



TOWN OF NEW MARLBOROUGH

Town Offices - Town Hall

MILL RIVER, MASS. 01244

Southern Berkshire Registry of Deeds
334 Main Street, Suite #2
Great Barrington, MA 01230-1894

June 30, 2011

To The Register of Deeds,

This is to attest that the New Marlborough Planning Board, acting in accordance with Chapter 41, Section 81-Q, Subsection B, did on April 16, 2011, conduct a Public Hearing on amendments to the *Rules and Regulations Governing the Subdivision of Land in New Marlborough, Massachusetts*, and did on the same date, unanimously adopt the amendments pertaining to Definitions, Fees, Procedures for Submission of Plans, Design Standards for subdivision roads, and Common Driveways.

The New Marlborough Planning Board hereby files with you a true copy of the amended and adopted *Rules and Regulations Governing the Subdivision of Land in New Marlborough, Massachusetts*.

Yours truly,

The Undersigned Members of the New Marlborough Planning Board,

James Mullen, Chairman

Patricia Hardyman

Holly Morse

Attested by

Katherine M. Chretien, Town Clerk

Date:

June 30, 2011

Rules and Regulations

Governing the Subdivision of Land in New Marlborough, Massachusetts

Subdivision Control Law, Mass. General Law Chapter 41, Sections 81-K to 81-GG inclusive accepted by New Marlborough Town Meeting: April 16, 2011

Adopted Regulations: December 3, 1993 (New Marlborough Planning Board)

Amended Regulations: _____

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2011 Revision was by Wayne Feiden, FAICP, Feiden Associates, with assistance and funding from the Highland Communities Initiative of the Trustees of Reservations

Massachusetts Subdivision Control Law MGL c. 41 §81K to 81GG) Excerpts

These excerpts are of those portions of the Subdivision Control Law that are most often discussed. It is provided here for information only and is not a part of these Subdivision Regulations nor is it an attempt to provide a summary of state law. Users are advised to read the statute for further assistance.

Definitions

Subdivision and Approval Not Required (ANR): “‘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 (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon...” {Editor’s note: What state law (above) says is NOT a subdivision is what is generally referred to as an Approval Not Required (ANR) plan.}

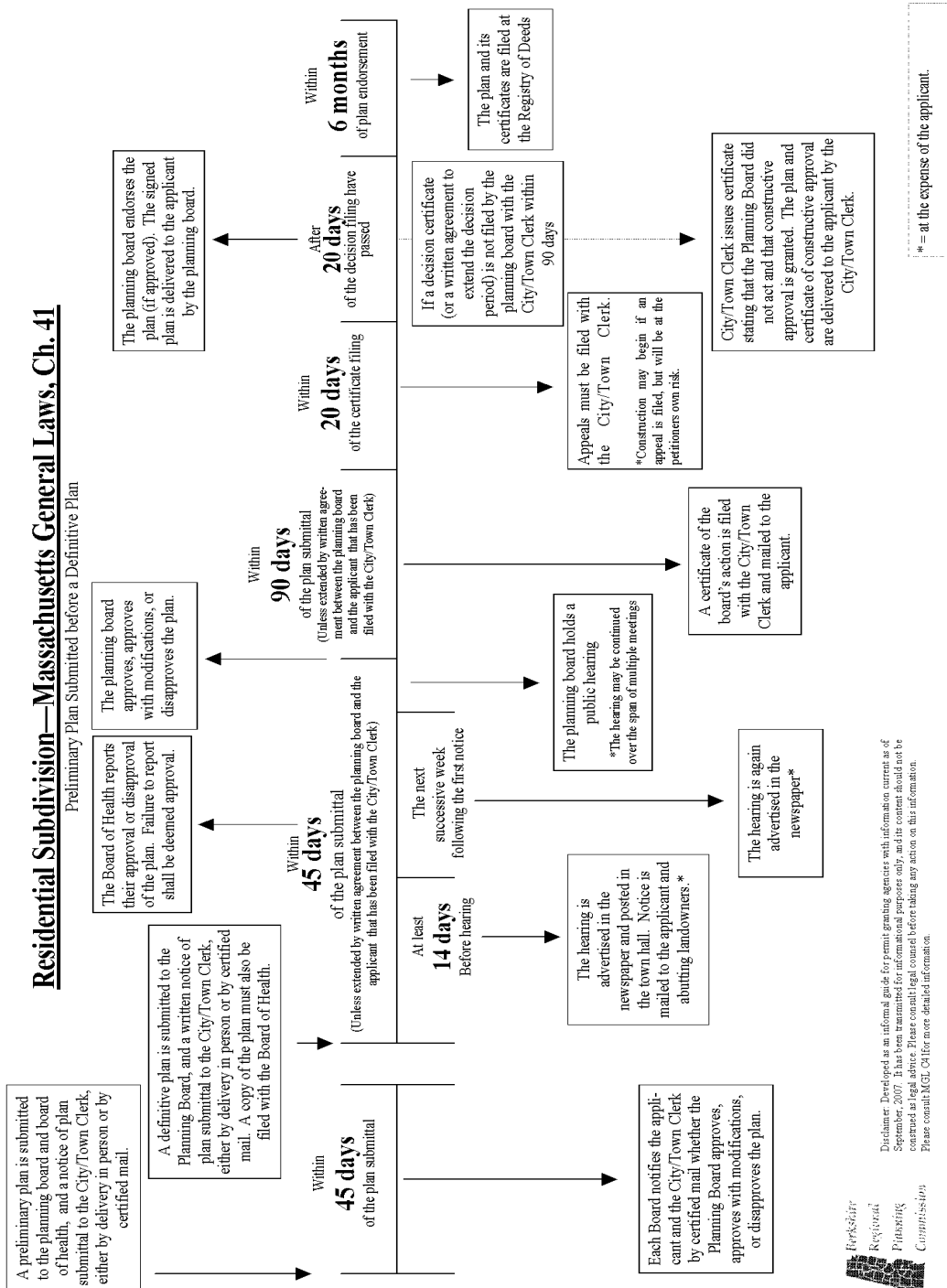
Time Limits: Approval Not Required Plans: “...If the board fails to act upon a plan submitted under this section or fails to notify the clerk of the city or Town and the person submitting the plan of its action within twenty-one days after its submission, it shall be deemed to have determined that approval under the subdivision control law is not required...”

Preliminary Plans: “Within forty-five days after submission of a preliminary plan, each board shall notify the applicant and the clerk of the city or town, by certified mail, either that the plan has been approved, or that the plan has been approved with modifications suggested by the board or agreed upon by the person submitting the plan, or that the plan has been disapproved and in the case of disapproval, the board shall state in detail its reasons therefore. The Planning Board shall notify the city or Town clerk of its approval or disapproval, as the case may be.

Definitive Plans: “After the hearing required... and after the report of said health board or officer or lapse of forty-five days without such report, the planning board shall approve, or, if such plan does not comply with the subdivision control law or the rules and regulations of the planning board or the recommendations of the health board or officer, shall modify and approve or shall disapprove such plan. In the event of disapproval, the planning board shall state in detail wherein the plan does not conform to the rules and regulations of the planning board or the recommendations of the health board or officer and shall revoke its disapproval and approve a plan which, as amended conforms to such rules and regulations or recommendations. The planning board shall file a certificate of its action with the...Town clerk, a copy of which shall be recorded by him in a book kept for the purpose, and shall send notice of such action by registered mail, postage prepaid, to the applicant at his address stated on the application...The failure of a planning board either to take final action or to file with the... Town clerk a certificate of such action on the definitive plan within ninety days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the planning board with the city or Town clerk.”

Massachusetts Subdivision Timeline

This section is from a timeline prepared by the Berkshire Regional Planning Commission to illustrate the timeline from the Massachusetts Subdivision Control Law, MGL Chapter 41, Sections 81K to 81GG. It is provided here for information only and is not a part of these Subdivision Regulations. Please note that the subdivision regulations require the applicant to provide certain information (wetlands delineations, historic commission signoffs) that must be completed PRIOR to submitting a definitive plan, and therefore prior to the start of the timelines noted below.



Section 1: Purpose, Authority, and Legal Statements

- 1.1 Purpose:** The subdivision control law has been enacted for the purpose of protecting the environment, natural resources, character, public health, safety, convenience and welfare of the Town of New Marlborough by regulating the laying out and construction of ways and their infrastructure within. The powers of a planning board and of a board of appeal under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision for water, sewerage, drainage and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or Town in which it is located and with the ways in neighboring subdivisions. It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of such board if said plan conforms to the recommendation of the board of health and to the reasonable rules and regulations of the planning board pertaining to subdivision of land; provided, however, that such board may, when appropriate, waive, as provided for in section eighty-one R, such portions of the rules and regulations as is deemed advisable. (Expanded from MGL C. 41.)
- 1.2 Authority:** Under the authority vested in the Planning Board of the Town of New Marlborough by Section 81-Q of Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of New Marlborough as amended. These regulations should be read in conjunction with the Subdivision Control Law and do not repeat requirements or definitions of that law.
- 1.3 Validity/Severability:** The invalidity of any section, paragraph, clause or provision of these Rules and Regulations shall not invalidate any other section, paragraph, clause or provision therein.
- 1.4 Relationship to Building Inspector and Other Bylaws and Regulations:** Whenever these Rules and Regulations made under the authority hereof differ from those prescribed by any local Bylaw or regulations, the provision that imposes the greater restriction or the stricter standard shall govern. The Building Inspector shall issue no building permits for any of the lots of any subdivision unless and until the applicant provides both the Building Inspector and the Planning Board written documentation the approved subdivision plans and documents have been properly recorded at the Registry of Deeds or Land Court, as appropriate, and are in the chain of title for the locus property. The Building Inspector shall not issue any temporary or permanent Occupancy Permit for any of the lots of the subdivisions unless notified in writing by the Planning Board that the subdivision is in compliance with the subdivision regulations and the definitive plan approval.

Section 2: General and Approval Not Required Plans

2.1 Definitions

Adequate Access: The provision of access to all building lots by ways (including ways leading to a subdivision) that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws; and for securing adequate provisions for fire, police, and other municipal equipment.

Engineer: A professional engineer licensed by the Commonwealth of Massachusetts.

Frontage: That boundary of a lot which lies along a public or private road, but not along a common driveway, measured where the lot has a depth of at least twenty feet from the street line, and which contains at least one physically suitable point of access into the lot at a location that provides safe and adequate sight distance.

Preliminary Plan: As defined in MGL C. 41 and as herein described.

Public Road: A road, street, or way open to use by the general public and owned and/or maintained by the Town of New Marlborough, an adjoining Town, or the Commonwealth of Massachusetts.

Subdivision: As defined in MGL C. 41.

Surveyor: A surveyor licensed by the Commonwealth of Massachusetts.

Town Engineer: An engineer retained by the Town to review applications submitted under these Regulations.

2.2 Plan Believed Not to Require Approval Submission (ANR)

Any person wishing to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land who believes that their plan does not require approval under the subdivision control law may submit their plan to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or certified mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefore.

When the plan represents an existing parcel with no new lot lines and is so certified by a registered land surveyor in accordance with MGL 41 §81X, no Planning Board ANR endorsement is required and the survey may be recorded at the Registry.

2.3 ANR Plan Contents:

In addition to the information commonly contained in plans of land prepared for recording in the registry, such plans shall include:

- a. A 24" by 36" Mylar and six prints of the survey plans prepared, signed, and stamped by a Massachusetts Registered Land Surveyor at 1"=100' or greater showing:

1. True north arrow, date, scale, legend, and title, "subdivision approval not required;"
 2. Name and address of property owner and the surveyor;
 3. All buildings owned by subject landowner(s) within 100' of any newly created property lines;
 4. Any land use district boundaries established by the Protective Bylaw; and
 5. A notice on the plans that states that Planning Board endorsement of the plan does not indicate that the lot is buildable.
- b. An index of the different plan sheets, if more than one plan is used.
 - c. A locus plan showing where the site is within the Town of New Marlborough.
 - d. Two copies of a completed New Marlborough Approval-Not-Required Application.
 - e. The fee of \$150 per newly created lot, payable to the Town of New Marlborough.
 - f. Electronic copies of said plan which meet the current version of the "Mass GIS Standard for Digital Plan Submission to Municipalities" meeting the requirements for Level I submission standards. Electronic copies must be submitted and must be accompanied by the completed checklist required in the Mass GIS standard. The Planning Board will consider requests to waive this requirement.
 - g. Documentation that each lot on the plan and any parcel altered by the plan meets the requirements of the Protective Bylaw as to minimum area and frontage, and that the required frontage is on:
 1. A public road or a road which the Town Clerk certifies is maintained and used as a public road (as defined by § 81-L of MGL C. 41), or
 2. A road shown on a plan which has previously been approved and endorsed by the Planning Board in accordance with the subdivision control law (as defined by § 81-L of MGL C. 41), or
 3. A way in existence when the subdivision control law became effective in New Marlborough and having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction. (See Section 81-L of Chapter 41, MGL for details.)

2.4 ANR Plan Review

- a. In determining whether a plan complies with the purpose of the subdivision control law as to the provision of adequate access to all of the lots by roads which are safe and convenient to travel, the plan must show, among other things, that buildable parts of lots are accessible from their respective borders from the road shown on the plan, and that there is no intent to provide access to any lot by a road not shown on the plan which would constitute a subdivision within the meaning of the subdivision control law.
- b. In determining whether a road has been used and 'maintained as a public road,' the Town Clerk shall submit to the Planning Board written evidence of public maintenance under vote of the Town and of continued substantial use by the general public without permission of the landowners along the way, continuous for at least twenty (20) years.
- c. In determining whether any existing road is adequate to qualify a plan as not constituting a subdivision, the Planning Board shall consider the following conditions, among others:
 1. Is the right-of-way at least forty feet (40') wide and of reasonable horizontal alignment?
 2. Does the existing horizontal and vertical, alignment of the roadway provide safe visibility?
 3. Is the travelled road constructed at least eighteen feet wide, with at least eight feet (8') of gravel, and with adequate provisions for drainage?
 4. If the road could ever serve more than two dwelling units, is the surfacing adequate without further improvements?

