

# **Rules and Regulations Governing the Subdivision of Land**

## **I. GENERAL**

### **1.01 Purpose**

The purpose of these regulations is to protect the health, convenience, safety and welfare of the residents of Gay Head by establishing standards and the means of their enforcement for roads, traffic control, water supply, sanitary sewage disposal, drainage, fire-fighting, flood control, protection of natural and other resources including fishing, agriculture, and aquaculture, and any other public needs as they may be necessitated by the subdivision of land, and to ensure inclusion of parks and open spaces in subdivisions, in proper cases, and compliance with applicable zoning ordinances and by-laws.

### **1.02 Authority**

These rules and regulations are adopted by the Gay Head Planning Board under the authority granted to it by Chapter 4, Section 81A, et seq., Massachusetts General Laws, known as the Subdivision Control Law.

### **1.03 Planning Board Approvals**

No person shall make a subdivision, within the meaning of the Subdivision Control Law, of any land within Gay Head, 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 required by these rules and regulations.

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 for which a Definitive Plan has been approved by the Planning Board, and, to the extent consistent with applicable zoning ordinances, not more than three such buildings shall be erected or placed or converted to such use on any parcel outside such a subdivision, without the prior written approval of the Planning Board. For the purposes of this section, the word "parcel" shall be deemed to mean any tract of land under common ownership as of the effective date of the Subdivision Control Law in Gay Head.

### **1.04 Planning Board Method of Operation**

In addition to complying with the detailed subdivision standards set forth in these rules and regulations, applicants or its representatives are obliged to discuss their proposed subdivision plans with the board at the earliest possible planning stage to insure compliance with these rules and regulations as well as all applicable zoning ordinances and by-laws and to avoid later changes and modifications to the plans.

### **1.05 Board of Appeals**

There is a Board of Appeals consisting of five members and two associate members to be appointed by the Board of Selectmen as provided in Chapter 808 of the General Laws. The Board of Appeals shall have the power:

1. To hear and decide appeals;

2. And to authorize variances according to requirements of Chapter 808 of the General Laws.

### **1.06 Definition of Subdivision**

“Subdivision” shall mean the division of a tract of land into two or more lots and shall include re-subdivision, and, when appropriate to the context, shall relate to the process of subdivision of 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 subdivision within the meaning of these regulations, if at the time when it is made, every lot within the tract so divided has frontage on (a) a public way, or (b) a way shown on a plan theretofore approved in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in Gay Head 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 thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of Gay Head for erection of a building on such a lot, and if no distance is so required, such frontage shall be of at least twenty feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in Gay Head into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.

### **1.07 Definition of Preliminary Plan**

“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 persons owning rights in property abutting the proposed subdivision, including surface, mineral and security rights, as determined from the most recent local tax list and land records.
- (d) The existing and proposed of roads, ways, easements and any public areas within the subdivision in a general manner.
- (e) The proposed system of drainage, including adjacent existing natural waterways, wetlands and critical areas in a definitive manner.
- (f) The boundary lines of proposed lots, with area and dimensions.
- (g) The names, approximate location and widths of adjacent roads.
- (h) And boundaries of all areas within the Wetland and Watershed Protection Districts.
- (i) Physical, geological, environmental and other characteristics unique to the site not covered elsewhere in Section 1.07 such as soil type, unique flora.
- (j) And the topography of the land at ten-foot contour intervals, except where the Board requests otherwise.

## **II. PLAN PROCEDURES**

### **2.01 General**

Only those plans which constitute “subdivisions” as that term is defined in Section 1.06 require the approval of the Planning Board. However, plans of land which do not constitute “subdivisions” within the meaning of the Subdivision Control Law must be endorsed by the Board as not requiring approval before such plans will be accepted for recording at the Registry of Deeds or registration at the Land Court. The Martha’s Vineyard Commission reviews Developments of Regional Impact according to their Standard Criteria for Developments of Regional Impact Checklist.

#### (B) Developments of Regional Impact

Developments which meet the qualifications as Developments of Regional Impact will be referred to the Martha’s Vineyard Commission for review under the provisions of Chapter 831 Acts of 1977 and Chapter 808 of the Acts of 1975. No permits or special permits may be issued for such developments which have been so referred until the Martha’s Vineyard Commission has approved, or approved with conditions, and referred back to the Town for action.

### **2.02 Submission of Plans**

Plans intended for review at any meeting of the Planning Board shall be delivered to the office of the Town Clerk or acting Clerk not later than 3:30 PM at least seven days prior to the next regular meeting of the Planning Board. The Date of Submission for any plan shall be considered to be the day following the regular Board meeting at which plan is first considered.

### **2.03 Plan Believed Not To Involve Subdivision**

Anyone may submit a plan seeking endorsement that the plan does not require approval under the Subdivision Control Law. The plan and two prints (to be retained) plus Form A, a filing fee in an amount as determined by the Board from time to time, and a statement as to why the plan does not require approval under the Subdivision Control Law shall be submitted to the Planning Board, and a copy of Form A should be filed (by delivery or registered mail) with the Town Clerk or acting clerk. If the Board determines that the plan does not show a subdivision, it shall endorse the plan “Approval under the Subdivision Control Law Not Required”. The Board will return the original of the plan to the applicant, notifying both him and the Town Clerk or acting Clerk of its action.

If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it shall so inform the applicant and return the plan. The Planning Board shall also notify the Town Clerk or acting Clerk of its action.

If the Planning Board takes no action within fourteen (14) days after the Date of Submission as determined by Section 2.02, the plan is automatically deemed not a subdivision plan, and the Town Clerk may so certify.

### **2.04 Pre-Submission Review**

Prior to investing in extensive professional design efforts for preliminary subdivision plans, it will often prove useful to the subdivider to review the proposed development of a parcel of land with the Planning Board, in order that general approaches and potential problems can be freely explored. Pencil sketches which need not be professionally prepared, will assist in the discussion, and might show some but not all of the information shown on Preliminary Plan. In some cases, especially small projects, this Pre-Submission review may eliminate the need for such a Preliminary Plan. As a result of Pre-Submission

review the requirements for the Preliminary Plan will be established for the Preliminary Plan will be established. The Planning Board strongly recommends the use of Pre-Submission review of any project.

### **2.05 Preliminary Plan**

A Preliminary Plan of a subdivision may be submitted to the Planning Board, with a copy to the Board of Health, for discussion. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies, and persons owning rights in property abutting the subdivision to discuss and clarify the problems of such subdivision before detailed engineering drawings for a Definitive Plan are prepared. Therefore, it is mandatory that a Preliminary Plan be filed in each case except those where a Pre-Submission Review has adequately clarified all issues upon written notification by the Board. During the Discussion of the Preliminary Plan, the information required for the Definitive Plan will be developed.

