

Rules and Regulations  
Governing the  
**Subdivision of Land**  
In  
Winchendon, Massachusetts  
January, 1999

**“Subdivision”**

*The division of a tract of land into two or more lots and shall 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 the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on*

- (a) a public way or a way which the clerk certifies is maintained and used as a public way, or*
- (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or*
- (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having in the opinion of the planning board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.*

*Such frontage shall be of at least such distance as is then required by zoning or other bylaw, if any, of said city or town for erection of a building on such lot, And if no distance is so required, such frontage shall be of at least twenty feet.*

*Conveyances or other such instruments adding to, or taking away from, or changing the size and shape of, lots in such manner as to not leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision. (MGL Chapter 41 section 81L)*

*No person shall make a subdivision of land  
Or proceed with the improvement or sale of lots  
In a subdivision, or the construction of ways  
Or the installation of municipal services therein,  
Unless and until a Definitive Plan of such subdivision  
Has been submitted to and approved by the  
Planning Board as hereinafter provided.  
(Section 1.04, Rules and Regulations, etc.)*

Winchendon Planning Board  
January, 1987

Amended March 1, 1988  
Amended December 1, 1988  
Amended December 4, 1997  
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Amended May 17, 2001

## Table of Contents

Section 1.00	Subdivision Control	*
1.01	Authority	*
1.02	Purpose	*
1.03	Definitions .....	*
1.04	Unapproved Subdivision Prohibited .....	*
Section 2.00	Approval Not Required (Under Subdivision Control Law)	
2.01	Submission of Plan Believed Not to Require Approval	
2.02	Endorsement	
2.03	Use of Land	
2.04	Site Inspection	
Section 3.00	Procedure For Submission and Approval of Plans	
3.01	Preliminary Plans	
3.02	Definitive Plans	
Section 4.00	Design Standards	
4.01	Basic Requirements	
4.02	Streets	
4.03	Easements	
4.04	Open Spaces	
4.05	Protection of Natural Resources	
4.06	Protection of Town Property	
4.07	Protection of Abutters	
4.08	Slope Stabilization	
Section 5.00	Required Improvements For an Approved Subdivision	
5.01	Notice of Commencement of Construction	
5.02	Street and Roadway	
5.03	Utilities	
5.04	Sidewalks/Bikeways	
5.05	Monuments	
5.06	Curbs	
5.07	Street Signs	
5.08	Trees and Other Plantings	
5.09	Fire Alarm System	
Section 6.00	Administration	
6.01	Authority	
6.02	Waiver of Compliance	
6.03	Inspection	
6.04	Separability	
6.05	Amendments	
6.06	Invalidation by State Law	
6.07	Forms	
Section 7.00	Acceptance	
7.01	As-Built Plans	
7.02	Conveyance of Easements and Utilities	
7.03	Recording of Plans	

- Section 1.00 Subdivision Control
  - 1.01 Authority
  - 1.02 Purpose
  - 1.03 Definitions
    - 1.031 Abutter
    - 1.032 Applicant
    - 1.033 Approval
    - 1.034 Definitive Plan
    - 1.035 Developer or Subdivider
    - 1.036 Drainage
    - 1.037 Lot
    - 1.038 Owner
    - 1.039 Parties in Interest
    - 1.0310 Planning Board or Board
    - 1.0311 Preliminary Plan
    - 1.0312 Receipt
    - 1.0313 Recorded
    - 1.0314 Register of Deeds
    - 1.0315 Registered Mail
    - 1.0316 Registry of Deeds
    - 1.0317 Streets
      - 1.01371 Principal Street
      - 1.01372 Secondary Street
      - 1.01373 Minor Street
    - 1.0318 Subdivision
    - 1.0319 Subdivision Control Law
  - 1.04 Unapproved Subdivision Prohibited
- Section 2.00 Approval Not Required (Under Subdivision Control Law)
  - 2.01 Submission of Plan Believed Not to Require Approval
    - 2.011 Application
      - 2.0111
      - 2.0112
      - 2.0113
      - 2.0114
    - 2.012 Form and Contents of the Plan
      - 2.0121
      - 2.0122
      - 2.0123
      - 2.0124
      - 2.0125
      - 2.0126
      - 2.0127
      - 2.0128
      - 2.0129
      - 2.01210
      - 2.01211
      - 2.01212
      - 2.01213
    - 2.013 Findings by the Board
      - A.
      - B.
      - C.
      - D.
      - E.

- 2.01
  - 2.013 E. (cont.)
    - 1.
    - 2.
    - 3.
    - 4.

- 2.02 Endorsement
- 2.03 Use of Land
- 2.04 Site Inspection

Section 3.00 Procedure for Submission and Approval of Plans

- 3.01 Preliminary Plans
  - 3.012 Application (a-g)
  - 3.013 Form and Contents of Preliminary Plan (a-h)
  - 3.014 Preliminary Plan Review and Decision (a-c)
- 3.02 Definitive Plan
  - 3.021 Application
    - 3.0211
    - 3.0212
    - 3.0213
    - 3.0214
    - 3.0215
    - 3.0216
    - 3.0217
  - 3.022 Form and Contents of Definitive Plan
    - 3.0221
    - 3.0222
    - 3.0223
    - 3.0224
    - 3.0225
    - 3.0226
    - 3.0227
    - 3.0228
    - 3.0229
    - 3.02210
    - 3.02211
    - 3.02212
    - 3.02213
    - 3.02214
    - 3.02215
    - 3.02216
      - 3.022161
      - 3.022162
      - 3.022163
      - 3.022164
      - 3.022165
      - 3.022166
  - 3.023 Agency Review
  - 3.024 Site Evaluation
    - 3.0241 Surface Water and Soils
    - 3.0242 Sub-surface Conditions
    - 3.0243 Town Services
    - 3.0244 Human Environment

- 3.025 Report of the Board of Health
- 3.026 Report of the Department of Public Works
  - 3.0261
  - 3.0262
  - 3.0263
- 3.027 Report of the Conservation Commission
- 3.028 Public Hearing
- 3.029 Performance Guarantee
  - 3.0291 Performance Bond
  - 3.0292 Covenant
  - 3.0293 Lender's Agreement
- 3.030 Certificate of Approval
- 3.031 Completion of Plan
  - 3.0311
  - 3.0312
  - 3.0313
  - 3.0314
  - 3.0315

- Section 4.00 Design Standards
  - 4.01 Basic Requirements
  - 4.02 Streets
    - 4.021 Location and Alignment
      - 4.0211 – 4.0216
    - 4.022 Right-of-Way and Street Standards for Accepted Town Streets
      - 4.0221 Construction Standards for Private Ways
    - 4.023 Dead-End Streets/Cul-de-sacs
      - 4.0231
      - 4.0232
  - 4.03 Easements
    - 4.031
    - 4.032
    - 4.033
  - 4.04 Open Spaces
  - 4.05 Protection of Natural Resources
    - 4.051 Flood Plain Conservancy District
    - 4.052 Wetlands Protection
  - 4.06 Protection of Town Property
  - 4.07 Protection of Abutters
  - 4.08 Slope Stabilization

- Section 5.00 Required Improvements for an Approved Subdivision
  - 5.01 Notice of Commencement of Construction
  - 5.02 Street and Roadway
    - 5.021 – 5.026
  - 5.03 Utilities
    - 5.031 – 5.035
  - 5.04 Sidewalks/Bikeways
  - 5.05 Monuments
    - 5.051 – 5.052
  - 5.06 Curbs
  - 5.07 Street Signs
    - 5.071 – 5.072
  - 5.08 Trees and Other Plantings
    - 5.081 Street Trees
      - 5.0811 – 5.0813
    - 5.082 Slope Planting

- 5.083 Grass Strips
- 5.09 Fire Alarm System

- Section 6.00 Administration
  - 6.01 Authority
    - 6.011 – 6.014
  - 6.02 Waiver of Compliance
  - 6.03 Inspection
    - 6.031 –6.032
  - 6.04 Separability
  - 6.05 Amendments
  - 6.06 Invalidation by State Law
  - 6.07 Forms

- Section 7.00 Acceptance
  - 7.01 As-Built Plans
  - 7.02 Conveyance of Easements and Utilities
  - 7.03 Recording of Plans

*Rules and Regulations Governing  
the Subdivision of Land  
in  
Winchendon, Massachusetts*

## Section 1.00 Subdivision Control

### **1.01 Authority**

The following rules and regulations governing the subdivision of land are hereby adopted by the Planning Board of the Town of Winchendon under the authority of Section 81-Q, Ch. 41, General Laws of Massachusetts, as amended, to be effective on and after the 26th day of August, 1986.

