

Chapter 117

SUBDIVISION OF LAND

[HISTORY: Adopted by the Planning Board of the Town of Newbury 1-9-1961, as amended through 12-6-2000. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Earth removal — See Ch. 60.
Sidewalks and commons streets — See Ch. 88.
Zoning — See Ch. 97.
Sewers — See Ch. 114.
Water systems and supply — See Ch. 120.

ARTICLE I General Provisions

§ 117-1. Purpose.

The Rules and Regulations Governing the Subdivision of Land, Town of Newbury, Massachusetts, have been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of Newbury by regulating the laying out and construction of ways (which have not become public) which provide access to the several lots within subdivision, by ensuring sanitary conditions and making adequate provisions for parks and areas therein. The powers of a planning board under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for ensuring compliance with the applicable provisions of the zoning bylaw; for securing adequate provision for water, sewerage, drainage, utility service, fire, police, and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the Town and with the ways in neighboring subdivisions.

§ 117-2. Authority.

Under the authority vested in the Planning Board of the Town of Newbury by Section 81-Q of Chapter 41 of the General Laws of Massachusetts, as amended, said Board hereby adopts these Rules and Regulations Governing the Subdivision of Land in the Town of Newbury.

§ 117-3. Definitions.

For purposes of these regulations, the terms and words defined in the Subdivision Control Law shall have the meaning given therein, unless a contrary intention clearly appears in these definitions. The following other terms and words are defined as follows:

- A. Applicant: Person, including owner, agent or assigns of the owner, applying for approval of a plan of a subdivision or endorsement of a plan believed not to require approval.
- B. Base Flood Elevation: The Base Flood Elevation shall be the level of the 100 year flood as designated on the Federal Insurance Administration's maps and in the Newbury Zoning Bylaw.
- C. Board: The Town of Newbury Planning Board. A quorum for a meeting of the Board is three members. Action by the Board requires a simple majority vote of those present at a meeting unless specified otherwise in the General Laws.
- D. Easement: A right in land required by a public authority or other person to use or control property for a utility or other purpose.
- E. Roadway: That portion of the way, right-of-way or street layout which has been prepared and constructed for vehicular traffic.
- F. Streets:
 - (1) Cul-de-sac, Dead End or Non-through: A street or street system which has only one means of ingress or egress to a through street.
 - (2) Collector: A street which, in the opinion of the Board, is being used or will be used as a thoroughfare across or between different portions of the Town, or which will otherwise carry a heavy volume of traffic.
 - (3) Subcollector: A street intercepting one or more minor streets and which, in the opinion of the Board, is used or will be used to carry a substantial volume of traffic from minor street(s) to a major street or community facility, and normally including the principal entrance street of a large subdivision, or group of subdivisions, and any principal circulation streets within such subdivisions.
 - (4) Minor: A street which, in the opinion of the Board, is being used or will be used primarily to provide access to abutting lots and which is designed to discourage its use by through traffic.
 - (5) Paper: Any way or right-of-way shown on a recorded plan or sketch but which has not been constructed or otherwise prepared for vehicular traffic.
- G. Subdivision:
 - (1) The division of a tract of land into two or more lots which include resubdivision, 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 a subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on:
 - (a) A public way or a way which the Town Clerk certifies is maintained and used as a public way; or

- (b) A way shown on a plan 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 Newbury, 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.
- (2) Such frontage shall be of at least such distance as is then required by zoning or other ordinance or bylaw of Newbury for erection of a building on such lot. Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land, on which two or more buildings were standing, (December 14, 1966) into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.
- H. Way or Right-of-Way: The full strip of land designated as a street consisting of the roadway, and any planting strips and sidewalks.
- I. Lot: An area of land in one ownership with definitive boundaries ascertainable from a recorded deed or recorded plan.
- J. Gravel: Gravel is defined as consisting of hard durable stone and coarse sand practically free from loam and clay uniformly graded and containing no stone having any dimensions greater than 3 1/2 inches. When spread on the road and rolled, it shall form a stable foundation. The grading shall conform to the following requirements: passing 3/8 inch sieve - 70% maximum; passing No. 10 sieve - 50% maximum; passing No. 200 sieve - 5% maximum. No stone used in the subgrade of a street shall have any dimension greater than 6 inches. The subdivider shall notify the agent of the Planning Board as to the source of the gravel.

§ 117-4. Right to make a 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 improvements or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a plan has been endorsed "Planning Board Approval Not Required" or a Definitive Plan of such subdivision has been submitted to and approved and endorsed by the Board.

§ 117-5. One dwelling on any lot.

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the Town, without the consent of the Board, and such consent may be made conditional upon the providing of adequate ways furnishing access to each site for such building, in

the same manner as otherwise required for lots within a subdivision.

§ 117-6. Water supply and sewage disposal.

The Board will not approve a subdivision plan unless the developer's engineer certifies:

- A. That a water supply deemed adequate by the Board will be available; and
- B. That each buildable lot can be provided with an on-site disposal system deemed adequate by the Board of Health. This certification shall be based upon one or more test wells within the subdivision.

§ 117-7. Waivers.

The Board may waive strict compliance with any of these Regulations if it deems it in the public interest and if written record is kept of such waivers, and the reasons for them.

§ 117-8. Compliance with Zoning Bylaw required.

The Planning Board shall not approve or modify and approve any Subdivision plan of land unless all buildings, structures, and lots shown on said plan comply with the Zoning By Law of the Town of Newbury or unless a variance from the terms thereof has been granted by the Board of appeals.

§ 117-9. Americans with Disabilities Act.

- A. Plans submitted shall be in conformity with all applicable provisions stipulated in the Americans with Disabilities Act of 1991, as amended.
- B. On the endorsement sheet of Plans submitted for approval, the applicant shall indicate compliance with the federal Americans with Disabilities Act Regulations.

ARTICLE II

Approval Under Subdivision Control Not Required

§ 117-10. Submission. [Amended 12-18-2002]

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law, shall:

- A. File with the Board at a regularly scheduled meeting, an application in the form appended hereto marked Form A accompanied by the necessary evidence to show that the plan does not require approval. (Note: Written notice of such submission shall be given to the Town Clerk);
- B. File, by delivery or registered mail, postage prepaid, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application and plan. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefor;

- C. Submit an original drawing of the plan, in the form hereinafter set forth, and four contact prints thereof; and
- D. Submit a filing fee in accordance with the Planning Board fee schedule.

§ 117-11. Form and contents of the Plan. [Amended 12-18-2002]

The plan shall be legibly drawn in accordance with the rules and regulations of the Register of Deeds or Land Court Manual of Instructions, as amended, and shall bear the original seal and signature of the professional land surveyor, registered in the State of Massachusetts, preparing the plan . The plan shall contain the following information:

- A. A title block, identifying the location of the land shown, the name of the owner of record and address, date and scale of the plan, and the name and address of the firm or individual preparing the plan;
- B. Identification of the plan by name of the owner of record, the names of abutters and location of the land in question. Location to be shown by means of an inset Locus, measuring a minimum of 2" by 2", using a scale of 2,000':1, or other reasonable scale.
- C. The statement "Approval under the Subdivision Control Law Not Required" and sufficient space for the date and endorsement of the Board together with a notation, below the signature block, that "The Planning Board's endorsement of the plan as not requiring approval under the Subdivision Control Law does not give lots or parcels any standing under the Zoning of the Town of Newbury nor any standing or determination under Title V";
- D. Zoning classification and location of any Zoning District boundaries which may lie with the locus of the plan.
- E. Sufficient data to determine location, width, direction and length of every roadway and street line, lot line and boundary line and to establish these lines on the ground, with areas of lots and lot numbers and street address. Information shall also include the status (private or public), widths of pavement and right-of-way of all streets and ways shown on the plan.
- F. Frontage and area of any remaining adjoining land owned by the applicant.
- G. The entire land area in which the division takes place shall be shown including all parcels affected by an increase or decrease in frontage, lot width, and area, which also includes the remaining land, if any, owned by the applicant;
- H. Reference to any prior decisions and/or conditions by the Zoning Board of Appeals, Board of Selectmen and/or Planning Board including, but not limited to, variances, special permits, or exceptions regarding the land or any structures thereon;
- I. Location of all known existing structures, both above and below ground, including but not limited to, buildings, wells, septic systems, cisterns, and cesspools, systems on the lot(s) or parcels including all required setback dimensions;

- J. References to all deeds and plans of record used to establish the property lines of the lot(s) or parcels and of the streets, ways and easements shown on the plan, including deed references to abutting lots;
- K. A north arrow shall be clearly marked and identified as to whether it is magnetic or true north or referenced to a record plan and so stated;
- L. Evidence that each lot on the plan, or altered by it, meets one of the following criteria:
 - (1) Has all the frontage owned by the applicant and not by way of an easement in part or in whole required under zoning on:
 - (a) A public way; or
 - (b) A way which the Town Clerk certifies is maintained and used as a public way; or
 - (c) A way shown on a plan previously approved and endorsed by the Planning Board in accordance with the subdivision control law; or [Amended 6-2-2004]
 - (d) A way existing before December 14, 1966 which the Board finds adequate for the way's proposed use; or
 - (e) A way shown on a plan of a subdivision registered in the Land Court prior to December 14, 1966; or
 - (2) Has clearly marked on the plan to be joined to and made a part of an adjacent lot.
 - (3) Contains a building which existed prior to December 14, 1966; or
 - (4) Constitutes an existing parcel with no new lot divisions.
- M. Representation of any geographic features on the ground that might restrict or prohibit access to a lot, or might affect its viability as a building lot; for example, but not limited to, existing right-of-ways and easements, water courses, wetlands, streams, brooks, waterbodies, Areas of Critical Environmental Concern (ACEC), grades over 35%, and location of vehicular access to the lot which must be across the lot's required lot frontage.