### **2.06 Preliminary Plan Submission**

Any Preliminary Plan submitted under Section 2.05 shall be filed by delivery or registered mail with the Town Clerk, along with a copy of the completed application (Form B). A properly executed Form B also shall be filed with the Planning Board along with six copies to the Preliminary Plan and a filing fee as determined from time to time by the Board. The Board may distribute copies to Town officials deemed appropriate.

### **2.07 Preliminary Plan Form**

Any Preliminary Plan submitted under Section 2.05 shall be drawn on tracing paper or cloth at a scale of 100 feet to one inch or other scale agreed to by the Planning Board, and shall be identified as a Preliminary Plan. A Preliminary Plan shall have contents as defined in Section 1.07. In addition, to promote better understanding of the impact of the Plan on the Town, the following should be submitted:

- (a) A locus plan of the subdivision, showing its road configuration in relation to the surrounding area, at a scale of 1" = 2000'.
- (b) In the case of a subdivision covering less than all of the land owned by the subdivider in the area of the subdivision, a plan showing the proposed overall development of all such land.
- (c) Preliminary findings, with as much detail as possible, of the Environmental Impact Analysis required at Section 2.12.

### **2.08 Preliminary Plan Approval**

Within sixty (60) days after the Date of Submission, the Planning Board shall give such Preliminary Plan either its tentative approval with or without modification, or disapprove the plan. In the case of disapproval, the Board shall state in detail its reasons therefore. Tentative approval or approval with conditions does not constitute approval of a subdivision.

### **2.09 Definitive Plan Submission**

The applicant shall file by delivery or registered mail with the Town Clerk or acting clerk, a copy of executed Form C and shall similarly file with the Planning Board:

- (a) Four contact prints of the Definitive Plan and other required drawings, dark line on white background.
- (b) Two copies of properly executed application Form C.
- (c) A filing fee as determined by the Board from time to time.

## **2.10 Definitive Plan Contents**

The Definitive Plan, including the Environmental Analyses, shall be prepared by an interdisciplinary team to include, but not limited to, a Registered Land Surveyor, Professional Civil Engineer, and Registered Architect or Registered Landscape Architect, unless otherwise agreed to in writing by the Board. The Definitive Plan shall be clearly and legibly drawn in black India ink upon tracing cloth. Sheet size shall not exceed 24" x 36". The Plan shall be at the scale of one inch equals 100 feet, or such other scale as the Board may accept, to show details clearly and adequately. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following unless otherwise agreed to in writing by the Board:

- (a) Subdivision name, boundaries, north point, legend, date and scale.
- (b) Name and address of record owner, subdivider, surveyor, and other professionals engaged in the design.
- (c) Location and names of all persons owning rights in property abutting the proposed subdivision, including surface, mineral and security rights; as determined from the most recent local tax list and land records; assessors' map numbers; designation of zoning districts.
- (d) Existing and proposed lines of roads, ways, (including ancient ways), paths, lots, easements, and public or common areas within the subdivision.
- (e) Sufficient data to determine readily the location, direction, and length of every road and way line, easements, lot line and boundary line, and to establish those lines on the ground. If any part of the subdivision is within 500 feet of a Massachusetts Co-ordinate System Island Zone Survey Monument, the subdivision shall be tied to said system.
- (f) Road centerline stationing, referenced to Road Plans and profiles.
- (g) Lot numbers and areas.
- (h) Location of all permanent monuments, properly identified as to whether existing or proposed.
- (i) Location, names and present widths of roads bounding, approaching, or within reasonable proximity of the subdivision.
- (j) Existing and proposed watercourses, ponds and wetlands.
- (k) An outline of all areas located within or adjacent to the proposed subdivision which are subject to the Wetlands Protection Act, or coastal district, any orders, designations or other actions under the federal Watershed Protection and Flood Prevention Act, the federal Coastal Zone Management Act, or located within the Wetland and Watershed Protection Districts.
- (l) Topography of the land at two foot contour intervals.
- (m) Proposed location of sewage disposal systems, whether individual or central, with detailed results of soil percolation tests on each lot.
- (n) Proposed location of water supply for each lot.
- (o) Suitable space to record the action of the Board and the Town Clerks' certification.

## **2.11 Road Plans and Profiles**

For every Road in a subdivision, there shall be a separate plan at 1" = 40' horizontal, 1" = 40' vertical, showing the following data:

- (a) Exterior lines of the way, with sufficient data to determine their location, direction, and width.
- (b) Existing centerline profile to be shown as a fine full line. Existing centerline profile for intersecting roads to be shown for at least 100 feet each side of the intersection of road centerlines. When required by the Board, existing right sideline shall be shown as a dashed black line, left sideline as black dots. Elevations shall be based on the U.S.G.S. benchmarks if such exist within 1000 feet of the subdivision.
- (c) Finished, designed profile to be heavy full line, with elevations shown every 50 feet (25 feet on vertical curves).
- (d) Existing and proposed watercourses, ponds and wetlands.
- (e) All drainage and flood control facilities to be shown on the plan and profiles in red, showing sizes, invert elevations and slopes.
- (f) Location and size of existing and proposed domestic water supply and firefighting water facilities.
- (g) Location of existing and proposed cable utilities and their appurtenances.
- (h) Location of road surfacing and paths, as well as any other improvements required by the Board.

## **2.12 Environmental Analysis**

Any subdivision creating frontage potentially allowing four or more lots shall be based upon an Environmental Analysis, and, in addition, the Board may require in writing for subdivisions of fewer than four lots that certain of the plan contents be submitted where such information is necessary to evaluate the plan because of special circumstances of the location of the proposal. An Environmental Plan and an Impact Statement shall be submitted as documentation of the Environmental Analysis.

## **2.13 Environmental Plan Contents**

A set of plans at uniform scale shall be submitted, encompassing the entire subdivision on a single sheet not larger than 42" x 60", showing the following, unless otherwise agreed to in writing by the Board:

- (1) The same data as on the Definitive Plan, reproduced as a clear acetate or Mylar overlay.
- (2) Topography at two foot contour intervals, with graphic drainage analysis, indication of annual high water mark, direction of surface flow springs, flood plains, 100 year flood level, if known; location of existing structures, including fences and walls.
- (3) Present and proposed vegetative cover analysis, including identification of general cover type (wooded, thicket, grassland, fresh wetland, etc.)
- (4) Soil types, groundwater level, location and results of soil percolation or other subsurface tests, as required by state and local Board of Health Codes.
- (5) Open space to be set aside, if any.
- (6) Visual analysis, including analysis of scenic vistas, and locations visual prominence.
- (7) Identification of coastal districts.

## **2.14 Impact Statement Contents**

A narrative statement shall also be submitted assessing the effects of the proposed subdivision on the public safety, health and welfare, with reference to the above maps as germane, with specific emphasis on the following unless otherwise agreed to in writing by the Board:

- (1) Impact upon surface water quality and level.
- (2) Impact upon groundwater quality and level.