### **1.02 Purpose**

The Winchendon Planning Board has authority under the General Laws of Massachusetts to regulate the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, to ensure the safety, convenience and welfare of present and future inhabitants of Winchendon and for other purposes described in G.L. Ch. 41, Section 81 M, such as ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The Board's powers 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 adjacent public ways, for reducing danger to life and limb in the operation of motor vehicles, for securing safety in the case of fire, flood, panic and other emergencies, for ensuring compliance with the applicable zoning ordinance, or by-laws, for securing adequate provision for water, sewerage, drainage, utility services, fire, police and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision, and for coordinating the ways in a subdivision with each other and with the public ways in the town and with the ways in neighboring subdivisions. It is the intent of the subdivision control law that any subdivision plan filed with the Planning Board shall receive the approval of such Board if said plan conforms to the recommendations of the Winchendon Board of Health and the Winchendon Conservation Commission, the requirements of the Winchendon Department of Public Works, and to the reasonable rules and regulations of the Planning Board pertaining to subdivisions of land; provided, however, that such Board may, when appropriate, waive, as provided for in Section 81 -R. such portions of the rules and regulations as is deemed advisable. The Board exercises the said authority with due regard for the Subdivision Control Law, the Winchendon Zoning Bylaw, and the Wetlands Protection Act G.L. Ch. 131, Section 40.

In considering a proposed subdivision the Planning Board solicits the opinions of other town boards, committees and officials and technical professionals as they pertain to the activities of subdivision control.

The Rules and Regulations provide procedures and standards for a subdivider to follow to secure the approval of the Planning Board for a proposed subdivision or other approvals allowed under the Subdivision Control Law.

### **1.03 Definitions**

In construing the meanings of these regulations, the definitions in Section 81-L, of Chapter 41 of the general laws shall apply unless a contrary intention clearly appears. Words and meanings subject to question but not addressed herein or in Section 81 -L of Ch. 41 of the MGL will be defined by the Board.

**1.031 Abutter** Owner of property contiguous to lots being developed under the subdivision control rules and regulations.

**1.032 Applicant** The person who applies for the approval of a plan or the endorsement of a plan. The applicant must be the owner of all the land in the plan for which approval by the Board is required. By providing proof of designated authority, an agent, representative, or his or her assigns may act for the owner.

**1.033 Approval** After receiving submitted plans, the Board may vote to approve them. Such action by the Board requires a simple majority vote of those present at a meeting, unless specified otherwise in the general laws. In the case of final approval on a Definitive Plan, only those board members present at the public hearing can vote.

**1.034 Definitive Plan** The final version of an engineered plan of a proposed subdivision, prepared in accordance with the provisions of these rules and regulations.

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

**1.036 Drainage** The control of surface water within the tract of land to be subdivided.

**1.037 Lot** An area of land in one ownership, with definitive boundaries, used, or available for use, as the site for one or more buildings.

**1.038 Owner** The owner of record as shown by the records of the Worcester County Registry of Deeds or Land Court.

**1.039 Parties in Interest** The petitioner(s), abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300' of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that

the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town.

**1.0310 Planning Board or Board** The Planning Board of the Town of Winchendon, established under Section 81-A, consists of five (5) members. A quorum for a meeting or a hearing held by the Board is three members.

**1.0311 Preliminary Plan** A map or plan of the initial version of a proposed subdivision prepared in accordance with the provisions of these rules and regulations.

**1.0312 Receipt** Upon submission, the Board may "receive" plans without being understood to be "approving" them. Receipt of either preliminary or definitive plans establishes the date upon which the time limitation for processing begins.

**1.0313 Recorded** A document, plan, deed, etc. which has been recorded in the Registry of Deeds of the county in which the land in question is situated, except that, as affecting registered land, it shall mean filed with the recorder of the land court.

**1.0314 Register of Deeds** The Register of Deeds of the County in which the land in question, or the city or town in question, is situated, and, when appropriate, shall include the recorder of the land court.

**1.0315 Registered Mail** Mail registered or certified by the Postmaster.

**1.0316 Registry of Deeds** The Registry of Deeds of the County in the land in question is situated, and, when appropriate, shall include the Land Court.

**1.0317 Streets**

**1.03171 Principal Street** A street or portion thereof, which in the opinion of the Board, is likely to carry a substantial volume of through vehicular traffic.

**1.03172 Secondary Street** A street or portion thereof, other than a principal street, which, in the opinion of the Board, is likely to carry through traffic other than just to or from lots on that street

**1.03173 Minor Street** A street or portion thereof which is likely to be used only by vehicles traveling to or from lots on that street.

Section 1.03, Definitions (Cont.)

**1.0318 Subdivision** The division of a tract of land into two or more lots, including re-subdivision. The division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time 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 the Town of Winchendon, having, in the opinion of the 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 and served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by the zoning bylaw of the Town of Winchendon 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 manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect into separate lots, on each of which one of such buildings remains standing, shall not constitute a subdivision.

**1.0319 Subdivision Control Law** The power regulating the subdivision of land granted by the subdivision control law.

**1.04 Unapproved Subdivision Prohibited**

No person shall make a subdivision of any land or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a Definitive Plan of such subdivision has been submitted to and approved by the Planning Board as hereinafter provided.

## **Section 2.00 “Approval Not Required” Plans**

(Amended May 17, 2001)

### **Purpose**

A plan showing a division of land into two or more lots where vital access is reasonably guaranteed to each of the lots shown on the plan may be entitled to recording by the Register of Deeds without approval under the Subdivision Control Law. This bylaw provides the means with which the Planning Board shall make that determination. ANR endorsement does not convey the right to develop the lots created nor does it constitute compliance with zoning for building purposes.

### **2.0(1) Submission of Plan**

Any person wishing to record in the Registry of Deeds or to file with the Land Court a plan of land or a plan showing a division of land and who believes that such plan does not require Planning Board Approval under the Subdivision Control Law shall:

- a. prepare a plan that conforms to the requirements of section 2.0(2) of these *Regulations*;
- b. file with the Town Clerk, by hand delivery or by registered or certified mail, postage prepaid, a properly completed, tax certified Form A, the original mylar of the proposed plan and five copies of the plan; (if delivered by hand, applicant may request a written receipt from the Town Clerk)
- c. submit to the Town Clerk a filing fee of \$35 per lot created from a parcel;
- d. attend the meeting of the Planning Board to present plans.
- e. accompany Planning Board on site visit of the property.