§ 117-11.1. Determination of frontage. [Added 12-18-2000]

In determining whether each and every lot shown on the plan has adequate frontage, the Board will determine first whether the lot directly abuts a public or private way and second, whether the lot has direct, practical access from the abutting way.

§ 117-12. Determination of adequacy of way. [Amended 12-18-2002]

In determining whether an existing way is adequate to qualify a plan as not constituting a subdivision, the Board may consider the following conditions, among others:

- A. Is the right-of-way adequate (at least 40 feet wide) and of reasonable horizontal alignment?
- B. Does the existing horizontal and vertical alignment of the roadway provide safe visibility?
- C. Does the roadway have 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 (is the traveled way at least 18 feet in width, with at least 8 inches depth of gravel and with adequate provisions for drainage)?
- D. If the road could ever serve 4 or more buildings and/or lots, is it bituminous surfaced or have provisions been made for such surfacing without cost to the Town?

§ 117-13. Endorsement. [Amended 12-18-2002]

If the Board finds that the plan does not require approval, it shall forthwith, without a public hearing, endorse the plan under the words "Approval Under the Subdivision Control Law Not Required." The 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 Board shall notify the Town Clerk of its action. If the Board determines that the plan does require approval under the Subdivision Control Law, it shall within 21 days of submission of said plan give written notice of its determination to the applicant and return the plan. The Board shall also notify the Town Clerk in writing of its action. If the Board fails to act upon a plan submitted under this section within 21 days after its submission, it shall be deemed to have found that approval under the Subdivision Control Law is not required.

ARTICLE III
Procedures for the Submission and Approval of Plans

§ 117-14. General.

It is suggested that the subdivider first read these Rules and Regulations carefully and thoroughly and then meet informally with the Board with a sketch of the area of a proposed subdivision in order to obtain information about the subdivision requirements for the area. Any uncertainties and ambiguities about the Rules and Regulations should be raised during this initial consultation. Informal discussions with other Town officials would prove helpful at this point.

§ 117-15. Preliminary plan.

A Preliminary Plan of a residential subdivision may be, and of a nonresidential subdivision must be, filed for submission by the Applicant with the Planning Board and with the Board of Health, for discussion and approval, modification, or disapproval by each Board. The submission of such a Preliminary Plan will enable the subdivider, the Board, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared.

Therefore, it is strongly recommended that the Preliminary Plan be filed in every case.

A. Submission - Any person who desires approval of a Preliminary Plan for the subdivision of land shall:

- (1) File with the Board, at a regularly scheduled meeting, and with the Board of Health, an application in the form appended hereto marked Form B and obtain acceptance of said application;
- (2) Submit a preliminary draft of an Environmental Analysis including a soils map in accordance with the provisions of § 117-16D. It is understood that most issues can be discussed only qualitatively at this stage of design, and that input from abutters will not be complete;
- (3) Submit an original Preliminary Plan, in the form hereinafter set forth, and six contact prints thereof to the Board and two contact prints thereof to the Board of Health; and
- (4) File by delivery or by registered or certified mail, postage prepaid, a written notice with the Town Clerk accompanied by a copy of the completed application. If notice is given by delivery, the Town Clerk will, if requested, give a written receipt therefor.
- (5) Submit, with the Preliminary Subdivision application, a check or money order, payable to the Town of Newbury, an application fee in accordance with the Town of Newbury Planning Board fee schedule. The applicant shall be responsible for additional costs incurred relating to the preliminary subdivision plan. These costs shall include, but not be limited to: legal advertising, notification of abutters by registered and/or certified mail and any review fees for technical consultants review of the plans. [Amended 1-8-2003]

B. Form and contents of a Preliminary Plan - The Preliminary Plan shall be drawn on a reproducible transparency at a suitable scale and shall contain the following information:

- (1) Proposed subdivision name or identifying title, boundaries, north point, date, scale, legend and title "Preliminary Plan," and block for approval;
- (2) Name and address of record owner or owners, applicant, engineer, or surveyor or other designer of the preliminary layout, with professional stamp;
- (3) Names and location of all abutters as they appear in most recent tax list, including names of owners and land separated from the subdivision only by a street or water body;
- (4) Existing or proposed lines of streets, sidewalks, ways, lots, easements and public or common areas within the subdivision in a general manner;
- (5) Names, approximate location and widths of streets adjacent to the subdivision;
- (6) Approximate boundary lines of all proposed lots or divisions of land with their approximate areas and dimensions. Lots shall be numbered in sequence;

- (7) Proposed system of drainage, including the approximate location of all swamp, marsh and lowland, water bodies, streams, open drain sand ditches, natural or manmade, and flowage rights, public and private, adjacent to or within the proposed subdivision, in a general manner;
 - (8) Zoning classification and location of any Zoning District Boundaries, including overlay zoning such as flood plain or wetlands, which may lie within the subdivision;
 - (9) The existing and proposed topography of the land at 2 ft. contour intervals;
 - (10) The volume of "earth" to be removed, if applicable, or a statement that no "earth" is to be removed from the subdivision in conjunction with construction;
 - (11) The location, boundary lines, area and dimensions of all wetlands (as defined in G.L., Chapter 131, Section 40, as amended) situated on each lot within the subdivision.
- C. Review of the Preliminary Plan - Upon acceptance of a Preliminary Plan application, the Board shall post one set of Preliminary Plans in the Town Hall for public review and shall forward one set of Preliminary Plans to the Conservation Commission, the Highway Department, the Board of Fire Engineers, and the applicable Water District Commission. Within 30 days of filing with the Board of Health or forwarding the Preliminary Plan, each agency shall report its findings and recommendations to the Planning Board.
- D. Approval, Modification or Disapproval - As soon as practicable after accepting the submission, the Board will study the Preliminary Plan and discuss it with the applicant. Within 45 days of submission the Board shall approve the Preliminary Plan with or without modifications suggested by it or agreed upon by the applicant, or shall disapprove the Preliminary Plan giving the reasons for such disapproval. The Board shall send notice of its action to the Town Clerk and the applicant. Approval of the Board does not constitute approval of a Subdivision but does facilitate the procedure in securing approval of a definitive Plan.

§ 117-16. Definitive plan.

- A. Submission - Any person who desires approval of a Definitive Plan for a subdivision of land shall:
- (1) File with the Board, at its regular meeting, and with the Board of Health, an application in the form appended hereto marked Form C and obtain acceptance of said application;¹
 - (2) Submit an original Definitive Plan, in the form hereinafter set forth, with ten (10) contact prints thereof to the Board and two contact prints thereof to the Board of Health;

¹. Editor's Note: Form C is located at the end of this chapter.

- (3) Submit an Environmental Analysis, in accordance with the provisions of Subsection²;
 - (4) Submit a statement by a registered engineer that a water supply deemed adequate by the Board will be available or a statement from the commissioners of the appropriate water district to the effect that the lots in question can be connected to the system;
 - (5) Submit drainage calculations, soils reports and percolation test results for each lot certified by the registered engineer who prepared them;
 - (6) Submit, with the Definitive Subdivision application, a check or money order, payable to the Town of Newbury, an application fee in accordance with the Town of Newbury Planning Board fee schedule. The applicant shall be responsible for additional costs incurred relating to the definitive subdivision plan. These costs shall include, but not be limited to: legal advertising, notification of abutters by registered and/or certified mail and any review fees for technical consultants review of the plans; [Amended 1-8-2003]
 - (7) Submit a list of names, mailing addresses and assessor's parcel numbers for all abutters as they appear on the most recent local tax list, including property owners on the opposite side of any street or water body abutting the subdivision; and
 - (8) File by delivery or by registered or certified mail, postage prepaid, a written notice, meeting the requirements of G.L. c.41, Sec. 81T, with the Town Clerk, accompanied by a copy of the completed application. If notice is given by delivery, the Town Clerk will, if requested, give a written receipt therefor.
- B. Form and contents of a Definitive Plan - The Definitive Plan shall be prepared in black India ink upon tracing cloth. Size shall be 24 x 36 inches. The drawing shall be at a scale of one inch to each forty feet or such other scale as the Board may approve. Where a plan is drawn on multiple sheets it must be accompanied by an index sheet showing the entire subdivision and in such case for ease of reading, matching lines and consecutive numbering shall be provided. The Definitive Plan shall contain the following information:
- (1) Subdivision name, boundaries, north point, date, scale, legend and title "Definitive Plan," block for approval and a key plan showing the subdivision location at a scale of one inch equals 1000 feet.
 - (2) Name and address of record owner or owners, applicant, engineer or surveyor and seal and signature of the registered professional engineer or registered land surveyor as appropriate to the data.
 - (3) Name and location of all abutters as they appear on the most recent tax list, including names of owners of land separated from the subdivision only by a street or water body.