- (3) Impact upon water circulations and run-off.
- (4) Material effects upon important wildlife habitats, outstanding botanical features, scenic or historic environs, fisheries.
- (5) Capability of soils, vegetative cover and proposed erosion control efforts to support proposed development without danger of erosion, salting, or other instability.
- (6) Changes in flora, fauna and other life supporting vegetation resulting from re-suspension of sediment, over-boarding spoils, increased ingredients in water, toxic ingredients and contaminants, biocides, and other changes in water quality and quantity.
- (7) Compatibility of the proposed development with the Massachusetts Wetlands Protection Act, Restriction Act, Federal Coastal Zone Management Act, and other state and federal laws relating to protection and enhancement of the human environment and regional regulations and the Coastal District of the Martha's Vineyard Commission.
- (8) Effects of increased permanent and peak seasonal population.
- (9) Effects of increased vehicular traffic.
- (10) Effects on ambient air quality caused pollutants from automobiles, heating systems and related energy sources such as home electricity and street lighting.
- (11) Effects on ambient noise levels caused by increased vehicular traffic, construction work, etc.
- (12) Effects of increased demand for various municipal services such as drinking water, sewage treatment, education, medical services, social services, police and fire protection, road maintenance, and estimated increased assessed valuation of property.
- (13) Effects on collection and disposal of solid waste generated by the subdevelopment.
- (14) Impact on use of, access to, or quality of open space, conservation and recreation areas.
- (15) Elimination, contamination, reduction or changes in production of non-renewable and renewable resources.

## **2.15 Required Information**

The following shall also accompany submission of a Definitive Plan: unless otherwise agreed to in writing by the Board:

- (a) Typical road cross section for each type of road within the subdivision, drawn at 1" = 4', showing location of all elements within the right-of-way and typical cross sections of any altered drainage courses or off-road paths.
- (b) A locus plan of the subdivision, showing its road configuration in relationship to surrounding roads at 1" = 2000'.
- (c) Identification of development elements, based on suggestions of Appendix A, and a narrative statement of relationship to the design of Appendix A, and proposed means, if any, of ensuring compliance by purchasers of lots with these guidelines.
- (d) In general 4 lots or more but not limited to, a sedimentation erosion control plan will be requested by the Board, drainage calculations, traverse notes, evidence of ownership, language of any easements, covenants or restrictions applying or proposed to apply to the area being subdivided, rights and easements obtained for utilities or drainage outside of the subdivision, description of erosion control methods to be employed.

## **2.16 Board of Health Review**

At the time of filing of the Definitive Plan with the Planning Board, the applicant shall also file a copy with the Board of Health. The Board of Health shall report to the Planning Board in writing its approval or disapproval of said plan. If the Board of Health disapproves of said plan, it shall make specific

findings as to which, if any, of the lots shown in 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. If, after the public hearing, consideration of the report of the Board of Health and any independent investigation which the Planning Board may conduct, the Board finds that any of the lots shown on the plan cannot be used for building sites without injury to the public health, or that the plan otherwise does not comply with the subdivision control law, these rules or regulations, or the recommendations of the Board of Health, the Board shall modify and approve or disapprove the plan. Any approval by the Planning Board of a plan which contains any lots as to which specific findings of injury to public health were made by the Board of Health or the Planning Board, shall be given only on the condition that such lot or lots shall not be sold for any building or structure built thereon without prior consent of the Board making such findings. The Planning Board shall endorse on the plan such conditions, specifying the lots or land to which said conditions apply.

### **2.17 Public Hearing**

Before approval, modification and approval, or disapproval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of the time and place of the hearing and of the subject matter, sufficient for identification, shall be given by the Planning Board by advertisement in Island newspapers of general circulation in the Town of Aquinnah, once in each of two successive weeks, the first publication being not less than fourteen days before the day of such hearing, and by mailing a certified copy of such advertisement to the applicant and to all persons owning rights in land abutting the land included in such plan as determined from the most recent local tax list and land records. Applicant shall pay reasonable costs in implementation of 2.17.

### **2.18 Performance Guarantee**

Before the Planning Board approves a Definitive Plan, the developer shall agree to complete without cost to the Town all improvements required by Section IV of these regulations, and shall provide security or bond, or both, whichever be deemed necessary by the Aquinnah Planning Board that he will do so by covenanting not to sell or build upon any lots until completion of the improvements (which covenant must be referred to on the plan and registered or recorded with it). The Board may release the developer from the covenant upon receipt of an agreement with terms satisfactory to the Board, 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. Full security shall not be released until the integrity of road surface and drainage has been verified following a full winter of use, until trees and other vegetation have been established, until either fee to the streets has been conveyed to the Town, or other provisions for their continued maintenance have been accepted by the Board and until the record plans have been received. The Board may require a reasonable time for completion of the improvements. Any applicant not meeting the requirements of the Permit issued by the Planning Board will be subject to a lien in favor of the Planning Board upon all property and rights to property covered by the Permit, as recorded at the Registry of Deeds, County of Dukes County, until such time that the Planning Board is satisfied that all requirements have been met.

### **2.19 Approval, Modification, or Disapproval**

The action of the Board in respect to such Definitive Plan shall be by vote of a majority of the Board. Copies of said vote shall be certified and filed with the Town Clerk or acting clerk, and a copy sent by delivery or registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its actions.



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

Following endorsement of the Plan by the Board, the applicant shall provide the Board with a reproducible copy and two contact prints of the Definitive Plan and of the Road Plan and Profile, a copy of final covenants and restrictions for its files and such other documents or plans as the Board shall reasonably require for its records.

Approval of the Definitive Plan or release of security does not constitute the laying out or acceptance by the Town of streets within a subdivision.

### III. DESIGN STANDARDS

#### **3.01 General**

Aquinnah is a rural, sea oriented New England town with a fragile topography. The town supports fishing activities as well as simple residence areas, wetland dominated, with a minimum of commercial activity unrelated to farming or the sea. The Planning Board actively encourages recognition of these facts by subdividers and has approved the Development Suggestions attached as Appendix A to assist developers in their plans.

#### **3.02 Application of Standards**

Any subdivision shall be designed consistent with these Design Standards, and with the Master or Study Plan for Aquinnah as adopted and amended from time to time by the Planning Board of the Martha's Vineyard Commission.

#### **3.03 Roads and Paths in General**

All roads and paths in any subdivision shall be designed so that, in the opinion of the Board, they will provide safe pedestrian and vehicular travel. Due consideration shall also be given by the subdivider to the consequences of the road layout upon the livability, amenity, and environmental impact of the subdivision.

#### **3.04 Road Configuration**

Roads shall be laid out with maximum concern for the topography, environmental impact, favoring winding, irregularly curved lines where appropriate to the topography and consistent with safety requirements, with concern for later interconnection with other roads providing access to adjoining property not yet subdivided, unless otherwise required by the Board.

Road configuration shall be designed together with reserved open space to minimize the number of lots having frontage exclusively on principal roads within the subdivision.

Intersections shall be designed to suit the topography unless safety otherwise requires.

Property lines at road intersections shall be rounded or cut back to provide for a curb radius of not less than 30 feet.