- d. If, in the opinion of the Planning Board, access roads leading to a proposed subdivision do not provide adequate access as defined herein, the Board may require that such roads be improved to reasonable standards depending on the number of proposed lots and the anticipated increase in vehicular traffic. Such improvements will be at the applicant's expense and made an integral part of the definitive subdivision plan.

2.5 Board Action on ANR Plan Review

- a. If the Planning Board determines that the plan is in compliance with the Protective bylaws of the Town of New Marlborough and other applicable laws and regulations and therefore does not require approval, it shall without a public hearing endorse on the plan using the words "Approval under the subdivision control law not required."
- b. The Planning Board may add to such endorsement a statement of the reason approval is not required. The plan will be returned to the applicant and the Planning Board shall notify the Town Clerk of its action.
- c. If the Planning Board determines that the plan does require approval under the subdivision control law, it will so inform the applicant and return the plan. The Planning Board shall notify the Town Clerk of its action.
- d. If the Planning Board fails to act upon a plan submitted under this Section 2.2 within the statutory deadline, it shall be deemed to have determined that approval under the subdivision control law is not required. {Editor's note: State law currently sets this time limit as 21 days.}

2.6 Subdivision: No person shall make a subdivision within the meaning of the subdivision control law of any land within the Town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a Definitive Plan of such subdivision has been submitted and approved by the Planning Board as hereinafter provided and has been recorded at the Registry of Deeds or Land Court, as appropriate.

Section 3: Preliminary Plans

Before preparation of a preliminary plan, it is strongly recommended that the applicant submit a sketch plan of the proposed subdivision to the Planning Board and consult with the Board informally regarding procedures, design standards, and required improvements in order to save time and avoid costly mistakes.

A Preliminary Plan of a subdivision may be submitted by the applicant to the Planning Board, the Board of Health, and the Conservation Commission for discussion and approval, modification, or disapproval by each board. The submission of a Preliminary Plan will enable the applicant, the Planning Board, the Board of Health, the Conservation Commission, other municipal agencies, and owners of property abutting the proposed subdivision to discuss and clarify the problems of subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case (and encouraged through New Marlborough's fee structure). A Preliminary Plan must be submitted for a non-residential (commercial, institutional, or industrial) subdivision.

A Preliminary Plan shall be considered as submitted to the Planning Board when delivered at a meeting of the Board or when sent by certified mail to the Planning Board, care of the Town Clerk, together with completed application form, fee, and supporting documents.

3.1 Preliminary Plan Contents: The Preliminary Plan and application must include the following in order to form a clear basis for discussion of its problems and for preparation of the Definitive Plan. During review of the Preliminary Plan, the complete information required for the Definitive Plan will be discussed. This includes:

1. Nine copies of the complete application package (plans, application, all supporting materials) must be filed with or mailed to the Planning Board AND two copies to the Board of Health. It is strongly encouraged that additional applications be filed with both the Conservation Commission and the Road Superintendent to avoid surprises to the applicant during the definitive plan submission.
2. Receipts showing that the applicant mailed, by certified mail, a notice of the proposed subdivision containing a locus map of the project to every abutter within 300 feet of the proposed subdivision.
3. Preliminary plan on 24" by 36" paper at a scale of 1"=100' or greater, which shall show sufficient detail to form a clear basis for discussion and preparation of the Definitive Plan, including:
 - a. A title block identified as a Preliminary Plan, with the proposed subdivision name, property owner, and applicant.
 - b. Proposed names of roads or ways as well as all information described under the definition of the Preliminary Plan. Street names may not be similar to any other streets within New Marlborough.
 - c. Final or near final alignment of all roads, ways, and rights of way. Existing and proposed lines of street, proposed names of the latter, rights-of-way, easements, and any public or common areas within the subdivision. Purpose of easements shall be indicated.
 - d. Names and addresses of the owners of record and the applicant and the names, addresses, and professional seals of the registered Professional Engineer and Land Surveyor.
 - e. Names and addresses of all abutters within 300 feet, as determined from the most recent Assessors' list.
 - f. Location, names, and present widths of streets bounding, approaching, or within reasonable proximity of the subdivision.
 - g. Location of natural waterways and water bodies on the subdivision parcel(s) and within 200 feet of the subdivision. The Plan shall note whether the streams shown are perennial or intermittent, how that determination was made, and whether the Conservation Commission has approved the determination.
 - h. Boundary lines of all proposed lots with approximate dimensions and lot areas in square feet.
 - i. Location of all structures on and within 100 feet of the proposed subdivision.
 - j. Existing and proposed topography at a five (5) foot contour interval (lines of equal elevation) or better. Datum must be North American Vertical Datum (NAVD) 1988.
 - k. Major site features, such as existing stone walls, fences, buildings, large trees, rock ridges and ledge, swamps, historic features and wooded areas.
 - l. Whenever applicable and in a general manner, the proposed and existing storm drainage (curbs, gutters, and pipes or sheet flow), sanitary disposal (septic systems,

decentralized systems or package plants) and water (springs, individual wells or community) systems.

- m. Sketch of abutting land (regardless of ownership), showing possible or contemplated development and street layout, if applicable.
 - n. When multiple sheets are necessary, match lines showing where two sheets come together shall be used and referenced and an index plan graphically indicating the arrangement of said multiple sheets shall be provided.
 - o. A locus or location plan(s) at 1"=500' or greater showing the subdivision on an orthophoto base and its location to the surrounding roadways and physical features and drainage boundaries for watersheds and streams. The Plan shall show the ownership and house number of all surrounding parcels of land.
- 4. Applicant shall request, in writing to the Planning Board, any proposed waivers of subdivision requirements.
 - 5. Completed Preliminary Plan Application.
 - 6. The fee of \$500 plus \$50 per newly created lot, payable to the Town of New Marlborough.

3.2 Preliminary Plan Approval: The Planning Board may give such Preliminary Plan its approval, with or without modification. Such approval does not constitute approval of a subdivision.

Section 4: Definitive Plans

A definitive subdivision plan shall be considered as submitted to the Planning Board when delivered at a meeting of the Board or when sent by certified mail to the Planning Board, care of the Town Clerk, together with completed application form, fee, and supporting documents.

4.1 Definitive Plan Submission: Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Planning Board the following:

- a. Nine copies of the complete application package (plans, application, and all supporting materials) must be filed with or mailed to the Planning Board AND two copies to the Board of Health. It is strongly encouraged that additional applications be filed with Conservation Commission, Town Engineer, the Town Superintendent of Highways, and the appropriate Fire Department to avoid surprises to the applicant during the definitive plan review.
- b. Receipts showing that the applicant mailed, by certified mail, a notice of the proposed subdivision containing a locus map of the project to every abutter within 300 feet of the proposed subdivision.
- c. All master deeds, restrictive covenants, deed restrictions, deeds for shared land, detention pond, open space, and recreation areas, and homeowners' association documents and all easements. A homeowners association must be established to maintain streets and infrastructure until and unless the streets are accepted by the municipality because there can be no guarantee that Town Meeting will accept any streets or ways.
- d. The Definitive Plan on 24" by 36" paper at a scale of 1"= 40' or greater and every sheet shall bear the seal of a Massachusetts Registered Land Surveyor and a Registered Professional Engineer as appropriate. If multiple sheets are used, they shall be

accompanied by an index sheet showing the entire subdivision, and all plans, layouts, profiles, cross sections and application shall be deemed to constitute the Definitive Plan. Sufficient sheets shall be used to ensure that the plans are all easily readable. At least one of these prints shall have the significant features **illustrated in color** to clearly show roads, streams and water-bodies, wetlands, one hundred year floodplains, dedicated open space and recreation, pedestrian and bicycle paths, and subdivision boundaries. The Definitive Plan shall contain the information below:

1. The coordinate north arrow, date, scale, legend, the title block, "Definitive Plan, Town of New Marlborough, {Subdivision Name}", and certification by the Surveyor that all surveying conforms to the technical standards for property surveyors.
2. Names, addresses and plan location of all owners of record, applicants, immediate abutters, abutters within 300 feet of any portion of the subdivision, abutters separated from the subdivision only by a street, and the names, addresses and professional seals of the registered Professional Engineer and Land Surveyor.
3. Existing and proposed lines of streets, lots, rights-of-way, easements, and any public or common areas within the subdivision.
4. Location, names and present widths of streets bounding, approaching, or within reasonable proximity of the subdivision.
5. Directly above or below the layout plan of each road, a profile showing existing and proposed grades along the centerline and sidelines of that road, together with figures of elevation at the top and bottom of all even grades and at twenty-five-foot intervals along all vertical curves. Intersecting roads shall be clearly indicated on the profile. Unless the Planning Board approves different scale, the vertical scale shall be four feet to one inch. Only one road plan and profile shall be drawn on a sheet except by permission of the Planning Board.
6. Location of community water system aquifers, wetlands, perennial and intermittent streams, certified vernal pools, potential vernal pools (as identified on maps prepared by MassGIS), certified and potential vernal pool upland habitat areas, National Heritage and Endangered Species Program (NHESP) Estimated and Core Habitats, and waterways and water bodies within 300 feet of the subdivision. The plan shall note whether the streams shown are perennial or intermittent, how that determination was made, and shall include documentation that the Conservation Commission has approved the determination.
7. In all of the areas likely to be developed on the site, a detailed ecological assessment of wetland resources and wildlife habitat, with a strong emphasis on amphibians. A wetlands scientist(s) and/or wildlife biologist(s) and other qualified consultants as necessary, shall determine the extent and nature of all wetlands and vernal pools, an analysis of whether there are any certifiable vernal pools on the property, an assessment of rare and endangered plant and animal habitat following the format required for applications for the Massachusetts Endangered Species Act, an assessment of wildlife habitat and movement patterns and wildlife corridors based on sighting, scat, trails, and other signs, and an analysis of likely movement of amphibians.
8. Analyses of current vistas and views of the locus property from existing public roads, public open space areas, trails, and nearby homes showing current representative views and showing how those views will appear once the project is completed.

9. Location of all storm drainage lines and drainage discharges within 200 feet of a brook, stream, or drainage area and a profile will be shown of the brook, stream, or drainage area to determine condition, and proposed stabilization.
10. Design of a Low Impact Development (LID) drainage system (preferred) or justification of why a traditional curb and underground drainage system is more appropriate for the site.
11. An Operations and Maintenance Plan (O&M Plan) for the entire subdivision, including street cleaning, drainage, and LID system maintenance, community water systems, community sewage systems, and annual inspections. The O&M Plan shall include whatever institutional controls and Homeowners Association Covenants necessary to ensure proper operation and maintenance procedures are followed.
12. An erosion and sedimentation control plan designed to ensure, mitigate and prevent erosion/ sedimentation of disturbed areas during and after construction activities. The plan shall show, in detail, what and when such measures will be implemented, on both a temporary and permanent basis, including land disturbances for house construction. The Planning Board may waive this requirement for subdivisions of less than ten lots where disturbance to existing topography is minimized. An Erosion and Sedimentation Control Plan shall include the following:
 - i. A plan map showing property lines, wetlands, streams, water bodies, location of areas to be stripped of vegetation, location of areas to be regraded, and contour data including existing and proposed grades.
 - ii. A schedule of operations showing the sequence and timing of major improvement phases such as clearing, grading, paving, installation of drainage features, etc.
 - iii. Seeding, sodding, or revegetation plans and specifications for all unprotected or unvegetated areas.
 - iv. A map showing the location, design, and timing of structural sediment control measures, such as diversions, waterways, grade stabilization structures, debris basins, etc.
 - v. The calculations used in designing erosion control structures, if applicable.
 - vi. A description of procedures to be followed to maintain sediment control measures, including the manner in which sediment removed from control structures will be disposed.
13. Major site features, such as existing stone walls, fences, buildings, large trees, rock ridges and ledge, swamps, flood plains as identified on the Federal Insurance Rate Maps and other flood plains identified by a professional engineer, historic features, and wooded areas on and within 100 feet of the proposed subdivision. The plan shall identify which of the above shall remain undisturbed and the location and species of trees intended for preservation within the road rights-of-way.
14. Sign-off from the Massachusetts Historical Commission and the New Marlborough Historical Society that there are no known archaeological sites on the property. For sites within 200 feet of a river or perennial stream and for sites without the above sign-off, a study by a qualified archaeologist to determine if any mitigation is required to avoid damaging such sites.
15. Using metes and bounds and standard surveying, including lengths, bearings, and curve data to determine the exact location, direction and length of every street and way line, easement, lot line and boundary line, and to establish these lines on the

ground. All surveys must tie to the Massachusetts State Plane Coordinate System (NAD 1983 Datum), using said published control points or the global positioning system. Boundary lines, areas in square feet, and dimensions of all proposed lots, with all lots designated numerically and in sequence.