2. Editor's Note: So in original.

- (4) Existing and proposed lines of streets, sidewalks, ways, lots and easements and public or common areas within the subdivision (proposed street names shall be shown in pencil until they have been approved by the Board).
- (5) Sufficient data to readily determine the location, direction and length of every existing and proposed street, roadway, easement and boundary line. The center line of the proposed street(s), easement(s) and major boundaries of the subdivision shall be staked out on the ground prior to application and shown on the Definitive Plans. If staking of road center lines is not feasible due to forest or brush cover, center lines may be located approximately by flagging, so that the Board and other interested parties can adequately identify their route.
- (6) Location, area and dimensions of all proposed lots and common areas. Lot numbers shall be shown and enclosed in a circle.
- (7) Location of all permanent monuments, properly identified as to whether existing or proposed.
- (8) Zoning classification and location of any Zoning District Boundaries including overlay zoning such as flood plain or wetlands which may lie within the subdivision. If required by the Board, the plan shall show the setbacks, side yards and rear yards for each lot together with a potential house site, well location and an area which the Board of Health may deem suitable, based on soils examination and test pits, for a sewerage disposal system for such lot. The Board will require this information for subdivisions located in areas with relatively high percentages of areas in ledge or wetlands.
- (9) Existing and proposed drainage including drainage areas inside the subdivision, areas outside the subdivision which drain into it, and the route, for all existing and proposed drainage discharging from the subdivision, to the primary receiving watercourse or other body of water calculations shall be based on the modified soil cover complex method, or some other generally accepted method approved by the Board, using a 25-year storm frequency for cross culverts. Cross sections of each drainage ditch or pond shall be included.³
- (10) Size and location of existing and proposed water supply mains and their appurtenances, hydrants, sewer pipes and their appurtenances and sewage disposal systems, storm drains and their appurtenances, and easements pertinent thereto, and curbs and curb dimensions, and watercourse or easements for drainage needed, whether or not within the subdivision. If surface water drains will discharge onto adjacent existing streets or onto adjacent properties not owned by the applicant, the applicant shall clearly indicate what course the discharge will take, and shall present to the Board evidence from the Highway Department or the owner of adjacent property that such discharge is satisfactory and permitted by public or private ownership of

3. Editor's Note: See also Art. VIII.

adjacent street or property.

- (11) Existing and proposed topography at two-foot contour intervals and, in differentiating symbols, the location of the Base Flood Elevation if encountered in or within 100 feet of the subdivision; the location of all trees over six inches in diameter to be saved within the proposed right-of-way; the location, boundary lines, area and dimensions of all wetlands (as defined in MGL Chapter 131, Section 40, as amended) situated on each lot within the subdivision, historical monuments, existing structures (with sill elevations) and other similar objects including fences and stone walls; all elevations shall refer to U.S Coast and Geodetic Survey Mean Sea Level Data.
 - (12) The size, location and type of trees required pursuant to § 117-41.
 - (13) The volume of "earth" to be removed if applicable or a statement that no "earth" is to be removed from the subdivision in conjunction with construction.
 - (14) Suitable space for endorsement by the Town Clerk and by the Planning Board, with spaces for annotating the date of approval and endorsement.
 - (15) Location of historic features or landmarks and wildlife habits and corridors.
 - (16) A determination of applicability from the Conservation Commission of the Town of Newbury concerning the effect of the planned subdivision on wetlands.
- C. Street plan profile and section - A Profile Plan at a horizontal scale of 40 feet to the inch and vertical scale of four feet to the inch showing:
- (1) Existing grades along the center and both side lines of the street.
 - (2) Proposed finished center line grades with elevations at every 50-foot station, location of vertical curves and gradients of even grades and tangents of vertical curves.
 - (3) The size and location of existing and proposed water mains, sewer lines, storm drains and their appurtenances within and adjacent to the subdivision, on the profile.
 - (4) The location and elevation of the starting bench mark and at least one other bench mark. All elevations shall refer to U.S. Coast and Geodetic Survey I Mean Sea Level Data.
 - (5) Typical sections of roadways showing widths and grades of street lines, roadway pavement, sidewalks, grass strips and side slopes, location and size of water, sewer, drain, and gas lines. The depth of roadway pavement, sidewalks, base courses and all underground utilities.
- D. Environmental analysis - An environmental Analysis shall be prepared by an interdisciplinary team headed by a land planner, registered landscape architect or similar professional approved by the Board. The team shall also include a qualified

environmental biologist and a qualified soils scientist.

- (1) A set of plans at uniform scale shall be submitted, encompassing the entire subdivision on a single sheet not larger than the Definitive Plan showing the following:
 - (a) The same data as on the Definitive Plan, reproduced as a clear acetate or mylar overlay;
 - (b) Topography at two-foot contour intervals, with graphic drainage analysis; indication of annual high water mark, known high water mark, location of existing structures including fences and walls;
 - (c) Vegetative cover analysis including identification of general cover type (wooded, cropland, brush, wetland, etc.), location of all major tree groupings, plus other outstanding trees or other botanical features, important wildlife habitats, and identification of areas not to be disturbed by construction;
 - (d) Soil types, based on the U.S.D.A. Soil Conservation Service Soils Study, of the Town of Newbury, approximate ground water level, location and results of percolation tests or other subsurface examinations;
 - (e) Visual analysis, including analysis of scenic vistas, and locations of visual prominence;
 - (f) Location of surface water bodies, wetlands, aquifer or recharge areas for existing or potential drinking water supplies.
 - (g) The Board may waive this requirement on subdivision of 5 lots or less.
- (2) A narrative statement shall also be submitted, documenting the following, with references to the above maps as germane:
 - (a) Impact upon surface water quality and level;
 - (b) Impact upon groundwater quality and level;
 - (c) Effects on important wildlife habitats, outstanding botanical features, scenic or historic sites or buildings;
 - (d) Capability of soils, vegetative cover and proposed erosion control measures to support proposed development without erosion, silting or other instability. This statement shall be a required part of the Definitive Plan whether or not the Board waives the balance of the Environmental Analysis requirements;
 - (e) Relationship to G.L. c. 131, s. 40, 40A, c. 130, s. 105.
- (3) The report shall also estimate: the proposed traffic flow in relation to the way(s) giving access to the subdivision; the number of inhabitants of the subdivision and the effect of the project on public services such as water,

sewer, schools, police, fire and waste disposal.

E. Review procedure.

- (1) Board of Health - The Board of Health shall, within 30 days of filing, report to the Planning Board, in writing, with signatures of a majority of its members, its approval or disapproval of the plan, as required by G.L. c. 81, s. 81-U. Whereas the soils in Newbury have severe limitations for on-site disposal, such report shall include a statement that, based on the data provided under Subsections A(5) and B(8) above, the Board of Health has determined which lots have been deemed to have an adequate area for on-site disposal. If the Board of Health disapproved said plan or any part thereof, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefore in such report, and, where possible, shall make recommendations for the adjustment thereof.
- (2) Other agencies - Upon acceptance of a Definitive Plan application, the Board shall post forward one set of the Definitive Plan to the Conservation Commission, Highway Department, Board of Fire Engineers and the applicable Water District Commissioners. Each agency shall review the Plan to assess the Plan's compliance with the design standards herein and shall submit findings and recommendations to the Board in writing, within 45 days.
- (3) The Planning Board may require the applicant to design and make improvements to roads, utilities, or other services outside of the planned subdivision if they help to mitigate or lessen the impacts of the development or improve safety or services in the area.

F. Public hearing.

- (1) Before approval, modification or disapproval of the Definitive Plan is given, a public hearing shall be held by the Board. The hearing is open to the public so that the applicant may appear in his own behalf or be represented by an agent or attorney; the applicant or his agent shall be prepared to present the plans for his development and answer questions so that the Chairperson may allow all those in favor and in opposition to speak and ask questions, etc.
- (2) Notice of the time and place of such hearing shall be given by the Board at the expense of the applicant by advertisement in an official publication of, or in a newspaper of general circulation, in the Town of Newbury, once in each of two successive weeks, the first publication being not less than 14 days before the day of the hearing. A copy of said notice shall be mailed to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax list. Responsibility for this mailing shall rest with the applicant. The applicant shall provide the board with evidence that the mailing has been sent.

G. Approval, modification or disapproval - The Definitive Plan shall be approved, modified and approved, or disapproved with reason by the Board within 90 days if

a Preliminary Plan has been submitted and acted upon, or 135 days if no Preliminary Plan has been submitted, in the case of a residential subdivision or 90 days for a nonresidential subdivision after formal application and the Town Clerk and the applicant shall be notified of its action. The Board will send a brief summary of its action to any person interested, upon written request therefor, when request states the name and address of the person to whom the summary shall be sent.

(1) If the Conservation Commission finds that the Wetlands Protection Act is applicable, the Planning Board may make its final approval of the plan contingent on Conservation Commission approval.

H. Performance guarantee - Before endorsement of approval the Board will require provision for the completion of construction of ways and the installation of municipal services in accordance with the Rules and Regulations of the Board. The construction of ways and installation of municipal services within the period required by the Board shall be secured by one, or in part by one and in part by the other, of the following methods:

(1) By a proper performance bond or a deposit of money in the form appended hereto marked Form F⁴ or negotiable securities, in an amount determined by the Board to be sufficient to cover the cost of such construction and such installation, each bond or deposit shall be contingent upon the construction and such installation within such period as the Board shall determine. Each bond filed shall be approved as to form, manner of execution and sureties by the Town Counsel and all deposit agreements shall be approved as to form and manner of execution by the Board.