### **3.05 Path Configuration**

Existing trails and paths (including bicycle and bridle paths) shall be preserved and new trails and paths shall be created in locations where they would be appropriate because of traffic, access to public or recreational facilities, or other reasons, not necessarily following the roads and when necessary to identify with the (right of way) of the proposed roadway.

### **3.06 Road and Path Widths**

The minimum width of road and path rights-of-way shall be prescribed in Appendix C. Greater widths may be required by the Planning Board when deemed necessary for present and future vehicular travel.

### **3.07 Road Grades**

Road grades should be such as to preserve the topography of the land, permit proper maintenance of the road, and permit adequate year round access to all lots by two wheel drive vehicles, all as specified in Appendix C or as approved in each case by the Planning Board.

### **3.08 Easements**

Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary, and shall be at least twelve (12) feet wide, unless a smaller width is determined by the Board to be adequate for the purpose.

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 or drainage easement of a minimum width of twenty (20) feet to conform substantially to the lines of such water course, drainage way channel, or stream, and to provide for construction or other necessary purposes.

Drainage easements outside of the area of the subdivision but occasioned by it may be required of the subdivider.

Slope easements shall be provided where cut or fill slopes cannot be contained within road rights-of-way.

### **3.09 Storm Water Management**

Storm drainage, culverts and related facilities shall be designed to permit the unimpeded flow of all natural water courses, to ensure adequate drainage of all low points along roads, to control erosion and to intercept storm water runoff along roads at intervals reasonably related to the extent and grade of the area drained. To the maximum extent feasible, storm water shall be recharged rather than piped to surface water, and peak stream flows at the boundaries of the development shall be no higher following development than prior to development.

Storm sewers, retention basins and leaching basins shall be based on a twenty-five (25) year frequency storm, and culverts shall be based on a fifty (50) year frequency storm, and on coastal flooding to ten feet elevation (MSL). Design shall employ tide gates, back-flow valves, or other devices as necessary, to avoid damage from reverse circulation of floodwaters.

Design shall be based upon either the Rational Method or Manning Formula. Water velocities shall be between two and five feet per second. The coefficient of runoff used shall be not less than 0.45 for subdivided areas. All developable land tributary to facilities being designed shall be assumed to be subdivided. Leaching basins or sewers of less than 12-inch inside diameter, and with catch basins at all low points and sages, near the corners of the roadway at intersecting streets, and at intervals of not more than 350 feet on continuous grades. Where used, leaching basins shall be cross-connected. The Board may require test borings at leaching basin locations where percolation is in doubt.

### **3.10 Water Supply and Sewage Disposal**

All water supply and sewage disposal systems shall be designed:

- (a) To meet the requirements of the Planning Board in consultation with the Board of Health as set forth herein and as further established for each subdivision based upon the plans.
- (b) To meet the requirements of the Planning Board, on the advice of the Fire Chief, as to the adequacy of firefighting water.
- (c) So as to neither be impaired or contribute to contamination in the event of flooding.
- (d) To meet all federal and state requirements, and regional regulations, including particularly the federal Safe Drinking Water Act of 1974 (P.L. 930523).

### **3.11 Open Spaces - Recreation**

Before approval of a plan, the Planning Board shall in proper cases require the plan to show a park of parks or open space suitably located for playground or recreation purposes or for providing light and air, for the use and enjoyment of residents of such subdivision. The park or parks or open space shall be of reasonable size in relation to the land being subdivided and to the respective uses of such land. The Planning Board may by appropriate endorsement on the plan, require that no building be erected upon such park or parks without its prior approval.

### **3.12 Protection of Natural Features**

Due regard shall be shown to protect all natural feature, such as trees over 12" caliper, water courses, springs, scenic points, historic spots and similar community assets, which, if preserved, will enhance the welfare of inhabitants of Aquinnah and add attractiveness and value to the subdivision.

### **3.13 Written Approvals**

No Definitive Plan will be approved unless the developer submits written certification of approval of the design by all utilities which are to provide services within the subdivision.

### **3.14 Underground Wiring**

All wiring, cables, and other appurtenances of electric power, telephone, and fire alarm systems shall be placed underground within the limits of the street right of way, unless otherwise agreed to in writing by the Board. Electric power cables shall not be less than 30" below finish grade.

## IV. REQUIRED IMPROVEMENTS

### **4.01 General**

The following improvements shall be made by the developer without cost to the town. All improvements shall be made in accordance with the best practices available at the time of the improvement.

### **4.02 Roads**

The developer shall build roads in accordance with the method designated and specified by the Planning Board for the subdivision or any part thereof. Because of the rural nature of Aquinnah, road construction requirements may vary substantially in a range from roads meeting state specifications for general use to properly constructed dirt roads. Details of roadbed preparation and material, finished grade, surface material, berms, and related matters will be specified to the developer as promptly as practicable after submission to the Board of a plan or a pre-submission review.

### **4.03 Water**

Prior to the sale of each lot in a subdivision, the developer shall drill and pump a well which produces water of a quality and at a rate satisfactory to the Board of Health and the Planning Board. Each such well shall be constructed in accordance with specifications from time to time adopted by the Planning Board and made available to the developer with these regulations.

### **4.04 Sewage Disposal Systems**

The Planning Board may require the installation of any sewage disposal system required to assure proper sanitary conditions and the protection of subdivision or abutting water supplies in accordance with all federal, state and local requirements.

### **4.05 Cable Utilities**

The developer shall install all cable utilities (electric, telephone, or other) prior to the sale of any lot.

### **4.06 Storm Water Management System**

A complete storm water management system shall be installed as shown on the Road Plans and Profiles and as follows:

- (a) Piping shall be concrete unless the Board approves protected corrugated aluminum. Piping with less than 18 inches cover shall be of reinforced concrete.
- (b) Catch basins and manholes shall be at least six (6) feet deep and four (4) feet diameter (inside measurements) constructed of concrete blocks or precast concrete units. They shall be backfilled with 1-1/2" washed stone, topped with peastone. Leaching basins shall be cross-connected with 12 inch drainpipe.
- (c) Open brooks or tributary ditches which are to be altered shall be shaped to a cross section and gradient and provided with stream bottom hardening, all acceptable to the Board.

### **4.07 Monuments**

Monuments shall be installed at all intersections, at all points of change in direction or curvature of roads and at other points where, in the opinion of the Board permanent monuments are necessary, but in any event not spaced further than 500 feet apart. Such monuments shall be of either granite or concrete, not less than 30 inches long and 5 inches square, with dressed top and 1/2 inch drill hole in the center, and shall be set to finish grade. No permanent monuments shall be installed until all construction which would destroy or disturb their location is completed.

#### **4.08 Road Signs, Sidewalks, Lighting**

No road signs, sidewalks or public lighting shall be constructed unless specifically required by the Planning Board, and if so required, shall be in accordance with specifications then supplied by the Board.