### **2.0(2) Form and Contents of the Plan**

The plan shall be prepared in black India ink upon mylar or tracing cloth of suitable dimensions, to a scale not smaller than 1 inch = 40 feet or suitable scale. The plan shall conform to the following:

- a. Title of the plan shall include the name of the landowner, name of applicant, name(s) of surveyor and/or engineer, date of plan and an ID block of 1/2 inch by three inches, blank, for Planning Board use.
- b. Deed book and page number (from Registry of Deeds) and Assessor's map and parcel number of the original parcel shall be shown on the plan.
- c. The following statements shall appear on the plans:  
“Approval Under the Subdivision Control Law Not Required” and  
“ANR endorsement does not constitute compliance with zoning for land use or building purposes nor does it convey the right to develop the property.”  
Sufficient space for the date and endorsement of the Board shall be provided.
- d. Parcel(s) and proposed lot(s) shall be shown on a locus plan at a scale of 1 inch = 800 feet, or other suitable scale.
- e. The zoning classification of any zoning district boundaries, which may lie within the locus of the plan and the zoning district(s) in which the property is located shall be shown on the plan.

- f. The location and names of all abutters as determined from the most recent tax list or lists shall be shown on the plan.
- g. There shall be a north point shown on the plan.
- h. There shall be permanent monuments at all property corners.
- i. The location of all existing structures, streets, ways, easements, the extent of any residual land and any other information requested by the Planning Board in order that the Planning Board may ascertain the status of the frontage and accessibility of the residual land shall be shown on the plan.
- j. A Registered Professional Surveyor's stamp shall be shown on the plan.
- k. The status of the access road and the means of access to each proposed lot shall be shown on the plan.
- l. All watercourses, bodies of water and wetlands shall be shown on the plan.
- m. The sum total of frontage per lot shall be shown on the plan.
- n. Indicate on the plan and on the ground the general location of the buildable portion of the lot.

**2.0(3) Determining ANR Endorsement**

In determining whether a plan is entitled to be endorsed “approval under the Subdivision Control Law not required”, the Planning Board shall ask the following questions:

1. Do the proposed lots shown on the plan front on one of the following types of ways?
  - A. A public way or a way, which the municipal clerk certifies, is maintained and used as a public way.
  - B. A way shown on a plan which has been previously approved in accordance with the Subdivision Control Law.
  - C. A way in existence when the Subdivision Control Law took effect in the municipality, which in the opinion of the Planning Board is suitable for the proposed use of the lots.
2. Do the proposed lots shown on the plan meet the minimum frontage requirements of the zoning district in which they are located?
3. Can each lot access onto the way from the frontage shown on the plan?
  - *Limited access highways do not constitute frontage for ANR purposes.*
  - *Driveway safe sight distance: The Planning Board must make a finding that the proposed access to each proposed lot shown on an ANR has safe sight distance so as to reduce the number of “blind driveways” in our town. Lots lacking safe access will not qualify for ANR endorsement. Plans will be referred to the town’s safety officer if there is a need for safe sight distance confirmation following a site visit by the Board.*
4. Does the way on which the proposed lots front provide adequate access?
  - *Paper street?*
  - *Pavement comparable to other ways in the area?*
  - *Way suitable to accommodate motor vehicles and public safety equipment?*

5. Does each lot have practical access from the way to the buildable portion of the lot?
- *Pipestem access narrower than required frontage?*
  - *Guardrails present?*
  - *Wetlands?*
  - *Steep slopes: If, after the site visit, the Planning Board is concerned that steep slopes may prevent “practical access” to the buildable portion of the lot, the Board may require an engineering review of the plan, to be paid for by the applicant.*

#### **2.0(4) Endorsement**

If the Board finds that the plan does not require approval, it shall forthwith endorse the plan under the title, 'Approval Under the Subdivision Control Law Not Required'. The Board may add to such endorsement a statement of the reason(s) approval is not required. If the Board does not act within twenty- one (21) days of submission of the plan to the Planning Board, the plan is deemed to be approved and a certificate to that effect may be obtained from the Town Clerk. However, if the Board determines that the plan does require approval, it shall notify the Town Clerk and the applicant of its action forthwith in writing.

#### **2.0(5) Endorsing ANR Plans Showing Zoning Violations**

A plan showing proposed lots with sufficient frontage and access, but showing some other zoning violation, may be entitled to an endorsement that “approval under the Subdivision Control Law is not required.” Endorsement under this section may include a statement of the reason approval is not required. (MGL Ch. 41, Sect. 81P) The Planning Board may exercise its powers in a way that protects persons who will rely on the ANR endorsement. A statement may be placed on the plan indicating that the deficient lot(s) does (do) not conform with the Winchendon Zoning Bylaw. The Building Inspector should also be alerted to these plans.

#### **2.0(6) Use of Land**

When an ANR plan has been submitted to the Planning Board and a Form A has been given to the Town Clerk, the use of the land shown on such plan shall be governed by applicable provisions of the Winchendon Zoning Bylaw in effect at the time of such submission of such plan, while such plan is being processed under the Rules and Regulations Governing the Subdivision of Land in Winchendon, MA, including the time required to pursue or await the determination of an appeal, and for a period of three years from the date of endorsement by the Planning Board that approval under the subdivision control law is not required.

#### **2.0(7) Site Inspection**

Site work on any ANR lot herein created shall not commence without a site inspection by the Conservation Commission. The applicant is responsible for arranging the site inspection with the Conservation Agent.

## Section 3.0 Procedure for Submission and Approval of Plans

### 3.01 Preliminary Plans

#### 3.011 Application

Anyone who desires review of a preliminary plan for the subdivision of land shall:

- (a) Prepare a plan that conforms to the requirements of section 3.013 of these Rules and Regulations.
- (b) File with the Town Clerk, by hand delivery or by registered or certified mail, postage prepaid, a properly completed, tax certified Form B, an original copy of the preliminary plan, and five copies of the plan. Applicant is entitled to a written receipt from the Town Clerk for all plans submitted.
- (c) Pay the filing fee to the Town Clerk.
- (d) File a complete set of plans with the Board of Health and get a written receipt for them.
- (e) File a complete set of plans with the Conservation Commission and get a written receipt for them.
- (f) Attend next regular meeting of the Planning Board to present plans.
- (g) Be held responsible for any engineering fees incurred by the Planning Board in its review of the Plan.

#### 3.012 Form and Contents of Preliminary Plan

The "preliminary plan" shall mean a plan of a proposed subdivision or re-subdivision of land drawn on tracing paper, or a print thereof, showing:

- (a) the subdivision name, boundaries, north point, date, scale, legend, and title "Preliminary Plan";
- (b) the names of the record owner and the applicant and the name of the designer, engineer or surveyor;
- (c) the names of all abutters, as determined from the most recent local tax list;
- (d) the existing and proposed lines of streets, ways, easements, and any public areas within the subdivision in a general manner;
- (e) the proposed system of drainage, including adjacent existing natural waterways, in a general manner;
- (f) the approximate boundary lines of proposed lots, with approximate areas and dimensions;
- (g) the names, approximate location and widths of adjacent streets;

(h) and the topography of the land in a general manner.

**3.013 Preliminary Plan Review and Decision**

Within 45 days after submission\*, each Board shall notify the applicant and the Town Clerk, by certified mail, either

- (a) that the plan has been approved, OR
- (b) that the plan has been approved with modifications suggested by the Board

or agreed upon by the person submitting the plan, OR

- (c) that the plan has been disapproved, in which case, the Board shall state in detail its reasons therefor.

\* the date of submission shall be the date stamped on the Form B by the Town Clerk.

Except as otherwise provided, the provisions of the subdivision control law relating to a plan shall not be applicable to a preliminary plan, and no register of deeds shall record a preliminary plan.

### **3.02 Definitive Plan**

#### **3.021 Application**

Any person who desires, approval of a Definitive Plan for a subdivision of land shall:

**3.0211** file with the Town Clerk, by hand delivery or by registered or certified mail, postage prepaid, a written notice meeting the requirements of G.L. Ch. 41, Sec. 81 T, and a properly executed and completed copy of an application in the form appended hereto, marked Form C. If notice is given by delivery, the Town Clerk shall give a written receipt therefor;

**3.0212** submit to the Planner, or to the Planning Board at its regular meeting, a properly executed and completed copy of an application in the form appended hereto, marked Form C.