(2) By a covenant in the form appended hereto marked Form D, which shall be executed, noted on the plans and recorded therewith by the owner of record, running with the land and stipulating that no lot of the land shown on the plan shall be built upon or conveyed by other than mortgage deed nor application for building permit made until the streets, services and conditions of approval have been completed.

I. Endorsement - Approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the Board but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed.

J. Copies of documents - Following plan approval, endorsement, and recording, the applicant shall provide the Board with one polyester film reproducible and five prints of the Definitive Plan and one copy of final covenants and restrictions, noting book, page number, and date of recording for each; and one polyester film reproducible and five prints of the Street Plan and Profiles.

4. Editor's Note: Form F is located at the end of this chapter.

- (1) Prior to final approval by the Planning Board, the applicant shall submit two (2) copies of the approved version of the Definitive Plan in digital files on electronic media to the Planning Board for review and approval. The version of the plan on digital files shall be identical, full size, and shall contain all information included on the printed plan. Each feature depicted in the subdivision plan shall have its own distinct data layer within the digital file (i.e., lines representing each side of a property parcel). Where property-parcels are depicted, the property parcel data layer shall be a distinct data layer within the system. Polygons representing property parcels MUST be closed and no other data layer shall be used to close the polygon. Data shall be produced and depicted using either the Massachusetts State Plane Coordinate System (1927 Datum in feet) OR the Massachusetts State Plane Coordinate System (1983 Datum in meters). Each digital file sheet shall have a minimum of 4 survey quality control points depicted on both the hard copy maps and the digital file. These control points shall be survey quality and accurate to plus or minus one centimeter. Layer names shall conform to Planning Board standards. Digital files shall be accompanied by information (or a text field) that defines and describes each layer contained within the submittal file(s). Digital files shall be provided in an IBM-PC (or compatible) format file system approved by the Planning Board at the time of submission. The list of approved versions of data files, which the Board may revise from time to time, will be available at the Office of the Planning Board. Applicants must request the list of approved versions of data files prior to application.
- (2) A letter from the Planning Board verifying receipt of the digital files and compliance with Planning Board standards shall be submitted to the applicant within ten (10) days. Failure to submit such digital files to the Planning Board, and to obtain a compliance letter may be cause for the Planning Board to rescind approval or not to endorse said plan.
- (3) All digital files shall be high quality, free from any and all defects and viruses, and labeled as to their contents. Digital files shall be prepared with a back up and be sequentially numbered. The applicant shall provide to the Planning Board a descriptive list of all files submitted, which documents file contents and intended use.

K. Layout and acceptance of streets and of ways - The approval of a Definitive Plan does not constitute the laying out or acceptance by the Town of streets shown on the plan. All streets and ways, drainage systems and utilities shall remain the responsibility of the owner until the same are accepted by the Town of Newbury. Prior to acceptance by the Town of Newbury of any such street the owner shall secure approval of the improvements by the Board together with the full and complete release of any performance guarantees.

- (1) The applicant will be responsible for maintaining and plowing the roads in order to ensure access of emergency equipment up until the time that the road is accepted by the town. In the event that the town assumes this responsibility, the applicant may be billed for the cost of said maintenance and plowing.

L. Release of performance guarantee.

- (1) Upon completion of improvements required by this regulation, and upon payment for inspection by the Board's agent in accordance with the provisions of § 117-42, the subdivider may request either partial or full release of his bond, deposit or covenant by sending a statement of completion and request for release by registered mail to the Planning Board and to the Town Clerk (Note: See "Form F Certificate of Performances" for lot releases⁵). Release will be granted only following written approval by the Planning Board Engineer and any other town officials concerned with the work performed. Copies of release form covenants or agreements regarding building or use and occupancy permits shall be sent by the Planning Board to the Inspector of Buildings.
- (2) Partial release. The Board may grant partial release from such security for partial completion of improvements, and payment of any outstanding invoices for inspection by the Planning Board's agent, provided that the, completed portion provides a reasonable system for circulation and utilities pending completion of the rest, and provided that appropriate arrangements have been made for completion.
- (3) Security. The Board may release the applicant from the covenant upon receipt of an agreement executed by the applicant and by the holder of a first mortgage on the premises providing for retention of funds and their availability to the Town upon default (see ch. 41, GL., Sec. 81-U, 11th paragraph).
- (4) The Board shall in all cases retain security in an amount equal to at least 15% of the total cost of improvements until the integrity of road pavement and drainage has been verified following a full winter in place, and an amount equal to at least 5% of the total cost until trees and other vegetation have been established, and the fee has been conveyed to the Town or three years have elapsed since completion of the improvements.
- (5) Refusal of release. If the Planning Board determines that said construction or installation has not been completed, it shall specify in a notice sent by registered mail to the applicant and to the Town Clerk the details wherein said construction and installation fails to comply with the requirements of this regulation.

M. Record plans - Upon completion of construction, and before release of the full performance guarantee, the subdivider shall have prepared and submitted Record Plans at the same scale as the street plans, which shall indicate the actual location of all of the following:

- (1) Street lines;
- (2) Roadway edges;

5. Editor's Note: Form F is located at the end of this chapter.

- (3) Path locations;
- (4) Permanent monuments;
- (5) Location and inverts of the required utilities and drainage;
- (6) Locations of any other underground utilities, such as electricity, telephone lines, and street lighting. The accuracy of such Record Plans shall be certified by a Registered Land Surveyor or Registered Professional Engineer retained by the subdivider, and approved by the Planning Board Engineer.

ARTICLE IV
Design Standards

§ 117-17. General.

It is the intent of these standards to provide a sound basis for the design of new subdivisions which will add value and character to the Town. All streets in a subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular and pedestrian travel. Due consideration shall be given by the subdivider to the natural resources and characteristics of the subdivision site, to its topographic and geologic conditions, to public convenience and safety and to the attractiveness of the proposed street's design on the site.

§ 117-18. Design purposes.

Design and Construction shall reduce, to the extent possible, the following features:

- A. Volume of cut and fill;
- B. Area over which existing vegetation will be disturbed, especially if within 100 feet of a river, wetland or water body or in areas having a slope of more than 15%;
- C. Number of trees removed having a diameter over six inch dbh;
- D. Extent of waterways altered or relocated;
- E. Dimensions of paved areas (including streets) except as necessary to safety and convenience, especially in aquifer and recharge areas;
- F. Design shall emphasize, to the extent possible, the following:
 - (1) Use of collector streets to avoid traffic on streets providing house frontages;
 - (2) Visual prominence of natural features of the landscape;
 - (3) Maintenance within the subdivision of runoff and vegetative cover equivalent to conditions before development.

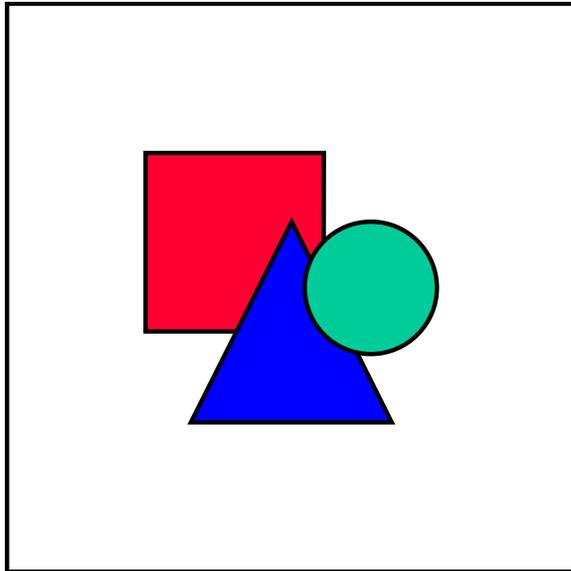
§ 117-19. Streets - location and alignment.

- A. All streets shall be designed so they will connect in a logical fashion with existing streets, provide for the convenient and safe movement of pedestrian and vehicular

traffic and allow for the proper projection of streets or for access to adjoining property which is not yet subdivided.

- B. Provisions satisfactory to the Board shall be made for the proper projection of streets or access to adjoining property, which is not yet subdivided. Reserve strips prohibiting access to streets or adjoining property shall not be permitted.
- C. Street jogs with center line offsets of less than 125 feet shall be avoided.
- D. Streets shall be laid but so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 60 degrees.
- E. Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than 30 feet.

§ 117-20. Classification of streets.



§ 117-21. General layout and dimensions.