#### **4.09 Clean-Up**

Before sale of any lot, in the subdivision, the subdivider shall remove and properly dispose of any debris caused by street construction, installation of utilities or otherwise.

#### **4.10 Planting**

Every effort shall be made to preserve and protect existing vegetation. The subdivider may be required to plant trees and other vegetation where necessary in quantities determined by the Board. Before the trees are planted, a plan showing their proposed location and species shall be submitted to the Planning Board for approval based on avoidance of problems from prevailing weather, pests, disease, salt spray or root intrusion. Trees to be retained shall not have the grade changed over their root areas more than six inches.

All untraveled area within the road layout shall be stabilized with retained vegetation, topsoil and grass, well rooted low-growing planting, bark, or other organic materials acceptable to the Board.

#### **4.11 Ownership of Roads**

Unless the developer offers to dedicate the roads and common areas of the subdivision to the Town, and the Town accepts, the developer shall either (a) retain ownership of such roads and make provisions satisfactory to the Town for perpetual maintenance thereof; (b) agree to convey such roads and common lands to an association of lot owners under terms satisfactory to the Board or © a combination of (a) and (b). The Definitive Plan shall carry a notation as to which alternative will be followed and the terms thereof.

#### **4.12 Record Plans**

Upon completion of construction and before release of the performance guarantee, the subdivider shall have prepared and submit Record Plans at 1" = 40', which shall indicate the actual location of the following unless otherwise agreed to in writing by the Board.

- (a) Road lines.
- (b) Edge of traveled way and path locations.
- (c) All permanent monuments.

- (d) Location and inverts to utilities and drainage required to be installed by the developer.
- (e) Location of any other underground utilities, such as gas, electricity and telephone.

The accuracy of such record plan shall be certified by a Registered Professional Land Surveyor.

#### **4.13 Work Schedule, Administration**

The work connected with the items mentioned in Section IV shall proceed in the following order, each item to be accomplished so as not to interfere with the previous work or inspections referred to below.

- (a) The roadway shall be brought to subgrade.
- (b) Base level shall be placed.
- (c) Water, gas lines, cable utilities and drains shall be placed with related equipment. All service connections shall be installed to the lot lines unless jacking across the road is feasible without breaking or weakening road surface.
- (d) Surfacing shall be placed.
- (e) Monuments shall be placed.

The accuracy of such record plan shall be certified by a Registered Professional Land Surveyor.

#### **4.14 Inspections**

Inspections shall be arranged for and conducted as specified in Appendix C - Inspection Procedures, unless otherwise required by the Board.

## APPENDIX A

### **FORMS**

- FORM A        -        Application for Endorsement of Plan Believed Not to Require  
                 Approval
- FORM B        -        Application for Approval of a Preliminary Plan
- FORM C        -        Application for Approval of a Definitive Plan

## **APPENDIX B**

### **ROAD SPECIFICATIONS**

#### **B.01 Basic Requirements**

The subdivider shall install all of the improvements itemized herein unless waived in writing by the Planning Board. All work done under this section shall be done under the direction of the Planning Board.

#### **B.02 Roadways - General**

Each road or portion thereof necessary to serve each lot in a subdivision shall be constructed and brought to finished grade as indicated on the approved Definitive Plan and in accordance with the requirements of this section.

The subdivider or his contractor shall furnish and maintain all stakes and such temporary structures as may be necessary or required by the Planning Board Agent for marking of the roadway and related utilities throughout the period of construction of the subdivision.

#### **B.03 Road Classification**

#### **B.04 Clearing and Grubbing (Type A through F)**

Travelers portion of the roads in all classifications shall be cleared of trees, stumps, roots, boulders and like material.

The remainder of the Right of Way shall remain undisturbed except where excavation for utilities, ditching for drainage and trimming of trees and underbrush for visual clearance is necessary. In any case, care must be taken to preserve the trees and vegetation continuously throughout the construction.

In no case may stone walls be disturbed in any Right of Way until a plan for realignment, if necessary, has been approved by the Planning Board.

#### **B.05 Excavating and Grading (Type A through F)**

(Type A) Topsoil and loam need not be removed from the walk surface as long as there are no soft, muddy, or spongy areas. If such are encountered, the faulty material shall be removed and replaced by stable hardening material.

The walk surface shall be covered for its entire length with two inches of stable hardening material to discourage vegetative growth.

(Type B through F) All topsoil, loam and other yielding material shall be removed until a firm foundation is reached, regardless of whether or not finished grade is above existing grade.

All other material shall be removed for the full length and width of the road surface to a depth which is equal to the finished grade as shown on the profile plan (no profile plan for type B) minus the thickness of the Foundation Base, Column 7.



### **B.06 Removal of Loam (Complete Subdivision)**

No removal of loam from the development shall be made unless a six inch thickness of compacted loam shall exist throughout the entire area of all lots and along the shoulder of the roads. Only such areas as roadways, driveways, building sites and areas requiring filling or building up may be stripped. Only surplus loam after the above requirements have been met may be disposed of elsewhere.

There shall also be assurance that all subgrades from which loam is being removed will be brought to subgrade with approval foundation material within six months.

### **B.07 Shoulder Grading (Type A through F)**

No slopes resulting from grading shall exceed the following:

1 foot vertical to 3 feet horizontal in fill

1 foot vertical to 2 feet horizontal in

Slope easements or retaining walls shall be employed where slopes cannot be contained within road side lines. Land between the outside of the layout and the road proper and driveway entrances shall be so graded as to present surface water on the road from draining onto private land except at designated ponding areas.

### **B.09 Foundation Base (Type B through F)**

(Type C through F) All prepare areas shall be provided with a foundation consisting of a good hardening material satisfactory to the Planning Board, clean, free of organic matter and containing no stones over three inches in diameter. The material shall be spread true to line, grade and to conform with the road profile and then rolled with a ten ton, minimum, roller. The minimum thickness on any part of the road area shall be as required under Foundation Base, Column 7.

Any depression that occurs, either during or after rolling, must be filled with additional gravel and rolled until the surface is true and even.

(Type B) Same requirements as for Types C through F, except that a one ton, minimum, roller shall be used.

### **B.09 Grading of Gravel Surfaced Roads (Type A through D)**

(Type A though D) All gravel roads shall be tilted to shed water and in no case are they to be completely level.

(Type C and D) The road surface shall be tilted according to the following procedure:

If drainage is available on both sides of the road, it shall be crowned in the center to a slope of 1/2" to 3/4" vertical to 1' horizontal.

If drainage is available on only one side of the road, it shall be tilted to that side to a slope of 1/2" to 3/4" vertical to 1' horizontal.

On curves, the road shall be tilted inward. Should this create a drainage sump, a culvert must be installed to carry off the water.

In forming the required slopes, excess material shall be added. No material is to be removed from the lower side of the road. No material is to be removed from the lower side of the road. It shall then be smoothed, blended and made free of bumps and ruts and rolled with a ten ton, minimum, roller.