**3.0213** submit to the Planner, or to the Board, an original Definitive Plan, in the form hereinafter set forth, with ten (10) contact prints thereof;

**3.0214** submit a Site Evaluation Statement in accordance with Section 3.024, *Site Evaluation*;

**3.0215** submit a designer's certificate (Covenant) in the form appended hereto marked Form D;

**3.0216** submit a list showing the Assessor's parcel numbers, names and addresses of all owners of property abutting upon the land included in the Definitive Plan as they appear on the most recent tax Assessor's list;

**3.0217** submit a filing fee in the amount of one hundred dollars (\$100) for each lot if a preliminary plan has been accepted or one hundred fifty dollars (\$150) for each lot in a Definitive Plan if no preliminary plan has been accepted, plus any and all consulting engineering fees for plan review.

#### **3.022 Form and Contents of 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 forty feet

(1"=400) 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:

**3.0221** subdivision name, boundaries, north point, date, scale and legend; an index or key plan showing the subdivision location as a scale of one inch equals one thousand feet (1' =1000');

**3.0222** the name and address of the record owner and the applicant, the name of the engineer or surveyor with the date of acquisition of land, the book and page of recording of the deed or land court certificate number, and the seal and signature of the registered professional engineer or registered land surveyor as appropriate to the data;

**3.0223** the name and location of all abutters as determined from the most recent local tax list;

**3.0224** the existing and proposed streets, ways, lots, easements and public or common areas within the subdivision; (the proposed names of proposed streets shall be shown in pencil until they have been approved by the Board)

**3.0225** sufficient data to determine readily the location, direction and length of every street and way line, lot line, and boundary line; sufficient also to reproduce the same on the ground. All bearings shall be true magnetic, or grid, and the needle as shown on the plan shall indicate this clearly. In addition, the centerline of the proposed streets, easements and major boundaries of the tract being subdivided shall be staked out on the ground and the location of said stakes shall be shown on the topography sheet;

**3.0226** the location of all permanent existing or proposed monuments, including natural objects and surfaces such as waterways, natural drainage courses, large boulders or ledge outcroppings, stone walls and large trees;

**3.0227** the location of all existing and proposed structures, septic systems, streets, ways, easements and the extent of any residue of land divided;

**3.0228** the location, names and present widths of streets bounding, approaching or within reasonable proximity to the subdivision;

**3.0229** the location, areas and dimensions of all proposed lots, and recreation areas, if any. After submission of a Definitive Plan any change in lot lines will constitute a new subdivision, subject to all procedural requirements and fees.

**3.02210** Error of Closure must be provided as certified by a registered land surveyor.

**3.02211** Suitable space should be provided to record the action of the Board and the signatures of the members of the Board (or officially authorized person);

-and on the same sheet as the Definitive Plan or on separate sheets:

**3.02212** the existing and proposed topography with contour lines at two foot (2') intervals. The bottom elevation of all water bodies within the subdivision shall be given, and ground surface shall be identified as to type, such as woodland, swamp, flowed, etc. Street and lot lines shall be shown to facilitate orientation. Benchmarks shall be shown and designated. Brooks, ditches, walls and structures and spot elevations of high and low points shall be shown and identified. Flood Plain limits shall be clearly indicated. The topographic plan shall bear the of either a registered professional engineer or a registered land surveyor;

**3.02213** the volume of "earth" as defined in the Winchendon Zoning Bylaw to be removed if applicable, or a statement indicating that "no earth is to be removed";

**3.02214** proposed locations of house sites.

**3.02215** The plan shall indicate all easements, covenants or restrictions applying to the land including zoning setbacks, sideyards and rear yards. In addition, the plan shall show the proposed location of all buildings, wells and septic systems, if applicable, within the subdivision.

**3.02216** There must be a Profile Plan at a horizontal scale of forty feet to the inch (40 ~ 1") showing:

**3.022161** existing grades along the centerline and both sidelines of the street;

**3.022162** proposed finished center line grades with elevations at every fifty foot (50 ') station, location of vertical curves and gradient of even grades;

**3.022163** the size and location of existing and proposed water mains, sewer lines, storm drains and their appurtenances within and adjacent to the subdivision. Drainage calculations, prepared by the applicant's engineer, shall be provided, and shall include design criteria, drainage area and other information sufficient for the Board to verify the size of any proposed drain, drainfield, culvert or bridge.

**3.022164** The location and elevation of the starting bench mark must be shown as well as at least one other bench mark.

All elevations shall refer to US Coast and Geodetic Survey Bench Marks.

**3.022165** The plan must include 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 or aboveground utilities must be shown.

**3.022166** If the subdivision lies within a known aquifer area the Board shall require a hydrogeological study based on the most current groundwater survey.

### **3.023 Agency Review**

The Board of Health shall, within forty-five (45) days following receipt of a Definitive Plan, report to the Planning Board, in writing, its approval or disapproval of said plan. In the event of disapproval, it shall make specific findings as to which, if any, lots shown on such plan cannot be used for building sites without injury to the public health, and it shall include such specific findings and the reasons therefor in its report. Failure to so report shall be deemed approval by the Board of Health.

Every acceptable lot so situated that it cannot be served by a connection to the municipal sewer system shall undergo a percolation test carried out under the supervision of the Board of Health's Septic Inspector, according to the procedures required by state law. Such lot shall be provided with a septic tank and drain field whose design and placement are satisfactory to the Septic Inspector.

The Conservation Commission, Board of Health, Department of Public Works, Town Engineer and any other agency designated to receive and review a Definitive Plan shall, within forty-five (45) days following receipt of such plan, report their findings in writing to the Planning Board, and shall make recommendations thereon. Failure to so report shall be deemed a favorable recommendation on said plan.

### **3.024 Site Evaluation**

The applicant shall also submit a Site Evaluation Statement, the purpose of which is to enable the officials of the Town to determine what methods are used by the applicant to promote the environmental health of the community and to minimize adverse effects on the natural resources of the Town.

In reviewing the Statement, the Board will consider the degree to which water is recycled back into the ground, the maintenance and improvement of the flow and quality of surface waters, the preservation or promotion of wildlife refuges, historic sites, unique geological, botanical and archeological features, existing or potential trails and accesses to open space areas, and the health and safety of the inhabitants of the area.

The Planning Board may waive, after consultation with the Conservation Commission, any section, or sections, of the Statement, which it deems inapplicable to the proposed project. The developer should discuss the requirements with the Board prior to preparation of the Statement, preferably prior to the submission of a plan.

The Statement shall describe how the project will affect:

**3.0241 Surface Water and Soils**

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

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

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

- a. any areas subject to flooding or ponding
- b. proposed surface drainage system
- c. proposed land grading and permanent vegetative cover
- d. methods to be used to protect existing vegetation
- e. the relationship of the development to the topography
- f. any proposed alterations of shorelines, marshes or seasonal wet areas
- g. any existing or proposed flood control or wetland easements
- h. cultivated increase of peak run-off caused by altered surface conditions and methods to be used to return water to the soils.

Completely describe proposed sewerage disposal methods and evaluate the impact of such methods on surface water, soils and vegetation.

**3.0242 Sub-surface Conditions**

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

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

Evaluate the impact of sewerage disposal methods on the quality of sub-surface water.

**3.0243 Town Services**

Describe the estimated traffic flow at peak periods and the proposed circulation pattern.

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

**3.0244 Human Environment**

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

Describe any proposed recreational facilities and state whether recreational facilities and open space are available to all Winchendon residents.

**3.025 Report of the Board of Health**

The Planning Board shall submit copies of the Definitive Plan to the Board of Health at the time of filing. The Board of Health shall report in writing to the Planning Board as indicated in section 3.023, *Agency Review* within forty-five (45) days following receipt of a Definitive Plan.