Horizontal (ft) Line Radius (ft)	Minimum Sight Distance		Minimum width of Road- way (ft)			
	Minimum width of R-O-W (ft)	Vertical (ft)	Maximum Length (ft)		Minimum Center-	
Minor						
Dead End	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Prohibited						
Cul-de-sac	50	20	200	100	500	100
Non-through		50	20	200	100	200
Through	50	22	200	100	n/a	200
Subcollector						
Through Only		50	24	500	350	n/a
Collector						

Through Only 60 28 800 450 n/a 400

- A. The Board may in the case of residential streets authorize a reduction of the minimum roadway width and authorize an increase in roadway length. Such reduction or extension shall only be authorized if the Board finds it is in the public interest and that the design of the overall subdivision will significantly enhance the character of the neighborhood and preserve to a greater extent the historical and natural features of the site. Approval of such reductions or exceptions if based in part on limiting the number of lots upon which buildings can be constructed shall be endorsed on the plan to which they relate or set forth in a separate instrument attached thereto and recorded therewith. The Board shall maintain in its files a written explanation of the reduction or exemption together with the reasons for its approval.
- B. Cul-de-sac streets shall be provided with a turnaround having an outside sideline diameter of at least 165 feet, an outside roadway diameter of at least 140 feet, a pavement width of 25 feet, and a center island. Streets with a center island of less than four acres shall be classified as cul-de-sacs. Streets with a center island of four or more acres shall be classified as non-through streets.
- C. Length of cul-de-sac streets shall be measured from the side line of its intersect with a through street along the center line of the cul-de-sac street to the rear most point of the sideline of the turnaround. Length of non-through streets shall be measured from the sideline of its intersection with a through street along the center line of the non-through street to the point on such center line which is most distant from the sideline of the through street.
- D. Grades of all streets shall be the reasonable minimum but not less than two percent nor more than seven percent on collector and subcollector streets or ten percent on minor streets.

§ 117-22. Typical cross section.

See the Typical Cross Section Diagram at the end of this chapter.

§ 117-23. Easements.

- A. Easements for utilities or for pedestrian access across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twenty feet wide.
- B. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, the Board may require that there be provided a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourse. The boundaries of said easement shall be no closer than five feet from the high water line, drainage way, channel or stream, and shall provide for construction or other necessary purposes.
- C. Where a street is projected, or the Board requires provision for access to adjoining

property, an easement for all roadway purposes shall be granted.

- D. A proposed through street shall have at least 300' between its two new intersections which open onto an existing street, in cases where the proposed street has both its openings on one existing street, measured center line to center line.

§ 117-24. Public area and open space.

Before the approval of a Definitive Plan the Board may, in proper cases, require the Plan to show a park or parks suitably located for playground or recreational 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 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 not more than three years. Each area reserved for such purpose shall be of suitable area, dimensions, topography and natural character for the purpose of a park or playground. The area or areas shall be so located as to serve adequately all parts of the subdivision as approved by the Board. The Board may require that the area or areas reserved shall be located and laid out so as to be used in conjunction with similar areas of adjoining subdivisions or of probable subdivisions. The area or areas shall be made available for purchase by the Town. Failure by the Town to purchase said area(s) within three years from the date of acceptance of the subdivision's roads and utilities by the Town shall free the owner from these restrictions.

§ 117-25. Flood plain.

If any part of a proposed subdivision is at or below a base flood elevation, the design of the subdivision shall:

- A. Be consistent with the need to minimize flood damage;
- B. Provide for all public utilities and facilities such as sewer, gas, electrical and water systems to be located and constructed to minimize or eliminate flood damage; and
- C. Provide drainage systems adequate to reduce exposure to flood hazards.

§ 117-26. Wetlands.

Under the Wetlands Protection Act, G.L. c. 131, Sec. 40 "no person shall remove, fill, dredge or alter any bank, freshwater wetland, beach, dune, flat, marsh, meadow or swamp bordering ... on any creek, river, stream, pond or lake, or any land under said waters without filing written notice of his intention to so remove, fill, dredge or alter, including such plans as may be necessary to describe such proposed activity and its effect on the environment, at least sixty days prior to any such removing, filling, dredging or altering." Said notice shall be sent by certified mail to Conservation Commission. The Board may condition its approval of a Definitive Plan upon the issuance of an "Order of Conditions" by the Newbury Conservation Commission.

§ 117-27. Subdivision signs.

Permanent signs identifying the subdivision by name (other than street signs) are

prohibited.

§ 117-28. Preservation of stone walls.

Stone walls throughout the property shall be preserved. Where this is not possible, stonewalls shall be restored. The definitive plan shall include a designation of any stone walls to be moved or restored.

§ 117-29. (Reserved) ⁶

§ 117-30. Fire protection.

- A. In precinct I, the applicant is required to install 20,000 gal underground water storage tanks along the roadways of the subdivision at located a maximum of 700 feet apart. The tanks shall be installed and maintained in accordance with the NFPA Standards with the approval of the Newbury Board of Fire Engineers. After installation, it will be the applicant's responsibility to repair and maintain all fire fighting water storage facilities so that they are fire-fighter-ready for use at all times.
- B. In precinct II, applicants will be required to connect the subdivision to the water systems owned, operated and maintained by the Byfield Water District. Installation standards and specifications must comply with those of the Byfield Water District and the Newbury Board of Fire Engineers.

ARTICLE V
Specifications for Construction

§ 117-31. General.

- A. The subdivider shall install all of the improvements itemized herein unless waived in writing by the Board. All work done in accordance with these specifications shall be accomplished only subject to the inspection of the Planning Board or the Board's Agent.
- B. No aforementioned bond or covenant shall be released until fill approval in writing of all work done is received by the Planning Board from its Agent. Such approval shall be in a form mutually satisfactory to the Planning Board and the Board's agent and shall, at a minimum, cover those matters set forth in the Subdivision Inspection Checklist - Form G.⁷
- C. No loam, gravel or other earth materials of any kind shall be removed from its original position in any subdivision until such time as the performance guarantee has been submitted, accepted and approved by the Board. No removal of loam from the development shall be made until a six-inch thickness of compacted loam shall

⁶. Editor's Note: Former § 117-29, Common driveways, was repealed 9-15-2004. For current requirements for common driveways, see Ch. 97, Zoning, Art. XIC, Common Driveways.

⁷. Editor's Note: Form G is located at the end of this chapter.

have been provided throughout the entire area of all lots and on the planting strips along the roadway. Only such areas designated as roadways, driveways, building sites and areas requiring filling may be excavated for construction purposes.

§ 117-32. Streets and roadways.

Unless otherwise specified, all construction shall be in accordance with the most recently amended "Standard Specifications for Highways and Bridges" of the Massachusetts Department of Public Works.

- A. Clearing and grubbing - Existing trees within the area of the right-of-way may be selected for preservation for aesthetic or other values by the Planning Board provided they shall be over six inches caliper and shall be located at least five feet from the edge of the finished roadway pavement. No trees shall be removed until said selection is made. Such trees to be preserved shall be protected from bruises and other abuses continuously throughout the construction of the subdivision in a manner satisfactory to the Planning Board. The developer shall give the Board fourteen days notice to allow the Board to select the trees to be saved. The entire area of each right-of-way shall then be cleared of all stumps, brush, roots, boulders and like material and all trees not intended for preservation.
- B. Excavation and subgrade preparation - All topsoil and other yielding material shall be removed for the full length and width of the paved roadway and from under the sidewalk location when sidewalks are required regardless of whether or not the finished grade is above the existing grade. With the roadway at the subgrade level, all pipes and underground services shall be laid. Backfill will be with clean, granular material, and shall be compacted in six-inch lifts with equipment satisfactory to the agent of the Board. All roadway fills will be constructed of earth free of stumps, brush, trash, organic material or other deleterious materials. Fill material shall be placed in six-inch maximum lifts. The moisture content shall be kept at optimum by means of water trucks (if dry) or blading the material (if wet). The road fills shall be compacted with rollers satisfactory to the Board to 95% standard AASHO compaction. Satisfactory compaction levels to be confirmed by compaction tests; such tests to be arranged and paid for by the developer, and results forwarded to the Board and its agent; which tests shall be by such method and by such testing company as shall be satisfactory to the Board.
- C. Gravel base and grading - After the roadway has been carefully graded to an elevation 16 inches below the finished grade as shown on the profile of the Definitive Plan, 12 inches of base gravel shall be spread and rolled with a roller of sufficient weight to achieve 95% compaction of gravel (AASHO T-99, Method C). Satisfactory compaction levels to be confirmed by compaction tests; such tests to be arranged and paid for by the developer, and results forwarded to the Board and its inspector; which tests shall be by such method and by such testing company as shall be satisfactory to the Board. The gravel shall be placed in two six-inch lifts, and rolled with a vibratory roller of at least 12 tons static weight. Gravel shall be in conformity with the most recent "Standard Specification for Highways and Bridges" of the Massachusetts Department of Public Works. When spread on the

road and rolled, it shall form a stable foundation. All banks and curves must be established before the bottom course of wearing surface can be applied. The roadway crown shall have a minimum of one-quarter inch per foot of pitch.

- D. Pavement or wearing surface - The wearing surfaces shall consist of a four inch thickness, after compaction, of Class 1, Type 1-1 plant mixed bituminous concrete composed of materials and prepared in conformity with the "Standard Specifications for Highways and Bridges" of the Massachusetts Department of Public Works. It shall be spread and rolled in two courses, a two and one-half inch thickness standard bottom course and a one and one-half inch thickness top course in conformity with the Specifications aforementioned. The first course shall be swept clean prior to the putting down of the second course, and a tack coat must be applied to insure proper binding of the two courses. A leveling course may be required prior to the installation of the second course. Any patches to the wearing surface shall consist of 4-inch thickness, after compaction, and shall be applied in the same manner as the wearing surfaces as set forth above.