#### **B.10 Turn Outs (Types C and D)**

Turn Outs at intervals may be required on these roads. They shall receive the same subgrade and grading as the traveled way and shall be 8 feet minimum in width and 35 feet minimum in length.

#### **B.11 Berms ("Thank you, Mams" (Types C and D)**

Where conditions are such that water cannot be drained continuously from the roads, the Planning Board may require "Thank You, Mams" at necessary intervals to shunt the water off to drainage pools or ditches. In severe situations on flat terrains, a network of ditches may be required to prevent water from backing up onto the road surfaces.

These "Thank you, Mams" shall be formed by adding excess foundation material on top of the road and shaping and blending a mound smoothly into the road as illustrated below.

The requirement for "Thank you, Mam's" shall be determined by the Planning Board within nine months after the road is opened and completion shall take place within three months thereafter.

#### **B.12 Gravel Base (Types E and F)**

After the roadway has been carefully graded and all banks and curves have been established 12 inches below finished grade (15" for a paved roadway), base gravel, clean, free of organic matter, containing no stones over 3" in diameter and of a grade satisfactory to the Planning Board shall be spread and rolled to a compacted thickness of 12 inches by a ten ton, minimum, roller.

The road shall be crowned in the center to a slope of 1/2" - 3/4" vertical to 1' horizontal.

#### **B.13 Pavement**

The paved surface shall be a two course type I-1, or if authorized by the Planning Board, type F-1, bituminous concrete pavement, applied with a 2 inch compacted base course and a 1 inch compacted finish course, after the roadway has been subjected to traffic for a time specified by the Planning Board.

APPENDIX B  
FORM A

APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL

File one complete form with three copies of the plan and the filing fee with the Planning Board and one copy of the complete form with the Town Clerk in accordance with the requirements of the Rules and Regulations.

Aquinnah, MA, \_\_\_\_\_, 20\_\_

To the Planning Board:

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

**1. Name of Applicant** \_\_\_\_\_

**Address** \_\_\_\_\_

**2. Name of Engineer or Surveyor** \_\_\_\_\_

**Address** \_\_\_\_\_

**3. Deed of Property Recorded in** \_\_\_\_\_, **Registry, Book** \_\_\_\_\_ **Page** \_\_\_\_\_

**4. Is any part of this property within the boundaries of a Special Overlay District, as described in Paragraph 0.400 of the Aquinnah Zoning By-laws?**

**5. Any existing or proposed way providing vehicular access from a lot to a public road within the Aquinnah Roadside District shall be shown on the attached plan.**

**6. If the plan does not conform to the standards described in Section 1.07 of the Aquinnah Subdivision Regulations, attach a narrative statement to this application furnishing the information described in that section as well as indicating utility easements, wells, and on-site sewage disposal locations.**

**7. The undersigned agrees to provide the Board with any additional information and material the Board deems appropriate to make its decision**

**Signature of Owner** \_\_\_\_\_

**Address** \_\_\_\_\_

FORM B

APPLICATION FOR APPROVAL OF A PRELIMINARY PLAN

File one complete form with the Planning Board and one copy with the Town Clerk.

Aquinnah, MA \_\_\_\_\_, 20\_\_\_\_

To the Planning Board:

The undersigned herewith submits the accompanying Preliminary Plan of the property located in the Town of Gay Head for approval under the requirements of the Subdivision Control Law and the Planning Board's Rules and Regulations Governing the Subdivision of Land in the Town of Aquinnah.

A list of names and addresses of all persons owning rights in property abutting the proposed subdivision, including surface, mineral, and security rights, is attached. These names are as they appear on the most recent tax list and land records.

**1. Name of Subdivider** \_\_\_\_\_

**Address** \_\_\_\_\_

**2. Name of Engineer or Surveyor** \_\_\_\_\_

**Address** \_\_\_\_\_

**3. Deed of Property Recorded in** \_\_\_\_\_,  
\_\_\_\_\_ **Registry, Book** \_\_\_\_\_, **Page** \_\_\_\_\_

**4. Location and Description of Property** \_\_\_\_\_

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

**Signature of Owner** \_\_\_\_\_

**Address** \_\_\_\_\_

**Six contact prints of all sheets making up the Preliminary Plan shall be filed with the Planning Board with the required Filing fee.**

FORM C

APPLICATION FOR APPROVAL OF A DEFINITIVE PLAN

File two completed forms with the Planning Board, one with the Town Clerk, and one with the Board of Health, together with the required filing fees.

Aquinnah, MA \_\_\_\_\_, 20\_\_\_\_

To the Planning Board:

To the Board of Health:

The undersigned herewith submits the accompanying Definitive Plan of the property located in the Town of Aquinnah for approval as a subdivision of Land in the Town of Aquinnah for approval as a subdivision under the requirements of the Subdivision Control Law and the Planning Board's Rules and Regulations Governing the Subdivision of Land in the Town of Aquinnah. A list of the names and addresses of all persons owning rights in property abutting the proposed subdivision, including surface, mineral and security rights, is attached. These names are as they appear on the most recent tax list and land records.

1. Name of Subdivider \_\_\_\_\_

Address \_\_\_\_\_

Name of Owner \_\_\_\_\_

Address \_\_\_\_\_

2. Name of Engineer of Surveyor \_\_\_\_\_

Address \_\_\_\_\_

3. Deed of Property Recorded in \_\_\_\_\_ Registry,

Book \_\_\_\_\_ Page \_\_\_\_\_

4. Location and Description of Property \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. The following are all the mortgages, liens, easements, restrictions and other encumbrances on the whole or any part of the land within proposed subdivision

\_\_\_\_\_

\_\_\_\_\_

6. The following are the easements and restrictions appurtenant to the land within the proposed subdivision over the land of others:

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7. Is any part of this property within the boundaries of a Special Overlay district, as described in paragraph 04.00 of the Aquinnah Zoning By-laws?

8. Check where applicable:

\_\_\_\_\_ No Preliminary Plan of this proposed subdivision has been submitted to the Board.

\_\_\_\_\_ A Preliminary Plan of this proposed subdivision, to which this plan conforms, was approved by the Board on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ A Preliminary Plan of this proposed subdivision, to which this pan conforms, was approved by the Board with modifications, which modifications have been incorporated in the plan herewith submitted, on \_\_\_\_\_, 20\_\_\_\_.

9. The applicant(s) covenant(s) and agree(s) for himself (themselves) and his (their) heirs, executors, administrators, successors and assigns:

- a. To construct and complete the required improvements as finally approved by the Board within one year from date of this application, or within such further time as the Board may allow in accordance with the specifications set forth in the Rules and Regulations of the Board.
- b. That, before the approval of the plan to which this application relates becomes effective, he (they) will cause to be filed with the Board a covenant satisfactory to the Board to run with the land, such covenant to be properly recorded or registered, providing that no lot in the subdivision shall be sold and that no building shall be erected on any lot until the required improvements are completed in accordance with the specifications laid down by the Board so as to adequately serve such lot, and that if this application is approved, he (the) will fulfill such condition until compliance therewith is evidenced by a certificate of the Board.
- c. That if this application is approved, he (they) will cause the Definitive Plan of the subdivision to be recorded in the Registry of Deeds of Dukes County within fifteen days after such approval and that he (they) will not sell, or offer to sell, any of the lots within the subdivision until such plan is recorded and all other conditions specified by the Board have been carried out.