Extreme care shall be practiced in the layout of a subdivision in unsewered areas. The extent of soil evaluation shall be determined by the Winchendon Board of Health based on the Town of Winchendon soils map and whatever other soil information is available.

Required testing shall include deep test holes, percolation tests and test borings, and the number of tests required shall be determined by the Board of Health investigator.

Notwithstanding the above, a permit to construct an individual subsurface absorption area shall be obtained from the Board of Health for each individual lot not served by the Winchendon sewerage system, and a condition shall be inscribed on the plan as follows: "No building or structure shall be built or placed on any lot without a permit from the Board of Health. "

**3.026 Report of the Department of Public Works**

The Planning Board shall submit copies of the Definitive Plan to the Superintendent of the Department of Public Works at the time of filing, and shall request the Superintendent, within forty-five (45) days of the filing, to furnish in writing to the Board its findings on the following:

**3.0261** the proposed locations, sizes and grades of streets, right-of-ways, easements, water mains, sanitary sewer mains and storm drainage facilities;

**3.0262** any deviations from the design and work requirements specified in these Rules and Regulations or the Town of Winchendon's Design Standards and Construction Specifications, if any, issued by the Town Engineer, together with written approval of the applicant's detailed specifications for performing the required work and all special construction requirements, if any, applicable to the subdivision;

**3.0263** estimates of the cost of performing the various items of required work. (This is for consideration in determining the amount of performance bond or cash security as required in Section 3.029)

**3.027 Report of the Conservation Commission**

The Planning Board shall submit copies of the Definitive Plan to the Conservation Commission at the time of filing, and shall request the said Commissioners, within forty-five (45) days of the filing, to furnish in writing to the Board its findings on the Site Evaluation Statement (3.024).

**3.028 Public Hearing**

Upon determination by the Board that the application for approval of the Definitive Plan is complete, the Board shall set a date for the Public Hearing and so notify the applicant. Notice of the hearing shall be arranged by the Board, at the applicant's expense, by advertisement in a newspaper of general circulation in Winchendon in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing, and by mailing, return receipt requested, not less than ten (10) days before the date of the Hearing, a copy of the advertisement to all owners of land abutting the land included in the plan as appearing on the most recent tax list.

**3.029 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, and/or in part by the other, of the methods described in clauses 3.0291, 3.0292 and 3.0293, which methods may be varied from time to time by the applicant:

**3.0291 Performance Bond** There shall be a proper performance bond or a deposit of money in the form appended hereto marked Form G, 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 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 Treasurer and all deposit agreements and securities shall be approved as to form and manner of execution by the Town Treasurer.

If the Board shall decide at any time during the term of the performance that:

- (a) improvements have been installed in a satisfactory manner in sufficient amount to warrant reductions in the security, or,
- (b) the character and extent of the subdivision require additional improvements, previously waived,

then the Board may modify its requirements for any or all such performance bond, or amount of deposit of money or value of securities, which may thereupon be reduced or increased respectively by an appropriate amount after suitable notice to the applicant.

**-or**

**3.0292 Covenant** There shall be a covenant, which shall be executed and recorded by the owner of record, running with the land, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed by other than mortgage deed, subject, however, to the rights and limitations specified in Section 81 U of Chapter 41 of the General Laws. (See Form E, annexed hereto, for suggested form). The Board will release from such covenants only those lots for which installation of ways and services has been completed in accordance with the Rules and Regulations set forth herein. Form F may be submitted when applying for release of a lot or lots from a covenant.

**-or**

**3.0293 Lender's Agreement** There shall be a Lender's Agreement:

(a) At the option of the applicant, lots may be released from operation of the covenant with a Lender's Agreement and without bond or deposit of money.

(b) A first mortgage must be recorded which covers the premises shown on the plan, or a portion thereof.

(c) An Agreement must be delivered to the Planning Board. The Agreement must be executed by the applicant and the lender and shall provide for the retention by the lender of funds sufficient in the opinion of the Planning Board and otherwise due the applicant. In determining the total monetary amount to secure the construction of ways and the installation of municipal services, the Planning Board should include a specified sum to cover any costs that may occur due to inflation.

(d) The Agreement shall provide for a schedule of disbursements to the applicant upon completion of various stages of work. The applicant shall set forth the time for completion of various stages. If work is not completed by the applicant in the time set forth, any undisbursed funds may be used by the town to complete such work (See Section 8 I -U).

**Release** If the Board determines that said construction or installation has been completed within the period required in accordance with these Rules and Regulations, it shall release the interest of the Town of Winchendon in such bond and return the bond or the deposit to the person who furnished the same, or release the covenant by appropriate instrument, duly acknowledged, which may be recorded. (See Form F, annexed hereto, for suggested form).

If the Board determines that said construction and installation has not been completed within the period required, 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 its Rules and Regulations. Upon failure to so notify and specify within forty-five (45) days after the end of the stated period for completion, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such covenant shall become void. In the event that said forty-five day period expires without such notification and specification, or without release and return of the land or return of the deposit or release of the covenant as

aforsaid, the said clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

### **3.030 Certificate of Approval**

After the public hearing and after the reports from the Board of Health and Conservation Commission have been received, or after the lapse of forty-five days with no such report(s), if the proposed subdivision is to be serviced by the Winchendon sewerage system, the Board shall approve or (if the plan does not comply with the Winchendon Subdivision Control Rules and Regulations or with the recommendations of the Board of Health or the Conservation Commission) shall modify and approve, or disapprove such plan, and shall file a certificate of its action with the Town Clerk, and shall send notice of its said action by registered or certified mail, postage prepaid, to the applicant at his/her address stated on the application. If a plan has been approved by the Board and no appeal has been taken within twenty (20) days after notice to the Town Clerk or after the entry of a final decree sustaining approval of the plan, and after the applicant has met the requirements of the performance guarantee, the Board shall cause to be made upon the plan a written endorsement of its approval and the plan shall be delivered to the applicant.

Final approval of the Definitive Plan does not constitute acceptance by the Town of streets within a subdivision. The developer shall retain title to the ways shown on the Definitive Plan and shall deed same to the Town of Winchendon after acceptance.

### **3.031 Completion of Plan**

Upon completion of the construction of ways and the installation of municipal services in accordance with the Rules and Regulations of the Board, security for performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect to any lot, the applicant shall send by registered mail to the Town Clerk and the Board a written statement that the said construction or installation in connection with such bond, deposit or covenant has been completed in accordance with said Rules and Regulations, such statement to contain the address of the applicant, and

**3.0311** written evidence from the Town Engineer and/or the Superintendent of Public Works that the streets and drainage conform to the Board's requirements in accordance with the approved Definitive Plan,

**3.0312** written evidence from the Town Engineer and/or the Superintendent of Public Works that the underground wiring, water mains, sanitary sewers, storm sewers, hydrants and fire alarm conform to specifications and the Board's requirements in accordance with the approved Definitive Plan,

**3.0313** written evidence from the Town Engineer and/or the Superintendent of Public Works that "as built" drawings have been submitted and accepted,

**3.0314** written evidence from the Town Engineer and/or the Superintendent of Public Works that the improvements have been exposed to one complete winter environment (Dec. 1 - April 30) without damage, or that damage, if incurred, has been repaired to the satisfaction of the Town Engineer,

**3.0315** acknowledgment from the Chairman of the Conservation Commission of receipt of the deposit for the installation of trees and other plantings as described in Section 5.08.

# Section 4.00 DESIGN STANDARDS

## 4.01 Basic Requirements

The applicant shall observe all design standards for land division as hereinafter provided. These standards shall be considered minimum standards and shall be varied from or waived only as provided in Section 6.00. The Town of Winchendon's Design Standards and Construction Specifications must be followed.

