive Plan</li> </ul> </li> </ol>	G.L. c.41, s.81U  R&R 3711

<ul style="list-style-type: none"> <li>• Written evidence that required improvements have been completed to satisfaction of Town boards/Agent</li> <li>• Written evidence that all required improvements have been exposed to winter environment; with any resulting damage repaired to satisfaction of PB</li> </ul>	<p>R&amp;R 3713</p>	<ul style="list-style-type: none"> <li>• Written evidence to confirm PRE/Applicant's conclusion that all required improvements have been completed to satisfaction of Town Boards/Agent</li> <li>• Written evidence to confirm results of winter exposure to required improvements</li> </ul>	<p>R&amp;R 3712  R&amp;R 3713</p>
<p>9. Release of Performance Guarantees</p> <p>A. Applicant's obligations:</p> <p>i) Send to Town Clerk, written statement of Form M, (if seeking release) of lots from covenant) executed in duplicate, that all required improvements are completed:</p> <ul style="list-style-type: none"> <li>• METHOD: Registered mail</li> <li>- Contents: name/address of applicant, date of filing with the Town clerk</li> <li>*Town Clerk will furnish copy of statement to PB</li> </ul> <p>b. Applicant will be required to record such certificate (of failure to act) issued by Town Clerk</p>	<p>G.L. c.41, s.81U &amp; R&amp;R 3800; 3810</p>	<p>9. Release of Performance Guarantees</p> <p>A. PB's obligations:</p> <p>i) Review written statement of FORM M evidencing completion of required improvements</p> <p>ii) Determine if construction required improvements have been completed</p> <ul style="list-style-type: none"> <li>• IF COMPLETED: PB release interest in Bond or issue release of covenant</li> <li>• IF NOT COMPLETED: PB must indicate in writing why construction is not deemed completed.</li> <li>• Notify: Applicant &amp; Town Clerk</li> <li>• METHOD: Registered mail</li> </ul> <p>iii) TIME PERIOD: within (45) days after receipt of statement by Town Clerk</p> <ul style="list-style-type: none"> <li>• Failure to notify Applicant withing time period results in the release of a ll interests in bind or the voiding of all covenants</li> </ul>	<p>See: R&amp;R 4000</p> <p>G.L. c.41, s.81U</p>