10. This application is accompanied by an original drawing of the Definitive Plan and all other plans, maps and material required as part of the Definitive Plan, and the required number of print copies of each, all on the forms and in the manner prescribed by the Board, and the necessary fee(s) as required under the Rules and Regulations of the Board.

WITNESS the signature(s) and seal(s) of the undersigned applicant(s) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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(Address of Owner)

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(Mortgagees)

Assented to:

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## INSTRUCTION SHEET

### APPENDIX C

#### **JOINT PROCEDURE FOR PREPARING RAOD CONSTRUCTION SPECIFICATIONS**

Specifications for the preparation and construction of roads in a subdivision and financial guarantee to the town are covered in the town's rules and regulations governing the subdivision of land.

However, because of the hilly and oftentimes wetland nature of the terrain in Aquinnah and the uniqueness of each separate parcel of land, and in an effort to streamline the procedure referred to in the above paragraph, the Planning Board will (except in some large subdivisions) offer the developer an opportunity to jointly draw up the specifications between the developer, a contractor or contractors and the Planning Board agent and/or consultant.

#### NOTICE

It is pointed out, however, that whether the developer chooses to draw up the specifications and submit them to the Board for approval or whether the preparation is a joint effort, no physical work (except perhaps, brush cutting) is to be performed on the subdivision road system until all specifications have been approved by the Board in writing.

#### Typical Joint Procedure

Step 1. Preliminary meeting with the Planning Board to go over plan and discuss specifications. Additional information such as topography may be required and perhaps a second meeting.

Step 2. Joint meeting of developer, contractor or contractors and the Planning Board agent and/or consultant at the site.

Step 3. Specification and financial arrangements will be drawn up and presented to the Board for final approval and acceptance.

Step 4. Construction may commence.



## APPENDIX C

### ROAD CONSTRUCTION SPECIFICATIONS

#### DEFINITIONS

**Traveled Way** -- The finished road surface including its roadbed.

**Roadway** -- The road system including the traveled way and water dispersal methods.

**Right-of-Way** -- Legal bounds of the road system which shall be 40 feet from side to side.

**Road Layout** -- A graphic layout, to scale of specific construction requirements for the roadway.

#### General Description of the Standard Roadway

Road construction requirements for subdivisions shall conform to the Standard Roadway as described below, unless exceptions indicated on the road layout have been approved by the Planning Board. Exceptions to these specifications may be either required by the Planning Board or accepted by the Planning Board due to special conditions of the site or the potential amount of use on the roadway.

#### Standard Roadway

The Standard Roadway is described as a single-lane, traveled way with the following width dimensions:

- A. 12 feet of roadway cleared of trees, stumps, rocks and brush.
- B. 10 feet of roadway stripped of loam and filled and compacted with "hardener".
- C. 8 feet of roadway surfaced with a layer of stone.

The centerline for A, B, and C shall be one and the same.

The traveled way is tilted to one side or the other at a pitch of 5 to 7 %. Turnouts are constructed at appropriate places along the roadway and extra clearance of the shoulders at inside curves provide safe visibility. At sharp curves roadway widths are larger.

The traveled way is protected from water intrusion from below and water erosion from above by the construction of such water diversion methods as: swales, berms, runoffs, catchbasins, culverts, and rip-rapped areas.

The grade of the traveled way is no steeper than 10%.

Application Form for Road Specification Acceptance and Final Construction Approval

**Note:**

1. See Appendix C, Road Construction Specification
2. File the original form with the Planning Board

**Subdivision Name** \_\_\_\_\_

**Subdivider (Owner)** \_\_\_\_\_

**Representative** \_\_\_\_\_

**Location** \_\_\_\_\_ **Date of Plan** \_\_\_\_\_

**Revised** \_\_\_\_\_

This application must be initiated and completed by the subdivider and have received:

**Acceptance** by the Planning Board before the subdivision plan will be approved by the Board; and

**Approval** by the Planning Board before the sale or transfer of any lot or building on any lot in the subdivision will be permitted.

Acceptance of this application by the Planning Board means that an on-site analysis has been made along the full length of all of the right-of-ways of the subdivision by the subdivider (and/or his representative) and the Planning Board Agent' that the construction details have been drawn up by the subdivider, to scale, on a Roadway Layout, and that the layout has been approved by the Planning Board Agent and the Planning Board.

This application shall be governed by the following:

Appendix C, Road construction Specifications  
Appendix D, Inspection and Testing.



## APPENDIX D INSPECTION AND TESTING

### **D.01 General**

All work performed as a consequence of these Rules and Regulations shall be subject to the review of the Planning Board, which shall approve and accept or disapprove and reject each phase or portion of such work and at completion shall recommend the acceptance of all work or disapproval of the work with reasons therefore.

### **D.02 Planning Board Agent**

The Board will designate an agent for the inspection of the work to insure compliance with these Rules and Regulations and to report to the Board his recommendations as to approval or disapproval of the work. The Planning Board Agent will make certain inspections as prescribed herein in order to check the adequacy of the work at various stages prior to such work being covered by subsequent work. However, the Board, its Agent, and such other persons as the Board may designate shall have the right to inspect the work at any time. Therefore, the applicant shall at all times provide safe and convenient access to all parts of the work for inspection by the Board or its authorized agents.

### **D.03 Disapproved Work**

All work which has been disapproved or is not acceptable to the Board shall be removed and replaced or otherwise corrected to the point of complying with the requirements of the Board for acceptance. Any work which has covered by subsequent work prior to acceptance or is otherwise not available or obscured to the point of rendering inspection of the work difficult shall be considered to be not acceptable to the Board. Such subsequent work shall be removed as directed by the Planning Board Agent to insure availability of the work to be inspected as required herein. The release of the performance guarantee shall depend upon the acceptance of all work prescribed herein and on the Definitive Plan and as directed by the Board.

### **D.04 Inspections, General**

At points as further described hereinafter, the construction of the required improvements shall be inspected by the Board's authorized agent, and unless approval of the completed work, including approval of materials used, to each such point has been given in writing, no further work shall be commenced. Such inspections may include the taking of certain samples for laboratory analysis or testing, in such cases, the applicant shall replace and restore such work, to the satisfaction of the Agent, to its condition prior to the taking of the sample. Inspections and tests required herein may be in addition to other inspections required by the Board.

### **D.05 Material Inspections; Tests**

The Planning Board Agent may require certified copies of delivery receipts or bills of lading or other certification as to the description of materials used or incorporated in the work. the Agent may also require a sample of any materials or supplies which may be incorporated in the work; such samples shall be furnished at the expense of the applicant, and the applicant shall be liable for all costs and fees incurred by the Board as a result of transporting and testing such materials.