## 4.02 Streets

### 4.021 Location and Alignment

**4.0211** All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular travel.

**4.0212** Provision satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided.

**4.0213** Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.

**4.0214** Street jogs shall have centerline onsets of no less than one hundred and twenty-five (125) feet.

**4.0215** Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.

**4.0216** Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than thirty (30') feet.

### 4.022 Right-of-Way and Street Standards for Accepted Town Streets:

Min-Width of Right of Way	50 feet
Min. Width of Paved Way	24 feet
Max. Length of a Dead-end	900' in an R1 zone 600' in an R2 zone 500' in all other zones
Turnaround	radius of fifty -five feet (55) paved radius of forty-five feet (45')
Max. grade of roadway	10%

**4.022 Right-of-way and Street, cont.**

Sub-base	2" crushed gravel on 10' gravel base consisting of nothing greater than 3" in size
Surface	1" Surface bituminous concrete on 1 1/2" Bond bituminous concrete
Leveling Area	Max. 1% within 25' of intersection
Curbing	Cape Cod Berm under advisement from Town Engineer and/or Dept. of Public Works
Sidewalks	4' sidewalks on both sides of street
Abutting slopes	Maximum 2:1
Off-street parking	two (2) spaces per dwelling unit

**Utilities:**

Sanitary sewer	Sewer pipes, manholes, connecting Y s and related equipment shall be in conformity with specifications of the Board of Public Works
Storm Drains	Adequate disposal of surface water shall be provided. Catch basins shall be constructed in conformity with specifications of the Board of Public Works and shall be on both sides of the roadway on continuous grades at intervals of not more than 400 feet, at low points and sags in the roadway and near the corners of the roadway at intersecting streets.
Water service	Water pipes, hydrants, main shut-off valves and related equipment shall be constructed to serve all lots on each street in the subdivision in conformity with specifications of the Department of Public Works.
Gas, Electric, Telephone, etc.	All gas lines shall be installed underground. All television, electricity, and cable antenna television lines shall be installed underground or above ground, as appropriate. Any related equipment, such as transformers, switching mechanisms, or other vital components shall, if situated in a flood prone area, be flood-proofed and approved by the Board of Public Works.

**4.0221 Construction Standards for Private Ways**

The standards as applied for the construction of public ways shall apply to the construction of proposed private ways throughout the Town of Winchendon as found in the Subdivision Control Rules and Regulations, as amended.

**4.023 Dead-End Streets/Cul-de-sacs**

**4.0231** Dead-end streets shall not be longer than 900' in R1, 600' in R2 and 500' in all other zones unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions.

**4.0232** Dead-end streets shall be provided at the closed end with a turn-around having a right-of-way radius of fifty-five (55') feet, an outside paving radius of forty-five (45') feet.

**4.03 Easements**

**4.031** Easements for utilities across lots or centered on road or side lot lines shall be provided where necessary and shall be at least twenty feet wide.

**4.032** Where a subdivision is traversed by a water course, 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 water course, but the boundary of which shall be no closer than five (5') feet from the high water line, drainage way channel or stream, and to provide for construction or other necessary purposes.

**4.033** Where a street is projected, or the Board requires provision for access to adjoining property, an easement for all roadway purposes shall be granted.

**4.04 Open Spaces**

Before approval of a plan, the Board may also in proper cases require the plan to show a park or parks suitably located for playground or recreation purposes, or for providing light and air. The park(s) shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. Such parks shall be provided with appropriate easements to streets and pedestrian ways.

**4.05 Protection of Natural Resources**

Due regard shall be shown for all natural features such as large trees, water courses, scenic points, historic spots and similar community assets which, if preserved, will add attractiveness and value to the subdivision. Before approval the Board may require the staking out of all natural features not to be disturbed in the process of construction.

**4.051 Flood Plain Conservancy District**

Land located within the Flood Plain Conservancy District is subject to the provisions of the Winchendon Zoning Bylaw, which in general restricts the use of land in such district.

**4.052 Wetlands Protection**

Under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, “no person shall remove, fill dredge, or alter any bank, beach, 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 upon the environment, at least sixty days prior to any such removing, filling, dredging, or altering. Said notice shall be sent by certified mail to the Conservation Commission. No such notice shall be sent before all permits, variances, and approval required by local bylaw, with respect to the proposed activity have been obtained.” The Board may condition its approval of the plan upon issuance of an “Order of Conditions” by the Conservation Commission.

**4.06 Protection of Town Property**

No natural feature, such as trees, stonewalls, etc. may be removed or disturbed until approval is obtained by the Winchendon Tree Warden and the Department of Public Works.

**4.07 Protection of Abutters**

An increase in the volume of surficial drainage from the properties under construction onto abutting properties is not permitted.

**4.08 Slope Stabilization**

Slope is defined as the ration of vertical rise over horizontal distance. Upon completion of grading and replacement of topsoil, slopes shall be appropriately stabilized to prevent erosion. Excessive slopes shall not be permitted. An adequate slope stabilization plan shall be approved by the Board.

The following guide for slope stabilization is recommended:

Slopes of more than 1 in 2	Rip rap or terracing.
Slopes of 1 in 8 to 1 in 2	Sod or establishing vegetation or seedlings in association with webbing or an approved mulch placed over the soil.
Slopes of 1 in 20 to 1 in 8	Plant seed in association with webbing or approved mulch placed over the soil.

Appropriate temporary measures should be taken to prevent erosion of bankings and slopes during construction.

# Section 5.00 Required Improvements for an Approved Subdivision

## **5.01 Notice of Commencement of Construction**

Any person intending to commence construction in any subdivision or in any way shall give ten (10) days advance notice to the Town Engineer before commencing construction.

## **5.02 Street and Roadway**

**5.021** The entire area of each street or way shall be cleared of all stumps, brush, roots, boulders, or like material and all trees not intended for preservation.

**5.022** All loam and other yielding material shall be removed from the roadway area of each street or way and replaced with suitable material.

**5.023** All roadways shall be brought to finished grade as shown on the profiles of the Definitive Plan with at least the top twelve inches consisting of two six-inch layers of well-compacted binding gravel to the specified width and location.

**5.024** The completed gravel surface shall be treated for the full width of the roadway with two and one-half inches (2 1/2') of bituminous concrete pavement, consisting of a one and a half (1 1/2") inch binder and a one (1 ") inch wearing course.

**5.025** The workmanship of all street and municipal service installations shall be tested by exposure, after installation, during the consecutive interval December 1 to the following April 30. The Town Engineer shall inspect the installation after said exposure to determine if the installation is adequate and completed.

### **5.026 Adequate Access from Public Way**

When the physical condition or width of a public way from which a subdivision has its access is considered by the Board to be such subdivision, the Board may require the Applicant to dedicate a strip of land for the purpose of widening the abutting public way to a width at least as great as that required within the subdivision, and to make physical improvements to and within such public way to the same standards required within the subdivision. Any such dedication of land for the purpose of such a way and any such work performed within such public way shall be made only with permission of the governmental agency

having jurisdiction over such way, and all costs of any such widening or construction shall be borne by the Applicant.

### **5.03 Utilities**

**5.031** Sewer pipes and related equipment such as manholes and connecting Y's shall be constructed in conformity with specifications of the Department of Public Works.

**5.032** Adequate disposal of surface water shall be provided. Catch basins shall be built in conformity with specifications of the Dept. of Public Works on both sides of the roadway on continuous grades at intervals of not more than four hundred (400') feet, at low points and sags in the roadway and near the corners of the roadway at intersecting streets.

**5.033** Water pipes and related equipment such as hydrants and main shut-off valves shall be constructed to serve all lots on each street in the subdivision in conformity with Specifications of the Dept. of Public Works. Hydrants shall be provided and placed at intervals of not more than four hundred (400') feet along each street.

**5.034** The electrical power distribution shall be installed in accordance with the specifications of the utilities company and the Board of Public Works.