16. All easements must be clearly shown on the subdivision plans and their purpose shall be clearly stated. All water and sewer utilities easements shall be a minimum of thirty (30) feet in width. Utilities shall be located as close as possible to the center line of the easement.
17. Location of all permanent monuments and control points identified as to whether existing or proposed, and identified according to the Massachusetts State Plane Coordinate System (NAD 1983 Datum). At least two permanent concrete or granite monuments must be placed on site and shown in the plans prior to construction. Bounds are required at all intersections of street lines, angle points and changes of curvature of street lines. All control points shall be tied to and employ NAVD 1988 AND the Massachusetts State Plane Coordinate System (NAD 1983 Horizontal Datum), with horizontal control using said published control points or the global positioning system (with horizontal coordinates provided in metric). Vertical benchmarks separate from horizontal control points may be provided, provided these points are also tied to permanent concrete or granite monuments.
18. Proposed names of roads or ways as well as all information described under the definition of the Definitive Plan. Street names may not be similar to any other streets within New Marlborough.
19. Construction level details of all roads and associated utilities and improvements.
20. Location of all structures on and within 100 feet of the proposed subdivision.
21. Existing and proposed topography (sufficiently differentiated) with two (2) foot contour intervals for the entire parcel, unless the Planning Board agrees that the natural surface of the ground may be adequately represented by contours with larger intervals or by figures of elevation. (The existing and proposed topographical information presented shall be sufficient to define the grading of each proposed lot and street.) Datum to be NAVD 1988 or later.
22. When multiple sheets are necessary, match lines showing where two sheets come together shall be used and referenced and an index plan graphically indicating the arrangement of said multiple sheets shall be provided.
23. A locus or location plan(s) at 1"=500' or greater showing the subdivision on an orthophoto base and its location to the surrounding roadways and physical features and drainage boundaries for watersheds and streams. The Plan shall show the ownership and house number of all surrounding parcels of land.
24. A sketch plan showing a possible prospective street layout for any adjacent un-subdivided land owned or controlled by the owner or applicant of the subdivision and also showing topography, unless such a plan has already been submitted to the Planning Board.
- e. The applicant shall request, in writing to the Planning Board, any proposed waivers of subdivision requirements.
- f. Completed Definitive Plan Application.
- g. The fee of \$1,000 plus \$200 per lot payable to the Town of New Marlborough (if the Definitive Plan is submitted within seven months of the submission of a preliminary plan) or \$2,000 plus \$400 per lot (if no preliminary plan submitted within seven months. There is an additional fee of \$1,000 if the applicant does not also distribute copies of the

- application to the Conservation Commission, Town Engineer, the Town Superintendent of Highways, and the appropriate Fire Department
- h. A plan and a report providing details of sewage disposal and treatment systems, including the results of all percolation and soil tests for individual lots and/or for any community or shared system, and any water supplies and wells within 200' of the property line. The report shall include all information required under the Department of Environmental Protection's Title 5 regulations and local health and septic regulations, if any. A registered professional engineer or sanitarian must stamp the plans and the results.
 - i. Suitable space to record the action of the Planning Board, the signatures of the members of the Planning Board on each sheet of the Definitive Plan and reference to separate certificate by the Town Clerk that the appeal period has expired and no court appeals are pending.
 - j. A separate plan showing street layout, horizontal scale 1" = 40', for each street in the subdivision showing exterior lines, roadway lines, partial lot lines, curb lines, intersection angles (the angles formed by the intersection of two roads, and the centerline), points of tangency, and radii of curves. Also included on the street layout plan shall be location, size, type of construction, elevations and invert (elevation of the entry to a pipe), whenever applicable, of all pipes and conduits of the following utilities:
 - 1. Water Supply System, if a community water system is used, including pumps, valves, stubs (which extend water service beyond the edge of the asphalt), gates, hydrants, and similar equipment;
 - 2. Storm Drainage System, including manholes, pipes, culverts, grassed swales, low impact development measure, catch basins, detention ponds (storm water storage ponds), and appurtenant structures; and
 - 3. Sanitary Sewerage System, if a community system is used, including piping, manholes, pumps, community septic tanks, and appurtenant equipment.
 - k. A Profile Plan on the same sheet located directly below and coordinated with the street layout plan, indicating existing profiles on the exterior and center lines (using light weight lines) and proposed profile on the center line (using heavy weight lines) of each proposed street, at a horizontal scale of 1" = 40' and a vertical scale of 1" = 4'. All elevations shall refer to NAVD 1988 datum. Profiles shall show existing and proposed street grades; rates of gradient on percentages; ground and proposed elevations at center line of each fifty (50) foot station; and grades of intersection streets and ways shall be clearly indicated. The Profile Plan shall show location of existing and proposed water, drainage and sanitary sewer lines, slopes and types (material and class) of all storm and sanitary sewer lines, invert, manhole rim elevations and station of each manhole or catch basin.
 - l. A typical cross section for the full width of the proposed right-of-way shall be shown in accordance with the standards of these Rules and Regulations showing foundation material, wearing surface, crown (or high point) and width of traveled way, curbing, grass strips, sidewalks, utility locations, etc.
 - m. Construction details for catch basins, manholes, end-walls, head-walls, rip-rap, energy dissipaters, detention ponds, gabion structures, level lip spreaders, etc.
 - n. Every plan shall have at least four points on each sheet accurate within a centimeter, as certified by a surveyor, tied into the Massachusetts State Plane Coordinate System (NAD 1983 datum), using said published control points or the global positioning system. The plan must note the coordinates, in metric, of the four tie-in points, the datum, and the source and location of monuments used for data.
 - o. A table listing lot numbers with the corresponding lot size and street frontage for every lot.

- p. Locations of borings shall be shown on the plan with a numbering system corresponding to borings; the logs must be submitted as part of the application. The purpose of borings is to assist the applicant and the project's engineer in designing an appropriate roadway and related utilities based on existing water table and subsurface soil conditions (i.e., a clay subsurface might necessitate extra excavation and extra depth for gravel base; a water table near ground surface might necessitate the installation of sub-drains (to drain the groundwater) along the edge of the road, etc. The borings shall be certified by a Massachusetts Professional Engineer. Boring or test pits used for the purpose of design detention facilities must include estimates of high groundwater based on mottles and hydromorphic features, which generally requires test pits witnessed by a qualified soil scientist. Test pits may be used instead of borings except when borings are required for any geotechnical (structural) reasons.
- q. Hydrology Study and Drainage Calculation. The applicant shall submit drainage calculations, including rational method and TR-55 or TR-20, showing (a) that any proposed drainage system has been designed according to the standards set forth in these rules; and (b) any impact said drainage system would have on existing drainage systems downstream from the proposed point of discharge.
- r. Water Study, if a community system is to be used. The applicant shall submit a study certified by a professional engineer with demonstrated qualifications as a water consultant, showing that the proposed water system would provide the development with adequate potable water to meet building code requirements.
- s. Fire Water Availability. The applicant shall demonstrate that sufficient water exists to address fire needs, according to the technical standards of these Rules and Regulations.
- t. Lighting System, if to be used: Outdoor lighting is not required and is discouraged. If used, any lighting system must comply with the recommendations of the International Dark-Sky Association, whose goal is "To preserve and protect the nighttime environment and our heritage of dark skies through quality outdoor lighting." All street lights must be 50-watt high pressure sodium, LED, or more energy efficient models. All street lights must contain full cutoffs (hoods covering the sides of the lamps) to avoid any direct lighting off of streets and sidewalks. Maximum foot candles of any light shall be 1-foot candle except within five feet of a light, where the maximum shall be 2-foot candles.
- u. Any supplemental materials submitted by the applicant after the original submission must provide the number of copies and the format required for the original submittal. The Planning Board may elect not to consider such revised plans or other additional materials if such plans/materials are not filed at least fourteen days prior to the date of the Public Hearing or meeting at which the applicant wishes them to be considered. This is to ensure adequate time for review.
- v. Additional fees to cover reasonable costs of consultant review if required by rules adopted by the Planning Board pursuant to Section 53G, Chapter 44 of the G~L.

4.1 Plan Approval by Board of Health

- a. At the time of filing of the Definitive Plan, the applicant shall also file with the Board of Health. Within 45 days after filing of the Plan, the Board of Health shall report to the Planning Board and the applicant approval or disapproval of the Plan, in writing. If the Board of Health disapproves the Plan, it shall make specific findings as to which, if any, of the lots shown of such Plan cannot be used for building sites without injury to the public health, and include such report, and where possible shall make recommendations for the adjustment thereof.
- b. The Board of Health may approve the Plan on condition that prior to the issuance of a building permit for a dwelling on any lot, soil and percolation tests are made as to suitability of a specific location for subsurface sewage disposal installation in compliance with the state sanitary code.
- c. Based on the recommendation of the state department of public health or the Town's Board of Health, where due to restrictive water, soil, topographic, geologic, or other existing conditions, the proposed development is of a density which exceeds the sustaining capacity of the proposed lots in terms of individual sewage disposal systems and wells on each lot, the Planning Board may require that the developer revise the plan to provide:
 1. A consolidated water supply system, and/or
 2. A consolidated sewage disposal system, and/or
 3. An increase in lot size so that individual wells and sewage disposal systems may have adequate areas in which to function properly on the same lot.
- d. The Board of Health may require as a condition of subdivision approval that a performance bond or deposit of money or negotiable securities be furnished by the applicant to guarantee the construction of surface drainage improvements recommended by the Board of Health and that all required improvements shall be made without undue erosion, siltation, or flooding of travelled ways, and without causing any condition of public nuisance through dust or surface drainage, or any act of negligence by the applicant or his/her agents during construction. Such performance guarantee may be released only after completion of the work to the satisfaction of the Board of Health. In viewing possible drainage problems, the Board of Health is not limited to lots as shown on the subdivision plan, but may in appropriate cases, consider areas outside the proposed subdivision.
- e. Land subject to flooding, wetland areas, and land deemed by the Board of Health not suitable for building sites shall not be approved by the Planning Board for residential occupancy, nor for other uses that may increase danger to health, life, or property, or aggravate the flood hazard. Such land within the proposed subdivision shall be set aside for uses that will not be endangered by periodic or occasional inundation, or shall be improved in a manner satisfactory to the Planning Board and the Board of Health to remedy such hazardous condition(s).

- 4.2 Other Reviews:** In addition to submitting the Definitive Plan to the Planning Board and Board of Health, the applicant (or the Planning Board if the applicant pays the additional distribution fee) shall simultaneously file copies with the Conservation Commission, Town Engineer, the Town Superintendent of Highways, and the appropriate Fire Department. Written comments from these reviewers shall be secured before Planning Board approval of any subdivision. The Town Engineer's comments shall include recommended conditions to protect against erosion and sedimentation during the construction of improvements. Such comments shall be made within forty-five days of filing of the Definitive Plan. Failure to comment within 45 days shall be construed as a favorable recommendation.

- 4.3 Public Hearing:** Before approval, modification and approval, or disapproval of the Definitive Plan is given, the Planning Board shall hold a public hearing. Notice of the time, place, and subject matter of the public hearing, sufficient for identification, shall be given by the Planning Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of New Marlborough, once in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of the public hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing and by mailing it to “parties in interest” as provided in § 11, MGL Chapter 40A . Such parties in interest include the applicant, abutters, owners of land directly opposite on any public or private street or way, and owners of land within three hundred (300) feet of the property line, all as they appear on the most recent applicable tax list.

The Planning Board may elect not to consider revised plans or other additional materials from the applicant at the public hearing if such plans/materials are not filed at least fourteen (14) days prior to the date of the Public Hearing or meeting at which the applicant wishes them to be considered. This is to ensure that the municipal departments and the public have adequate time to review and comment on said materials.

4.4 Time Limits for Planning Board Action

- a. If a Preliminary Plan has been properly submitted and acted upon, or if 45 days have elapsed since submission of the Preliminary Plan and a Definitive Plan has been submitted, the Planning Board shall take final action and file with the Town Clerk a certificate of such action within 90 days of submission of the Definitive Plan. This time period may be extended at the written request of the applicant. Notice of such extension shall be filed forthwith by the Planning Board with the Town Clerk. If the Planning Board fails to take final action or file a certificate of final action within this time limit, the Definitive Plan shall be deemed to be approved.
- b. If no Preliminary Plan has been submitted and acted upon, or if 45 days has not elapsed since submission of a Preliminary Plan, and a Definitive Plan has been submitted, the Planning Board shall take final action and file with the Town Clerk a certificate of such action within 135 days of submission of the Definitive Plan. This time period may be extended at the written request of the applicant. Notice of such extension shall be filed forthwith by the Planning Board with the Town Clerk. If the Planning Board fails to take final action or file a certificate of final action within this time limit, the Definitive Plan shall be deemed to be approved.

4.5 Certificate of Final Action and Filing of Plans in Registry of Deeds or Land Court

- a. The action by the Planning Board in respect to such plan shall be by vote, copies of which shall be certified, filed with the Town Clerk, and sent by delivery or certified mail to the applicant. If the Planning Board modifies or disapproves the Plan, it shall state in its vote the reasons for its action.
- b. Any subdivision approval shall be in writing and shall state required plan revisions necessary to comply with the approval. Such requirements shall be clear enough to detail exactly what revisions are necessary and not require additional public hearings or full board review. As part of their approval process, the Planning Board has the right to impose reasonable conditions on any subdivision approval to ensure that these regulations are followed, that

any mitigation offered by the applicant is implemented, and that mitigation required as a condition of any waivers is implemented.