§ 117-33. Utilities.

All required utilities exclusive of transformers shall be placed underground at the time of initial construction. Required utilities may include water, storm drainage, telephone, electricity, gas, wiring for street lights, fire alarm systems, and cable TV. All construction will be in accordance with Massachusetts Department of Public Works "Standard Specifications for Highways and Bridges" or the specification of the applicable utility company, unless otherwise specified by the Board. All utilities which are placed above ground, i.e.; poles and transformers, shall be placed outside the right of way so as not to interfere with the placement of the streets, roadways and/or sidewalks and the subdivider shall provide easements on lots within the subdivision for this purpose.

A. Surface water drainage.

- (1) Pipes, culverts and drains - Pipe for the construction of culverts and drains shall be reinforced concrete except where such culverts or drains pass under a roadway or driveway, in which case they shall be Concrete Pipe Institute Class V (or better) reinforced concrete. All pipe shall not be less than 12 inches in diameter. Pipe joints shall be carefully made so that the spigot is tightly butted to the seat of the bell and the spacing between the spigot is uniformly proportioned. The joints shall be filled with cement in all cases. All utility trenches shall be filled with bank gravel or clean excavated in-place material carefully compacted in six-inch lifts and shall be leveled with adjacent grades. All drains shall be laid to uniform grades and shall be carefully bedded so that the pipe is supported throughout its entire length with compacted earth. Shoulder or so-called French drains shall be located wherever underground water is present that may flow under proposed streets or roadways. Such drains shall be at least three feet in depth and two feet in width and otherwise sufficient to interrupt such flow of water and divert it from flowing under such proposed street or roadway.

- (2) Catch basins - Catch basins shall have a thirty inch sump. All catch basins shall discharge into manholes. The distance between two catch basins shall not exceed 300 feet. The Planning Board may require a lesser distance if deemed advisable by the Board because of unusual local conditions; catch basins shall be installed at all breaks in grade.
 - (3) Natural drainage - Where natural drainage courses are altered, cross drains and other structures approved by the Board shall be installed to restore natural drainage. The capacity of such alterations shall be determined on the basis of a 50-year frequency storm. Where cross drains carry flow of natural water courses, flared ends, concrete headwalls or rip-rap shall be installed to prevent erosion.
- B. Water mains - Where applicable, water pipes and related equipment, such as hydrants and main shut-off valves, shall be constructed to serve all lots on each street in accordance with the current specifications of the Newburyport Water Commission, the Old Town Water District or the Byfield Water District. Hydrants shall be provided and placed at intervals of not more than 500 feet along each street. Backfill shall be in accordance with Subsection A(1). Except where necessary to cross a street, all water pipes and related equipment shall be installed on one side of the street. Where only one sidewalk is required by the Planning Board, the water pipes and related equipment shall be placed on the other side of the street. All water pipes and related equipment shall be placed away from the paved roadway and any sidewalk so as to minimize the amount of roadway cutting or sidewalk cutting required in the future for repairs.

§ 117-34. Sidewalks/bikeways.

Unless the Board determines that pedestrian movement is otherwise provided for, sidewalks having a width of not less than five feet, a gravel base of eight inches, and a three-inch thick bituminous pavement (of which two inches shall be applied as the base and one-inch applied as the top wearing surface) in accordance with the provisions of § 117-32D shall be constructed between the roadway and the right-of-way line, as close to the latter as practicable, and generally parallel with the roadway. The application of the bituminous pavement shall be by mechanical spreader reasonably acceptable to the Planning Board or the Board's Agent. Minor streets shall be provided with sidewalks on one side, secondary and principal streets with sidewalks on both sides. The inclusion of bicycle paths is encouraged. Pedestrian access other than by routes parallel with roadways may be permitted, provided easements are established.

§ 117-35. Monuments.

- A. Permanent monuments shall be granite, four feet in length and four inches square and shall be set at locations shown on the Definitive Plan. A 3/8-inch drill hole shall be placed in the top to indicate the point. The tops shall be set four-inches above the final grades of the adjoining ground. All permanent monuments shall be properly placed, backfilled and tamped with a good binding gravel and shall be adequately protected if placed before all construction is completed. Placement and location of

monuments shall be certified by a registered land surveyor and shall be shown on the Record Plan.

- B. Monuments shall be installed at all street intersections and at all points of change in curvature of streets (at 1000-foot intervals maximum on tangents). Iron pipes shall be installed at the front two corners of individual lots within the subdivision and at other points where, in the opinion of the Board, permanent monuments are necessary. No permanent monuments shall be installed until all construction which would destroy or disturb the monuments is completed.

§ 117-36. Granite curbing.

Sloped granite curbing shall be installed as edging on all paved roadways, at the back of catch basins, at roadway intersection roundings, and in other specific locations as determined by the Board.

§ 117-37. Street signs.

The subdivider shall furnish and erect street signs at the locations shown on the Definitive Plan to designate the name of each street in a subdivision and each intersecting street, prior to the occupancy of any house on the street. Each sign shall consist of a cast metal, double-faced, street nameplate mounted on a two-inch diameter pipe with a clearance of seven feet above the sidewalk or ground surface, said pipe being set at least 30 inches in the ground set in concrete and in such a position that it could not be easily struck by passing vehicles. Signs shall conform in color and in lettering style to the current Town standards.

§ 117-38. Side slopes.

The area outside the pavement (whether in cut or fill) shall be sloped at a rate not steeper than three horizontal to one vertical (3:1) until it intersects the finished grade of the abutting lots, except as may be required for sidewalks, all as shown on the typical street cross-section. All such slopes shall be loamed and seeded similar to the grass strips. Flatter slopes may be required by the Board depending on soil conditions.

§ 117-39. Retaining walls.

Retaining walls or other slope stabilization construction shall be required to eliminate all slopes less than the ratio of three horizontal to one vertical. The design, type and location of any wall or other construction shall conform to all State Building Code requirements and shall be submitted to the Board for approval.

§ 117-40. Grass strips.

All grass strips and other unpaved areas within the street right-of-way shall be covered with at least six inches of loam (depth after compaction) before seeding.

§ 117-41. Trees.

Every effort shall be made to preserve the existing trees on the right-of-way and on the lots to be sold. No tree in excess of six inches in diameter shall be removed within the rights-of-way of the proposed streets within a subdivision without the approval of the Planning Board. Filling and cutting of roadways shall be done in such a manner as to preserve the trees whenever possible. No fill shall be placed against the trunk of any tree to be retained. The Board shall require planting of trees when, in its opinion, existing trees are insufficient to provide an attractive setting. Trees shall be provided by the subdivider in accordance with the Definitive Plan which shall specify the number of required trees and note the size, location and a type of stock compatible with site conditions for each planting. At any time prior to the release of the performance guarantee pursuant to § 117-16L hereof, the Planning Board may require that additional trees be planted when, in its opinion, such additional trees are required to provide an attractive setting. The Board shall provide the subdivider with the size, location, and type of stock which is compatible with site conditions for each planting. In no case shall trees of any type with less than a three-inch caliper be planted.

§ 117-42. Inspection of required improvements.

The following inspections of the required improvements will be made at the applicant's expense by the Board's Agent. Inspection will be in addition to any other inspections the Board may make or cause to be made. It should be noted that the construction process requires continuous although not necessarily full-time, inspection. Therefore, it is anticipated that several of the following inspections may be going concurrently on different parts of the subdivision. Prior to the beginning of any work in the subdivision, a pre-construction meeting will be held on site between the Board and/or its' Agent and the applicant.

- A. First inspection - An inspection will be made of the work upon completion of all clearing, grubbing and stripping and all work incidental thereto. No fill shall have been placed at the time of this inspection.
- B. Second inspection - An inspection will be made of the completed drainage system (without backfill) as required on the Definitive Plan. At the same time, or such other time as the work may be available, an inspection will be made of the completed underground utilities and municipal services (without backfill) as required. The inspection of required utilities and municipal services will be made by the agency responsible for the particular service. Each agency so involved will notify the Board's Agent of the results of its inspection.
- C. Third inspection - An inspection of the back filling and compaction of all drainage, sewer, water and other utility trenches as may be installed by utility companies and related work will be made in the manner required by these Rules and Regulations. It shall be the applicant's responsibility to ensure compliance with these requirements. If, in the opinion of the Board, the backfilling and compaction of utility trenches and the patching of the pavement, if required, has not been performed properly, the Board may not release the bond, surety or covenant applicable until such work has been performed to the satisfaction of the Board.