**5.035** Developers will be encouraged to install underground utility services, including telephone services, where appropriate and will be required to follow an approved underground distribution system. Any associated overhead structures shall be in conformity with Town standards.

### **5.04 Sidewalks/Bikeways**

Sidewalks shall be constructed in conformity with the Specifications of the Department of Public Works.

The inclusion of bicycle paths is encouraged. Pedestrian access other than by routes parallel with roadways may be permitted, provided easements are established.

### **5.05 Monuments**

**5.051** Monuments shall be installed on both sides of the street at all street intersections, at all points of change of direction or curvatures of streets at one thousand (1000') foot intervals maximum on curves, on property corners of all new lots 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. Placement and location of bounds are to be certified by a registered professional engineer or registered land surveyor after installation of the way, and shall be shown on the as-built drawings.

- 5.052** Monuments shall be a standard granite marker of not less than four (40 feet in length and not less than six (6") inches in width and breadth and shall have a drillhole in the center. Monuments shall be set flush with final grades.

**5.06 Curbs**

Cape Cod Berms shall be installed as determined by the Town Engineer and/or the Department of Public Works.

**5.07 Street Signs**

- 5.071** At all intersections street signs shall be installed in conformity with the specifications of the Department of Public Works.

- 5.072** Until such time as each street is accepted by the Town of Winchendon as a public way, the sign posts at the intersection of such street with any other street shall have affixed thereto a sign designating such street as a private way.

**5.08 Trees and Other Plantings**

**5.081 Street Trees**

Trees shall be required at the applicant's expense along roads within the entire tract being subdivided, unless specifically exempted by the Board. All trees shall be the equivalent of well-rooted nursery-grown stock in good condition and free of injury, harmful insects and diseases.

**5.0811** The Winchendon Conservation Commission, in conjunction with the applicant, shall estimate the number, location, type and cost of tree planting requirements in the subdivision. Trees shall be planted along or within the right-of-way on both sides at intervals of approximately fifty (50') feet, but no closer than thirty-five (35') foot intervals.

**5.0812** The administration and planting of the trees required shall be undertaken by the Conservation Commission at the developer's expense unless otherwise specified on the Definitive Plan. The applicant shall deposit with the Commission in the name of the Town of Winchendon the sum of money estimated in 5.0811 above. The Commission shall then proceed with the planting program as soon as the development of the subdivision reasonably allows and within accepted professional standards for such planting.

**5.0813** The applicant may elect to plant trees provided a specific landscape plan is submitted within the requirements of this section, including guidelines for administration, inspection of stock, planting operations and a one-year warranty of all stock. The plan shall be reviewed by the Conservation Commission and approved by the Planning Board.

**5.082 Slope Planting**

All cut or fill slopes subject to erosion sad contiguous to the way shall be planted with suitable, well-tooted, low growing plant materials. Plants or perennial grass shall be suited to the landscape and located to provide adequate cover as determined by review of the Conservation Commission. In areas subject to potential serious erosion, the Board may require the planting of sod and the use of additional erosion control measures. A wood chip or comparable mulch shall be used with ground cover plants to minimize erosion.

**5.083 Grass Strips**

All cleared areas of a right-of-way, not to be planted with groundcover plantings, including all disturbed areas within public easements, shall be loamed with not less than four (4") inches compacted depth of good quality loam, and seeded with turf grass seed of a mixture approved by the Conservation Commission.

**5.09 Fire Alarm System**

A fire alarm system shall be installed in conformity with the specifications of the Winchendon Fire Department.

# Section 6.00 Administration

## 6.01 Authority

- 6.011** The Board shall be the agency responsible for administration of these regulations and shall have all the powers assigned to it by Section 8 IA to GG of Chapter 41 of the General Laws.
- 6.012** These Rules and Regulations and the conditions and stipulations of permits and variances issued thereunder, shall be enforced by a Building Inspector, or such other official so authorized, acting as the Zoning Enforcement Officer, in accordance with any or all action necessary to enforce full compliance, as prescribed by the bylaws of this town and Massachusetts General Laws, including notification of non-compliance together with respects for legal action through the Town Manager to the Town Counsel.
- 6.013** The Board may assign as its agents appropriate town agencies or officials and may from time to time hire professional assistance to review plans and inspect improvements at the cost of the applicant.
- 6.014** The Board on its own motion or on the petition of any interested person shall have the power to modify, amend or rescind its approval of a plan of a subdivision, or to require a change in a plan after due notice and opportunity to the applicant to be heard in accordance with G.L. Ch. 41, Section 81 W.

## 6.02 Waiver of Compliance

Strict compliance with the requirements of these Rules and Regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the intent of the Subdivision Control Rules and Regulations. In waiving strict compliance the Board may require such alternative conditions as will serve substantially the same objectives as the standards or regulations waived. The Town Engineer may approve minor revisions to the construction plans.

## 6.03 Inspection

- 6.031** Inspection shall be carried out at appropriate times during the development of the Subdivision. The applicant shall obtain approval by the appropriate town agent (Building Inspector, Town Engineer, Department of Public Works) before carrying out each operation required to be inspected.
- 6.032** The applicant has the responsibility to insure that the approved construction plans are implemented. Use of qualified persons to furnish adequate and timely engineering supervision during

construction is required. Surveillance and field revision by Town officials cannot be construed as fulfilling this responsibility.

#### **6.04 Separability**

If any section, paragraph, sentence clause or provision of these *Rules and Regulations* shall be adjudged no valid, the adjudication shall apply only to the material so adjudged and the remainder of these *Rules and Regulations* shall be deemed to be valid and effective.

#### **6.05 Amendments**

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

#### **6.06 Invalidation by State Law**

Any part of these *Rules and Regulations* subsequently invalidated by a new state law or modification of an existing law shall automatically be brought into conformity with the new or amended law, and shall be deemed to be effective immediately, without recourse to a Public Hearing and the customary procedures for amendment or repeal of such regulations.

#### **6.07 Forms**

In the Appendix are sample forms for the administration of these *Rules and Regulations*. The administrative content of these forms may be revised from time to time by administrative action of the Board apart from Section 6.05. Copies of these forms may be obtained at the Building Department of Town Hall.

# Section 7.00 Acceptance

## **7.01 As-Built Plans**

Upon completion of all work, the developer shall furnish the Board with two (2) prints of "as-built" plans, showing the Error of Closure, location of all monuments, driveway aprons, walk-offs, utilities and structures and the location by "ties" of all important parts of buried utilities such as water or gas valves, sewer ties, corporation cocks, house connection shut-offs, and any other special details identifying any departures from the approved plan as to the location, depth, dimensions, thickness, slope grade or materials, and certified as to correctness by a Registered Professional Engineer (civil). It is recommended that a sepia print of the approved plans be appropriately marked as "as-built plans" and be submitted with two (2) full size prints thereof. "As-built" plans must be submitted before performance guarantees are released.

## **7.02 Conveyance of Easements and Utilities**

Before the Board will release all security or all lots from the operation of a Covenant, the developer shall execute an instrument (see Form F) transferring to the Town of Winchendon valid, unencumbered title to all fire alarm conduits, water mains and all appurtenances thereto, drainage facilities forming a part of the Town system constructed and installed in the subdivision; and conveying to the Town, without cost and free of all liens and encumbrances, perpetual rights and easements to construct, inspect, repair, replace, operate and forever maintain storm water drains, fire alarm conduits, water mains and all appurtenances thereto, and do all acts incidental thereto,

in, through, and under the whole of the streets and easements in the subdivision as shown on the approved definitive plan. The above shall not be construed to relieve the developer and his successors-in-title to a portion of land or street in the subdivision of responsibility to complete all construction, as required by developer's covenants and agreements with the Town, and to thereafter maintain all streets and utilities in a satisfactory condition until they are formally accepted by the Town.