- c. In the event of disapproval, the Planning Board shall state in writing in detail wherein the Plan does not conform to these Rules and Regulations of the Planning Board or the recommendations of the Board of Health and shall revoke its disapproval and approve of a Plan that, as amended, conforms to these Rules and Regulations or recommendations. Any amended plans that are resubmitted for approval shall follow the same procedures as the original submission. Any amended plans submitted later than three (3) months following the date of the expiration of the appeal period or appeal(s) on the disapproval of the originally submitted plan must conform to the Subdivision Rules and Regulations and procedures in effect at the time of the amended plan's filing. Final revised plans, easements and financial performance guarantee and/or covenant, shall be submitted within ninety days from the date of approval of the Definitive Plan to the Planning Board, which shall submit the legal documents to the Town counsel for approval as to form and legality.
- d. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Planning Board (or by the signature of the person officially authorized by the Planning Board), ONLY after:
 1. Final reproducible plans have been approved by the Planning Board, including any necessary corrections required in the Planning Board's approval on the plan, easements, master deeds, restrictive covenants, homeowners' association documents, and any required document that was not included with the subdivision submission.
 2. An electronic copy said of plan which meets the current version of the "MassGIS Standard for Digital Plan Submission to Municipalities" meeting the requirements for Level I submission standards. Electronic copies must be submitted and must be accompanied by the completed checklist required in the MassGIS standard.
 3. The statutory twenty (20) day appeal period has elapsed following the filing of the certificate of the action of the Planning Board with the Town Clerk and said Clerk has notified the Planning Board that no appeal has been filed, or if appeal has been taken not until the entry of a final decree of the Court sustaining the approval of such Plan.
 4. Any necessary performance guarantee has been posted. The monetary value of said guarantee, using any method other than a covenant, shall be based on a revised construction quantity estimate based on the final plans and with a monetary value adequate to cover all municipal costs to complete the subdivision project (not the homes and lot development within the project) the end of the expiration of said guarantee, including but not limited to construction costs at State "prevailing" wages, record plans, street layout plans, and legal costs.
 5. Necessary inspection and other fees have been paid.
 6. Applicant has presented to the Planning Board for its approval, two sets of plans showing the complete natural gas (if natural gas is available), electrical, telephone, cable TV, and, if applicable, street lighting (including pipes, pumps, valves, gates, hand-holes, transformer pad mounts and similar equipment). Said plans will be accompanied by endorsements from the respective utilities that the plans have received their approval.
 7. Applicant has delivered to the Planning Board two (2) sets of reproducible drawings of the Definitive Plan with the necessary corrections. After endorsement by the

Planning Board, the applicant shall deliver to the Planning Board six (6) sets of copies of the endorsed Definitive Plan.

8. Applicant has delivered an Irrevocable Offer of Dedication (specifying whether such dedication is in fee-simple or by easement) of all facilities to be dedicated to the public, in a form acceptable to the Town, and recorded said offer in the chain of title at the Registry of Deeds or Land Court, as appropriate. Said offer must be in a form acceptable to the Planning Board and be accompanied by a lawyer's title opinion that the offer is free of any liens and encumbrances and all mortgages must be subordinated to the Offer. The Offer shall be irrevocable, except the Offer can be withdrawn if the applicant does not proceed with the project and requests that the subdivision approval be rescinded or otherwise amended such that the dedication is no longer necessary.
9. Applicant has submitted a detailed cost estimate for all construction within the proposed roadway layout and any utility easements (but not within house lots), certified by the project's Registered Professional Engineer. Said estimate shall be based on current edition of Massachusetts Highway Department's "Standard Specifications for Highways and Bridges," and shall include:
 - i. Quantity, unit price, and total amount for each construction item;
 - ii. Total amount for cost of completion of project;
 - iii. Costs adjusted to account for municipal prevailing wages rates and all municipal procurement requirements under state law and New Marlborough bylaws and New Marlborough practices for construction projects (i.e., the costs the Town would incur if it was to undertake the project, not the cost a private sector property owner incurs); and
 - iv. Costs adjusted to add a 25% inflation/safety factor; and
 - v. Engineering inspection, materials testing, legal and other soft costs.
- e. Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision, nor does it indicate in any way compliance with the provisions of the Wetlands Protection Act, Chapter 131, § 40 of the G.L. Final approval of the Definitive Plan does not constitute acceptance by the Town of streets within a subdivision as this requires a Town Meeting vote. No representations of these regulations or the Planning Board should be presumed to even imply that Town Meeting might be willing to accept any new road.
- f. After approval of any Definitive Plan, the location and width of ways shown thereon, or any street or way subject to the Subdivision Control Law, shall not be changed unless the plan is amended in accordance with the provisions set forth in M.G.L. Chapter 41, § 81-W, and approved by the Planning Board. In the event the applicant desires to alter or change the grade of a street or the size, location or layout of a storm sanitary or water line or appurtenant structure, he shall provide the Planning Board with a written statement requesting such alteration or change and with six prints of the original Definitive Plan with the proposed changes drawn on said prints in red. No change or alteration shall be permitted unless the Planning Board has approved such change or alteration.
- g. Approval of all subdivisions is subject to the condition that, unless an appeal has been taken from such approval as provided by statute, the applicant will record the subdivision plan in the Berkshire South District Registry of Deeds, or the Land Court, within six (6) months of the date of its approval, and furnish a copy of the recorded plan to the Planning Board. If the applicant delays recording of such plan after the six-month period, such plan shall not be accepted for recording by the Registry of Deeds or Land Court unless and until it has

endorsed thereon, or recorded therewith and referred to thereon, a certificate of the Planning Board or the Town Clerk, dated within thirty days (30) of such recording, that the approval has not been modified, amended, or rescinded, nor the plan changed. Such certificate shall be made, upon application, by the Planning Board or the Town Clerk unless the records of the Planning Board or the Town Clerk receiving the application show that there has been such modification, amendment, rescission, or change.

Section 5: Performance Guarantee

Before endorsement of its approval of a Definitive Plan of a subdivision by the Planning Board, the applicant shall agree to complete the required improvements (construction of ways and services) and the required project documentation (inspections, as-builts, street layout plans, etc.) specified in these regulations (hereinafter, the "required improvements"). The completion of the required improvements shall be secured with the following Subdivision Control Law requirements:

- a. Approval with Financial Performance Guarantees (Surety Bonds, Cash Escrow/Money, Three Party Lender Agreement, or Letters of Credit). The applicant shall either file a surety company performance bond or provide a deposit of money or negotiable securities, including letters of credit, in a completely executed and binding format consistent with the conditions herein:
 1. The principal shall be in an amount determined by the Planning Board in consultation with its advisers to be sufficient to cover the cost of all or any part of the improvements specified in these regulations at State "prevailing wage rates" not covered by a covenant (below), and to cover the costs of inspections, record plans, street layout plans, and legal work, and a 25% (twenty five percent) contingency/ inflation factor.
 2. Warranty principal (the amount of funds that must be guaranteed to provide a warranty on the project after project construction is complete) shall be not less than 20% (twenty percent) of the estimated cost of those components of the entire project that shall be dedicated for public use and shall cover workmanship and materials.
 3. If financial performance guarantees are used, at least two buildable lots in the subdivision must be covered by a covenant (below) to insure that all work, including legal work, is completed.
 4. Letters of Credit, three-party agreement for lender retention of funds, surety bonds, and other financial performance guarantees must be drafted so that the only requirement that must be met for the Planning Board to draw on the letter is to notify the financial institution (grantor) that "We have incurred liability by reason of the failure of the applicant/owner, within ninety days of the expiration of this letter, to complete the construction of their project (insert name of subdivision and plans) in accordance with the definitive subdivision plans and submittal, the subdivision approval, the Zoning, and the Subdivision Rules and Regulations. The amount drawn, which may be more than required to complete the project, will be held in a segregated bank account until the work can be bid competitively and the bid awarded and paid for or until the contract for the work is otherwise let and the work paid for. Any excess over the cost of completing the work will be returned to the grantor."

5. Such bond, deposit of money or negotiable securities, shall be approved as to form, the surety or financial institution, and manner of execution by the Planning Board. The Planning Board has the right to deny any such financial performance guarantee based on the rating of the third party guarantee, the compliance of the third party guarantee or the financial instrument with all of the terms included in these regulations.
6. For any surety bond, 1) the surety must agree that any litigation stemming out of the bond will take place in Massachusetts, 2) the bond must include the name and address of the person to be served for any legal action, 3) the bond must specifically include the terms above, and 4) no expiration date may be allowed in the bond (the bond must be valid until the work is complete) and the warranty performance period has been completed.
7. Applicant must provide an Irrevocable Right-of-Entry to allow the Town of New Marlborough's agents, board members, and representatives to enter the property to make any necessary improvements required in the Subdivision Regulations and address attractive nuisances and the Definitive Plan approval if the Town is forced to call the financial performance guarantees. Accepting, calling, or using financial performance guarantees does not provide the Town with any responsibility to complete a project beyond that for which the Town is willing to undertake and for which there are sufficient performance guarantee funds. The property owner shall subordinate all property mortgages to the Irrevocable Right-of-Entry and record it in the chain of title at the Registry of Deeds or Land Court, as applicable.
- b. Approval with Covenant. Instead of filing a bond or depositing money, the applicant may fulfill a covenant, executed and duly recorded concurrent with recording the definitive plan subdivision approval by the owner of record, running with the land, that no lot in the subdivision shall be sold and no building erected thereon until such ways, services and, whenever applicable, temporary turnarounds are constructed and installed, and until record plans, street layout plans, and other required work are accepted by the Planning Board in accordance with these Rules and Regulations so as to adequately serve the lots. Such covenant shall be inscribed on the Definitive Plans or on a separate document referred to on the Plan and delivered to the Planning Board. The Planning Board shall turn over the covenant agreement to the Town counsel, who shall review its contents and forward his/her comments in writing to the Planning Board. Town counsel costs may be charged to the applicant, as provided by MGL Ch. 44, 53G and described in the administration and fees section of the Regulations. Upon approval of the covenant by the Planning Board, the applicant shall note the Planning Board's action on the Definitive Plan, record the covenant, endorsed Definitive Plan, and other appropriate documents at the Registry of Deeds or Land Court, as appropriate, and provide certified copies of the same to the Planning Board.
- c. Completion Time Schedule. The covenant or financial performance guarantee shall be contingent upon both the completion of such improvements and the required one year warranty after said completion, as required in these Rules and Regulations, within a maximum period of three (3) years of the date of such bond, deposit of money, or covenant. After the completion date of all improvements and the one-year Warranty Period, there shall be at least a three (3) month Warranty Settlement period before the expiration date of any bond, deposit of money, or letter of credit. Said three (3) month period shall give the Planning Board the opportunity to collect the financial performance guarantee so that it will be able to complete the necessary improvements in case (a) the

applicant is unable to do so; and/or (b) the Planning Board denies any requests for an extension of time. The "Warranty" shall include all workmanship and materials:

1. Upon written request from the applicant, the Planning Board may, at its discretion, grant an extension of time, and such agreement shall be executed and affixed to the financial performance guarantee or covenant.
 2. In the case of a surety company bond, such an agreement for an extension shall not be effective until the surety delivers to the Planning Board a written statement that the surety agrees to the proposed alteration of the completion schedule and that such alteration shall not relieve or affect the liability of the surety company.
 3. Failure to complete all improvements as required by these Rules and Regulations within the time allotted shall cause the Planning Board (a) to draw upon the performance guarantee (surety bond, deposit of money, letter of credit) in order to complete said improvements; and/or (b) schedule a Public Hearing in order to rescind approval of the subdivision in accordance with appropriate sections of M.G.L. Chapter 41, Section 81.
- d. **Recording of Plan.** The applicant shall record the Planning Board's Subdivision Permit, easements, restrictive covenants, master deeds, etc., at the Registry of Deeds or Land Court, as applicable within seven days of the endorsement of the Definitive Plans by the Planning Board. The cost of said recording shall be borne by the applicant. Subsequent to said recording and prior to any Building Permit being issued, the applicant shall file within seven (7) calendar days one (1) print of the Definitive Plan with the Building Inspector.
- e. The Building Inspector, in accordance with the statute, shall issue no permit for the construction of a building on any lot within the subdivision except upon receipt from the Planning Board of documentation releasing the lot in question.
- f. **Procedures for Partial Release.** The applicant may, upon partial completion and installation of required improvements in a subdivision, the security for the performance of which was given by bond, deposit of money, letter of credit, or covenant, make formal application, in writing, to the Planning Board for partial release of the Performance Guarantee, in accordance with the procedures set forth herein:
1. **Financial Performance Guarantee.** The amount of such bond, or deposit of money, or letter of credit or three-party agreement for lender fund retention held may, from time to time, be reduced by the Planning Board. To request a reduction fee, the applicant shall present to the Planning Board a \$200 fee payable to the Town of New Marlborough and a list of all construction items performed and/or completed, said list to be based on the subdivision approval, and the subdivision regulations in their entirety. The amount to be reduced by the Planning Board, after consultation with their agents and advisers, shall be based upon State prevailing wage construction costs at the time the application for reduction is made. The Planning Board shall withhold adequate funds to complete the project, but shall withhold a minimum of twenty (20%) percent of the original approved cost estimate or fifty thousand dollars (\$50,000), whichever is greater. At the completion of the project (based on a written acceptance from the Planning Board that the project has been completed) and a one-year warranty period, the amount withheld shall be released.
 2. **Covenant.** The applicant may request a Release of Conditions for lots where the required improvements have been completed for that section of roadway beginning at any intersection with an accepted street and abutting lots up through the last lot to be released. Lots may only be released if they abut the completed portion of the

road. No partial release from the covenants will be approved if the total length of roadway, including a temporary turnaround, abutting said designated lots, exceeds the maximum allowable length for dead-end streets, unless the Planning Board has already approved within the limits of the development a dead-end street exceeding said limits.

In the absence of financial performance guarantees, adequate covenants will be held to insure completion of the project, including record plans, street layout plans, site inspections, and legal work. In addition, a covenant on two buildable lots will be held until all work in the subdivision, including the signing of all necessary legal documents, has been completed.