- D. Fourth inspection - An inspection will be made of the construction of road embankments up to the level of the bottom of the gravel base. No fill may be placed for such embankments until:
- (1) The Agent has approved the conditions of the foundation soil under the fill with respect to adequacy of topsoil and vegetation removal, wet conditions, etc.
 - (2) The material to be used in the embankment has been approved by the Agent.
 - (3) Prior to placing the gravel base, the road subgrade will be proof-rolled with a minimum of four passes of a vibratory roller of 12 tons static weight. Special attention will be paid to proof-rolling around catch basins and manholes and over culverts and water lines.
- E. Fifth inspection - An inspection will be made of the gravel base as may be required to bring the roadways to grade. The applicant shall notify the Agent as to his source of gravel as soon as such information is known, so that samples may be taken and analyzed by the Engineer. The applicant is hereby advised not to proceed with this operation until such time as the Agent notifies the applicant that the gravel proposed for the fill is acceptable. If the applicant proceeds prior to such notice, he does so at his own risk. The applicant shall not use a gravel source other than the one designated without prior notice to the Agent.
- F. Sixth inspection - An inspection will be made of the completed binder course for the roadway pavement. Samples of the bituminous mix may be taken by the Agent for purposes of performing an extraction test in order to compare the sample with the job-mix formula previously submitted.
- G. Seventh inspection - An inspection will be made of the completed top course of the roadway pavement and the installation of curbing.
- H. Eighth inspection - An inspection will be made of all work as required on sidewalks, grass plots, street trees, side slopes, monuments and street signs.
- I. Ninth inspection - A final inspection will be made of all subsequent work as required herein or on the Definitive Plan to include the final cleanup. The developer's engineer shall furnish all data relative to base lines and grade stakes on the ground, stake sheets, ties and any other information which is needed in the opinion of the Board's Agent to accomplish the 9th inspection.
- J. Inspection before winter — Prior to winter, the site will be inspected and the Board will present the applicant of list of items that need to be addressed in order to make the site safe and functional prior to winter. Following the receipt of the letter, the applicant will have 30 days to address the items or appear before the Board.

§ 117-43. Agent's report.

- A. The Board's Agent will submit a completed report to the Board for each way in a

subdivision. Such report may be in the form appended hereto marked Form G⁸ and will be augmented by such additional information as is necessary or as the Board may require to describe any special problems or situations which may arise during the construction of the required improvements.

- B. The Board's Agent and other responsible inspection agents will report to the Board that the work has been performed in accordance with these Rules and Regulations and the Definitive Plan, or its Agent and others will advise the Board that the work is not acceptable with the reasons therefor.
- C. At any time during the progress of the work, the Board's Agent and others will advise the Board, immediately, of any factors which may adversely affect the progress of the work.

§ 117-44. Interim as-built plans.

- A. The subdivider shall supply the Planning Board and the Board's Agent with as-built plans at the same scale as the street plans, the accuracy of which shall be certified by a Registered Land Surveyor or Registered Professional Engineer retained by the subdivider and approved by the Planning Board, which as built plans shall indicate the actual location of all of the following:
 - (1) Locations of all underground utilities;
 - (2) Location of all pipes, culverts and drains;
 - (3) Location of all catch basins;
 - (4) Location of all natural drainage courses;
 - (5) Location of all water mains, water pipes and related equipment, such as hydrants and main shut-off valves; and
 - (6) Location of any stumps, brush, roots, boulders and like material placed within the subdivision.
- B. Such as-built plans shall be delivered to the Board and the Board's Agent prior to the application of the gravel base as required by § 177-32C. Such plans shall be provided on a timely basis so as to permit the Board and the Board's Agent time to review said plans and the subdivision site prior to the application of the gravel base on the roadway.

ARTICLE VI
Special Review Fees

§ 117-45. Consultant fees.

When reviewing an application for approval of a subdivision Preliminary Plan or Definitive Plan for approval, the Board may determine that the assistance of outside

⁸. Editor's Note: Form G is located at the end of this chapter.

consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's impacts. The Board may require that the Applicant(s) pay, in addition to the general filing fee, a "review" fee [as defined in §§ 117-15A(5) and 117-16F] for the employment of outside consultative services(provided by either a public or private entity) engaged by the Board to assist in the review of an application.

§ 117-46. Consultants authorized.

In hiring outside public or private consultants, the Board may engage engineers, planners, traffic specialists, lawyers, urban designers, hydrologists, or other appropriate professionals who can assist the Board in analyzing a project to insure compliance with all relevant laws, ordinances, bylaws and regulations.

§ 117-47. Deposit of fees; fund; expenditures.

Funds received by the Board pursuant to this article 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 Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the Applicant. Failure of an Applicant to pay a review fee(s) shall be grounds for denial of the application.

§ 117-48. Use of fees; interest; excess amounts.

Review fees may only be spent for services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the Applicant or the Applicant's successor in interest. For the purpose of this article, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

§ 117-49. Appeals.

Any applicant may take an administrative appeal from the selection of an outside public or private consultant to the Board of Selectmen of the Town of Newbury. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection of the Planning Board shall stand.

ARTICLE VII
Administration

§ 117-50. Enforcement.

The Board shall be the agency responsible for administration and enforcement for all matters arising hereunder.

§ 117-51. Modify, amend or rescind approval.

The Board on its own motion or on the petition of any interested party shall have the authority to modify, amend or rescind its approval of a Plan of a subdivision or to require a change in a Plan as a condition of its retaining the status of an approved plan after notice and opportunity to the applicant to be heard in accordance with G.L. c. 41 Sec. 81-W.

§ 117-52. Separability.

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

§ 117-53. Amendments.

- A. These Rules and Regulations or any portion thereof may be amended, supplemented or repealed from time to time by the Board after a public hearing on its own motion or by petition.
- B. If a definitive plan, or a preliminary plan followed within seven months by a definitive plan, is submitted to the planning board for approval under the subdivision control law, and written notice of such submission has been give to the town clerk before the effective date of amendments to these rules and regulations, the land shown on such plan shall be governed by the applicable provisions of this bylaw in effect at the time of the first such submission and if such definitive plan or an amendment thereof is finally approved, for eight years from the date of the endorsement of such approval.

§ 117-54. Forms.

On the following pages are the official forms for the administration of these regulations. The administrative content of these forms may be revised from time to time by the Board apart from § 117-53 above. Copies of the forms are available from the Board or the Town Clerk.

§ 117-55. Additional references.

- A. Town of Newbury Bylaws.
- B. Zoning Bylaw for the Town of Newbury.
- C. Minimum Sanitation Standard for Private and Semipublic Water Supply - Newbury Board of Health.

- D. Operating Instructions for Sewage Disposal Facilities - Newbury Board of Health.
- E. State Environmental Code - Title 5.
- F. State Wetlands Protection Act.
- G. Newbury Earth Removal Bylaw.
- H. Flood Insurance Rate Map.

ARTICLE VIII

Newbury Planning Board Rules and Regulations Governing Storm Water Management

§ 117-56. Purpose and intent.

The purpose and intent of storm water management shall include:

- A. For quantitative control of storm water runoff; a system of native species vegetation and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and
- B. For qualitative control of storm water runoff, a system of native species vegetation, structural and other measures, that reduce or eliminate pollutants that might otherwise be carried off by surface runoff.

§ 117-57. Management policies and regulations.

The applicant shall follow all regulations and policies for proper storm water management for the following activities:

- A. All new residential subdivisions;
- B. All new multifamily developments;
- C. Facilities or activities requiring or creating 20,000 square feet or more of total impermeable surface area, or resulting in fifteen percent (15%) or more of the project area being rendered impervious;
- D. All roadway construction and upgrading projects;
- E. Any activity within wetlands and a 300 foot buffer zone, "Area of Critical Environmental Concern" and a 300 foot buffer zone, Flood plain and Watershed Protection District, and Town Water Supply District, and involving any maintenance, alteration, use or improvement to an existing storm water management structure changing or affecting the quality, rate, volume, or location of surface water discharge.

§ 117-58. Submission requirements.

- A. The applicant shall submit all pertinent information in the preliminary planning stages for such facilities or activities. Certain informational requirements may not be applicable to the proposed activity, in such case the relevant sections may be waived by the Planning Board prior to or at the time of plan submission.

- B. It shall be the responsibility of the applicant to submit a Storm Water Management Plan containing sufficient information for the Planning Board to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on the resource areas and districts as noted above, and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts. The Storm Water Management Plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, calculations, plans showing construction details of all systems and structures, and citations to supporting references, as appropriate to communicate the information as required by these regulations.
- C. The existing environmental and hydrological conditions of the site and or receiving waters and wetlands shall be described in detail, including but not limited to the following:
- (1) The direction, flow rate, and volume of surface runoff under existing conditions: the required information shall be based on the 2 year, 10 year, and 100 year storm events for the 24 hour duration, and the duration which coincides with the time of concentration of the watershed: the method of calculation shall be TR-55 or Rationale Method for drainage areas under 100 acres and TR-55 for drainage areas of 100 acres or more;
 - (2) The location of areas of the site where storm water collects or percolates into the ground;
 - (3) A description of all surface watercourses, water bodies, and wetlands on or entering a site, or adjacent to the site, or into which storm water flows. Information regarding their water quality and current water quality classification shall be included;
 - (4) Depth to seasonal high groundwater levels;
 - (5) Location of flood plains as per the Town of Newbury Watershed and Flood plain Protection District Zoning Bylaw and Map on file with the Town Clerk's Office;
 - (6) Principal vegetation types;
 - (7) Topography described in fill contour details, at 2 foot intervals, with areas of steep slopes (over 10%) highlighted;
 - (8) Soils, with an accompanying analysis of the best use potential of the soils and hydrological group classification; the soils map and use potentials analysis prepared by the US. Soil Conservation Service shall be used as the basis for this analysis.
- D. Proposed alterations of the site shall be described in detail, including but not limited to the following:
- (1) Changes in topography, described in full contour details at two foot intervals;
 - (2) Areas where vegetation will be cleared or otherwise altered;