## **7.03 Recording of Plans**

Within thirty (30) days of endorsing Definitive Plans or Form A's (Approval Not Required) the applicant shall record said plans at the Worcester Registry of Deeds. Within ten (10) days after the Definitive Plan or Form A, as approved and endorsed, has been recorded at the Worcester Registry of Deeds, and in the case of registered land, with the Recorder of the Land Court, the applicant shall notify the Board, via certified letter, of the recording and enclose a copy of such recordings. Unless the Board receives the above certificate of recording, the Board will notify the Building Inspector that no Building Permits should be issued for that subdivision or Form A.

THE COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_ OF \_\_\_\_\_

**Form D  
Covenant**

The undersigned \_\_\_\_\_

of \_\_\_\_\_ County, Massachusetts, hereinafter called the "Covenantor", having submitted to the \_\_\_\_\_ Planning Board, a definitive plan of a subdivision, entitled \_\_\_\_\_

\_\_\_\_\_ dated \_\_\_\_\_ made by \_\_\_\_\_ does hereby covenant and agree with said Planning Board and the successors in office of said Board, pursuant to G.L. (Ter.Ed.) C. 41, Sec. 81U, as amended, that: -

1. The covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executors, administrators, heirs, assigns of the covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the applicable Rules and Regulations of said Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell any such lot, subject only to that portion of this Covenant which provides that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon approval of said plan;
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded when said plan is recorded.

The undersigned \_\_\_\_\_ wife, husband, of the covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

EXECUTED as a scaled instrument this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

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

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_ ss. \_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared \_\_\_\_\_ and acknowledged the foregoing instrument to be \_\_\_\_\_ free act and deed, before me

\_\_\_\_\_  
Notary Public

A:\formd.doc



# Winchendon Planning Board

Town Hall, 109 Front Street, Winchendon, MA 01475

Telephone (508) 297-0085

Fax (508) 297-1616



## Form E Covenant Release

Date \_\_\_\_\_, \_\_\_\_\_

The undersigned, being a majority of the Planning Board of the Town of Winchendon, hereby certify that the requirements for work on the ground called for by the Covenant dated \_\_\_\_\_, \_\_\_\_\_, and recorded in \_\_\_\_\_ District Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_, (or registered in \_\_\_\_\_ Land Registry District as Document No. \_\_\_\_\_ and noted on Certificate of Title No. \_\_\_\_\_ in Registration Book \_\_\_\_\_, Page \_\_\_\_\_) have been secured to the satisfaction of the Planning Board by: *(line out inapplicable items)*

1. A proper bond;
2. A sufficient deposit of money or negotiable security;
3. A subsequent Covenant to be recorded herewith;

and the first-mentioned Covenant is hereby released and all lots are hereby released from the restrictions as to sale and building therein.

### WINCHENDON PLANNING BOARD

_____	_____
<i>date</i>	<i>date</i>
_____	_____
<i>date</i>	<i>date</i>
_____	
<i>date</i>	

### COMMONWEALTH OF MASSACHUSETTS

Then personally appeared \_\_\_\_\_, <sup>*date*</sup> one of the above named members of the Planning Board of the Town of Winchendon, Massachusetts, and acknowledged the foregoing instrument to be the free act and deed of said Planning Board, before me.

\_\_\_\_\_  
*Notary Public*

*My commission expires* \_\_\_\_\_



# Winchendon Planning Board

Town Hall, 109 Front Street, Winchendon, MA 01475

Telephone (508) 297-0085

Fax (508) 297-1616



## Form F Certificate of Performance

\_\_\_\_\_  
DATE

The undersigned, being a majority of the Planning Board of the Town of Winchendon, hereby certify that the requirements for work on the ground called for by the Covenant dated \_\_\_\_\_, and recorded in \_\_\_\_\_ District Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_, (or registered in \_\_\_\_\_ Land Registry District as Document No. \_\_\_\_\_, and noted on Certificate of Title No. \_\_\_\_\_ in Registration Book \_\_\_\_\_, Page \_\_\_\_\_) have been completed to the satisfaction of the Planning Board as to the following enumerated lots shown on Plan entitled \_\_\_\_\_ recorded with said Deeds, Plan Book \_\_\_\_\_, Plan \_\_\_\_\_ and said lots are hereby released from the restrictions as to sale and building specified thereon.

Lots designated on said Plan as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

WINCHENDON PLANNING BOARD

_____	DATE	_____	DATE
_____	DATE	_____	DATE

\_\_\_\_\_ DATE

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_  
DATE

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

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_



# Winchendon Planning Board

Town Hall, 109 Front Street, Winchendon, MA 01475

Telephone (508) 297-0085

Fax (508) 297-1616



## Form G

### Performance Secured by Deposit of Money

\_\_\_\_\_ Date  
 AGREEMENT made this date between the Town of Winchendon and  
 \_\_\_\_\_, hereinafter referred to as "the applicant" of  
 \_\_\_\_\_ to secure construction of ways and  
 installation of municipal services in the subdivision of land shown on a plan entitled  
 \_\_\_\_\_, by  
 \_\_\_\_\_, dated \_\_\_\_\_,  
 owned by \_\_\_\_\_, address \_\_\_\_\_,  
 land located \_\_\_\_\_,  
 and showing # \_\_\_\_\_ proposed lots.

KNOW ALL MEN by these presents that the applicant hereby binds and obligates himself, his or its executors, administrators, devisees, heirs, successors and assigns to the Town of Winchendon, acting through its Planning Board, in the sum of \_\_\_\_\_ dollars, and has secured this obligation by depositing with the Town Treasurer a deposit of money in the above to be deposited in a subdivision escrow account in the name of the Town of Winchendon. The deposit of money is to be used to insure the performance by the applicant of all covenants, conditions, agreements, terms and provisions contained in the following:

1. Application for Approval Definitive Plan, dated \_\_\_\_\_;
2. The subdivision control law and the Planning Board's Rules and Regulations governing this subdivision and dated \_\_\_\_\_;
3. Conditions included in the Certificate of Approval issued by the Planning Board and dated \_\_\_\_\_;
4. The Definitive Plan as qualified by the Certificate of Approval; and
5. Other document(s) specifying construction or installation to be completed, namely  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

This agreement shall remain in full force and effect until the applicant has fully and satisfactorily performed all obligations or has elected to provide another method of securing performance as provided in MGL Chapter 41, Section 81U.

Upon completion by the applicant of all obligations as specified herein, on or before \_\_\_\_\_, 19 \_\_\_\_\_, or such later date as may be specified by vote of the Planning Board with a written concurrence of the applicant, the deposit of money

including all interest accrued thereon shall be returned to the applicant by said Planning Board and this agreement shall become void. In the event the applicant should fail to complete the construction of ways and installation of municipal services as specified in this agreement and within the time herein specified, the deposit of money may be applied in whole, or in part, by the Planning Board for the benefit of the Town of Winchendon to the extent of the cost to the Town of completing such construction or installation as specified in this agreement. Any unused money and interest accrued on the deposit of money will be returned to the applicant upon completion of the work by said Town.

The Town of Winchendon acting by and through its Planning Board hereby agrees to accept the aforesaid deposit of money in the amount specified in this agreement as security for the performance of the project as aforesaid.

Any amendments to this agreement and/or to the aforesaid security shall be agreed upon in writing by all parties to this agreement.

\_\_\_\_\_  
*Signature of Applicant*

\_\_\_\_\_  
*Date*

WINCHENDON PLANNING BOARD

\_\_\_\_\_  
*Member Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Member Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Member Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Member Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Member Signature*

\_\_\_\_\_  
*Date*

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_  
*Date*

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

\_\_\_\_\_  
 Notary Public

My commission expires \_\_\_\_\_

Attach 5 diagrams