#### **D.06 Inspection Procedures**

The Board will notify the applicant of the name and address of the Agent designated as its representative to perform the inspections as required herein and otherwise act as the Board's agent to insure compliance with these Rules and Regulations. The applicant shall keep the Agent fully informed as to the status and progress of the work and shall notify the Agent directly in writing at least forty-eight (48) hours in advance, that the work has progressed to a stage that an inspection is required. The applicant shall also submit samples for testing one (1) week in advance of the date the test results are needed.

#### **D.07 Alternate Agent**

In the event that the Agent is unable for forty-eight (48) hours after the work is ready to make such inspection or examination, the applicant shall notify the Chairman or Clerk of the Board to such effect, who will designate an alternate to make such inspection and shall so notify the applicant.

#### **D.08 Additional Inspections**

If the Planning Board Agent makes an inspection of the work at the time designated and finds that such work is not at the proper state of completion or that the work has been covered or otherwise obscured; the Agent shall notify the applicant and the Board as to the additional steps the applicant shall take to complete the work to the point required or to the extent the work shall be uncovered or exposed to full view. The applicant shall be liable for all costs and fees incurred by the Board as a result of requests by the applicant for an inspection of the work which, in the opinion of the Board, was not at an acceptable stage of completion for such inspection.

#### **D.09 Lines and Grades**

The Planning Board Agent will advise the Board at any time during the construction if, in his opinion, he believes that the work has not been laid out to the lines and grades as shown on the Definitive Plan.

#### **D.10 First Inspection**

An inspection will be made of the physical layout of all stakes bounding the rights of way, the traveled ways, the areas designated for utilities and any other elements designated on the Definitive Plan.

#### **D.11 Second Inspection**

An inspection will be made of the work upon completion of all clearing, grubbing, and excavation and all work incidental thereto as may be required or implied by the Board's Rules and Regulations or shown on the Definitive Plan. No fill shall have been placed at the time of this inspection.

#### **D.12 Third Inspection**

An inspection will be made of the completed drainage system (without backfill) as required or implied by the Board's Rules and Regulations or shown 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 utility installations (without backfill) as required or implied by the Board's Rules and Regulations or shown on the Definitive Plan. The inspection of the required services will be made by the agency responsible for the

particular service. Each agency so involved will notify the Planning Board Agent of the approval of such work in writing.

Backfill of any portion of the drainage system, utility installations or other services shall not be made until after receipt of notification of approval or acceptance by the Planning Board Agent or agency responsible.

#### **D.13 Fourth Inspection**

The inspection of the construction of the ways shall include the inspection of the back-filling and compaction of all utility trenches as may be installed by utility companies, and such work shall be performed in the manner as required by these Rules and Regulations. It shall be applicant's responsibility to insure compliance with these requirements. If, in the opinion of the Planning Board, the back-filling and compaction of utility trenches has not been performed properly, the Planning Board may not release the covenant applicable until such work has been performed to the satisfaction of the Planning Board.

An inspection will be made of the compacted fill required to bring the roadways to their proposed grades. The applicant shall notify the Planning Board Agent as to his source of gravel for fill as soon as such information is known, so that samples may be taken and analyzed by the Planning Board Agent. The applicant is hereby advised not to proceed with the filling operation until such time as the Planning Board Agent notifies the applicant that the gravel proposed for the fill is acceptable, if the applicant proceeds with the fill 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 Planning Board Agent.

#### **D.14 Fifth Inspection**

An inspection will be made of the binder course and the required finish course. Samples of the mix may be taken by the Planning Board Agent for purposes of performing an extraction test in order to compare the samples with the job-mix formula previously submitted.

#### **D.15 Sixth Inspection**

An inspection will be made of topsoil, curbing (where required), paths, side slopes, monuments, bounds, road signs and plantings of grass, trees and other vegetation.

#### **D.16 Seventh Inspection**

A final inspection will be made of all subsequent work as required herein or as shown on the Definitive Plan to include the final clean-up.

#### **D.17 Report of Planning Board Agent**

The Planning Board Agent will submit a completed report to the Board for each right of way in a subdivision. Such report will be similar to that given herein and will be augmented by such additional information as the Board may require to describe any special problems or situations which may arise during the construction of the required improvements.

The Planning Board Agent will report to the Board that the work has been performed in accordance with these Rules and Regulations and the Definitive Plan, or the agent will advise the Board that the work is not acceptable and state in writing the reasons therefore.

At any time during the progress of the work, the Agent will advise the Board, immediately, of any factors which may adversely affect the progress of the work.

## APPENDIX E

### PLANNING BOARD SUBDIVISION FILING FEES

Type of Submission	General Fee	Plus fee per lot
E.01 Presubmission Review	none	none
E.02 Plan not requiring approval (Form A)	25	25
E. 03 Preliminary Plan (Form B)	none	none
E. 04 Definitive Plan (Form C)		
3 lots or less	100	25
4 - 6 lots	200	50
over 6 lots	300	50
E.05 Board of Health		
perc tests		30

In the case that an engineer or professional consultant is called in, for water, sewage, or road review, the cost will be covered by the developer.



## APPENDIX F LEGAL REFERENCES

### STATE LAWS (References are to Massachusetts General Laws)

Subdivision Control Law, Chapter 41, Sections 81K to 81 GG  
Planning Board Enabling Law, Chapter 4, Sections 81 A to 81J  
Scenic Rivers Act, Chapter 21, Section 17B  
Controls over Conservation Districts, Chapter 21, Section 18, et seq.  
Protection of Coastal Wetlands, Chapter 130, Section 105  
Protection of Inland Wetlands, Chapter 131, Section 40A  
“Hatch Act” (Wetlands Control), Chapter 131, Section 40  
Chapter 30, Sections 61 - 62 (environmental impact)

### FEDERAL LAWS

Watershed Protection and Flood Prevention Act, 16 USC 1001, et seq.  
Coastal Zone Management Act of 1972, 16 USC, 1451, et seq.  
Safe Drinking Water Act of 1974, 42 USC 300f., et seq.  
Federal Water Pollution Control Act, 33 USC 1251, et seq.  
Clean Air Act, 42 USC 1857, et seq.

### Validity and Conflict of Laws

Where any provision of these regulations impose a greater restriction upon the development or use of land or structure than is imposed by other regulations, the provisions of these subdivision regulations shall control. The invalidity of any section or provision of these regulations shall not invalidate any other section or provision thereof.

## APPENDIX G

### RATE OF DEVELOPMENT

In a Form D subdivision, the annual rate of growth shall not exceed 10% of the total number of houses allowed on buildable lots within the subdivision.

Variances from this regulation can be obtained by application for a Special Permit from the Planning Board Plan Review Committee.

As an example of such a variance, a developer who puts half of his buildable lots into a Conservation Restriction, would be allowed a growth rate twice the 10%, thereby making possible a build-out in half the time.