- (3) Areas that will be covered with an impervious surface and a description of the surfacing material.
- E. The proposed development layout shall be described in detail, including but not limited to the following:
- (1) The site arrangement, including the location of structures, roadway, parking areas, sewage disposal facilities, and undisturbed lands.
 - (2) All drainage systems to be provided, including the location and design of roadway and individual lot sub-drains: full drainage calculations shall be included, with 1 year, 2 year, 10 year, and 100 year storms used as the basis of design.
 - (3) The method of calculation shall be the TR-55 or Rationale Method for drainage areas under 100 acres and TR-55 for drainage areas of 100 acres or more.
- F. Predicted impacts of the proposed development on existing conditions shall be described in detail, including:
- (1) Changes in water quality, included but not necessarily limited to ground and surface water;
 - (2) Changes in ground water levels;
 - (3) Changes in the incidence and duration of flooding on the site and upstream and downstream from it;
 - (4) Adverse impacts on wetlands;
 - (5) Impacts on vegetation.
- G. All components of the drainage system and any measure for the detention, retention, or infiltration of water, or for the protection of water quality shall be described in detail, including:
- (1) The channel, direction, volume, and rate of the flow, and quality of storm water that will be conveyed from the site, with a comparison to existing conditions, and to the extent practicable, pre-development conditions.
 - (2) Detention and retention areas and devices, including:
 - (a) Plans for discharge of contained waters, including the time to draw down from full condition, description of outlet structures;
 - (b) Maintenance plans: including maintenance schedule, an outline of responsible parties and owners, and all pertinent agreements to be executed to insure proper maintenance;
 - (c) An evaluation of the pollutant removal efficiency of such devices under the existing conditions.
 - (3) Areas of the site to be used or reserved for percolation including the depth to

seasonal high ground water table, and prediction of the impact on ground water quality.

- (4) Areas to be utilized in overland flow, the hydrological soil type of such areas, vegetation present, and the soil susceptibility to erosion.
- (5) Any other information which the developer or the Planning Board believes is necessary for an evaluation of the development.

§ 117-59. Nitrogen and/or phosphorus loading report.

For review of water quality impact, an applicant shall submit calculations of anticipated nitrogen and/or phosphorus contributions from roads, lawns, and septic systems. Applicant must determine the "carrying load" or ability to absorb nitrogen and phosphorous loading of all receiving water systems on site.

§ 117-60. Performance standards.

Storm water Management Plans submitted must demonstrate that the proposed development or activity has been planned and designed and will be constructed and maintained to meet each of the following standards:

- A. Ensure that after development, runoff from the site or activity approximated the rate of flow, velocity, volume, and timing of runoff that would have occurred following the same rainfall conditions under existing conditions;
- B. Maintain the natural hydrodynamic characteristics of the watershed;
- C. Protect or improve the quality of surface and ground waters;
- D. Protect, maintain, or improve water quality or existing water quality standards for all receiving waters, water courses and water bodies;
- E. Protect and maintain ground water levels;
- F. Protect the beneficial functioning of wetlands as areas for the natural storage of floodwaters, the chemical reduction and assimilation of pollutants and wildlife and fisheries habitat;
- G. Prevent increased flooding and damage that results from improper location, construction, and design of structures;
- H. Prevent reverse salt water intrusion;
- I. Protect the natural fluctuating levels of salinity to estuarine areas;
- J. Minimize alteration to flora and fauna and adverse impacts to fish and wildlife habitat;
- K. Otherwise further the objectives of the Storm Water Management Policies and Regulations.

§ 117-61. Design standards.

The design, construction, and maintenance of storm water systems will be consistent with the following:

- A. Discharging runoff directly into rivers, streams, watercourses, or enlarging the volume, rate, or further degrading the quality of existing discharges/runoff is prohibited. Runoff shall be routed through vegetated swales and other structural and non structural systems designed to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle, and remove pollutants; such systems will utilize overland flow and re-infiltration as priority techniques for the treatment of runoff.
- B. Retention and detention ponds, and methods of overland flow may be used to retain, detain, and treat the increased accelerated runoff which the development generates.
- C. There shall be a minimum of two feet of naturally occurring soils beneath the detention basin bottom and the seasonal high ground water table.
- D. Water shall be released from detention ponds at a rate and in a manner approximating the natural conditions which would have occurred before development, incorporating the following standards:
 - (1) Peak flow discharges from a 1 year, 2 year, and 100 years storm shall not be increased or decreased by the development or activity.
 - (2) Ponds shall not be placed where their use poses concerns of ground water contamination through the recharging of pollutants from surface runoff.
 - (3) Retention ponds shall have a minimum containment time of 36 hours, a minimum sump depth of 3 feet, and whenever possible utilize permeable sides and/or bottoms so as to minimize outflow.
 - (4) Outflow from structural devices shall have flow proceed to native vegetated areas or native vegetated swales when discharging in proximity to watercourses, wetlands, and the estuary; such areas utilized for sheet flow should have hydraulic and vegetative characteristics adequate to insure that storm water reaching the watercourse, wetland, or estuary does so in a manner at pre-development or existing conditions.
- E. Natural watercourses shall not be dredged, cleared of vegetation, deepened, or otherwise altered. Water shall be retained or detained before it enters any natural watercourse in order to preserve the natural hydrodynamics of the watercourse and prevent siltation or other pollution.
- F. Intermittent watercourses such as swales, should be vegetated.
- G. The first one inch of runoff from impervious surfaces, such as rooftops and paved surfaces, shall be treated and re-infiltrated in the site of the development. Applicant shall quantify first one inch of runoff and specify how treatment and re-infiltration will be accomplished.
- H. Runoff from parking lots and roads shall be treated to remove oil and sediment.

- I. The use of drainage facilities and vegetated buffer zones as open space and conservation areas shall be encouraged.
- J. Neighboring properties shall not be adversely affected by flooding from excessive runoff.
- K. At least two (2) monitoring wells shall be installed and located as directed by the Planning Board and/or their Consultant. However, one such monitoring well will be located at the outlet of any retention/detention basin.
 - (1) Initial testing to establish a water quality baseline will be conducted for a period of three (3) months prior to any construction activity. Samples will be taken, as a minimum at least once every month from each of the monitoring wells. There shall not be more than 25 days span between sampling.
 - (2) Upon commencement of construction, sampling and testing will be continued at the frequency and with the same requirements as above. This sampling and testing will be continued until construction is completed and a request is made of and approved by the Planning Board to decrease this frequency of sampling and testing.
 - (3) Upon approval by the Planning Board the testing frequency will be reduced to a semiannual requirement which shall continue until the subdivision roads and improvements are accepted by the Town unless the Planning Board shall relieve the Applicant of this sampling testing requirement sooner.
 - (4) Samples shall be taken to a MA-approved testing laboratory and tested for the following parameters:
 - (a) Total and Fecal Coliforms.
 - (b) Total Phosphorous.
 - (c) Nitrate-Nitrogen.
 - (d) Sodium.
 - (e) Calcium.
 - (f) Chloride.
 - (5) Applicant shall notify the Planning Board and/or their Consultant at least 24-hours prior to sampling. Applicant shall submit copies of the testing laboratory results to both the Planning Board and their Consultant.
- L. The first one inch of runoff from impervious surfaces such as rooftops and paved surfaces shall be treated and re-infiltrated within the site of the development. Applicant shall specify how treatment and re-infiltration will be accomplished. For the purpose of quantifying the first one inch of runoff, Applicant shall calculate volume of one (1) inch of water over all existing proposed impervious site development surfaces. In addition, one (1) inch of water over all anticipated rooftop, patio and driveway areas shall be added. At a minimum, an area of 3,000

square feet shall be assumed as the minimum area per lot of impervious surface for rooftop and patio (house), garage and driveway.

§ 117-62. General requirements.

- A. Monitoring wells will be installed at the outlet of the retention/detention basin to ensure that no chemical de-icers, fertilizers or pesticides (other than fertilizer contained in the seed mixture) are being used. A baseline sample will be taken prior to construction of the retention basin and semiannually thereafter until such time as a Certificate of Compliance and Performance is issued.
- B. Sedimentation must be excavated at least semiannually from the pond and after every major storm event of two inches or more over any 24 hour period. Any vegetation uprooted by sedimentation removal must be replaced.
- C. Applicant shall submit an Operation and Maintenance Plan for retention and detention ponds and related storm water facilities. Said Plan shall address Basin Identification, Final Inspection, Operation, Inspection and Maintenance, Checklist, AS-BUILT Plans, and Town Acceptance.
- D. The applicant/developer shall secure future maintenance of the storm water system by a proper bond or by deposit of money of an amount as determined the Planning Board. Such bond or deposit must be secured to the satisfaction of the Board prior to release of any lots within the development and prior to receipt of a building permit.
- E. In the event that the developer does not follow maintenance procedures and programs as approved by the Board, the developer shall devise a plan to remedy the deficiencies. The Board shall approve, disapprove, or modify with approval the plan as required to bring the ground water test result back to at least the baseline conditions. The board shall have the authority to expend any portion of said bond or deposit to provide such maintenance.
- F. In the event that the storm water system is accepted by the town and therefore the town assumes the ownership of said system, any remaining portion of this bond or deposit will be refunded to the developer or homeowner's association.