- g. Procedures for Full Release. The applicant may, upon completion and installation of required improvements in a subdivision, the completion of record plans and street layout plans, as specified in these Rules and Regulations, and the completion of a one-year labor and materials warranty period, make formal application, in writing, to the Planning Board for full release of any outstanding performance guarantee. Before the Planning Board releases their full interest in said performance guarantee, the Planning Board shall:
1. Obtain from the applicant's professional engineer a written certificate of statement certifying that all work required by these Rules and Regulations has been constructed in conformance with the approved construction plans.
 2. Obtain from the applicant, letters from the electric, telephone, gas, cable TV, and fiber optic/ broadband companies, as applicable, stating that their respective underground systems have been installed to their satisfaction.
 3. Obtain from the applicant, a set of construction plans and street layout plans. Said plans shall include, but not be limited to, all the information requested in Subdivision Closeout section of these Regulations.
 4. Obtain from the applicant, where applicable, an instrument, in a form approved by the Planning Board, transferring to the municipality or to an approved public utility company, without cost, valid unencumbered title to any sanitary sewers, water mains, and appurtenances thereto, and other utilities constructed and installed in the subdivision of approved portion thereof, and conveying to the municipality or to an approved public utility company without cost and free of all liens and encumbrances, perpetual rights and easements to construct, inspect, repair, renew, replace, operate and forever maintain such sanitary sewers, water mains and other utilities, with any manholes, conduits, and other appurtenances, and to do all acts incidental thereto, in, through, and under the whole of all streets in the subdivision or approved portion thereof, and if any such sewers or water mains have been constructed and installed in land not within such streets, then in, through, and under a strip of land extending fifteen (15) feet in width on each side of the centerline of all such sewers and water mains. The Planning Board may require greater than fifteen (15) feet in width on each side of the centerline where it deems necessary.
 5. If the Planning Board determines that all improvements as shown on the endorsed Definitive Plan and all required plans and legal documents have been completed satisfactorily, it will release all the interest of the municipality in such performance guarantee and return the bond to the person who furnished the same, or release the covenant, by appropriate instrument, duly acknowledged, which may be recorded.

6. If the Planning Board determines after inspection that said construction or installation has not been completed, or wherein said construction or installation fails to comply with these Rules and Regulations, it will send by registered mail to the applicant and to the Town Clerk the details wherein said construction or installation fails to comply with its rules.
7. Applicant shall have thirty (30) days after receipt of such notice to correct all problems mentioned above. Failure of the applicant to finish all the necessary work within said thirty (30) days shall cause the Planning Board to draw upon the bond or deposit of money as mentioned below.
8. Any such bond may be enforced and any such deposit may be applied by the Planning Board for the benefit of the municipality, as provided in M.G.L. Chapter 41, Section 81 upon failure of the performance for which any bond or deposit was given to the extent of the reasonable cost to the municipality of completing such construction and installation.
- h. Release of Lots from Covenant in Exchange for Financial Performance Guarantee. The applicant may request a Release of Lots from Covenant in exchange for a financial guarantee provided that:
 1. The lots run consecutively and are released on both sides of the road simultaneously, beginning with the lots nearest any intersection of the subdivision road and an existing municipal road; and
 2. The amount of the financial guarantee and the financial guarantee process shall be determined by the Planning Board, as described above.

Section 6: Design Standards and Required Improvements

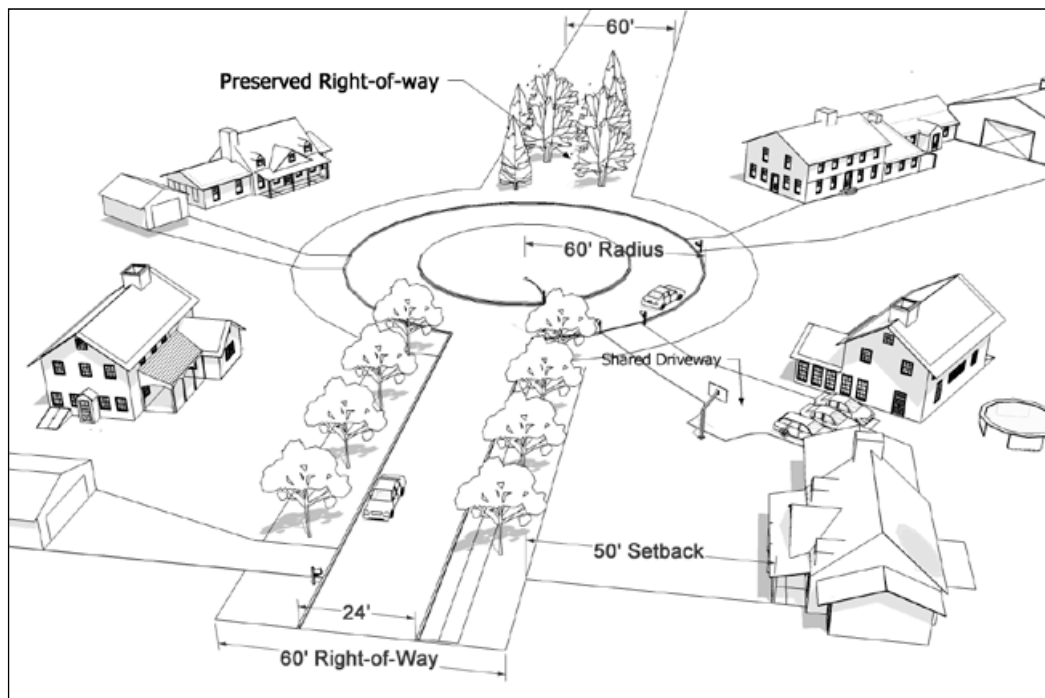
Before endorsement of the Planning Board's approval of a Definitive Plan of a subdivision, the applicant shall agree to complete the required improvements specified in these Rules and Regulations and in the Definitive Plan approval. No plan of a subdivision shall be approved unless all of the building lots shown on the plan comply with the zoning, design, and construction standards located herein.

Except as herein noted, the following shall be used as design standards. Where a difference between the standards as these Rules and Regulations exists, these Rules and Regulations shall be followed unless a waiver is granted by the Planning Board in accordance with the waiver section of these regulations:

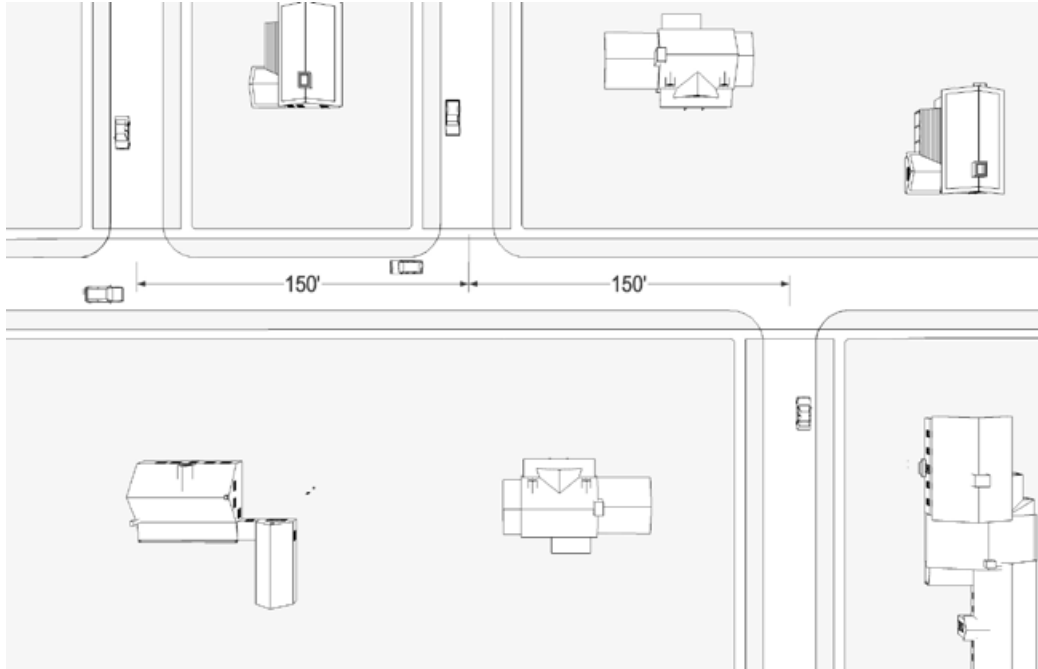
1. Streets, sidewalks, water systems, sanitary sewers, storm drain systems, public and private utilities and other infrastructure shall be constructed in accordance with these subdivision regulations and the current edition of the Massachusetts Highway Department "Standard Specifications for Highways and Bridges," (referred hereto as the "Standard Specifications").
2. Roads shall be designed in accordance with the appropriate American Association of State Highway and Transportation Officials (AASHTO) design manual for 20 mile per hour design speeds and the Institute of Traffic Engineers (ITE)/Congress for New Urbanism (CNU) "Context Sensitive Solutions in Designing Major Urban Thoroughfares for Walkable Communities." Where the AASHTO and the ITE/CNU manuals differ, the ITE/CNU manual shall govern.

6.1 Roads and Road Location and Layout: The Town finds that it presently contains a substantial network of public roads that is costly to maintain. Many of these roads are narrow and unpaved and do not satisfy typical minimum specifications for modern road construction. Yet such roads are also a valuable asset to the Town and help define its traditional rural character. The Town seeks to minimize the costs of maintaining and improving its roads and wishes to encourage roads that are similar in character to the existing roads.

- a. **Street and Ways Lay Out:** In the opinion of the Planning Board, the streets and ways will provide for safe vehicular travel, maximize the attractiveness and livability of the subdivision, and avoid damage to wetlands, wildlife habitat, natural resources, historic resources and, wherever possible, shall avoid passing through open fields except along their edges. As far as practicable, streets should follow natural contours and avoid disturbing existing trees and stone walls.
- b. **Future Development:** Provision shall be made, to the satisfaction of the Planning Board, for the proper projection of streets, or for access to adjoining property which is not yet subdivided or developed. Generally, it is preferred that new roads loop back to the existing road instead of being dead-end streets.



- c. **Street offsets:** Streets entering opposite sides of another street shall be laid out either directly opposite each other or with a minimum offset of one hundred and fifty (150) feet between their centerlines. Streets entering the same side of another street shall also be laid out with a minimum offset of one hundred and fifty (150) feet between their centerlines. This minimum offset shall also be observed whenever one or more streets entering are existing, whether located within or outside the boundary of the proposed development.



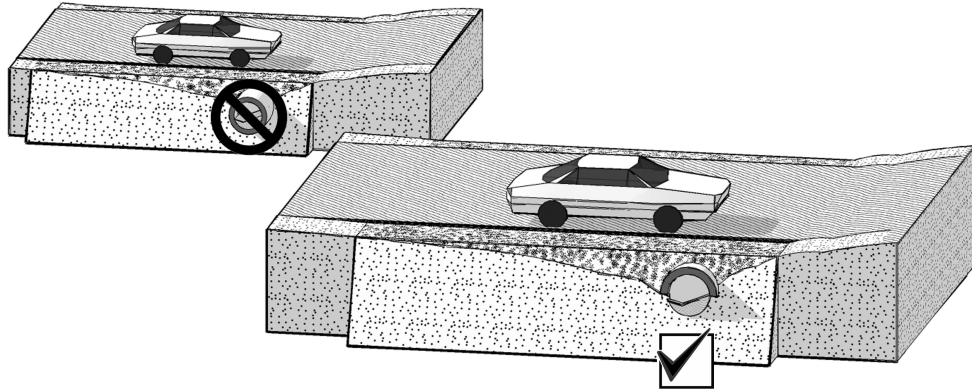
- d. **Dead-end streets and cul-de-sacs:** As dead end streets are more expensive to maintain, limit emergency access, and reduce the sense of connection and equality that comes from interconnecting streets, a project shall make every effort to avoid the creation of dead-end streets and must connect the subdivision to existing dead-end streets whenever reasonably possible. The Planning Board realizes that this may not be practical for many projects in New Marlborough, therefore it deems:
1. Dead-end streets are only appropriate when the surrounding property will not need a street connection in the foreseeable future, because of extremely sensitive and permanently protected natural resources, and the project provides a viable alternative pedestrian and bicycle connection to the surrounding property, a street connection would not aid the transportation network that serves the subdivision, and/or the dead-end street will not serve more than five housing units.
 2. Every street in the proposed subdivision shall be laid out in such a manner that every portion of every street is less than five hundred feet (500'), as measured along the centerline of construction of the street from the nearest connected existing public street which is not itself a dead-end street (i.e., when measuring a dead-end street length, the measurement begins at a street that is not a dead-end street, not from the beginning of a subdivision). Cul-de-sacs or dead end streets shall be allowed only on local and yield streets.
 3. All cul-de-sac streets shall use permanent teardrop-shaped cul-de-sac with a turnaround at the end of the street having a minimum island radius of forty (40) feet and a property line radius of at least eighty (80) feet (see below). The center of the cul-de-sac shall be on the centerline of construction.
 4. A permanent cul-de-sac turnaround (island) shall be constructed in the center of the cul-de-sac. The roadway shall have the same width as the roadway leading into the cul-de-sac, said pavement width beginning at the exterior radius of the turnaround. If curbing is used, the inside radius of the cul-de-sac pavement shall be constructed with granite-

edging type SA, SB or SC (S for sloped), as specified in the Massachusetts Department of Transportation (MassDot) Standard Specifications.

5. The road going around a cul-de-sac turn around shall be a one way road twenty (20) feet wide around a tear-drop shaped cul-de-sac island graded, seeded and/or appropriately planted with acceptable trees or shrubs, or left with natural tree growth in the center.
 6. A hammerhead shall be allowed instead of a cul-de-sac. Said hammerhead shall be designed a "T" to allow fire trucks and snow plows to turn around with only one backing-up movement. The portion of the hammerhead perpendicular to the road shall be at the same width as the street it abuts and shall extend at least twenty-eight (28) in each direction of the "T" beyond the sideline of the main road edge. Lots may only gain frontage from one edge of the hammerhead.
 7. Waivers for longer dead-end and cul-de-sacs shall only be granted when such waiver allows the permanent protection of substantial amounts of open space or when such waiver allows the permanent preservation of views and open space adjacent to an existing road.
- e. **Access to Subdivision:** The street system within a subdivision shall connect with and have, in the opinion of the Planning Board, adequate vehicular, pedestrian, and bicycle access from a public way or private way that connects to the greater network of streets.
1. The physical condition or width of a public way from which a subdivision has its access must be sufficient, in the sole opinion of the Planning Board to either provide for emergency services or carry the traffic which is expected to be generated by such subdivision. If such access is insufficient, the applicant shall dedicate a strip of land for the purpose of widening the abutting public way to a width commensurate with that required within the subdivision and to make physical improvements to and within such public way to the same standards required within the subdivision or by these Subdivision Rules and Regulations. Any such dedication of land for the purpose of the way and any such work performed within such public way shall be made only with permission of the governmental agency having jurisdiction over such way, and all costs of any such widening or construction shall be born by the applicant.
 2. The Planning Board shall disapprove of a subdivision plan where, in the opinion of the Planning Board, the existing surrounding municipal infrastructure (e.g. street width and construction and necessary utilities) is insufficient and/or incapable of handling the additional volumes (e.g. traffic, storm water, etc.) anticipated by the Planning Board to be generated by the project. Planning Board may accept or require off-site improvements to mitigate any of these impacts.
- f. **Intersections:** Streets and ways shall be laid out so as to intersect in accordance with street offsets and:
1. Street and way lines at all intersections, between proposed streets or between, whenever applicable, a proposed and/or existing street, shall be rounded with a curve at each corner which has a property line radius of not less than fifteen to twenty feet (15' to 20').
 2. Center line of all intersecting streets or ways shall be a straight line from the point of intersection of said center line for a distance of no less than twenty (20) feet.
 3. On any street where the grade exceeds two (2) percent on the approach of the intersection, a leveling area, with a maximum slope of two (2) percent shall be provided for a distance of not less than thirty (30) feet measured from the nearest gutter line of the intersecting street.

- g. **Drainage, swales, and low-impact development:** Curbs are generally not appropriate in New Marlborough, where most roads and gravel and very few curbs exist, except in very limited circumstances where storm water will be confined to feed into a formalized underground drainage system. Streets designed without curbs, however, shall use Low Impact Development (LID) drainage systems to closely mimic natural systems. LID must be engineered to fully anticipate storms—this is not the same as unengineered roads with sheet runoff. The following standards must be met:
1. All of the storm water from a 1" Natural Resources Conservation Service (NRCS) design storm and smaller storms drains into the ground and does not leave the site. A 1" NRCS design storm is a storm with 1" of rain within a 24-hour period (80+% of Western Massachusetts storms).
 2. Drainage systems, including drainage swales, detention, retention, and infiltration, must be designed to prevent any increase in peak flows for the one (1) or two (2), ten (10), and one-hundred (100) year Natural Resource Conservation Service (NRCS) design storms. TR-55 or TR-20, with all inputs and outputs shown, shall be used for calculating drainage systems. The system should be designed to mimic existing drainage patterns and flows, not release peak prior to normal peak flow.
 3. Water leaving a road shall enter grassed swales graded sufficiently to avoid erosion and hold and treat water.
 4. Measures to reduce runoff, improve groundwater recharge, and improve storm water quality, such as rain barrels (barrels at the base of roof gutter leaders that store storm water and provide water for future lawn and garden use) and rain gardens (rain is captured and retained in depressions carefully planted with native vegetation and allowed to drain into the ground.)
 5. Curbs are only appropriate in areas without opportunity for grassed swales and in village center projects. In those areas, curbs shall be Type 2 bituminous concrete or cement concrete curbs or granite curbs Type SB (sloped) placed on the bituminous binder. Curbs shall utilize a 6" reveal (i.e., 6" of curbing exposed above the street pavement). The installation of bituminous berm, granite curb, granite edging and granite curb corners shall conform to the relevant provisions of the MassDOT Design Manual and Standard Specifications. All catch basin frames shall have granite curb inlets (Type VB) shall be built against and shall be installed true to the horizontal and vertical alignment. All catch basins shall have four (4) foot sumps and gas traps with removable hoods. All catch basins shall connect directly to drain manholes (no catch basin to catch basin connections).
 6. Design, construction, methods, and materials of drainage systems shall be in conformance with the definitive plan and the MassDOT Design Manual and Standard Specifications.
 7. Design capacity of any drainage system and pipes, including all culverts under any road, shall be determined by the Rational Method (an accepted engineering methodology for calculating drainage from closed systems). The engineer shall design the drainage system in accordance with natural drainage boundaries of the total contributing drainage area, using a minimum of a ten (10) year Natural Resource Conservation Service (NRCS) design frequency storm (a storm that has a 10% chance of happening in any given year). A one-hundred (100) year NRCS design frequency storm (a storm that has a 1% chance of happening in any given year) shall be used for all bridge openings and major culverts.

8. Storm water should be directed to enter an artificial wetland or storm water treatment facility before entering an open stream channel. Storm water shall not be permitted to cross any roadway upon the surface but must be piped underground. Storm water runoff shall not be permitted to flow upon the road surface for a longer distance than three hundred (300) feet before it enters a designed storm water swale (or underground systems when curbs are needed).



9. All perennial streams shall utilize open bottom culverts. Traditional culverts with bottoms may be used for intermittent streams. No water body or wetland shall be filled without required wetlands permits and replacement of storm water storage functions of the area to be filled.
10. Lot sub-drainage and foundations drains may NOT be discharged to road drainage.
11. The maximum depth of any portion of the storm system shall be ten (10) feet.
- h. **Bridges, retaining walls, gabion walls, guardrails, fences, pavement structures:** These structures shall be designed in accordance with the MassDOT Bridge Manual and the MassDOT Design Manual and Standard Specifications. When roads are paved, the following shall apply:
1. The sub-base shall be gravel borrow in accordance with MI.03.0 Type A specifications, except that the top four (4) inches shall be gravel borrow meeting MI.03.1 specifications. A tolerance of one-half (1/1) inch above or below finished sub-grade will be permitted, provided this difference is not maintained over fifty (50) feet and the required cross section is maintained. The gravel borrow shall be laid to a depth of 12" for well drained soils and 18" for medium to poorly drained soils. There shall be an appropriate layer of geotextile fabric installed between the gravel borrow and the native soils.
 2. Base or binder course (the first coat of asphalt) shall be asphalt concrete, in accordance with MassDOT Design Manual and Standard Specifications, Class I Bituminous Concrete Pavement type I-I (Binder Course Mix). It shall be laid to a depth of 2.5".
 3. Surface course (i.e., the second and final coat of asphalt) shall be asphalt concrete, in accordance with Standard Specifications, Class I Bituminous Concrete Pavement Type I-I (Top Course Mix). It shall be laid to a depth of 1.5".
 4. Inspections shall be made by the project engineer and the municipality upon completion of each layer of sub-base and the binder and surface courses.

- i. In areas where a tunnel would aid amphibians crossing a road (see Jackson, Scott (2003) "Proposed Design and Considerations for Use of Amphibian and Reptile Tunnels in New England"), the road design shall incorporate the following amphibian crossing tunnels:
 1. Tunnels shall be concrete box culverts, open at the top, at least 2'x 2' square with a proper base to prevent frost heaves.
 2. Top of the tunnel shall be fitted with an iron grate flush with the road surface to allow ample rain, light and air circulation into the culvert.
 3. Bottom of the tunnel shall be covered with sandy loam to provide a more natural substrate for travel.
 4. Tunnels shall use wing walls to angle out from each end of the tunnel at 45 degrees.
 5. Vertical retaining walls at least 18" high shall angle out away from the wing walls at a broad angle for a length of 100-200 feet. The tops of these retaining walls should be flush with the ground surface on the side closest to the road, and present a vertical surface to migrating animals at least 18" high.
 6. Tunnels shall be placed no more than 200 feet apart, unless there is clear documentation that fewer tunnels are necessary.
- j. **Pedestrian Ways and Sidewalks:** All roads must include a parallel pedestrian walkway within the road right- of-way, or if outside of the right-of-way with an easement for the public use. The pedestrian way shall be continuous, with no breaks at streams or elsewhere, to allow pedestrians to safely walk off the roadbed. Pedestrian ways shall include a secure bed composed of asphalt, crushed stone, gravel, or compacted earth, provided drainage is provided to ensure the pedestrian way is passable when snow does not block access. Sidewalks are not required under these Regulations, but where a applicant chooses to use sidewalks they shall be designed and constructed in accordance with the MassDOT Standard Specification and Architectural Access Board and Americans with Disabilities Act standards.
- k. **Roadway and Right-of-Way Width:** Street roadway and right of widths shall be provided in accordance with the table below. These standards provide a balance between what is necessary for safety (e.g., emergency services) and what is important to maintain New Marlborough's rural character.

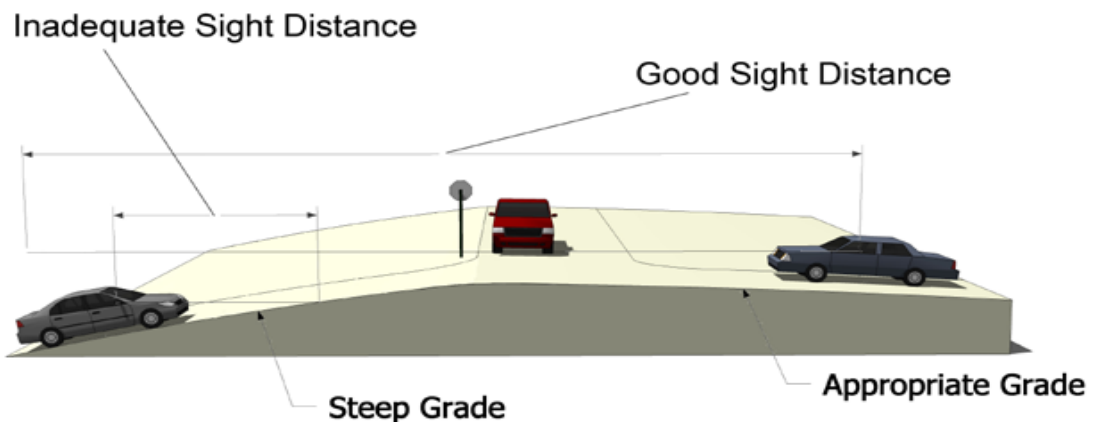
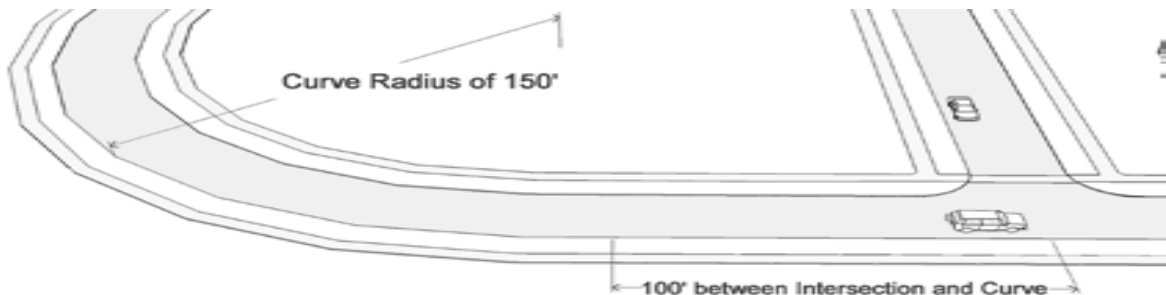
Street Category	Proposed Street Type	Street Width	Shoulders	Right-of-Way Width
<i>Private Country Road</i> — A road designed to be similar to the existing Town rural unpaved roads and intended to remain in private ownership.	Up to 12 dwelling units (120 Average Daily Trips or ADT)	16'	3' on one side	40' 25 feet cleared
<i>Private Subdivision Road (undedicated)</i> — A road serving more than 12 dwelling units and intended to remain in private ownership.	More than 12 dwelling units (121+ ADT)	20'	3' on one side	50' feet, 40' cleared, except for significant trees, stone walls, and other site features

Street Category	Proposed Street Type	Street Width	Shoulders	Right-of-Way Width
<i>Public Way</i> — A road that Town Meeting will be asked to accept. However, the Town shall be under no obligation to accept a way that satisfies these requirements.	Any number of homes	24'		60'

- l. **Traffic Calming:** Roads shall be designed to make every effort to reasonably calm the traffic within the subdivision and on surrounding streets to ensure pedestrian and bicycle friendly design and to prevent a decrease in traffic safety as a result of the additional traffic the project will generate. Traffic calming may utilize methods detailed in Institute of Traffic Engineer's "Traditional Neighborhood Development" or "Traffic Calming: State of the Practice," but must utilize methods that will not make snow plowing or road maintenance burdensome.
- m. **Construction Methods:** The entire area within the right-of-way lines, except for trees and other vegetation intended to be preserved, shall be cleared and grubbed of all stumps, brush, roots, and like material. All rock or masonry with a maximum dimension over three inches and within six inches of the top of sub-grade shall be removed. Trees intended to be preserved shall be protected by suitable boxes, fenders, or wells as appropriate. In cut area all material shall be removed to sub-grade. All unsuitable material, such as peat, highly organic silt of clay, or any other material that is considered to be detrimental to the sub-grade, shall be removed and shall be replaced by bank-run gravel, and be brought to proper compaction with a ten-ton roller.
- n. **Side Slopes:** The area in back of the required grass strip, or behind the sidewalk when one is required, shall be graded to a point where it coincides with the finished grade of abutting lots in such a manner that no portion thereof within the right-of-way lines of the street will project above a plane sloped four (4) horizontal to one (1) vertical. The top six (6) inches of side slopes shall consist of good quality loam extending to the right-of-way, screened, raked, and rolled with at least a 100-pound roller to grade. The loam shall be seeded with lawn grass seed applied in sufficient quantity to assure adequate coverage, rolled when the loam is moist. Loam and seed shall be spread in accordance with the MassDOT Design Manual and Standard Specifications.
- o. **Street Name Signs:** Street name signs and sign posts shall be purchased, constructed and installed in accordance with New Marlborough standards and at each intersection near the inside curb edge.
- p. **Center Line:** The center line of the roadway shall coincide with the center line of the right-of-way, unless otherwise approved by the Planning Board.
- q. **Road standards:** Roads shall be designed in accordance with the following standards:

Design Detail	Private Country Road	Private Subdivision Road	Public Way
Horizontal Alignment: Minimum center line radius	50 feet	100 feet	200 feet

Design Detail	Private Country Road	Private Subdivision Road	Public Way
Vertical Alignment: Minimum stopping sight distance at 3.5 feet above pavement	150 feet	175 feet	200 feet
Maximum Grade	12%	8%	7.5% (6% on roads above 500 ADT)
Minimum Grade	0.75%	0.75%	0.75%
Intersection angle	70°	90°	90°
Minimum sight distance (stop-controlled or obstructed-view intersection)	200 feet	250 feet	300 feet
Minimum radius at edge of roadway	25 feet	25 feet	25 feet



6.1 Landscaping, Street Trees, and Tree Belts

- Tree belts a minimum of eight (8) feet wide shall be provided on each side of the roadway. When sidewalks are required, the tree belt shall be between the curb and the sidewalk with the trees planted along the center line of the tree belt. The finished grade of tree belts adjacent to sidewalks shall have a slope of one-half (1/2) inch per foot

- toward the roadway for roadways or a plane sloped four (4) horizontal to one (1) vertical if there are no sidewalks.
- b. The top six (6) inches of tree belt shall consist of good quality loam extending to the right-of-way, screened, raked, and rolled with lawn grass seed applied in sufficient quantity to assure adequate coverage, rolled when the loam is moist.
 - c. Street shade trees shall be on both sides of subdivision streets in the tree belt or within five (5) feet of the right-of-way. There shall be one tree planted an average of every thirty (30) feet of street frontage along each lot and not less than two trees per lot. Any mature deciduous shade trees preserved may be applied toward this average.
 - d. Street trees shall not be permitted within twenty-five (25) feet of the curb line of the intersection of two streets.
 - e. Trees shall be mature deciduous trees or newly planted trees no less than three inch (3") caliper (at a point 6" above the ground) at time of installation. Clumping is permitted, using both sides of the sidewalk for tree planting, in order to frame or enhance a view. The center of the tree should be four feet from pavement or curbs.
 - f. Street trees shall be deciduous shade trees, including, but not limited to, those listed in the table below. No more than 35% of any one species shall be used throughout the subdivision.
 - g. Street trees shall have a minimum caliper of three inches (3") six inches (6") above soil root ball. They shall be single-stemmed with a single, straight leader. All tree species must meet American Nursery and Landscape Association (ANLA) for the types and sizes specified.
 - h. The applicant shall install on each lot the street trees specified on the approved plans prior to the issuance of the final Certificate of Occupancy. Trees must survive one year after planting prior to the release of warranty performance guarantees.
 - i. Planting operations and requirements for street trees shall be shown on the subdivision plans and be in accordance with the ANLA Standards for Planting and shall have a two (2) year growth warranty.

Approved Street Tree Species		
Botanical Name	Common Name	Notes
<i>Acer rubrum</i>	Red Maple	Low salt areas
<i>Acer saccharum</i>	Sugar Maple	Low salt, wide root zone areas
<i>Cercidiphyllum japonicum</i>	Katsura tree	Prune to single stem, moist soils
<i>Fraxinus pennsylvanica</i>	Green Ash	
<i>Gleditsia triacanthos</i> var. <i>inermis</i>	Thornless Common Honey Locust	
<i>Nyssa sylvatica</i>	Black Gum, Tupelo	Moist soils
<i>Quercus coccinea</i>	Scarlet Oak	
<i>Quercus robur</i>	English Oak	
<i>Quercus rubra</i>	Red Oak	Tolerates poor, sandy soils
<i>Platanus x acerifolia</i>	London Plane Tree	
<i>Tilia cordata</i>	Littleleaf Linden	
<i>Ulmus americana</i> 'Valley Forge'	Valley Forge Elm	
<i>Ulmus americana</i> 'Princeton'	Princeton Elm	

Approved Street Tree Species		
Botanical Name	Common Name	Notes
Ulmus parvifolia 'Allee'	'Allee' Lacebark Elm	
Zelkova serrata	Japanese Zelkova	

6.2 Utility Installation:

- All utility distribution systems, public or private, shall be placed underground.
- All utility lines shall be installed with the minimum soil cover specified in these regulations.
- Electric, telephone, cable TV, fiber optic, and all other conduits shall be installed underground beneath the grass strip with a minimum cover.
- Width of trench at the pipe on conduit shall be equal to four-thirds ($4/3$) diameter of the pipe of conduit, plus eighteen (18) inches.
- Sheeting (to stop the sidewalls from collapsing) shall be used, whenever necessary, upon the direction of the Engineer and in conformance with the MassDOT Design Manual and Standard Specifications.
- Pipe and conduits shall be surrounded by six (6) inches of compacted screened gravel if set in earth, and twelve (12) inches if set in rock. In rock, clay, or peat excavation, trenches shall be excavated to a depth of twelve (12) inches or more below the bottom of any water pipe, storm drain, or sewer and filled with bank-run or select gravel, whichever is approved by the Engineer.
- Back-fill shall be compacted to ninety (90) percent of the maximum dry density of the material consistent with the MassDOT Design Manual and Standard Specifications.
- All lot connections shall be installed to the right-of-way line, and marked or surveyed so as to be easily located in the future.

6.3 Public/Community Water (if a community system is used): This section applies to public/community water systems with a total of thirteen or more (13+) bedrooms.

- Water mains shall be made of a minimum of 6" ductile iron and shall have a minimum soil cover of five (5) feet and a maximum soil cover of five and one-half ($5 \frac{1}{2}$) feet.
- All systems shall be designed and stamped by a professional engineer in accordance with standard design practices.
- All water mains shall be looped.
- At water main intersections, all lines will be valved and the maximum spacing between valves on any one main shall be seven hundred fifty (750) feet.
- All valves shall open right.
- All pipe lines shall be pressure tested at pressure of one hundred fifty (150) pounds per square inch (p.s.i.) for a minimum of three (3) hours per under the supervision of a professional engineer and flow tests on the completed water system to insure pressure and flow requirements have been met.
- All potable water lines shall be disinfected according to American Water Works Association designation C601-68.

6.4 Fire Water Requirements

- Any project with three or more homes shall be met by demonstrating that there will be adequate fire ponds or access to natural water bodies, with standpipes sufficient to provide access to said water in any season, in accordance with ISO (Insurance Services Office) cited

standards and the standards of the New Marlborough Fire Chief. Projects with one or two homes may meet this standard if the homes have sprinklers installed in accordance with ISO standards.

- 6.5 Community Sanitary System (if a community system is used):** This section applies to package treatment plants and large community systems, not to simple shared septic tank-soil absorptions systems used by a few homes.
- a. All systems shall be designed and stamped by a professional engineer in accordance with standard design practices.
 - b. The construction of the sanitary system, including methods of construction and quality of materials used, shall be in conformity with the Definitive Plan and the MassDOT Design Manual and Standard Specifications. No pipes shall be more than 10' below grade. Only gravity sewerage systems and individual homes with their own Septic-Tank Effluent Pump (STEP) may be used unless the Planning Board gives specific approval to other pressurized or sewage lift station system based on sufficient management and financial arrangements to ensure permanent adequate monitoring and operations.
 - c. The minimum slope for gravity sanitary sewer pipes shall be such that a minimum design flow velocity of two and one-half (2 1/2) feet per second is achieved.
 - d. The maximum slope for gravity sanitary sewer pipes shall be seven (7%) percent. Drop sanitary sewer manholes (where the pipe entering the manhole drops down significantly in elevation within the manhole) must be used for drops of two foot or greater (2+').
 - e. Manholes shall be twenty-six inches (26") in diameter.
 - f. A minimum of ten feet (10') horizontal separation between sewer and water mains, if any, shall be maintained and the top of the sewer shall be at least eighteen (18) inches below the bottom (invert) of the water main. Laterals to the water main shall be relocated to provide this separation or reconstructed with mechanical-joint pipe for a distance of ten (10) feet on each side of the sewer. One full length of water main should be centered over the sewer so that both joints will be as far from the sewer as possible. When it is impossible to obtain proper horizontal and vertical separation, the water main and sewer shall be constructed of mechanical-joint cast-iron pipe (a pressure-tight joint) and shall be pressure tested to assure water-tightness.
 - g. Leakage test for gravity and pressurized systems shall be required in accordance with standard practices and methodology. A Mandrel Test (Go-No-Go) must be performed on all sewer pipes. (A mandrel, a cylindrical metal object, is pulled through the pipe to ensure that there are no obstructions within the pipe.)

- 6.6 Homeowner's Association:** A homeowners' association (HOA) shall be created to own and provide for the perpetual care and maintenance of a private road. Membership in the HOA must be mandatory for all lot owners and the HOA must have the power to assess the lot owners for their share of the maintenance costs of the private road. The HOA documents shall provide that costs unpaid by a member shall become a lien on such member's property. The HOA shall ensure that the road will always be maintained and kept open to permit emergency vehicle access. If an applicant can provide an alternative arrangement to assure maintenance of a private road satisfactory to the Planning Board, the Planning Board may waive the HOA requirement.

- 6.7 Easements:** Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall comply with utility company guidelines. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, the Planning Board may require a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourse, drainage way, channel, or stream, and to provide for construction or other necessary purposes.
- 6.8 Open Spaces:** The Planning Board may also in proper cases 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 not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. The Planning Board may by appropriate endorsement on the plan require that no building be erected upon such park or parks without its approval for a period of three years.
- 6.9 Protection of Natural and Historic Features:** All natural features, such as large trees, water courses, scenic points, historic spots, archaeological sites, and similar community assets shall be preserved to the extent feasible. The Planning Board may waive this requirement if such features are not needed to add attractiveness and value to the subdivision.
- 6.10 Compliance with Town Bylaws:** The Plan shall comply in all respects with the Protective Bylaws of the Town of New Marlborough (unless a variance has been granted) as well as with all other applicable Town, State, or Federal laws and regulations.
- 6.11 Sidewalks:** Within densely populated village areas, concrete sidewalks five (5) feet in width, or of such other width, materials, and construction as the Planning Board approves, shall be installed if the Planning Board determines that sidewalks are necessary for pedestrian safety and convenience.
- 6.12 Monuments and Markers:** Permanent Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets and at other points where, in the opinion of the Planning Board, monuments are necessary. Such monuments shall be no less than six inches (6") square and six feet (6') long, of granite or reinforced concrete, and shall be set with the top at finished grade with a three-eighths inch (3/8") drill hole in the center.

No permanent monuments shall be installed until all construction which could destroy or disturb the monuments is completed. However all monuments shall be installed prior to any release of the performance guarantee. Documentation of the horizontal metric coordinates of the center point of the monument shall be provided on as built-plans (using Massachusetts State Plane Coordinates, NAD 1983). All monuments shall be installed under the direction of a Massachusetts registered land surveyor.

Section 7: Administration and Waivers

Approval of a subdivision plan, regardless of what is shown on the plan, does not relieve an applicant from complying with the Subdivision Rules and Regulations except as specifically provided for in any Planning Board issued waiver of those Rules and Regulations.

The Planning Board may, in special and appropriate cases, waive strict compliance with such portions of these Rules and Regulations, as provided for in M.G.L. Chapter 41, Section 81-R, where such action is in the public interest and not inconsistent with the purpose and intent of the Subdivision Control Law. Waivers are only granted for projects which provide, in the sole opinion of the Planning Board, clear and significant improvements to the quality of a project compared with a project which meets the minimum of the subdivision regulations, based on the Board's finding and, at the Board's discretion, based on a third party engineering review.

7.1 WAIVERS: Such limited waivers shall **only** be granted when appropriate to encourage development which:

- a. Is in keeping with traditional character of New Marlborough, i.e., village centers surrounded by rural areas and not suburban-style development;
- b. Enables the creation of significant permanently protected open space and public trails; or
- c. Creates at least ten percent (10%) affordable housing within the development, as defined by MGL 40B.

In all cases, waivers shall only be granted when an applicant mitigates all of New Marlborough's financial impacts that could result from a subdivision's off-site infrastructure needs.

A request for a waiver of a requirement, rule, or regulation shall be made in writing by the applicant, and submitted, whenever feasible, with the submission of the Preliminary Plan. If the Planning Board approves the request for a waiver, it shall endorse conditions of such waiver (if any) on the plan or set them forth in a separate instrument attached to and referenced to the plan, which shall be deemed a part of the plan. The Planning Board shall notify the applicant in writing of its approval, disapproval, or approval with conditions.

7.2 Reference: For matters not covered by these rules and regulations, reference is made to MGL 41, §81-K to 81-GG, inclusive.

7.3 Rules for Hiring Outside Consultants: As provided by GL Ch. 44, 53G, the New Marlborough Planning Board may impose reasonable fees for the employment of outside consultants, engaged by the Planning Board, for specific expert services deemed necessary by the Board to come to a final decision on an application submitted to the Planning Board pursuant to the requirements of the New Marlborough Bylaws, the New Marlborough Subdivision Regulations, and any other Town bylaw, regulation, or rule as they may be amended or enacted from time to time.

Funds received by the Planning Board pursuant to these rules shall be deposited with the Town Treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Planning Board without further appropriation as provided in GL Ch. 44, 53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

Specific consultant services may include but are not limited to the engineering of roads and ways, private and public, driveways, grades, grading, and sanitary systems, to hydro-geologic and drainage analysis, to impact analyses of various kinds, and to environmental and land use law. The consultant shall be chosen by, and report only to, the Planning Board.

The Planning Board shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

The fee must be received in its entirety prior to the initiation of consulting services. The Planning Board may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Board within ten (10) business days of the request for payment shall be cause for the Board to determine that the application is incomplete (except in the case of an appeal). The Planning Board shall state such in a letter to the applicant, copied to Town Counsel. No additional review or action shall be taken on the application until the applicant has paid the requested fee. For applications to be considered under the local bylaw regulations only, failure by the applicant to pay the consultant fee specified by the Planning Board within ten (10) business days of the request for payment shall be cause for the Board to deny the application.

The applicant may appeal the selection of the outside consultant to the Select Board, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Select Board and a copy received by the Planning Board within ten (10) days of the date consultant fees were requested by the Planning Board. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

7.3 Project Management

1. **Pre-Construction Conference:** Prior to ANY construction, the applicant, project engineer, and contractor must meet with the Planning Board and other appropriate Town parties to review the subdivision permit and conditions at a time agreeable to the Planning Board. The applicant must provide evidence that all required documents have been recorded and adequate copies of all documents have been provided to the Planning Board. After the pre-construction conference, the applicant shall notify in writing the Planning Board and Planning Board consultants at least five (5) business days in advance of the date of commencement of construction and subsequent phases of construction.
2. **Deviation from Approved Plan:** After approval of any Definitive Plan, the location, materials, and specifications of all ways, improvements, and infrastructure subject to the Subdivision Control Law shall not be changed unless the applicant files a written request to amend the Plan, with nine copies of the original plan showing proposed

- changes drawn on the plan in red, pays the \$500 amended plan fee (plus the application fee per lot if new lots are being added) and such amendment are approved by the Planning Board (see also M.G.L. C.41, §81W). If the Planning Board approves the change, the applicant shall cause such approved changes to be shown on the record plans. At the Planning Board's discretion, minor "field changes" may be approved with a simple vote and letter from the Board.
3. **Privatized Project Inspection:** Inspection shall be made and the project shall be certified in writing to the Planning Board by a registered professional chosen by the applicant, who shall certify that all work was done in accordance with the approved subdivision plans, except as noted, and shall provide a detailed list and plan of changes between the approved plan and what was built. An engineer or engineer's agent shall be on site during the entire construction process to ensure compliance with the design. The certification must be clear and not include such limits or qualifiers as "to the extent of my knowledge."
 4. **Town Inspections:** The Planning Board shall be notified in writing by the applicant prior to commencement of each of the major phases of construction. As each phase is completed the Planning Board must verify that the work completed complies with the Definitive Plan prior to commencement of the next phase. The Planning Board may designate the Town Highway Superintendent as the inspector for the construction of streets, services, and utilities in the subdivision.

Section 8: Subdivision Closeout and As-Built Plans

- 8.1 Subdivision Closeout:** To closeout a subdivision and receive release of final performance guarantees, the following must be completed:
- a. Subdivision has been completed correctly, including all subdivision facilities, street bounds, and other improvements shown on approved subdivision plans or required by the Subdivision Regulations.
 - b. Project applicant has provided letters from all private utility companies indicating that they have no objections to the project being considered complete or certification from their project engineer that all utilities were installed in conformance with all utility company comments and requirements.
 - c. Applicant's professional engineer has provided all final engineering certifications and inspection reports in a format acceptable to the Town.
 - d. All landscaping is completed and the entire area is cleaned up so as to leave a neat and orderly appearance free from debris and other objectionable materials.
 - e. All catch basins, drainage structures, drainage swales, and detention ponds are properly cleaned out and landscaped.
 - f. Electronic copies of said As-Built/Record Plans and Street Layout Plans which meet the current version of the "MassGIS Standard for Digital Plan Submission to Municipalities" meeting the requirements for Level I submission standards. Electronic copies of plans in AutoCad dwg paper space, with complete data dictionary in a format compatible with the Planning Board's current electronic capabilities (for example, a PDF) must be submitted and must be accompanied by the completed checklist required in the MassGIS standard.
 - g. A report signed and stamped by the project engineering documenting:

1. How the project varied from the subdivision approval plans. (Minor changes are common to reflect the exact field placement, but all changes must be noted and approved by the Planning Board.)
2. Certification that all utilities under the road were installed prior to the installation of the base coat.
- h. As-Built or Record Plans, drawn at same size as originals and including the following:
 1. Edge of road, type of curbing, all utilities, and existing driveways.
 2. Right-of-way sidelines and lot property lines shown at least one hundred feet (100') back from street frontage.
 3. Private Utilities: It shall be the responsibility of the applicant to insure that each utility (gas, electric, telephone, cable TV, etc.) provides all the necessary information to the person preparing the record plan, so that all the components of each system can be plotted on the record plan. Components of said systems that can be identified on the ground such as gates, hand-holes, transformers, etc. shall be verified by project's professional engineer.
 4. Profile showing centerline of roadway and storm and sanitary systems.
 5. Every plan shall have at least four points accurate within a centimeter, as certified by a surveyor, on each sheet tied into the Massachusetts State Plane Coordinate System (NAD 1983 datum), using said published control points or the global positioning system. The plan must note the metric coordinates of the four tie-in points, the datum, and the source and location of monuments used for data. Elevations to be NAVD 1988 datum.
 6. Sanitary Sewer (if community system), with all components clearly identified and marked including: stationing of manholes based on center-to-center distances between successive ones with lowest/ beginning manholes being a 0+00 station, type, size and class of pipe between each manhole, location of sanitary wyes, pumping stations, siphons, etc with distances from center of downstream manhole(s) and location of end of sanitary sewer service stubs at property lines (each location, ties to fixed and easily identifiable objects and elevations of end of pipe (NAVD 1988 datum) to be submitted to the Planning Board prior to placement of gravel on roadway).
 7. Storm Sewer (if applicable), with all components clearly identified and marked, including: stationing of manholes based on center-to-center distances between successive ones with lowest/beginning manhole having a 0+00 station, type, size and class of pipe between each successive manhole and between manholes and catch basins, location of individual lot sub drains and connections of said sub drains to storm system, location, ties to easily identifiable objects and elevation of end of sub drains at property line. (Each location, ties, and elevation to be submitted to the Planning Board prior to placement of gravel on roadway), location, size and class of roadway curtain drains, detention ponds, including elevations of inlet and outlet structures and pond bottom, if any.
 8. Water System (if public or community system), with component clearly identifiable and marked including: Location, ties (distances) to fixed and easily identifiable objects, of all water gates, water service boxes, corporations, ends reducers, tapping sleeve and valves, etc. (each location and ties for each of the above to be submitted to the Planning Board prior to placement of gravel on roadway), location, type and class of mains, branches, services, etc.
- i. Final Street Layout Plans including the following:

1. Final approved plans must be recorded in the Registry of Deeds or Land Court as appropriate.
2. A title search showing that the property is free of all liens and encumbrances.
3. Two sets of 24" by 36" Mylar originals (one for the Town and one to be recorded) and three sets of prints at a scale of 1" equals 40' prepared by a registered land surveyor in accordance with registry of deeds requirements.
4. Only one proposed street to be shown per sheet with match lines to be used if a street is to be shown on more than one sheet.
5. Title block to be:
{Insert Name} Street Layout Plan, New Marlborough, Massachusetts
Said street is part of a of the {insert name} Subdivision approved by the Planning Board, filed with the Clerk, {insert date} and recorded at the Registry of Deeds (insert book and page).
6. Planning Board's endorsement that "Approved is Not Required" (street layout plan shall be submitted as an ANR plan, in accordance with these regulations).
7. Street line to be shown in metes and bounds (standard surveying distance and bearing descriptions). Tie courses so that street can be mathematically closed (which is critical for electronic mapping). Bearings and distances for all curves to be shown.
8. Street to be tied to Massachusetts State Plane coordinate system (which allows surveys to be used to update the Assessors' maps). Every Plan shall have at least four points accurate within a centimeter, as certified by a surveyor, on each sheet tied into the Massachusetts State Plane Coordinate System (NAD 1983 datum), using said published control points or the global positioning system. The Plan shall note the metric coordinates of the four tie-in points, the datum, and the source and location of monuments used for data.
9. All street line monuments to be shown and identified and its exact metric coordinates shown, in accordance with the requirements in the above paragraph.
10. At least 100' of lot property lines shown with metes and bounds.
11. Ownership of lots (including Registry Book and Page).
12. Land court case numbers, when appropriate, must appear on plans.
13. A \$1,000 Subdivision Closeout Fee, made out to the Town of New Marlborough, is filed.
14. Provision for on-going subdivision warranty period performance guarantees (see also Performance Guarantees above). The Planning Board shall hold all lot covenants, or twenty (20%) percent or more of the original approved cost estimate or fifty thousand dollars (\$50,000), whichever is greater until one-year after the completion of all pavement, drainage facilities, and landscaping to ensure the success of those features. Only at the successful completion of this one-year warranty shall these covenants or funds be released. The required subdivision improvements are not considered complete, in accordance with the state subdivision control law, until this warranty period is complete and it has been documented that the improvements are well enough constructed to last this warranty period.

The Planning Board's release of final performance guarantees is NOT a representation by the Town that the project has been successfully completed, but strictly represents that final releases will be issued.

Section 9: Forms

Endorsement Of Approval Not Required (ANR) Plan Form

1. Deed recorded in Registry of Deeds or Land Court: Book _____ Page _____
2. Street Address: _____
3. Assessor's Map: _____ Lot(s): _____
4. Additional property description: _____
5. Check list of filing requirements (Check the supplied items. Applications MUST have these items.)
 - ☐ Original Mylar, with endorsed Seal of a Massachusetts Registered Professional Land Surveyor showing:
 - All buildings owned by subject landowner(s) within 100' of any newly created property lines.
 - A statement that the Planning Board's endorsement is not a determination that the lots shown are buildable lots.
 - ☐ Six prints of the Plan.
 - ☐ Fee required in Subdivision Regulations.
 - ☐ Unless waived by the Planning Board, an electronic version of the plan in model space in DWG format including:
 - All property lines, buildings and geographic features shown on the plans;
 - Closure of all property boundaries of one part in 20,000; and
 - Conformance with the current version "MassGIS Standard for Digital Plan Submission to Municipalities" as a Level I submission standards.

We represent and agree that:

- (1) The plan is not a division as defined in the Subdivision Control Law;
- (2) The plans submitted are now in the public domain and may be copied freely in any form; and
- (3) We certify that the information contained herein is true and accurate to the best of their knowledge; and
- (4) We grant the Board and its agents permission to enter the property to collect information needed to review this application.

Owner:	Signature:
Address:	Phone:
Surveyor:	Signature:
Address:	Phone:

Application For Approval Of Preliminary Plan

1. Deed recorded in Registry of Deeds or Land Court: Book _____ Page _____
2. Street Address: _____
3. Assessor's Map: _____ Lot(s): _____
4. Additional property description: _____
5. Check list of filing requirements (check the supplied items. Applications MUST have these items.)
 - ☐ Nine copies of the preliminary Plan with endorsed Seal of a Massachusetts Registered Professional Land Surveyor showing.
 - ☐ I/we certify that we provided the required copies directly to the Board of Health and other Town officials as required in the subdivision regulations.
 - ☐ I/we certify that we have included all of the items required in the Subdivision Regulations for a Preliminary Plan Application.
 - ☐ Seven copies of this completed and signed Application.
 - ☐ Fee in accordance with the subdivision regulations.

We represent and agree that:

- (1) The plan is complies with the application requirements in the Regulations; and
- (2) The plans submitted are now in the public domain and may be copied freely in any form; and
- (3) We certify that the information contained herein is true and accurate to the best of their knowledge; and
- (4) We grant the Board and its agents permission to enter the property to collect information needed to review this application.

Applicant	Signature: _____
Address	Phone: _____
Owner:	Signature: _____
Address:	Phone: _____
Surveyor:	Signature: _____
Address:	Phone: _____

Application Of Approval Of Definitive Plan

1. Deed recorded in Registry of Deeds or Land Court: Book _____ Page _____
2. Street Address: _____
3. Assessor's Map: _____ Lot(s): _____
4. Additional property description: _____
5. Check list of filing requirements (check the supplied items. Applications MUST have these items.)
 - ☐ Nine copies of the Definitive Plan with endorsed Seal of a Massachusetts Registered Professional Land Surveyor showing.
 - ☐ I/we certify that we provided the required copies directly to the Board of Health (two copies) and other Town officials as required in the subdivision regulations.
 - ☐ I/we certify that we have included all of the items required in the Subdivision Regulations for a Definitive Plan Application.
 - ☐ Nine copies of this completed and signed Application.
 - ☐ Fee in accordance with the subdivision regulations.
 - ☐ We agree, upon a vote of the Planning Board to approve the Definitive Plan but prior to their endorsement of the plan to provide the electronic copies and the performance guarantee called for in the Subdivision Regulations.

We represent and agree that:

1. The Plan complies with the application requirements in the Regulations; and
2. We agree, upon a vote of the Planning Board to approve the Definitive Plan but prior to their endorsement of the plan to provide the electronic copies and the performance guarantee called for in the Subdivision Regulations; and
3. We will design, construct, and install the ways and the services in accordance with the Subdivision Regulations and the Definitive Plan as finally approved by the Planning Board and with the rules and instruction of Board of Health, the Conservation Commission and other applicable Town approvals; and
4. We hereby provide the Town with an Irrevocable Right-of-Entry to enter into the property to make permitted improvements, contingent upon subdivision approval, and we agree that if the subdivision is approved we shall record a notice to this affect in the Registry of Deeds or Land Court, as appropriate, and subordinate all mortgages to such Right-of-Entry; and
5. This agreement shall be binding upon our heirs and successors in interest; and
6. The plans submitted are now in the public domain and may be copied freely in any form; and
7. We certify that the information contained herein is true and accurate to the best of their knowledge; and
8. We grant the Board and its agents permission to enter the property to collect information needed to review this application.

Applicant	Signature:
Address	Phone:
Owner:	Signature:
Address:	Phone:
Surveyor:	Signature:
Address:	Phone: