

RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND

**Gardner, Massachusetts
(Revised September 12, 2023)**



**Planning Board City of Gardner
115 Pleasant Street, Room 201
Gardner, MA 01440**

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RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND

GARDNER, MASSACHUSETTS

(Adopted under the SUBDIVISION CONTROL Law, Section 81-K to 81-GG inclusive, Chapter 41, of Massachusetts General Laws.) annotated

SECTION 1

PURPOSE AND AUTHORITY

1.0 PURPOSE

The SUBDIVISION CONTROL law has been enacted for the purpose of protecting the safety, convenience, and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in SUBDIVISIONS providing access to the several LOTS therein, but which have not become public ways, and ensuring sanitary conditions in SUBDIVISIONS and in proper cases parks and open areas. The powers of a planning BOARD and of a board of appeal under the SUBDIVISION CONTROL law shall be exercised with due regard for the provision of adequate access to all 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 or other emergencies; for ensuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provisions for water, sewerage, drainage, underground 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 CITY or town in which it is located and with the ways in the neighboring SUBDIVISIONS. It is the intent of the SUBDIVISION CONTROL law that any SUBDIVISION plan filed with the planning BOARD shall receive the approval of such BOARD if said plan conforms to the recommendation of the board of health and to be 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 eighty-one R, such portions of the RULES AND REGULATIONS as is deemed advisable. (Section 81-M of Chapter 41, M.G.L.)

1.1 AUTHORITY

Under the authority vested in the Planning BOARD of the CITY of Gardner by Section 81-Q of Chapter 41 of the Massachusetts General Laws, said BOARD hereby adopts these RULES AND REGULATIONS governing the SUBDIVISION of land in the CITY of Gardner.

SECTION 2

DEFINITIONS

Unless an expanded, clarified, or contrary intention or definition is clearly expressed herein, the words and phrases defined in the SUBDIVISION CONTROL Law shall have the meaning therein set forth. The words defined below are capitalized throughout these RULES AND REGULATIONS.

ABUTTER	An OWNER of land sharing a common property line with the APPLICANT'S property, and an OWNER of land directly across a public or private street from the APPLICANT'S land, and abutters to abutters within 300 feet of the APPLICANT'S land as such OWNERS appear on the most recent applicable assessment for taxation.
ACCESS DRIVEWAY	The travel lane allowing motor vehicles to enter or exit a LOT.
AGENT	The person or persons authorized and designated by the Planning BOARD to carry out specific functions on behalf of the BOARD with respect to the review of plans, investigations of conditions and inspection or verification of improvements.
APPLICANT	The person who applies for the approval of a Plan of a proposed SUBDIVISION. The APPLICANT(S) must be the OWNER(S) of all the land included in the proposed SUBDIVISION. An AGENT or representative may act for an OWNER, provided written evidence of such fact is submitted. Evidence in the form of a list of the officers and designated authority to sign legal documents shall be required for a corporation.
BOARD	The Planning BOARD of the CITY of Gardner, Massachusetts, or its designated AGENT.
CITY	The CITY of Gardner, Massachusetts.
DEVELOPMENT IMPACT STATEMENT (DIS)	A documented, written analysis of a proposed SUBDIVISION which provides the Planning BOARD and its AGENTS with information necessary for plan review. Prepared by the APPLICANT, a DIS shall follow the format presented in Appendix A of this document.

DIRECTOR	Director of Community Development & Planning
DWELLING UNIT (DU)	A place for one household to reside.
EASEMENT	A right acquired by a public authority or other person or entity for use or control of property for UTILITIES, travel, or other public or private purpose.
ENGINEER	Any person who has been registered or otherwise legally authorized by the Commonwealth of Massachusetts to perform relevant professional engineering services.
FRONTAGE	A LOT boundary line, which abuts a public or private way and across which line there is legal and physical access.
GROUNDWATER	All the water found beneath the surface of the ground. The term refers to the slowly moving subsurface water present in aquifers and recharge areas.
LOT	An area of land in one ownership with definite boundaries ascertainable or to be ascertainable of record, and use, or set aside and available for use, as a site of one or more buildings and buildings accessory thereto or for any other definite purpose.
OWNER	The OWNER of record as shown by the records in the Worcester District Registry of Deeds.
PLAN, DEFINITIVE	A plan of a proposed SUBDIVISION or resubdivision submitted in accordance with these RULES AND REGULATIONS and with M.G.L. Chapter 41, Section 81T.
PLAN, PRELIMINARY	A plan of a proposed SUBDIVISION or resubdivision submitted in accordance with these RULES AND REGULATIONS and M.G.L. Chapter 41, Section 81S prior to the DEFINITIVE PLAN in order to present the broad outline of the project to the Planning BOARD.

RIGHT-OF-WAY	A portion of land occupied or intended to be occupied by infrastructure. Land to be either public or private on which an irrevocable right of passage has been recorded for the use of vehicles or pedestrians or both.
ROADWAY OR STREET	That portion of the way, RIGHT-OF-WAY or STREET layout which has been prepared and constructed for vehicular traffic.
RULES AND REGULATIONS	The RULES AND REGULATIONS Governing the SUBDIVISION of Land in Gardner, Massachusetts, as most recently adopted by the Gardner Planning BOARD pursuant to M.G.L. Chapter 41, Section 81O.
SIDEWALK	An area designated for use by pedestrians of at least five (5) feet in width, within the RIGHT-OF-WAY of a STREET normally parallel, or roughly parallel, to the STREET and running continuously through existing and proposed driveways on one or both sides of the STREET.
STREET, CUL-DE-SAC	An ACCESS STREET open at only one end with special provisions for turning around at the other end.
STREET, CUL-DE-SAC, TEMPORARY	A CUL-DE-SAC that abuts a property line where there is a reasonable expectation that the street will be extended into the abutting property in the future
STREET, MAJOR OR COLLECTOR	A STREET which collects or may reasonably be expected to collect traffic from several MINOR STREETS, or which handles traffic equivalent to that generated by two hundred fifty (250) DWELLING UNITS or more, or which serves non-residential property.
STREET, MINOR	A STREET which primarily provides and can be expected to provide access to property abutting the STREET rather than to intersecting STREETS, or which handles traffic equivalent to that generated by less than two hundred fifty (250) DWELLING UNITS.

<p>SUBDIVISION</p>	<p>The division of a tract of land into two or more LOTS including resubdivision, and when appropriate to the context, relating to the process of SUBDIVISION of 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 public way which the CITY Clerk certifies is maintained and used as a public way, or (b) a way shown on a plan previously approved in accordance with the SUBDIVISION CONTROL Law, or (c) a way in existence when the SUBDIVISION CONTROL Law became effective in the CITY 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 a distance as is then required by the Gardner Zoning Ordinance for erection of a building on such LOT, and if no distance is so required, such FRONTAGE shall be of at least twenty feet (20').</p>
<p>SUBDIVISION CONTROL</p>	<p>Sections 81-K to 81-GG, inclusive, Chapter 41 of the General Laws of the Commonwealth of Massachusetts, entitled "SUBDIVISION CONTROL".</p>
<p>SURVEYOR</p>	<p>Any person who has been registered or otherwise legally authorized by the Commonwealth of Massachusetts to perform land surveying services.</p>
<p>UTILITIES</p>	<p>Gas, electric, water, drainage, cable television, telephone, sewer, steam distribution and related services.</p>
<p>WETLANDS</p>	<p>Any lands or waters subject to M.G.L., Chapter 131, Section 40 and 310 CMR 10.00: Wetlands Protection Act Regulations and City of Gardner Code, Chapter 650 Wetlands Protection.</p>

SECTION 3

GENERAL PROVISIONS

3.0 SUBDIVISION

No person shall make a SUBDIVISION within the meaning of the SUBDIVISION CONTROL Law of any land within the CITY 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 BOARD as hereinafter provided.

3.1 EXEMPTIONS FROM SUBDIVISION CONTROL LAW

Conveyances or other instruments adding to, taking away from, or changing the size and shapes of LOTS in a manner as not leaving any LOT so affected without FRONTAGE, or the division of a tract of land on which two (2) or more buildings were standing when the SUBDIVISION CONTROL Law went into effect in the CITY into separate LOTS on each of which one of such buildings remains standing, shall not constitute a SUBDIVISION.

3.2 EFFECT OF PRIOR RECORDING OF PLAN

Notwithstanding the foregoing, the recording of a plan of a SUBDIVISION within the CITY in the Worcester District Registry of Deeds prior to January 1, 1953, shall not exempt the land within such SUBDIVISION from the operation of the SUBDIVISION CONTROL law except with respect to LOTS which had been sold and were held in ownership separate from that of the remainder of the SUBDIVISION when said law went into effect in the CITY, and to RIGHTS OF WAY and other EASEMENTS appurtenant to such LOTS.

3.3 COMPLIANCE WITH ZONING

No SUBDIVISION plan shall be approved by the BOARD unless the size, shape, width, and FRONTAGE of all LOTS within the SUBDIVISION comply with the applicable provisions of the Zoning Ordinance. Under-sized LOTS may be included on a plan only with BOARD approval and if the mylar is recorded with a statement that said LOTS are unbuildable.

3.4 COMPLIANCE WITH THE BOARD'S RULES AND REGULATIONS

All plans and all procedures relating thereto shall in all respects comply with the provisions of these RULES AND REGULATIONS, unless the BOARD authorizes a variation when, in the judgment of the BOARD, such action is in the public interest, not inconsistent with the SUBDIVISION CONTROL Law, and promotes public health and safety. The APPLICANT(S) shall request in writing the requirements they are seeking a waiver from upon submittal of a Plan Believed Not To Require Approval (ANR, see Section 4), PRELIMINARY and/or DEFINITIVE PLAN. In waiving strict compliance, the BOARD may require such alternative conditions as will serve substantially the same objective as the standards of regulations waived.

3.5 DWELLING LIMITATION

Not more than one building designed or available for dwelling purposes shall be erected, or placed, or converted to use as such on any LOT in a SUBDIVISION or elsewhere in the CITY, except as provided by the City’s Zoning Ordinance.

3.6 SUBMISSION OF PLANS

Plans intended for review at a regular meeting of the BOARD shall be forwarded to the DIRECTOR by delivery or by certified mail at least seven (7) full working days prior to a BOARD meeting.

No plan for review, whether for approval or for endorsement of approval not required (See Section 4 and Section 5), shall be accepted as a submittal unless and until all information necessary for such review, as described herein under the applicable provisions of the submission requirements, are fully provided, unless waivers are requested in writing. At the time of submission, a determination will be made by the DIRECTOR or his designee, using a checklist, that the submission requirements are either complete or incomplete.

If the submission has been determined to be incomplete, "The applicant shall be advised the submission is incomplete and unless the applicant provides the outstanding information, plans, date, or associated required information, or withdraws the application, failure by the applicant may result in the Planning BOARD determination that the submission is incomplete and vote to not approve/endorse such plan." Incomplete plans shall not be considered submittals and shall not be considered the start of any time limits within which the BOARD is required to act under various provisions of SUBDIVISION CONTROL. If the submission has been determined to be complete, the date of submission shall be fixed with filing of written notice (Form A, B or C) to the CITY Clerk by delivery or by certified mail, postage prepaid, that the APPLICANT has submitted a plan to the BOARD. If the notice is submitted by delivery to the CITY Clerk, the CITY Clerk shall time and date stamp said notice to fix the date of submission.

3.7 SUBMISSION DEADLINES

SUBMISSION	DECISION	APPEAL
ANR	Within 21 Days	Within 20 Days
PRELIMINARY PLAN	Within 45 Days	Not Applicable
DEFINITIVE PLAN (Prel. Plan Submitted)	Within 90 Days	Within 20 Days
DEFINITIVE PLAN (No Prel. Plan)	Within 135 Days	Within 20 Days

3.8 SUBMISSION FEES

The fees indicated in Appendix C: Fee Schedule shall accompany the submittal of the application materials and plans specified in the RULES AND REGULATIONS, to cover costs of processing the application and professional staff assistance and review. The Fee Schedule is attached for convenience but is not part of these RULES AND REGULATIONS.

3.9 REVIEW AND INSPECTION FEES

The BOARD may assign its AGENT and may from time to time hire professional and technical assistance to review plans, conduct material testing, conduct property surveys of land and infrastructure, record and file documents and inspect improvements. The expenses for engaging professional and technical assistance and review in connection with a SUBDIVISION shall be borne by the APPLICANT.

The appropriate professional and technical review fees (See Appendix C: Fee Schedule) shall be paid to the DIRECTOR for deposit into a special account established by the CITY Treasurer under M.G.L. Chapter 44, Section 53G. The fees, except the inspection fee, shall be paid at the time of submission of PRELIMINARY and/or DEFINITIVE PLANS. The inspection fee shall be paid at the time the BOARD endorses the DEFINITIVE PLAN. The balance of this account shall at no time be less than one-quarter (1/4) the initial review or inspection deposit, and the APPLICANT shall deposit with the Treasurer such additional funds as are required to restore the account to the amount of the initial review or inspection deposit upon notice from the BOARD, by first class mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or below one-quarter (1/4) of the initial review or inspection deposit. If the APPLICANT fails to restore the account balance and the balance is insufficient to pay incurred review and inspection fees, the BOARD shall send the invoice directly to the APPLICANT. All fees past due by one month from the date of invoice shall be subject to a monthly interest charge based on an annual interest rate of ten percent (10%). The BOARD shall not authorize additional professional or technical work, including inspections, until outstanding invoices are paid. Upon completion of a project, any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the APPLICANT or the APPLICANT'S successor in interest.

3.10 FEE DELINQUENCIES

The BOARD may refuse to accept for filing or approval any plan submitted by a person or entity that has outstanding and delinquent fees in connection with any other SUBDIVISION and/or plan previously submitted to the BOARD or taxes and/or fees owed to the CITY or any of its departments, boards, commissions, and other official groups.

3.11 ISSUANCE OF BUILDING PERMITS

The Building Commissioner shall not issue any permit for the erection of a building until first satisfied that the LOT on which the building is to be erected is not within a SUBDIVISION, or that a way furnishing the access to a LOT within a SUBDIVISION as required by the SUBDIVISION CONTROL Law is shown on a recorded plan and that any conditions endorsed thereon limiting the right to erect or maintain buildings on such LOT have been satisfied.

SECTION 4

PLAN BELIEVED NOT TO REQUIRE APPROVAL (ANR)

4.0 SUBMISSION REQUIREMENTS

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that said plan does not require approval under the SUBDIVISION CONTROL Law, may submit to the Planning BOARD or its AGENT the plan on Mylar and two (2) prints thereof, two (2) copies of a properly executed Form A (See Appendix B) accompanied by the appropriate submission fee (See Appendix C: Fee Schedule). Said person shall file, by delivery or certified mail, a notice with the CITY Clerk stating the date of submission for such determination. The Planning BOARD or its AGENT will review the plan to determine whether it is a SUBDIVISION.

For plans prepared in CAD, the APPLICANT shall also submit a digital version containing the ANR plan, produced by a CAD or similar computerized drafting system, in either AutoCAD Drawing Format (.dwg), Data Exchange Format (.dxf), or ESRI Interchange Format (.e00), registered to Massachusetts State Plan (Mainland) Coordinates, North American Datum of 1983, as part of the application for endorsement of the plan. If the APPLICANT is unable to provide the above, a fee determined by the BOARD will be charged to cover the cost of registering and digitizing the plan.

4.1 CONTENTS

A plan not requiring approval shall be prepared by an ENGINEER and/or SURVEYOR and shall be clearly and legibly drawn at a scale of one-inch equals forty feet (1" = 40'). Said plan shall be of minimum dimensions of nine and one-half inches by fourteen inches (9-1/2" x 14") but a maximum size not to exceed twenty-four inches by thirty-six inches (24" x 36") and shall contain the following information:

- A. Plan title, date, north point, and scale.
- B. A locus plan at a scale of at least one-inch equals two thousand feet (1" = 2000'), containing sufficient information so that the land can be readily located, including STREETS bounding on or near the property.
- C. Name and signature of the record OWNER(S) and the name, seal, and signature of the ENGINEER and/or SURVEYOR.
- D. Names of all ABUTTERS as they appear on the most recent tax list.
- E. Zoning classification and location of any zoning district boundaries that may lie within the locus of the plan.

- F. Notice of any decisions of the Zoning Board of Appeals including but not limited to variances, special permits and exceptions regarding the land or any building thereon.
- G. The Assessor's map and parcel number(s) as depicted on the official tax maps of the CITY.
- H. The name(s) and physical condition of the way(s) on which the LOTS front showing actual width, surface condition and available drainage, if any.
- I. Sufficient data to determine the location, direction and length of every STREET and way line.
- J. Existing and proposed boundary lines, including dimensions and areas of all LOTS shown. LOT lines shall be drawn so new lines are distinguished from old LOT (dashed) lines.
- K. Location of all permanent monuments properly identified.
- L. Location of WETLANDS and floodplains, if any, or the statement that "no wetlands or floodplains exist on subject lot(s)."
- M. Location of all existing buildings and structures with front, rear and side setback requirements.
- N. All parcels of land not intended for the purpose of building are labeled as "Not a Building LOT."
- O. The statement "No Determination as to Compliance with Zoning Requirements has been Made or Intended" and
- P. The statement "Approval Under Subdivision Control Law Not Required", and sufficient space for the date and signatures of all members of the BOARD or its AGENT.

4.2. PLANNING BOARD ACTION

If the BOARD or its AGENT determines that the plan does not require approval, the BOARD or its AGENT shall forthwith without a public hearing endorse on the plan the words "Approval Under Subdivision Control Law Not Required". Such endorsement shall not be deemed to constitute any determination of compliance with the requirements of the Zoning Ordinance. The original Mylar of said plan shall be returned to the APPLICANT in person or by certified mail.

If the BOARD or its AGENT determines that the plan does require approval under the SUBDIVISION CONTROL Law, it shall forthwith so inform the APPLICANT and return in person or by certified mail the original Mylar of the plan. The BOARD shall also notify the CITY Clerk of its determination.

SECTION 5

PROCEDURE FOR THE SUBMISSION AND APPROVAL OF SUBDIVISION PLANS

5.0 PRE-SUBMISSION REVIEW

Prior to investing in extensive professional design efforts for SUBDIVISION plans, the BOARD strongly recommends a review of the proposed development with the BOARD and its AGENT, in order that general approaches and potential problems can be freely explored. Pencil sketches, which need not be professionally prepared, showing some but not all of the information shown on a PRELIMINARY PLAN will assist the discussion. In some cases, this pre-submission review may eliminate the need for a PRELIMINARY PLAN.

5.1 DEVELOPMENT IMPACT STATEMENT

1. Contents

The BOARD may require an APPLICANT of a SUBDIVISION to submit a DEVELOPMENT IMPACT STATEMENT (DIS) on the effects the proposed action has or will have on: (1) the immediate neighborhood and land area; (2) surrounding neighborhoods and land areas; and (3) the community at large.

The DIS shall include a detailed assessment of the probable impacts of the proposed action on a wide variety of environmental, fiscal, and socioeconomic elements and factors as detailed in Appendix A of these RULES AND REGULATIONS.

Environmental impacts shall mean any destruction, damage, or impairment, actual or probable, to any of the natural resources of the CITY and shall include but not be limited to water pollution, air pollution, improper sewage disposal, pesticide pollution, excessive noise, impairment and eutrophication of rivers, streams, floodplains, lakes, ponds, or other surface or subsurface water resources, destruction of WETLANDS, open spaces, natural areas, parks or historic districts and sites.

Fiscal and socioeconomic impacts shall mean the effects on traffic circulation and safety, neighborhood character, school enrollment, public facilities, municipal and community services, associated fiscal expenditures and revenues, and on housing and other development activity.

The DIS shall contain detailed information describing the nature and extent of the proposed work and its potential impacts; any adverse short-term and long-term consequences which cannot be avoided should the work be performed; and all measures to be utilized to minimize adverse consequences, particularly environmental damage.

The DIS shall also develop, describe, and objectively weigh alternatives to the proposed development which are allowed by the Zoning Ordinance.

2. Procedure

Upon submission to the BOARD of a residential SUBDIVISION creating more than ten (10) LOTS or DWELLING UNITS and all nonresidential SUBDIVISIONS, the APPLICANT is required to submit a DIS (See Appendix A). The BOARD may require portions of the DIS to be carried out for smaller SUBDIVISIONS, if in their opinion, the sensitivity of the land warrants the investigation. At a preliminary scoping session to be held between the APPLICANT and the BOARD or its AGENT, and upon submission of evidence from the APPLICANT, the BOARD may waive any section(s) of the requirements which it deems non-applicable to the proposed project or may require additional information on any aspect of the requirements. The entire cost of the DIS will be the responsibility of the APPLICANT. The DIS shall be prepared by an interdisciplinary team of professionals qualified, experienced, and where applicable, licensed in their fields. Such team may include a civil ENGINEER, traffic ENGINEER, architect, landscape architect, land use planner, hydrogeologist, hydrologist, biologist, and other environmental professionals.

5.2 PRELIMINARY PLAN

1. General

A PRELIMINARY PLAN of a SUBDIVISION may be submitted by the APPLICANT for discussion and approval by the Planning BOARD in cases of residential SUBDIVISIONS and, pursuant to M.G.L. Chapter 41, Section 81S, said plan shall be submitted in cases of non-residential SUBDIVISIONS. The submission of such a PRELIMINARY PLAN will enable the APPLICANT, the BOARD, its AGENT, other municipal agencies and ABUTTERS to discuss and clarify the problems of the proposed SUBDIVISION before a DEFINITIVE PLAN is prepared. Therefore, it is strongly recommended that a PRELIMINARY PLAN be filed in every case.

Application shall consist of submission of eight (8) prints of the PRELIMINARY PLAN, one (1) copy of which shall be transmitted by the BOARD to the Board of Health; together with the original and two (2) copies of Form B; Form K certified by the CITY Assessor; and the appropriate submission and professional and technical review fees (See Appendix C: Fee Schedule). Applications and plans shall be submitted to the DIRECTOR by delivery (receipt required) or by certified mail, followed by the filing of a copy of Form B indicating the date of said submission with the CITY Clerk either by delivery (receipt acknowledged by return of date stamped copy of Form B) or certified mail. The date of submission shall be determined as described in Section 3.6.

2. Contents

The PRELIMINARY PLAN shall be drawn by a SURVEYOR or ENGINEER on paper twenty-four (24) inches by thirty-six (36) inches, at a scale of not greater than one inch equals ten feet (1" = 10') or less than one inch equals one hundred feet (1" = 100'), and eight (8) prints shall be filed with the DIRECTOR. Said PRELIMINARY PLAN shall show all the information set forth below, to form a clear basis for the preparation of the DEFINITIVE PLAN.

PRELIMINARY PLAN shall mean a plan of a proposed SUBDIVISION or resubdivision of land 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, stamp and signature of the ENGINEER and/or SURVEYOR responsible for the preparation of the plan;
- C. The names of all ABUTTERS, as determined from the most recent local tax list (Form K);
- 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 proposed sanitary sewer system and water distribution system, in a general manner;
- G. The approximate boundary lines of proposed LOTS, with approximate areas and dimensions;
- H. The names, approximate location and widths of STREETS bounding, approaching or within five hundred feet (500') of the proposed SUBDIVISION;
- I. The topography of the land in a general manner at ten-foot (10') contour intervals;
- J. Major site features, such as, but not limited to, existing stone walls, fences, buildings, historic sites, archeological features, large trees as defined in Section 6.13, Subsection 1, rock ridges and outcroppings, certified vernal pools, floodplains, WETLANDS, waterways and water bodies;
- K. Proposed names of SUBDIVISION STREETS;
- L. An index plan at a scale of one-inch equals 400 feet (1" = 400') (when multiple sheets are used);
- M. A locus plan at a scale of one-inch equals one thousand feet (1" = 1000') on all PRELIMINARY PLANS;
- N. Zoning districts of all areas shown on the plan; and
- O. A sketch plan of the APPLICANT'S contiguous, unsubdivided land, if such land exists.

3. Review of Plan

In addition to the Board of Health, the BOARD, or its AGENT, shall transmit the PRELIMINARY PLAN using Form F to the CITY Engineer, Director of Public Works, Conservation Commission, and such other boards, committees or agencies as the BOARD may deem appropriate.

4. Public Meeting

To ensure that all parties in interest have the opportunity to discuss any potential problems that may arise through the development of such a SUBDIVISION, before approval, modification and approval, or disapproval of the PRELIMINARY PLAN is given, a public meeting shall be held by the BOARD. A notice of the time and place of the public meeting and of the subject matter to be discussed, sufficient for identification, shall be given by the BOARD at the expense of the APPLICANT by advertisement in a newspaper of general circulation in the CITY once, not less than seven (7) days before the day of such meeting. At least seven (7) days prior to the public meeting, the APPLICANT shall mail by first-class mail a copy of said notice to all ABUTTERS and submit to the BOARD a list of all ABUTTERS so notified.

5. Approval and Disapproval

Within forty-five (45) days after submission, the BOARD shall act on the PRELIMINARY PLAN. This period may be extended if agreed upon in writing by the APPLICANT.

The BOARD may give such PRELIMINARY PLAN its approval, with or without modification. Such approval does not constitute approval of a SUBDIVISION but does facilitate the preparation of the DEFINITIVE PLAN.

The BOARD may also disapprove a plan. A detailed statement of reasons for the action shall accompany disapproval. Disapproval does not disqualify the plan but does record the BOARD'S position that changes may be required for DEFINITIVE PLAN approval.

5.3 DEFINITIVE PLAN

1. General

A DEFINITIVE PLAN, or a PRELIMINARY PLAN followed within seven (7) months by a DEFINITIVE PLAN, shall be governed by the RULES AND REGULATIONS in effect at the time of submission. The date of submission shall be determined as described in Section 3.6.

A DEFINITIVE PLAN, or a PRELIMINARY PLAN followed within seven months by a DEFINITIVE PLAN, shall be governed by the Zoning Ordinance in effect at the time of submission in accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 6.

Any person submitting a DEFINITIVE PLAN shall give written notice (Form C) thereof to the CITY Clerk by hand delivery or certified mail, postage prepaid.

The application shall consist of the following:

- A. Eight (8) 24" x 36" prints, dark line on white background of the DEFINITIVE PLAN consisting of Plot Plan, Site Plan, STREET Plan, Sewer Plan (storm drainage and sanitary sewer), Water Plan, Erosion and Sediment Control Plan, and Landscape Plan required by Section 5.3, Subsection 2. The Mylar of the DEFINITIVE PLAN will only be needed if and when signing of the plan takes place.

- B. The DEFINITIVE PLAN shall be submitted in a digital format acceptable to the City using drawing interchange files (AutoCAD compatible DWG or DXF files) and a copy in a PDF format.
- C. Original and two (2) copies of a properly executed application Form C.
- D. Eight (8) copies of the DIS, as may be required under Section 5., unless waived in whole or part by the BOARD.
- E. Evidence that the DEFINITIVE PLAN conforms to the approved PRELIMINARY PLAN or that the DEFINITIVE PLAN includes the modifications required by the BOARD'S action on the PRELIMINARY PLAN, if applicable.
- F. The required submission and professional and technical review fees (See Appendix C: Fee Schedule).
- G. List of ABUTTERS certified by the CITY Assessor (Form K).
- H. A Designer's Certificate (Form L).
- I. A letter documenting authorizing vote if the APPLICANT is acting in the name of a trust, corporation, or company.
- J. A copy of the deed.
- K. A list of mortgage holders which shall be kept current during the period of SUBDIVISION review and development.
- L. Drainage calculations prepared in accordance with the Massachusetts Stormwater Handbook and the City of Gardner Stormwater Ordinance, stamped and signed by an ENGINEER which shall include design criteria, drainage area and other information sufficient for the BOARD to verify the adequacy of any proposed drain, drain field, culvert, catch basin, detention or retention basin, other storm water management facility, or bridge, and to verify compliance with applicable local, state and federal regulations.
- M. Results of percolation tests required by the Board of Health in accordance with Title 5 of the State Environmental Code, if municipal sewer is not provided as part of the proposed SUBDIVISION.

2. Contents

The DEFINITIVE PLAN shall be prepared by a current Registered ENGINEER and current Registered SURVEYOR. Unless otherwise waived by the BOARD, the DEFINITIVE PLAN shall be produced by computer aided design or drafting (CADD) software, in either AutoCAD DWG, or ASCII Drawing Exchange File DXF format and reference a minimum of two (2) point features present in the CITY's GIS database. The CADD file must use the Massachusetts State Plane (Mainland) coordinate system, North American Datum 1983, with units of U.S. Survey Feet. The vertical datum must be North American 1988 (NAVD88). A template for submission is

available from the CITY Engineer. Point features present in the CITY's GIS database are also available from the CITY Engineer.

The DEFINITIVE SITE PLAN shall consist of the following:

A. General Requirements

- (1) Plan shall be drawn clearly and legibly in black India ink upon mylar;
- (2) Plan size shall be twenty-four (24) inches by thirty-six (36) inches, and shall have a two-inch (2") border on the left side and three-quarter inch (3/4") border on all other sides;
- (3) The scale shall be one-inch equals forty feet (1" = 40') horizontal and one-inch equals eight feet (1" = 8') vertical;
- (4) A title block shall be located at the lower right-hand corner and shall contain the SUBDIVISION name, the SURVEYOR'S and ENGINEER'S name and seal, the name and address of the OWNER and/or APPLICANT, and the date;
- (5) An index plan at a scale of one-inch equals four hundred feet (1" = 400') (when multiple sheets are used);
- (6) An inset location map at a scale of one-inch equals one thousand feet (1" = 1000'), showing the proposed roads and the SUBDIVISION in relation to the surrounding STREET system furnished on the first sheet;
- (7) Suitable space, preferably located at the lower left-hand corner, shall be reserved for recording the action of the BOARD, the date, and the signatures of the members of the BOARD;
- (8) Where existing benchmarks do not exist within a reasonable distance from the SUBDIVISION, at least two (2) permanent benchmarks shall be set; and
- (9) Relative error of closure shall not be greater than 1:12,000. A signed statement to this effect shall appear on the DEFINITIVE PLAN.

B. Plot Plan

The Plot Plan shall include:

- (1) Names of all ABUTTERS, consistent with Form K, as they appear on the most recent tax list, including owners of land separated from the SUBDIVISION only by a STREET;
- (2) Existing and proposed lines of STREETS, LOTS, RIGHT-OF-WAYS, EASEMENTS, and public or common areas within the SUBDIVISION. The proposed names of proposed STREETS shall be shown, subject to change until approved by the BOARD and City Council. The purpose of EASEMENTS shall be indicated;

- (3) Location, names, and present widths of STREETS bounding and approaching the SUBDIVISION;
- (4) Boundary lines, areas in square feet, and dimensions of all proposed LOTS, with all LOTS designated numerically and in sequence. The boundary lines and areas of other adjoining land owned or controlled by the OWNER or APPLICANT, not included in the SUBDIVISION, shall also be shown;
- (5) Location and description of existing benchmarks;
- (6) Location and description of existing and proposed bounds; and
- (7) Where the OWNER or APPLICANT also owns or controls unsubdivided land adjacent to or across the STREET from that shown on the DEFINITIVE PLAN, the APPLICANT shall submit a sketch plan showing a possible or prospective STREET layout and the present drainage, natural and constructed, for such adjacent land, unless such a plan has already been submitted to the BOARD with a PRELIMINARY PLAN.

C. Site Plan

The Site Plan shall include:

- (1) Items (2) through (4) required under Plot Plan;
- (2) Major site features such as waterways and water bodies, existing stone walls, fences, buildings, large trees as defined in Section 6.13, subsection 1, rock ridges and outcroppings, WETLANDS, and scenic vistas;
- (3) Existing and proposed topography within fifty feet (50') outside the SUBDIVISION with a two-foot (2') contour interval, unless the BOARD agrees that the natural surface of the ground may be adequately represented by contours with larger intervals or by figures of elevation;
- (4) Existing and proposed buildings and those parts of buildings within fifty feet (50') outside the property. Proposed buildings must indicate the number of DWELLING UNITS; and
- (5) Location of all the following improvements unless specifically waived in writing by the BOARD: STREET paving, SIDEWALKS, STREET lighting standards, all UTILITIES above and below ground (i.e., telephone, cable television, gas), curbs, gutters, storm drainage, all EASEMENTS, and when required by the Fire Department, fire alarm boxes, hydrants, or emergency water supply system.

D. Street Plan

The STREET Plan shall consist of both a plan and profile with the corresponding stationing on the same sheet and shall include the information indicated below. Where more than one sheet is required, the stationing shall overlap by at least one hundred feet (100').

- (1) Sidelines, pavement lines, SIDEWALK lines, widths and names of all existing and proposed STREETS;
- (2) Existing and proposed property lines extending approximately fifty feet (50') beyond the STREET sideline;
- (3) Centerline stationing of all proposed STREETS starting at station 0+00 and tied to the centerline of the existing STREET;
- (4) Centerline and sideline STREET layout data including all curve data, bearings, centerline stations and centerline angles of intersecting STREETS. Sideline point of curvature and point of tangent shall be referred by centerline stationing where sideline curves exist and centerline curves do not;
- (5) STREET profile showing only existing centerline grade (dashed line) and proposed centerline grade (solid line) with elevations at every even fifty-foot (50') station shown, except in a vertical curve where they shall be shown on every even twenty-five foot (25') station;
- (6) All vertical curve data, including curve length, PVC, PVI, and PVT with elevations and low or high points, and SSD, HSD, and K Values;
- (7) Location and description of all existing bench marks;
- (8) Location and description of existing and proposed bounds;
- (9) Location, purpose, and width of all EASEMENTS outside of STREET sidelines; and
- (10) Location, names, and present widths of STREETS bounding and approaching the SUBDIVISION.

E. Sewer Plan (Storm Drains and Sanitary Sewers)

The Sewer Plan shall consist of a plan and profile with the corresponding stationing on the same STREET and shall include the information indicated below. Where more than one sheet is required, the stationing shall overlap by at least one hundred feet (100').

- (1) Sidelines, widths and names of all existing and proposed STREETS;
- (2) Centerline stationing required in Item (3) under STREET Plan;
- (3) Existing and proposed STREET, sewer and drain profiles with grades, except the existing STREET grades. Pipe length between manholes, invert elevations, and slopes of pipe shall also be shown;
- (4) Finished invert elevations for the storm drains and sanitary sewers at fifty-foot (50') intervals;
- (5) Location and description of all existing benchmarks;

- (6) Location and description of all existing and proposed bounds;
- (7) Location, width, and purpose of all EASEMENTS outside of STREET RIGHT-OF-WAYS; and
- (8) Location and finished inverts of all wastewater and stormwater service connections to the lot property line.

F. Water Plan

The Water Plan shall include:

- (1) Sidelines, widths, and names of all existing and proposed STREETS;
- (2) Centerline stationing as required in Item (3) under STREET Plan;
- (3) Locations, size, and type of existing and proposed water lines;
- (4) Location and size of all valves, hydrants, corporation cocks, water shut-offs, and service connections at the property lines;
- (5) Location, width, and purpose of all EASEMENTS outside of STREET RIGHT-OF-WAYS; and
- (6) Location of water service to property line.

G. Landscape Plan

The Landscape plan shall include:

- (1) Location of all major trees as required in Section 6.14, subsection 1;
- (2) Location of all existing and proposed STREET trees as required in Section 6.14, subsection 2; and
- (3) Location and description of all plantings and seedlings as required in Section 6.14, subsections 3, 4 and 5.

H. Erosion and Sediment Control Plan

An APPLICANT shall submit a plan for erosion and sedimentation control covering all proposed excavation, filling, and grade work for improvements. Said plan shall be prepared and certified by an ENGINEER, comply with the current local, state, and federal regulations, and contain the following information:

- (1) Proposed method of construction showing the location and extent of all areas that will be disturbed;

- (2) Schedule of operations to include start and completion dates for major development phases, such as land clearing and grading, STREET, SIDEWALK, and storm sewer installation, and sediment control measures;
- (3) Location, method and design of temporary and permanent stabilization measures;
- (4) Location of any existing or proposed flood control or wetland EASEMENTS;
- (5) Location of temporary staging areas and temporary storage for stumps or spoil materials. Such storage shall be in accordance with state and local regulations; and
- (6) General information relating to the implementation and maintenance of the sediment control measures.

3. Review Procedure

A. Review by Board of Health as to Suitability of the Land

When a DEFINITIVE PLAN is submitted to the Planning Board a copy shall be filed with the Board of Health. If the Board of Health is in doubt as to whether any of the land in the SUBDIVISION can be used as building sites without injury to the public health, it shall so notify the BOARD in writing within forty-five (45) days after receiving the plan. Any approval of the plan by the BOARD shall then only be given on condition that the LOTS or land as to which such doubt exists shall not be built upon without prior consent of the Board of Health, and shall endorse on the plan such condition, specifying the LOTS or land to which said condition applies. The Board of Health shall send a copy of such report to the APPLICANT via certified mail. Failure of the Board of Health to report shall be deemed approval by the Board of Health.

B. Review by Other City Officials

Prior to approval of any DEFINITIVE PLAN, the BOARD may seek written statements from the following municipal officials:

- (1) CITY Engineer as to all technical aspects of the plan;
- (2) Conservation Commission as to protection of resource areas specified under the CITY'S WETLANDS protection ordinance and the Massachusetts WETLANDS Protection Act (M.G.L. Chapter 131, Section 40, as most recently amended);
- (3) Department of Public Works as to the design and layout of the STREET systems, location of EASEMENTS, and design of the sewerage, water and drainage systems, including appurtenances;
- (4) Chief of the Fire Department as to the layout of the fire alarm system, including location of boxes and hydrants and location and installation of emergency water supply systems for firefighting, adequacy of water flow to the hydrants based on a hydrant flow test or

other means acceptable to the Fire Chief such as an inground cistern or a sprinkler system, and design of the alarm and fire control systems;

- (5) Chief of Police as to traffic circulation and safety; and
- (6) Tree Warden as to the location, size, and species of proposed and/or existing STREET trees.

If the specified CITY officials, boards, and committees have not submitted written statements within forty-five (45) days of receiving notification from the DIRECTOR that the DEFINITIVE PLAN is available for review, approval will be assumed.

C. Public Hearing

Before approval, modification and approval, or disapproval of the DEFINITIVE PLAN is given, the BOARD shall hold a public hearing. Notice of the time and place of such hearing and of the subject matter, sufficient for identification, shall be given by the BOARD at the expense of the APPLICANT at least fourteen (14) days prior thereto by advertisement in a newspaper of general circulation in the CITY. Advertisement shall occur once in each of two successive weeks. A certified list of all ABUTTERS (Form K) shall be provided to the BOARD by the APPLICANT. The BOARD shall mail a copy of said notice to the APPLICANT and to all ABUTTERS appearing on the list submitted by the APPLICANT.

D. Time Extensions

Further time, as may be agreed upon by the BOARD and the applicant, may be allowed at the BOARD's decision. Such time extensions shall be at the written request of the APPLICANT and such notice(s) of time extension shall be filed forthwith by the BOARD with the CITY Clerk.

4. Action by the Board

A. Planning Board Decision

After the public hearing, the BOARD will approve, modify and approve, or disapprove the plan as submitted. Findings for action by the BOARD shall be the following:

- (1) Completeness and technical adequacy of the plans and supporting material.
- (2) 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.
- (3) For lessening congestion in STREETS and in the adjacent public ways.
- (4) For reducing danger to life and limb in the operation of motor vehicles.
- (5) For securing safety in the case of fire, flood, panic, and other emergencies.
- (6) For ensuring compliance with the applicable zoning ordinance.

- (7) For securing adequate provisions for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and streetlighting and other requirements where necessary in a subdivision.
- (8) For coordinating the ways in neighboring subdivisions.
- (9) Conformity with the design and construction standards described in these rules and regulations and in attached appendices; and
- (10) Conformity with all applicable zoning requirements.

B. Notice of Decision

Following such action, and within 90 days of receipt of the DEFINITIVE PLAN, the BOARD shall file a Certificate Action (Form G) with the CITY Clerk and send notices of its action by certified mail to the applicant. If the BOARD approves, modifies, or disapproves such plan, it shall state in its vote any conditions of approval and the reasons for its action. Plans that have been revised to address the conditions of approval shall highlight revision(s), and the date of the revision(s) shall appear within the Plan's title block. In the event a PRELIMINARY PLAN has not been filed, or in the event that a PRELIMINARY PLAN previously had been filed and disapproved by the BOARD, the BOARD shall file a certificate of vote within 135 days of receipt of the DEFINITIVE PLAN.

5. Endorsement of Definitive Plan

Final approval, if granted, shall be endorsed on the approved mylar plan set of the DEFINITIVE PLAN by the signatures of the majority of the BOARD, but not until the statutory twenty (20) day appeal period has elapsed following the filing of Form G with the CITY Clerk and said Clerk has notified the BOARD that no appeal has been filed.

Final approval of the DEFINITIVE PLAN does not constitute the laying out or acceptance by the CITY of STREETS within the SUBDIVISION.

At the time of endorsement of the DEFINITIVE PLAN, the APPLICANT shall submit to the CITY ENGINEER a copy of the approved plans in a digital format acceptable to the City using drawing interchange files (AutoCAD compatible DWG or DXF files) and a copy in a PDF format.

6. Performance Guarantee

Before endorsement of approval of a DEFINITIVE PLAN of a SUBDIVISION, the BOARD will require provisions for the completion of the construction of ways and the installation of utilities in accordance with the Rules and Regulations of the Board and the conditions of approval by the BOARD. APPLICANT shall either (A) follow the procedure outlined below, in "Approval with Covenant" file a performance bond or cash surety in an amount determined by the BOARD to be sufficient to cover the cost of all or any part of the improvements plus a ten percent (10%) contingency factor and appropriate rate of inflation over a five (5) year period, or (2) follow the procedure outlined below, in (D)"Approval with a Tri Partite Mortgage Agreement."

A. Approval with a Restrictive Covenant

In lieu of filing a bond or depositing surety, the APPLICANT may request approval of a DEFINITIVE PLAN on condition that a Restrictive Covenant running with the land will be duly executed and recorded and inscribed on the Plan, or on a separate document referred to on the Plan, in accordance with Section 81U of Chapter 41, Massachusetts General Laws. Such Restrictive Covenant shall provide in part that no LOT may be built upon nor sold until all of the improvements as required in these RULES AND REGULATIONS have been completed and approved.

In this case, before endorsement of a DEFINITIVE PLAN there shall be filed by the APPLICANT a properly executed Restrictive Covenant in accordance with Form H, Appendix B.

Prior to delivering to the APPLICANT a Certificate of Release (Form J-2 or J-3) whereby the restrictions relating to the LOT or LOTS listed therein shall be terminated, the BOARD shall determine to its satisfaction that such improvements have been completed so as to adequately serve such LOT or LOTS, in part by requiring that the APPLICANT submit to the BOARD the following:

- (1) Written evidence from the CITY Engineer or Director of Public Works that the STREETS and drainage conform to the BOARD requirements in accordance with the approved DEFINITIVE PLAN, with the exception of the application of the bituminous concrete road-wearing course;
- (2) Written evidence from the CITY Engineer or Director of Public Works that the water mains, sanitary sewers, storm sewers and hydrants conform to specifications and the BOARD requirements in accordance with the approved DEFINITIVE PLAN;
- (3) Written evidence from the Chief of the Fire Department that the fire protection system conforms to specifications and the BOARD requirements in accordance with the approved DEFINITIVE PLAN;
- (4) A certificate from a Registered SURVEYOR, to be obtained at the APPLICANT'S expense, that all permanent bounds and monuments on all STREET lines and on the LOT(S) to be released are in place and are accurately located in accordance with the approved DEFINITIVE PLAN;
- (5) A performance guarantee secured by bond or cash surety in an amount determined by the BOARD to be sufficient to cover the cost of completing any remaining or uncompleted work [if not already completed as allowed in Section 5.3, Subsection 11(B), Item (1)], conditioned on the completion of the remaining improvements within one (1) year of the date of the bond or surety. Release of the bond or cash surety shall be subject to the written approval of the CITY Engineer or the Director of Public Works that the work has been completed in accordance with requirements;
- (6) A completed Form I for signature by a majority of the BOARD, if appropriate; and

(7) Upon completion of such required improvements, the APPLICANT shall so notify the BOARD and the CITY Clerk, by delivery or certified mail, requesting release from such Restrictive Covenant. The BOARD shall act on such request within forty-five (45) days.

B. Release of Restrictive Covenant with a Cash Surety

Cash sureties shall be a deposit of money, negotiable securities, or certified bank check with the CITY Treasurer. The BOARD prefers cash sureties.

C. Release of Restrictive Covenant with Bonds

Such bond shall be approved as to an amount sufficient in the opinion of the BOARD and in a form and manner of execution by the CITY Solicitor and shall be contingent on the completion of such improvements within two (2) years of the bond. The APPLICANT shall prepare estimates of the cost of performing various improvements and submit said estimates for BOARD approval. The status of the bond or cash surety may be reviewed by the BOARD every six (6) months and may be increased to reflect increases in the estimated costs for completion of construction.

D. Release of Restrictive Covenant with a Tripartite Mortgage Agreement

Following the recording of a first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made to the APPLICANT by the lender, the BOARD may, at its option, release LOTS from the operation of the Restrictive Covenant given pursuant to Section 5.3, Subsection 6(C) without receipt of a bond or cash surety upon delivery to the BOARD of an agreement with said BOARD, which shall be executed by the APPLICANT and the lender and shall provide for retention by the lender of funds sufficient, in the opinion of the BOARD, otherwise due the APPLICANT to secure the construction of ways and the installation of municipal services. Said agreement shall be approved as to form and manner of execution by the CITY Solicitor or his/her designee. Said agreement shall also provide for a schedule of disbursement which may be made to the APPLICANT upon satisfactory completion of various steps of the work, as determined by the CITY Engineer, and shall further provide that in the event the work is not completed by the APPLICANT within the time set forth, any funds not disbursed shall be available to the CITY for completion of the unfinished work and correction of deficiencies.

7. Fee to Streets and Easements

The APPLICANT shall retain title to the fee of each STREET, road, way or walkway in the SUBDIVISION, and shall, upon request of CITY Council, convey to the CITY said fee without encumbrance and for a nominal consideration upon layout of the STREET by the CITY Council. The APPLICANT shall also convey to the CITY any EASEMENT right within or appurtenant to the SUBDIVISION for a nominal consideration upon request by the CITY Council. Notation that this is to be done shall be placed upon the DEFINITIVE PLAN.

8. Conditional upon Compliance with The Wetland Protection Act (M.G.L. Chapter 131, Section 40 Act

Any plan approved by the BOARD, with or without condition, which is revised in order to comply with the CITY'S WETLANDS Protection Ordinance, the WETLANDS Protection Act (Massachusetts General Laws, Chapter 131, Section 40 as amended) and the Inland WETLANDS Act (Massachusetts General Laws, Chapter 131, Section 40A, as amended), shall constitute a new plan and shall be resubmitted to the BOARD.

9. Recording of Plan

Following endorsement, the APPLICANT shall, within thirty (30) days of such approval, file such plan at the Worcester District Registry of Deeds. Within ten (10) days after the DEFINITIVE PLAN, as approved and endorsed, has been recorded at the Worcester District Registry of Deeds and, in the case of registered land, with the recorder of the Land Court, the APPLICANT shall notify the BOARD in writing of such recording, covenants or agreements, if any. Following plan approval, endorsement and recording, the APPLICANT shall provide the BOARD with four (4) prints of the DEFINITIVE PLAN, one of which shall be certified by the Registry of Deeds as to having been recorded, and one copy of final covenants and restrictions, noting book, page number and date of recording for each. The DIRECTOR shall transmit one copy of the DEFINITIVE PLAN to the Building Commissioner and one copy to the City Engineer.

Failure of the APPLICANT to record the DEFINITIVE PLAN within thirty (30) days of its endorsement, or to comply with the construction schedule, or to either initiate construction or improvements or to sell LOTS in a SUBDIVISION or portion thereof within three (3) years of the approval of the DEFINITIVE PLAN, or to comply with all applicable Zoning Ordinances and requirements of the Conservation Commission under the CITY'S WETLANDS Protection Ordinance or WETLANDS Protection Act, or unauthorized departure from any agreements made from these regulations or plans submitted, whether or not at the direction of other public agencies or officials, shall constitute sufficient reason for the rescission of such approval, in accordance with the requirements of M.G.L. Chapter 41, Section 81-W, as amended. Notice of such action shall be given to the APPLICANT, the CITY Clerk, and the Worcester District Registry of Deeds.

10. Modification, Amendment or Rescission of Approved Plan

The BOARD on its own motion or on the petition of any interested person shall have the power to modify, amend or rescind its approval of a plan of a SUBDIVISION, or to require a change in a plan as a condition of its retaining the status of an approved plan after due notice and opportunity to the OWNER to be heard in accordance with M.G.L. Chapter 41, Section 81-W, as amended. The time requirements shall be the same as in the case of the DEFINITIVE PLAN.

11. Timely Completion

No DEFINITIVE PLAN shall be approved unless the APPLICANT stipulates in the application that the construction of all ways and municipal services shall be completed within five (5) years

of the date of endorsement of the DEFINITIVE PLAN. Failure to so complete shall result in the automatic rescission of the approval of such plan and no STREET shall be laid out, constructed or opened for public use unless the BOARD extends said period, for good cause shown, after the written request of the APPLICANT prior to the expiration of said period or until a new DEFINITIVE PLAN application has been filed and approved by the BOARD.

12. Maintenance of Streets and Utilities and Provision of Municipal Services

As a condition of approval of a SUBDIVISION, the APPLICANT shall maintain all infrastructures, including, but not limited to STREETS and UTILITIES within a SUBDIVISION until such time, if ever, that the CITY Council accepts the STREETS in the SUBDIVISION as public ways.

Upon the occasion of a snow and/or ice event, the APPLICANT shall snow plow and/or sand unaccepted ways within a SUBDIVISION for which the abutting parcels have been released from the Restrictive Covenant in a timely fashion and periodically throughout the duration of the storm event. In the event that the APPLICANT fails to snow plow and/or sand unaccepted ways within a SUBDIVISION in a timely fashion, the CITY may do so at the APPLICANT'S expense when in the opinion of the BOARD, CITY Engineer, Director of Public Works, Police Chief, or Fire Chief it becomes a matter of public safety.

In the event that the CITY deems it necessary to snow plow and/or sand the unaccepted ways, the OWNER and/or APPLICANT will be charged as follows: the minimum charge will be two hundred and seventy five dollars (\$275.00) per event and the maximum charge will be five hundred dollars (\$500.00) per event.

As another condition of approval, the APPLICANT shall provide documentation acceptable to the Director of Public Health that private trash pick-up has been arranged or shall make payment for municipal pick-up. This condition shall remain in effect until such time, if ever, that the City Council accepts the STREETS in the SUBDIVISION as public ways.

13. Maintenance Guarantee

A maintenance guarantee equal to (10%) of the total value of work within the SUBDIVISION shall be accepted and held in the same manner as the performance bond or cash surety required herein. Such maintenance guarantee shall be held by the CITY for the maintenance of STREETS and municipal services for eighteen (18) months after completion of construction and installation or until the STREETS are accepted by the CITY, whichever comes first, after which date the CITY shall return the remainder of the guarantee to the person or persons who furnished same.

The BOARD shall require the formation of a Homeowners Association for SUBDIVISIONS containing common open space and/or ways, which will remain private, the purpose of which is to maintain said private ways, other improvements, and open spaces.

In cases where a Homeowners Association is required, there shall be written into each deed for every building LOT in the SUBDIVISION, a set of covenants and restrictions, the form and content of which shall be subject to the review and approval of the BOARD, which shall provide for the establishment of a maintenance trust fund to be drawn upon from time to time by the

Homeowners Association to perform needed maintenance to and reconstruction of private roads, as well as maintenance of storm water facilities and common open spaces in the SUBDIVISION. Said covenants and restrictions shall also require the Homeowners Association to annually assess Association members an amount of money adequate to maintain said private roads, stormwater facilities and open spaces. In addition, a maintenance endowment shall be established by the APPLICANT in the amount of five hundred dollars (\$500) per LOT, prior to the release of any LOT in the SUBDIVISION. The principal amount of the endowment plus interest earned shall not be drawn upon by the Association for at least twenty (20) years from the date of its establishment, at which time it may be drawn upon for maintenance or reconstruction of private roads, stormwater facilities, common open spaces, and other improvements.

14. Reduction of Bond or Cash Surety

If the BOARD shall decide at any time during the term of the performance bond, cash surety, or mortgage tripartite agreement that:

- (1) Improvements have been installed in a satisfactory manner in sufficient amount to warrant reductions in the face amount of such bond or cash surety; or
- (2) The character and extent of the SUBDIVISION requires additional improvements;

Then the BOARD may modify its requirements for any or all such improvements and the face value of such performance bond, cash surety, or tripartite mortgage agreement shall thereupon be reduced or increased respectively by an appropriate amount. Such a reduction will only occur upon a review of costs by the CITY Engineer, a positive vote of the BOARD and the submittal of a letter to the CITY Treasurer informing him/her of the BOARD'S decision.

15. Evidence of Satisfactory Performance

Before the BOARD will reduce the interest of the CITY in a performance bond or cash surety to an amount less than ten percent (10%) of the original amount, or \$10,000, whichever is greater, or release the last LOT in the case of approval with Restrictive Covenant:

- A. The APPLICANT shall file with the BOARD a certified copy of the DEFINITIVE PLAN of the SUBDIVISION (or, in the case of approval with Restrictive Covenant, of the STREET or STREETS serving the LOTS for which a release is desired). The plans shall provide record information of the SUBDIVISION improvements as actually constructed as required under "As-Built Drawings," Section 5.3, Subsection 16. Certification shall be by the ENGINEER and SURVEYOR employed by the APPLICANT at his or her own expense, and shall indicate that all STREETS, SIDEWALKS, sewers, storm drains, and water mains, and their appurtenances have been constructed in accordance with the lines and grades of said plan and are accurately located as shown thereon.
- B. The BOARD shall obtain in writing from the CITY Engineer a statement that all work required by these RULES AND REGULATIONS has been inspected by the CITY Engineer and his/her AGENTS and completed in each STREET in the SUBDIVISION (or the STREET(S) serving the LOTS in question), including sewers, storm drains, bridges, SIDEWALKS and water mains and their appurtenances and that the CITY

Engineer has approved the methods of construction and materials used in the performance of such work.

- C. The BOARD shall obtain in writing from the Tree Warden a statement that installation of STREET trees and other plantings required by the RULES AND REGULATIONS and approved DEFINITIVE PLAN have been completed satisfactorily, that such plantings have been exposed to one winter season (November 15 – April 30) and that damaged plantings, if any, have been replaced to the satisfaction of the Tree Warden.
- D. The APPLICANT shall execute an instrument, in a form approved by the BOARD transferring to the CITY or to an approved public utility company without cost, valid unencumbered title to all sanitary sewers, water mains, and appurtenances thereto, and other UTILITIES constructed and installed in the SUBDIVISION or approved portion thereof, and conveying to the CITY or approved public utility company without cost and free of all liens and encumbrances, perpetual rights and EASEMENTS to construct, inspect, repair, renew, replace, operate, and forever maintain such sanitary sewers and water mains, with any manholes, pipes, conduits, and other appurtenances and to do all acts incidental thereto, in, through, and under the whole of all STREETS in the SUBDIVISION or approved portion thereof, and if any such sewers or water mains have been constructed and installed in land not within such STREETS, then in, through, and under a strip of land extending ten feet (10') in width on each side of the centerline of all such sewers and water mains.

16. Release of Performance Guarantee

Upon the completion of improvements required under Sections 6 and 7, security for the performance of which was given by bond or cash surety, or upon the performance of any Restrictive Covenant with respect to any LOT, the APPLICANT shall send by certified mail to the CITY Clerk and to the BOARD a written statement in duplicate that the said construction or installation in connection with which such bond, deposit or covenant has been given, has been completed in accordance with the requirements contained under Sections 6 and 7, such statement to contain the address of the APPLICANT (Forms J-1 and J-2). If the BOARD determines that said construction or installation has not been completed, it shall specify to the APPLICANT in writing the details wherein said construction and installation fails to comply with the requirements contained under Sections 6 and 7. Upon failure of the BOARD to act on such application within forty-five (45) days after the receipt of the application by the CITY Clerk, all obligations under the bond shall cease and terminate by operation of law, and any deposit shall be returned and any such covenant shall become void. In the event that said forty-five (45) day period expires without specification, or without the release and return of the bond or return of the deposit or release of the covenant as aforesaid, the CITY Clerk may issue a certificate to such effect, duly acknowledged, which may be recorded.

17. Roadway Acceptance and As-Built Drawings

Upon completion of a STREET in a manner fulfilling the requirements of the BOARD, the APPLICANT may request the BOARD to inspect said STREET in order to make a recommendation to the CITY Council who will consider the question of accepting said STREET

under the provisions of M.G.L Chapter 82. STREET acceptances within a SUBDIVISION are the financial and legal responsibility of the APPLICANT.

The BOARD shall require the APPLICANT to submit the following information before making a recommendation to the CITY Council:

- A. The APPLICANT shall have the original plans and profiles of the DEFINITIVE PLAN, as approved by the BOARD, corrected and certified by an ENGINEER or SURVEYOR to show the actual as-built locations and grades of all UTILITIES, ROADWAY profiles, location of all main buildings and any changes authorized by the BOARD or the CITY Engineer. These changes shall be drawn with indelible ink and the plan shall be marked “As-Built Drawing” in the lower right-hand corner.

Ties to all gate valves, tees, service connections, shut-offs, sewer Y’s, bounds, etc., shall be shown.

- B. A STREET Layout Plan shall be drawn in ink on reproducible Mylar sheets twenty-four inches by thirty-six inches (24”x 36”) in size, with a two and a half inch (2 ½”) margin of the left side. The Layout plan shall show STREET widths, monument locations, distances, bearings, and complete curve data for all STREET sidelines. As-built centerline profile grades shall be shown in elevation on the lower portion of the sheet. Any curbing, SIDEWALKS/bicycle paths, drainage facilities, invert and top of frame elevations for drainage structures, “as built” contours for detention and retention basins with contour intervals matching those depicted on the DEFINITIVE PLAN, other appurtenances as may have been required to be constructed, and all permanent EASEMENTS must also be shown on this plan. The scale shall be one inch equals forty feet (1” = 40’) horizontal. The SURVEYOR shall place a certification on the plan stating, “The STREET or portions thereof shown have been set as shown.” The SURVEYOR shall sign the plan and his/her stamp shall be affixed thereto. STREET Layout Plans must conform to Registry of Deeds rules and regulations.
- C. The APPLICANT shall submit an electronic digital of the final version of the “As-Built Drawing” and the STREET Layout Plan in pdf format, the As-Built Drawings shall be produced by an AutoCAD or similar computerized drafting system, in either AutoCAD Drawing Format (.dwg), Data Exchange Format (.dxf) and reference a minimum of 2 point features present in the CITY’s GIS database. The CADD file must use the Massachusetts State Plane (Mainland) coordinate system, North American Datum 1983, with units of U.S. Survey Feet. The vertical datum must be North American 1988 (NAVD88). A template for submission and the definition of the SDF are available from the CITY Engineer. Point features present in the CITY’s GIS database are also available from the CITY Engineer.
- D. Two (2) copies of the proposed deed conveying the fee interest in the STREET plus associated EASEMENTS to the CITY (when requested by the CITY Council), and legal evidence that the fee interest in the STREET has not been inadvertently conveyed to abutting LOT OWNERS.

- E. Two (2) copies of a description prepared and signed by a SURVEYOR or ENGINEER, and an electronic digital copy containing said description in a format compatible with Microsoft Word, of the location and length of the STREET to be considered for acceptance.
- F. A copy of recorded deeds and other instruments for any common land or public open space, park or other such parcels contained within the SUBDIVISION.
- G. Written evidence from the CITY Tax Collector that all property taxes and other fees owed to the CITY by the OWNER and/or APPLICANT, or his/her successors in interest have been paid to the CITY.

The road or STREET acceptance process is as follows:

- A. APPLICANT petitions the CITY Council to accept the STREET as a public way; all of the documents specified above shall accompany the petition.
- B. The CITY Council refers the petition to the BOARD asking whether or not the STREET is ready for acceptance.
- C. BOARD'S designated AGENT and/or CITY Engineer will review the plans for compliance with the DEFINITIVE PLAN, conduct a field visit and issue a report to the BOARD.
- D. The BOARD files a non-binding recommendation and report with the CITY Council within forty-five (45) days of receiving the petition. If the BOARD does not file a report within forty-five (45) days, the process continues.
- E. The CITY Council must provide notice of a public meeting, hearing or viewing regarding the intended layout in accordance with M.G.L. Chapter 82, Section 3. Notice of the time and place scheduled for such proceedings and a copy of the petition shall be filed with the CITY Clerk at least fifteen (15) days prior.
- F. CITY Council holds the public meeting, hearing or viewing on the proposal.
- G. The CITY Council, by majority vote, shall make a finding that accepting the STREET is required by common convenience and necessity. Such order must be adopted within twelve (12) months after the hearing or viewing. If such finding is not made, the petition is dismissed.
- H. At the time the STREET is accepted, the CITY Council shall take any necessary land, easement or right by eminent domain.
- I. A maintenance bond may be required for a period of time to ensure long-term functioning of the STREET and other infrastructure.
- J. Within thirty (30) days of adopting an order of taking, the CITY Council shall record the order in the Worcester Registry of Deeds.

- K. The manner in which the STREET is laid out shall be specified in a report transmitted by the CITY Council to the CITY Clerk. The report shall give a description of the location and bounds of the road or STREET. The CITY Clerk shall record the report in a book kept for that purpose within ten (10) days of receipt.

SECTION 6

REQUIRED IMPROVEMENTS & DESIGN STANDARDS

6.0 BASIC REQUIREMENTS

The APPLICANT shall provide all of the improvements required herein and installed at his or her expense. All work done under this section shall be done under the direction of the BOARD and the CITY Engineer. No aforementioned bond, cash surety or Restrictive Covenant shall be released until all STREETS shall have been in place over at least one winter (December 1 to April 15) and full approval in writing of all work done under this section is received by the BOARD from the CITY Engineer.

In addition, the following minimum specification shall govern the installation of all ROADWAYS, UTILITIES and other improvements in all SUBDIVISIONS.

6.1 STREETS

A. Location and Alignment

All STREETS in the SUBDIVISION shall be designed so that, in the opinion of the BOARD, they will provide safe vehicular travel and natural drainage with no standing water, and so that they are adjusted to the topography and provide the minimum number of intersections with existing and COLLECTOR STREETS.

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.

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.

Offset STREET intersections with centerline offsets of less than one hundred twenty-five feet (125') should be avoided.

The minimum centerline radii of curved STREETS shall be not less than the following:

CUL-DE-SAC:	125 feet
MINOR STREETS:	150 feet
COLLECTOR STREETS:	500 feet

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.

Property lines at STREET intersections shall be rounded to a radius of not less than twenty-five feet (25') at intersections with a COLLECTOR STREET and twenty feet (20') for intersections involving only MINOR and ACCESS STREETS.

ROADWAYS shall be constructed for the full length and width. The centerline of such ROADWAY shall coincide with the centerline of the STREET RIGHT-OF-WAY, unless the BOARD specifically approves a minor variance.

All reverse curves on COLLECTOR STREETS shall be separated by a tangent at least one hundred (100) feet long.

STREETS shall not be built within twenty-five feet (25') of any watercourse, except where a stream crossing has been approved by the Conservation Commission. A STREET may cross land which is flood prone provided that LOTS served may be reached by another means of access which is not subject to periodic flooding.

In order to enhance safety and improve the appearance of the STREET, the BOARD may require devices and design features such as additional curves or other features that reduce vehicular speed or increase pedestrian safety.

B. Cul-De-Sac Streets

CUL-DE-SAC STREETS shall not be longer than nine hundred feet (900') unless, in the opinion of the BOARD, a greater length is necessitated by topography or other local conditions. Length shall be measured from the end of pavement of the CUL-DE-SAC STREET to the centerline of the intersecting THROUGH STREET.

CUL-DE-SAC STREETS shall be provided at the closed end with a T-shaped turnaround or a loop turnaround.

1. A CUL-DE-SAC STREET shall not have a grade of greater than two percent (2%) for the last one hundred feet (100') at the closed end.
2. A CUL-DE-SAC STREET shall not have a grade of greater than four percent (4%) for the last one hundred feet (100') of STREET approaching the closed end of the CUL-DE-SAC.
3. The loop turnaround shall have an outside ROADWAY diameter of at least one hundred feet (100') and a property line diameter of at least one hundred twenty feet (120'). A loop turnaround shall feature a landscaped center island encircled by a granite curb. The topography of the center island shall be convex in shape to prevent pooling of water. Refer to Section 6.13, Subsection 5.
4. A T-shaped turnaround shall be constructed as follows:

- A. One leg of the turnaround shall be located to the left of the STREET and positioned perpendicular to the other leg and to the STREET approaching the turnaround;
- B. Pavement of the turnaround legs shall be of the same width as in the remainder of the CUL-DE-SAC STREET;
- C. The turnaround legs shall be straight, and shall be seventy feet (70') long measured along the centerline from the intersection of the legs to the end of pavement;
- D. The STREET approaching the turnaround shall be straight for a minimum distance of sixty feet (60'); and
- E. There shall be no driveways off the ends of the turnaround legs, within twenty feet (20') from the end of pavement, or in the intersection roundings. These driveway-restricted areas shall extend for a depth of ten feet (10') off the pavement edge.

Temporary CUL-DE-SAC STREETS shall similarly provide for a turnaround, which may be located in part on EASEMENTS over LOTS so long as contractual assurance is provided that upon extension of the STREET the terminated turnaround will be removed and replaced with loam and appropriate planting, curb/berms, SIDEWALKS, and trees must be installed in accordance with the requirements stated herein.

C. Width

The width of STREET RIGHT-OF-WAYS and traveled ways shall not be less than the following:

<i>RIGHT-OF-WAY Type</i>	<i>No. of DWELLING UNITS Served</i>	<i>RIGHT-OF-WAY Width</i>	<i>Traveled Way Width with Curbs</i>
CUL-DE-SAC	0 to 14	50 Feet	24 Feet
MINOR STREET	Less than 250	50 Feet	24 Feet
MAJOR STREET	250 or More	60 Feet	36 Feet

Greater width shall be required by the BOARD when deemed necessary for present and future vehicular travel.

D. Grade

Grades of STREETS shall not be less than one percent (1.0%). Grades shall not be more than six percent (6.0%) for COLLECTOR STREETS, eight percent (8.0%) for MINOR STREETS. On any STREET where the grade exceeds six percent (6.0%) on the approach to an intersection or CUL-DE-SAC, a leveling area with a slope of not more than four percent (4.0 %) shall be provided for a distance of not less than one hundred feet (100') measured from the nearest exterior line of intersecting STREET.

Vertical curves are required whenever the algebraic difference in grade between centerline tangents is two percent (2.0%) or more, providing a forward sight distance of two hundred feet (200') on MINOR STREETS, and three hundred feet (300') on COLLECTOR STREETS.

STREET grades shall be designed in relation to existing grades such that the volume of cuts and fills made within the RIGHT-OF-WAY approximately balance, except to offset peat, boulders, or other usable material to be removed.

6.2 STORMWATER MANAGEMENT

Storm drains, culverts and related facilities shall be designed to permit the unimpeded flow of all natural water courses, to ensure adequate drainage at all low points along STREETS, to control erosion, and to intercept storm water run-off along STREETS at intervals reasonably related to the extent and grade of the area being drained. To the maximum extent feasible, storm water must be recharged utilizing structures designed to prevent water quality degradation, rather than piped to surface water. In areas identified as high yielding, aquifer and aquifer recharge areas, recharge is especially critical. Peak stream and channel flows and overland runoff at the boundaries of the development in the twenty-five (25) and one hundred (100) year frequency storm shall be no higher following development than prior to development.

Where the estimated seasonal high groundwater table is not too high and where the soil is reasonably permeable to adequate depths, drainage shall feature swales, detention/retention ponds and multi-use areas. Open drainage systems may be required for recharge of aquifers and recharge areas provided that runoff is not seriously polluted. Open drainage featuring grassed areas will be preferred as providing better filtration than pits and shafts.

All SUBDIVISION applications, regardless of whether the project is subject to the State's Wetlands Protection Act and/or the CITY'S Wetlands Protection Ordinance, shall design the stormwater management system in compliance with the goals and objectives of the Massachusetts Department of Environmental Protection Stormwater Management Policy (DEP SMP) the City of Gardner Stormwater Management Ordinance, with the SMP's nine (9) Stormwater Management Standards, as most recently amended. These apply to industrial, commercial, institutional, residential SUBDIVISION, and ROADWAY projects, including site preparation, construction, redevelopment, and on-going operation. The APPLICANT shall also provide calculations indicating compliance with each standard. Refer to the DEP SMP and its referenced sources for specific application of these storm water management categories.

The design shall specify the size, quality, and type of pipe; inlets, manholes, storm water treatment and detention areas; and the percent of grade. The applicable design criterion shall be a zero percent (0%) increase in the peak rate and volume for the two (2), ten (10), twenty-five (25), and one hundred (100) year storm.

Detention/retention ponds and related facilities shall be fenced in with an access gate, if required by the BOARD.

Detention/retention ponds and related facilities shall be fenced in with an access gate, if required by the BOARD.

Access roads for maintenance of detention/retention ponds and related facilities shall be twenty feet (20') in width with a gravel surface or other approved surface treatment and grades acceptable to the CITY ENGINEER.

6.3 RESPONSIBILITY FOR ADEQUATE DRAINAGE

The responsibility for adequate drainage shall rest with the APPLICANT. This shall include the risk involved in connecting with existing drainage facilities provided by the CITY.

Where property adjacent to the SUBDIVISION, but within the same watershed, is not subdivided, provision shall be made for proper projection of the drainage systems by continuing appropriate drainage infrastructure and EASEMENTS to the exterior boundaries of the SUBDIVISION at such size and grade as will allow for such projection. Drainage rights which are appropriate, sufficient and necessary to handle drainage from the SUBDIVISION and adjacent areas shall be secured by the APPLICANT for the CITY.

6.4 GROUNDWATER DRAINAGE

As construction progresses, unforeseen GROUNDWATER conditions may be encountered which require additional subdrains or curtain drains. These conditions include potential problems if construction is in progress at a time of low water table or other dry conditions. All drainage systems must be in place for the months of March-May before approval may be given. The BOARD reserves the right to require appropriate systems to accommodate the problem.

The applicant shall perform test holes at the low points of the proposed road to determine the Estimated Seasonal High Ground Water (ESHGW) in accordance with Title V testing protocols. If the testing determines the finished roadway grade is not 2 feet above of the ESHGW elevation sub drains shall be required

6.5 EROSION AND SEDIMENT CONTROL

The APPLICANT shall control erosion and sedimentation during construction according to the Construction General Permit, City Code Chapter 565 Stormwater Management and the objectives, principles and design considerations set forth as follows:

- A. An absolute minimum of existing vegetative cover shall be disturbed during the construction period.
- B. Only the smallest practical area of land shall be exposed at any one-time during development.
- C. When land is exposed during development the exposure shall be kept to the shortest practical period of time.
- D. Where necessary, as determined by the BOARD, temporary vegetation and/or mulching shall be used to protect areas exposed during the development.

- E. All disturbed areas shall be properly and neatly graded and shaped as soon as possible. Final grading shall include removal of all large rocks, stumps, debris, and all other deleterious materials from the finished surface.
- F. At the toe of all cut and fill slopes in excess of ten (10) feet in height, staked baled hay or other erosion checks shall be installed.
- G. All disturbed areas shall be protected from potentially erosive runoff from up-slope areas by means of Diversions, Benches and/or other acceptable means.
- H. Cuts and fills shall not endanger adjoining property.
- I. Slopes shall not exceed 2.5 to 1.
- J. Fill shall be placed and compacted so as to minimize sliding or erosion of the soil.
- K. Grading shall not encroach on natural watercourses or constructed channels.
- L. During construction, necessary measures for dust control shall be exercised.

6.6 *SANITARY SEWERS*

Sanitary sewer pipes and related equipment, such as manholes, connecting Ys and laterals, shall be constructed to serve each building or portion thereof in conformity with Section 7.4. Where, in the opinion of the BOARD, existing public sewers are not reasonably accessible, a DEFINITIVE PLAN may be approved without provision of sanitary sewers, provided: (a) that no LOT shall be built upon without the provision of on-lot sewage disposal facilities specifically approved by the Board of Health in conformity with the regulations of said Board as promulgated and amended from time to time; and (b) that the BOARD may require installation of so called “dry sewers”, in conformity with the DPW Sewer Plan, in any STREET where in its estimation, sanitary sewers may become accessible within a period of five (5) years.

6.7 *WATER*

Water pipes and related equipment, such as hydrants and main shut-off valves, shall be constructed to serve each STREET or portion thereof in a SUBDIVISION in conformity with Section 7.5. Where, in the opinion of the BOARD, existing public water mains are not reasonably accessible, a DEFINITIVE PLAN may be approved without provision of water lines provided: (a) that no LOT shall be built upon without the provision of on-lot water facilities specifically approved by the Board of Health in conformity with the regulations of said Board as promulgated and amended from time to time; and (b) that the BOARD may require such special provisions of water for firefighting as are deemed necessary by the Chief of the Fire Department.

6.8 *UTILITIES*

All required UTILITIES exclusive of transformers and other appurtenant structures shall be placed underground at the time of initial construction. There shall be a minimum of five feet (5') of cover over all utility lines. Except for LOT connections, cross-country connections, lift or

pump stations, all main water, sewer and drainage UTILITIES shall be located within the paved ROADWAY area.

Connections for UTILITIES located in the way shall be constructed for each LOT whether or not there is a building thereon, except that the BOARD may waive such requirement, in whole or in part, in the case of a LOT to be used for a park, playground or for any other purpose for which, in the opinion of the BOARD, such connections shall not be required.

6.9 STREET LIGHTING

1. Standards

A. Every new STREET shall be provided with appropriate lighting and standards as herein defined. Lighting standards shall either be powered through buried wiring depending on the methods selected for power distribution for the associated SUBDIVISION.

B. Standards shall be one of following types dependent on the nature and style of the SUBDIVISION:

- (1) Aluminum base mounted standards no higher than 30 feet with cantilevered bracket and luminaire.
- (2) Base Mounted 14 Foot Fiberglass Pole at approximately 15 feet height with post top mounted decorative luminaire.
- (3) Cantilevered aluminum bracket with luminaire mounted on existing utility poles.

C. Spacing shall be sufficient to provide adequate lighting levels for the type of development. For residential developments, spacing shall be typically no more than every 300 feet. Where overhead utilities poles are provided or already exist, spacing shall typically be every other pole.

D. Lamps shall be LED and energy efficient of a design compatible with other fixtures throughout the City.

E. Any STREET or way that is submitted for acceptance by the City must have street lighting approved by the BOARD.

2. Submission Requirements

A. The submission shall contain the following:

- (1) A plan indicating the location on the proposed roadway, or any other location proposed for decorative lighting, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices.
- (2) A brief description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices, including catalog cut sheets by manufactures and drawings (including sections where required).

(3) Photometric data and plan, such as that furnished by manufacturers or similar showing the angle of cut off or light emissions showing the average lighting on the site, and maximum and minimum lighting levels on the site.

B. The above required plans, descriptions and data shall be sufficiently complete for the CITY Engineer to determine whether compliance with the requirements of this section will be secured. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall submit additional evidence to enable a determination of compliance such as reports of tests performed and certified by a recognized testing laboratory.

C. Luminaires, ballast, bulb type and strength shall be compatible with those currently used by the DPW throughout the CITY.

D. Should any outdoor light fixture, or the type of light source therein, be changed after the DEFINITIVE PLAN has been approved, a change request must be submitted to the CITY Engineer, together with adequate information to assure compliance with this regulation, which must be received prior to substitution.

6.10 CURB CUTS, CROSSWALKS AND HANDICAPPED RAMPS

Whenever a SIDEWALK or bicycle path intersects a ROADWAY, curb cuts shall be provided.

Where necessary to provide safe pedestrian travel, the BOARD may require crosswalks. The BOARD may require that crosswalks are constructed of textured or stamped concrete/pavement or brick pavers with granite edging.

Handicapped ramps shall be installed at all crosswalks and driveways in accordance with the requirements of the Massachusetts Architectural Access Board (521 CMR) in effect at the time of application. All sidewalks and ramps shall conform with the Americans with Disabilities Act (ADA). Wheelchair ramps shall be constructed in conformance with the current editions of the MassDOT Wheelchair Ramp Standards. Wheelchair ramps shall be cement concrete, except ramps in bituminous concrete sidewalks parallel to the street at the intersection

6.11 SIDEWALKS AND BICYCLE PATHS

Unless the BOARD determines that pedestrian movement is otherwise provided for, SIDEWALKS having a width of not less than five (5) feet shall be constructed between the ROADWAY and the RIGHT-OF-WAY line, as close to the latter as practicable, and generally parallel with the ROADWAY. COLLECTOR STREETS shall be provided with SIDEWALKS on both sides, all other STREETS shall be provided with SIDEWALKS on one side only. Pedestrian access other than by routes parallel with ROADWAYS may be permitted provided permanent EASEMENTS are established.

SIDEWALKS shall be installed in accordance with the requirements of the Massachusetts Architectural Board (521 CMR) and NACTO in effect at the time of application.

Where the SUBDIVISION location is such that it may become part of a CITY bikeway system or where the size of the SUBDIVISION, expected traffic flow, or expected bicycle use within the SUBDIVISION makes bikeway provisions necessary, the BOARD may require bicycle paths from four (4) to eight (8) feet in width within a SUBDIVISION. Provisions to ensure the safe and convenient use of bicycles may include, but may not be limited to, the following: warning or information signs along the bike route, bikeway pavement stencils, a special line on a ROADWAY marked off by a painted line. In certain cases, the BOARD may permit SIDEWALKS to be used as bikeways. Under these circumstances, one of the two required SIDEWALKS may be used as a bikeway. The SIDEWALK may be designed as a bikeway if additional pavement is provided as required by the BOARD.

6.12 DRIVEWAYS

Each LOT shall have only one access driveway. No access driveway shall provide motor vehicle entry or exit from more than one LOT, except in an Open Space Residential Development (OSRD). In an OSRD, an access driveway may provide entry or exit from no more than two LOTS. No parking area or access driveway shall be located within ten feet (10') of any LOT line. Curb cuts for access driveways shall not exceed a width of ten feet (10'). Access driveways shall provide a leveling area with a slope of not more than ten percent (10%) for a distance of not less than forty feet (40') measured from the exterior line of the intersecting STREET.

6.13 FIRE PROTECTION

Whenever required by the Fire Department, a fire alarm system shall be installed underground in accordance with the specifications of the Fire Department as promulgated and amended from time to time.

Where a public water supply will be installed within the SUBDIVISION, hydrants shall be placed at intervals not exceeding five hundred feet (500'). All gates, valves and hydrants shall be as specified in Section 7.2, Subsection 2 and approved by the Director of Public Works and Fire Chief.

Where no public water supply is to be installed, fire ponds and "dry hydrants" shall be installed as specified and approved by the Fire Chief as to number, water volume and design.

6.14 TREES AND PLANTINGS

1. Existing Trees

Trees outside of the proposed ROADWAY and building footprints, especially those over twelve (12) inches in diameter five feet (5') above ground, should be preserved. Following is a list of recommended measures for the protection of trees:

- A. Wherever possible, there shall be no operation of heavy equipment or storage of any materials under said tree within its natural drip line.
- B. Wherever possible, no grading or filling should be done within the drip line.

- C. Supplemental irrigation shall be provided to new trees as needed during the summer months to aid growth.
- D. No bituminous concrete paving or vehicle parking should be located under conifers. No more than twenty percent (20%) of the area under any deciduous trees' natural drip line may be so paved.
- E. All drainage from paved areas should be directed away from root zones.

2. Street Trees

Existing trees, which in the opinion of the BOARD are suitable for STREET trees, shall be preserved, and where such are inadequate, new trees shall be provided on both sides of all STREETS.

- A. The APPLICANT is required to plant a variety of species of native noninvasive suitable broadleaved deciduous trees along ROADWAYS approximately four feet (4') outside the RIGHT-OF-WAY, unless specifically exempted by the BOARD. All trees shall be the equivalent of well-rooted nursery-grown stock free of injury, harmful insects, and diseases. They shall be well-branched, and of sound structure.
- B. Large-growing trees shall be spaced at intervals of forty-five to fifty-five feet (45' – 55'), medium-growing trees at intervals of thirty to forty feet (30' – 40'), and small-growing trees at intervals of twenty to thirty feet (20' – 30'). Trees on one side of the STREET may be set either opposite or diagonally to trees on the opposite side. Small-growing trees with low-branching characteristics should be planted within the front yard setback area in all cases. The Board may approve flexible planting options in rural locations in lieu of uniform spacing requirements where it finds it more suitable
- C. Minimum acceptable sizes of trees to be planted shall be as follows:
 - 1. Large-growing: 2 ½" trunk diameter, caliper 1' above ground.
 - 2. Medium-growing: 2 ½" trunk diameter, caliper 1' above ground.
 - 3. Small-growing: 9' crown height, 5' spread.
- D. Planting operations shall be carried out as required by the CITY Forester/Tree Warden.
- E. Requirements for support stakes, guy wire and cable, ground anchors, hose, and wrapping material shall be those contained in Section 6 of the Recommended Standard Specifications for Planting Trees, Shrubs and Vines, compiled and issued by the Associated Landscape Contractors of Massachusetts, Inc.
- F. To limit the spread of pests and disease, no more than twenty (20) trees of the same species may be planted contiguously and may not be planted again unless separated by a minimum distance of five hundred (500').

- G. The APPLICANT shall be responsible for maintenance of planted trees and replacement of those that have died or become diseased from the time of planting through one full year or until STREET acceptance, whichever is longer.

3. Bank Plantings

- A. All cut or fill banks with slopes greater than 3:1 must be planted with suitable, well-rooted, low growing plantings. All plants shall be the equivalent of nursery-grown stock in good health, free from injury, harmful insects, and diseases.
- B. Perennial grass turf installed as sod is an acceptable alternative for the planting of banks.
- C. If bank plantings are of types which are properly spaced at close intervals, eight inches (8") to twelve inches (12") of loam shall be spread over the entire bank. If the plantings are to be widely spaced they may be planted in loam pits.
- D. Mulch (wood chips or equivalent) shall be spread to a minimum depth of six inches (6") among plants for weed and erosion control.
- E. The APPLICANT shall be responsible for maintenance of bank plantings and replacement of those that have died or become diseased from the time of planting through one full year or until STREET acceptance, whichever is longer.

4. Corner Plantings

Requirements for plantings adjacent to STREET intersections shall be the same as those for Bank Plantings with the following exceptions:

- A. Turf may be provided by seeding as well as by planting sod.
- B. Bushy shrubs and herbaceous plantings that would tend to obscure visibility are not permitted within twenty (20) feet of the intersection of the curbs adjacent to the corner LOT.

6.15 GRASS STRIPS

All cleared areas of a RIGHT-OF-WAY, not to be planted with groundcover plantings, including all disturbed area over all culverts in drainage EASEMENTS, shall be loamed with not less than six (6) inches compacted depth of good quality loam, seeded with lawn grass seed. Seeding shall be done at appropriate times of the year and in a manner to insure growth of grass. No utility poles, transformers, signs or similar items shall be placed within the grass strip within three (3) feet of the edge of the pavement (i.e., place at back of SIDEWALK). Maintenance of grass strips shall be the responsibility of the abutting property owner. In the case of grass strips that abut common owned open space, the homeowner's association shall be responsible for the maintenance of the grass strip. This requirement shall be noted in all deeds. This requirement may be waived by the Planning Board in whole or in part when it determines it is in the public interest.

6.16 GRADING OF SLOPES

All slopes resulting from grading of STREETS and SIDEWALKS shall not exceed one foot (1') vertical to three feet (3') horizontal in fill; one foot (1') to two feet (2') in cut; and one foot (1) to three-quarter foot (3/4') in ledge.

Slope EASEMENTS or retaining walls shall be employed where slopes cannot be contained within STREET sidelines. Retaining Walls shall be located outside of the RIGHT-OF-WAY.

Grass strips and driveway entrances shall be so graded as to prevent surface water on the STREET from draining onto private land, except at designated ponding and collection areas.

6.17 RETAINING WALLS

Retaining walls shall be installed where deemed necessary by the BOARD and designed by a Registered Professional Structural ENGINEER in a manner acceptable to the CITY ENGINEER.

6.18 FLOOD HAZARD AVOIDANCE

All SUBDIVISION proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a SUBDIVISION proposal or other new development is located within the Flood Plain District established under the Zoning Ordinance, it shall be reviewed to assure that:

- A. The proposal is in compliance with Section II.B.6. of the Zoning Ordinance.
- B. The proposal is designed consistent with the need to minimize flood damage; and
- C. All public UTILITIES and facilities, such as gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage; and
- D. Adequate drainage systems shall be provided to reduce exposure to flood hazards; and
- E. Base flood elevation (the level of the one hundred (100) year flood) data shall be provided for proposals greater than five (5) acres for that portion within the Flood Plain District.

6.19 EASEMENTS

EASEMENTS for UTILITIES across LOTS or centered on rear or side LOT lines shall be provided where necessary and shall be at least twenty feet (20') wide.

here 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 a minimum width of twenty feet (20') to conform substantially to the lines of such water course, drainage way, channel or stream, and to provide for construction, maintenance or other necessary purposes. The boundaries of the storm water EASEMENT shall not be closer than five feet (5') horizontally from the annual high-water line. No building shall be constructed, and no

paving shall be permitted within such EASEMENT except as permitted under the Zoning Ordinance. Watercourses shall remain open except at STREET crossings.

In any SUBDIVISION, the APPLICANT may grant to the CITY a conservation restriction over any portion of the SUBDIVISION providing the area subject to the conservation restriction has the approval of the Conservation Commission and the CITY Council, if appropriate.

6.20 MONUMENTS

A. Requirements. Monuments shall be four feet long, six-inch-square concrete or granite, and shall be installed at all street intersections, at all points of change in direction or at curvature of streets, and at any other points where, in the opinion of the Board, permanent monuments are necessary. Lot corners along the ROW shall be located using rebar, iron pipe or other approved methods.

B. Monument spacing. Monuments located in the street right-of-way shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street right-of-way limits. The maximum interval shall be 1,000 feet.

C. Monument materials. Monuments shall be standard granite or concrete markers of not less than four feet in length and not less than five inches square, and shall have a drill hole in the center. If subsoil conditions prohibit installation of four-foot monuments, with advance approval by the Board, monuments meeting alternative specifications shall be installed. Monuments shall be set flush with the finished grade.

D. Monument certification. 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 land surveyor after installation of the street, and shall be shown on the "as-built" or record plans.

6.21 OPEN SPACE

The BOARD may require that an area of developable land be reserved for a possible park or parks. In no event shall the required reserved area exceed five percent (5%) of the total area of the SUBDIVISION. The BOARD may determine that no building shall be erected in a designated park or parks for a period of not more than three (3) years without BOARD approval. Such a determination shall be made by appropriate endorsement on the DEFINITIVE PLAN (Chapter 41, Section 81U). Such reservation shall be made where particular natural features, abutting public land, or potential neighborhood need for recreation space make public acquisition desirable.

Any open space or playground land shall be provided with appropriate FRONTAGE on a STREET, and pedestrian ways will normally be required to provide access from each of the surrounding STREETS, if any, on which the open space, park or playground has no FRONTAGE. Further, such parks and/or playgrounds may be required to have maintenance provided for by covenants and agreements acceptable to the BOARD, unless the City purchases the park and/or playground.

An open space buffer area of twenty feet (20') shall abut all adjacent properties to the SUBDIVISION. The area shall be planted with suitable shrubs to create a visual and sound barrier between the SUBDIVISION and surrounding properties.

6.22 PROTECTION OF NATURAL FEATURES

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.

6.23 SITE CLEARING PRIOR TO SUBMISSION OF PLAN

In order to preserve natural vegetation which provides areas of high runoff absorption on the site, site preparation, tree cutting, filling, grading, and other work done in anticipation of SUBDIVISION approval should not be performed prior to submission and approval of a DEFINITIVE PLAN. The BOARD reserves the right to disapprove any such work, and to order restoration of the site, upon filing of a DEFINITIVE PLAN application. If, in the opinion of the BOARD, excessive vegetation is removed prior to the filing of a DEFINITIVE PLAN, a Restoration Plan showing proposed replacement vegetation shall be submitted as part of the DEFINITIVE PLAN application and shall require approval by the BOARD.

6.24 INDUSTRIAL SUBDIVISION

Industrial SUBDIVISIONS shall comply with all requirements of the RULES AND REGULATIONS except as noted in this section.

All STREETS shall be constructed as COLLECTOR STREETS and all appropriate design standards shall apply.

Curb radii shall not be less than fifty feet (50').

ROADWAY grades shall not exceed six percent (6%).

A CUL-DE-SAC or SINGLE ACCESS STREET shall provide access to no more than two hundred fifty thousand (250,000) square feet of floor area. To construct more than 250,000 square feet of floor space, a secondary means of access, adequate in the opinion of the BOARD, shall be provided.

6.25 IMPROVEMENTS OUTSIDE THE SUBDIVISION

Existing STREETS and SIDEWALKS providing access to STREETS and SIDEWALKS within a proposed SUBDIVISION shall be considered to provide adequate access where, prior to construction on any LOTS, the APPLICANT ensures that such access will be in compliance with the RULES AND REGULATIONS related to safe and convenient travel including but not limited to pavement width, maximum grade, and sight distance requirements applicable to ways within a SUBDIVISION. When existing STREETS, SIDEWALKS and UTILITIES to service a proposed SUBDIVISION are deemed inadequate to handle the impact of the development, the APPLICANT may be required to complete, at the APPLICANT'S expense, improvements

outside the boundaries of the SUBDIVISION to ensure adequate access that is safe and convenient to travel and for securing adequate provisions for drainage and other requirements as may be necessary. Said STREET, SIDEWALK and utility improvements outside the boundaries of the SUBDIVISION shall not exceed fifty percent (50%) of the total cost of the STREET, SIDEWALK and utility costs within the SUBDIVISION.

SECTION 7

CONSTRUCTION SPECIFICATIONS

7.0 STREETS

STREETS shall be constructed in all SUBDIVISIONS at no expense to the CITY and shall be constructed in conformance with these regulations.

1. Preparation of Roadway

The ROADWAY shall be cleared of all obstructions of any kind for a distance equal to the sum of the specified width of the pavement plus the required shoulder and any SIDEWALK or swale on each side of the pavement. A greater width may be required at corners and on the inside of curves for visibility or beneath fill areas.

2. Street Subgrade

All materials shall be removed for the full length and width of the ROADWAY (pavement and shoulder), to a depth of at least eighteen (18) inches below the finished surface as shown on the profile plan; provided, however, that if the soil is soft and spongy, or contains undesirable material, such as clay, sand pockets, tree stumps, stones over six (6) inches in diameter, or any other material detrimental to the subgrade, a deeper excavation below the subgrade shall be made, as directed by the BOARD or its designated AGENT.

Construction of embankment fill shall be done with suitable material obtained from excavation or borrow, thoroughly compacted to produce a stabilized embankment. The ENGINEER shall determine the suitability of any excavation material for incorporation in the embankment. Embankments shall be placed and compacted in uniform layers, not exceeding eighteen inches (18") in depth, to the elevation of the proposed subgrade.

At this point, all pipes and UTILITIES shall be laid as specified in Sections 7.3, 7.4 and 7.5.

The BOARD or its AGENT must inspect the subgrade before any foundation gravel is spread.

3. Gravel Subbase

Before the binder course is laid, the gravel borrow sub-base shall be shaped to a true depth of fifteen inches (15") conforming to the Typical STREET Sections included herein. The sub-base installation shall be in conformation with the Massachusetts Department of

Transportation-Highway Division Standard Specifications for Highways, Bridges, and Waterways, as last revised. It shall be compacted to ninety-five percent (95%) maximum density in layers not exceeding eight inches (8") in depth.

4. Street Base Course

On COLLECTOR STREETS a base course of four inches (4") of Class I bituminous concrete shall be laid in a separate course over the sub-base in accordance with the materials and standards designated by the Massachusetts Department of Transportation -Highway Division Standard Specifications for Highways, Bridges, and Waterways, Section 402.

On all other STREETS a base course of two and one-half inches (2-1/2") of Class I bituminous concrete shall be laid in a separate course over the sub-base in accordance with the materials and standards designated by Massachusetts Department of Transportation - Highway Division Specification for Highways, Bridges and Waterways, Section 402.

5. Street Surface

The surface courses shall be laid in a separate operation, consisting of one and one-half inch (1-1/2") surface course for Local Streets and two-inch (2") for Collector Streets of Class I bituminous concrete, Type I-1 in accordance with Section 460 of above-given state specification. The ROADWAY shall be paved to the full width specified. The finished surface must be uniformly placed true to line and grade to form a close, even union around all curbs and projecting frames. It is the contractor's responsibility to see that all manhole frames, gate boxes and catch basin frames are at ROADWAY grade to one-fourth inch (1/4") below grade (not projecting) and accessible for their intended use.

Sewer, water, electricity, telephone conduits, gas connections and any other UTILITIES shall be installed to the LOT line (back of SIDEWALK) prior to the surfacing of the road.

7.1 TRAFFIC CONTROL DEVICES

Where required by the BOARD in consultation with the Traffic Commission, the APPLICANT shall install pavement markings, signs, channelization, turning lanes, and traffic signal systems in accordance with the Mass Amendments to the Federal Highway Administration Manual on Uniform Traffic Control most current version.

Temporary stop signs, conforming to CITY regulations for size and color, shall be required at all intersections with public ways. The APPLICANT shall be responsible for installing permanent stop signs at the completion of the project as requested by the Traffic Commission and approved by CITY Council.

7.2 STREET NAMES AND STREET NAME SIGNS

STREET names shall be in keeping with the character of the CITY and shall reflect existing natural features and historical events related to the specific location of the SUBDIVISION in the CITY. STREET names shall be acceptable to the Planning BOARD and the Traffic Commission.

STREET name signs shall be installed at each STREET intersection at diagonally opposite corners and shall bear the names of both intersecting STREETS. STREET name signs shall be of a design conforming to STREET name signs used by the CITY.

From the time of rough grading until such time as a STREET is accepted by the CITY as a public STREET, the signposts at the intersection of such STREET with any other STREET shall have affixed thereto a sign designating such STREET as a 'PRIVATE STREET NOT MAINTAINED BY THE CITY OF GARDNER'.

7.3 STORMWATER MANAGEMENT

STREET drainage shall not be channeled into a WETLAND or water body without first going into a vegetated detention basin. Where feasible, stormwater should be directed to enter the nearest open stream channel. At all outflows of drainage systems, a storm or concrete headwall approved by the BOARD shall be provided. 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. Safety fences may be required where needed due to slope, bank instability, stream depth or flow rate, or other reasons.

No open water body or pond shall be filled under any circumstances, and no wet or swampy area shall be filled unless there is approval from the Conservation Commission.

If it is necessary to construct cellar drains or other subsurface drainage such as when the Estimated Seasonal Ground Water Elevation is less than two (2) feet from the basement or slab elevation, the BOARD must approve their construction, location, and size and none shall be installed at any time without such approval. Such drainage facilities shall not interfere with on-lot sewage disposal facilities.

All drainage from roofs and cellars shall be outlet into either dry wells or the drain lines of the storm drainage system. If the outlet is into a dry well, such facilities shall not, in the opinion of the BOARD, interfere with on-lot sewage disposal facilities.

Commercial separation devices may be considered on a case-by-case basis as an exception to these provisions.

No excavations for storm sewers, catch basins, manholes, or related facilities shall be backfilled until inspected by the CITY Engineer or the Department of Public Works.

1. Design Basis

Facilities shall be designed using a design storm of twenty-five (25) years. Cross culverts, bridges, and detention ponds shall be designed using the one hundred (100) year storm, using the SCS TR-55 methodology.

2. Drain Pipes

Drain pipes shall be a minimum of twelve-inch (12") Class III reinforced concrete, conform to City specifications and shall be constructed so as to have a minimum of three feet (3') of cover.

3. Catch Basins and Manholes

Catch basins shall tie directly into a manhole. Catch basin to catch basin connections will only be allowed if there is no other alternative and must be approved by the Director of Public Works or his designee.

All manholes and catch basins are to have interlocking sections and be standard precast with either cast iron, aluminum or approved plastic steps spaced twelve inches (12") apart. A watertight seal must be placed between precast manhole sections. Precast manholes shall have rubber "O" ring gaskets.

All drain lines shall be aligned and graded using either a laser or transit. Drain manholes shall be required at all changes in slopes or changes in alignment. Manhole and catch basin separation shall be no greater than three hundred feet (300').

Except where drainage swales are used, catch basins shall be located on both sides of the ROADWAY on continuous grades at intervals of not more than three hundred (300') feet, at all sags in the ROADWAY, and near corners of the ROADWAY at intersecting STREETS. Any catch basins and manholes used shall be four-foot (4') inside diameter, with a thirty-six inch (36") or greater sump.

All brick used in manholes, including brick used for inverts and raising covers shall conform to A.S.T.M. Standard Specifications for sewer brick. Barrel block and cement brick are acceptable in drain manholes only. In the event the CITY inspector rejects any brick it shall be immediately removed and substituted with an acceptable brick.

Mortar used in manholes shall be composed of one part Portland Cement, hydrated lime and two parts sand, in which the volume of sand shall not exceed three times the sum of the volumes of cement and lime. Lime and sand shall conform to A.S.T.M. Standards.

When installing catch basins and manholes, the trench shall be excavated so that there is two feet (2') clear on each side of the structure. Four to six inches (4"– 6") of crushed stone shall be placed under the manhole or catch basin and gravel shall be compacted in six-inch (6") layers around the structure to secure it firmly. Catch basins will maintain a thirty-six inch (36") minimum sump. Catch basins are to be twenty-four by twenty-four-inch (24" x 24") cast frames with cast cover grates as well. The basin frame shall conform to the specifications of the Director of Public Works, measuring eight inches (8") in depth, with approximate frame and cover weight of four hundred twenty (420) pounds.

The contractor must furnish, at his expense, the CITY Engineer with a set of reproducible "As-Built" drawings prepared by a professional ENGINEER with any extension or creation of a drainage system prior to final sign-off.

The Director of Public Works will only approve stone drywells where foundation drains cannot reach “daylight” or the drainage system. A test hole shall be excavated by the contractor and inspected by the DIRECTOR or his designee prior to approval of the drywell. The drywell shall not interfere with subsurface sewage systems (where applicable).

4. Frames and Covers

Frames and covers shall conform to CITY SPECIFICATIONS

5. Headwalls

Headwalls shall be constructed of A.S.T.M. approved Portland concrete. Headwalls should be built as directed to connect surface drains, culverts, and like structures and must be approved by the BOARD and the Director of Public Works.

6. Drainage Swales

Swales should be built at a gentle slope so that water flows at a relatively low velocity. Drainage swales shall have cross-sectional area adequate to carry a ten-year (10) storm, and be treated as follows:

<u>Slopes</u>	<u>Treatment</u>
0.75% - 4%	6” of loam seeded
4% - 10%	6” minimum dimension angular stones for a water depth of 1 foot, with a 12” gravel subbase (SSH&B M 1.03.0 type A)

7. Detention Basins

Detention basins shall be designed and constructed to Massachusetts Department of Environmental Protection’s most recent Stormwater Management Standards.

Detention basins must provide landscaping, including grasses and shrubs indigenous to the area and approved by the Conservation Commission, to minimize visual impacts. The plants selected for the ponding area should be able to withstand both wet and dry periods. Along the perimeter of the basin, the plants should be adapted to dry conditions and create a visual vegetated buffer.

7.4 SEWERAGE

The APPLICANT shall provide, at no cost to the CITY, adequate sewerage disposal facilities to serve each LOT in the SUBDIVISION.

Where the public sewer system is located within one thousand feet (1,000’) of a proposed SUBDIVISION (as the crow flies), the APPLICANT shall connect to the public sewer system at his expense, and in accordance with the overall sewer plan of the area.

If, in the opinion of the Director of Public Works, there will be sewage within one thousand feet (1,000') of the proposed SUBDIVISION within five (5) years of the date of submission of the DEFINITIVE PLAN, as indicated by an accepted CITY schedule of planned improvements, the APPLICANT shall, at no cost to the CITY, install in the STREET, sewer mains, and to every LOT, sewer laterals.

Where the SUBDIVISION is not to be connected to the public sewerage system, private on-lot sewerage systems shall be installed and designed and constructed in conformity with Article XI of the Massachusetts Sanitary Code under the jurisdiction of the Board of Health.

Water and sewer laterals shall be separated by not less than ten feet (10'). If this is not possible due to site restrictions, the sewer and water laterals shall be separated by not less than three feet (3') horizontally **and** not less than eighteen inches (18'') vertically, with the sewer lateral being lower than the water lateral only with permission from the Director of Public Works or his designee.

Service connections for each LOT shall be extended a minimum of five feet (5') into each building LOT when the sewer main is installed. The end of each service shall be marked by a length of pressure treated lumber having minimum dimensions of one and one-half inches (1 ½'') and three and one-half inches (3 ½'') and extending eighteen inches (18'') above the ground surface.

Sewer mains shall be a minimum of eight inches (8'') watertight SDR 35 green PVC pipe. Service connections shall have a minimum diameter of four inches (4'').

The minimum pipe slopes shall be:

6" PVC 0.02 foot per foot for sewer laterals.

Pipe slopes shall be designed velocity of 2 to 10 feet per second to avoid the separation of solids in pipe.

No more than two (2) bends of not more than forty-five (45) degrees each shall be allowed for sewer services including the bend at the main connection. All bends must be exposed for inspection.

Only one (1) sewer service is allowed per six-inch (6'') lateral.

A minimum of five feet (5') of cover is required for building sewers and seven feet (7') for mains, unless approved by the Director of Public Works or his designee. Every sewer main must be ended with an approved precast manhole.

The connection to the building sewer shall conform to the requirements of all applicable building and plumbing codes or other applicable Rules & Regulations of the CITY of Gardner.

All mains shall be aligned and graded using either a laser or transit. Manholes will be required at all changes in slopes or changes in alignments. Manhole separation will be no greater than three hundred feet (300').

A minimum of four inches (4") of crushed stone must be used under all sanitary sewer mains and under all pipes during excavation.

Contractors shall be responsible for supplying the CITY with a digital video recording of all new sewer mains, which will become the property of the CITY of Gardner Department of Public Works. Air testing is required and shall be passed before any flows are introduced into the sewer system and shall be witnessed by a CITY official.

Force mains for single-family dwellings shall conform to the specifications of the Director of Public Works. Force mains for multi-DWELLING UNITS, apartments, condominiums, commercial or industrial units shall be Ductile Iron CL.52.

Sewer ties must be turned into the Office of the City Engineer prior to final sign off.

All manholes shall be four feet (4') in diameter, have interlocking sections and be standard precast with either cast iron, aluminum or approved plastic steps spaced twelve inches (12") apart and shall meet all other relevant CITY SPECIFICATIONS

7.5 WATER

The APPLICANT shall provide, at no cost to the CITY, water supply facilities and appurtenances to serve each LOT in the SUBDIVISION.

Where the public water system is located within one thousand feet (1,000') of a proposed SUBDIVISION (as the crow flies), the APPLICANT shall connect to the public water system at his expense, and in accordance with the overall water plan for the area.

If, in the opinion of the Director of Public Works, there will be a CITY water system within one thousand feet (1,000') of the proposed SUBDIVISION within five (5) years of the date of submission of the DEFINITIVE PLAN, as indicated by an accepted CITY schedule of planned improvements, the APPLICANT shall, at no cost to the CITY, install in the STREET, water mains, and to every LOT, water services.

The contractor installing the pipe and those in his employ shall, in the opinion of the Director of the Department of Public Works, be experienced in water main construction and possess the required skills and equipment to satisfactorily complete the work.

Where the SUBDIVISION is not to be connected to the public water system, private on-lot water systems shall be constructed in conformance with the standards of the Board of Health.

Water and sewer laterals shall be separated by not less than ten feet (10'). If this is not possible due to site restrictions, the sewer and water laterals shall be separated by not less than three feet (3') horizontally **AND** not less than eighteen inches (18") vertically with the sewer being lower than the water only with permission from the Director of Public Works or his designee.

Service connections for each LOT shall be extended a minimum of five feet (5') into each building LOT when the water main is installed.

All costs and expenses related to the installation or connection to the water system shall be borne by the OWNER of the property.

1. Water Mains

Water mains shall be a minimum of eight inches (8") in diameter and conform to all relevant CITY SPECIFICATIONS.

Where possible, water mains shall be looped. All proposed DEAD-END water mains must have a hydrant at end of main. Hydrants shall conform to the specifications of the Director of Public Works. When installing a hydrant, the hydrant must be rodded to the gate valve.

The connection to the water system shall conform to all applicable building and plumbing codes or other applicable CITY SPECIFICATIONS.

Thrust blocks or restraining joints are required behind bends, hydrants, tees, and dead ends and at new mains tapped into existing mains. A minimum of one-third (1/3) cubic yard of concrete shall be used for thrust blocks.

The Director of Public Works or his designee shall inspect water mains and services prior to backfilling.

2. Hydrants

All hydrants shall conform to the specifications of the Director of Public Works, and to any additional specifications established by the Fire Chief;

Hydrant separation shall be no greater than five hundred feet (500') and shall conform to the specifications of the Director of the Department of Public Works and Fire Chief.

3. Pressure Testing

Water main pressure testing of newly installed water mains, hydrants and water services shall be performed by an independent A.W.W.A approved testing agency specification C600-64. All water lines shall be sterilized in accordance with A.W.W.A. Specification C601-54. Pressure and leakage tests shall be done in the presence of the Director of Public Works or his designee in accordance with A.W.W.A. C600-87 Section 4 Specifications or the latest revision thereof, to determine that the ductile iron pipe is structurally safe and free of excess leakage. The pipeline shall be subject to a hydrostatic test of a minimum pressure of 125 psi. Testing shall be done between valved off sections in approximately one thousand foot (1,000') maximum sections of the main. The pressure in the pipeline section shall be raised to a minimum of 125 psi and maintained, within 5 psi, for a minimum of one hour. During this time, the Director of Public Works or his designee shall check the line for leaks. Allowable leakages, in accordance with A.W.W.A. recommendations, shall be:

Pipe Diameter	125 psi	150 psi	175 psi
12"	1.01 GPH	1.10 GPH	1.19 GPH
10"	0.84 GPH	0.92 GPH	0.99 GPH
8"	0.67 GPH	0.74 GPH	0.80 GPH
6"	0.50 GPH	0.55 GPH	0.59 GPH

If leakage is found to exceed this limit, the leak shall be located and repaired at the cost of the contractor. Further testing shall be performed until the test standards are met. Only after a successful completion of the leakage test and a disinfection test, shall the main be put on line and services connected to it.

The disinfection of the water mains shall be done in a manner satisfactory to the CITY of Gardner Health Department and shall be repeated until satisfactory results are obtained. Such tests are to be completed by a Massachusetts Department of Environmental Protection certified laboratory. Certified laboratory reports are to be provided to the CITY Engineer.

Before the water main is placed into operation, it shall be flushed out upon completion, disinfection, and testing.

4. Water Service Specifications

All water service connections shall conform to CITY SPECIFICATIONS of the Director of Public Works.

A curb stop located on the lot owner’s property is required for all water services. A block or flat stone must be placed under the curb stop to secure it in position. Connection to the public water supply shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. any deviation from the prescribed procedures and materials must be approved in writing by the director of public works before installation.

5. Water Meters

All water meters shall conform to CITY SPECIFICATIONS.

7.6 CURBING

Curbing shall be installed along the edge of each ROADWAY in all STREETS as follows:

<u>Type</u>	<u>Zoning District</u>
Vertical Granite	GR, C1, C2, I1, I2, SF RES
Bituminous Concrete	Rural RES

Vertical granite curbing shall be Type VA4 as defined in Section M9.04.1 of the Massachusetts Standard Specifications for Highways and Bridges:

Minimum length:	6 feet
Width at top:	6 inches
Width at bottom:	4 inches (for 2/3 length)
Depth:	17-19 inch minimum

A trench eighteen inches (18”) in width and a depth of six inches (6”) in addition to the depth of the curbstone shall be excavated. The foundation of the curb shall consist of sub-base gravel thoroughly compacted to a depth of at least six inches (6”). The curbing shall then be set in concrete along the front face. All curbs shall be fitted together as closely as possible. The joints between pieces of the granite curbstones shall be grouted with a cement mortar and neatly pointed on the top and front exposed portions. After pointing, the curbstones shall be cleaned of all excess mortar.

The front face of the curbing shall be at right angles to the plane of the top and ends shall be smooth quarry split, free from drill holes and with no projections of more than one inch (1”) and no depressions of more than one-half inch (1/2”) measured from the vertical plane of the face through the arris or pitch line for a downward distance of eight (8) inches from the top. For the remaining distance, there shall be no projection or depression greater than one inch (1”) measured in the same manner. The ends of the curbstones shall be square with the planes of the top and face so that when the curbstones are placed end to end as closely as possible, no space shall show in the joint at the top and face of more than one-half inch (1/2”) for the full width of the top and for eight (8) inches down on the face.

Bituminous concrete curbing shall be Class I, Type I-1 and shall conform to the specification for Type 2 or Type 3 curbing in Section 501 of the Massachusetts Department of Transportation – Highway Division Specifications for Highways and Bridges and shall be eight to nine inches (8” – 9”) wide at the bottom and six inches high.

Curbing that connects to an existing STREET that has no curb or berm, has a different type or shape of curb or berm, or has curb with a lesser reveal, shall have a tapered end piece providing a smooth transition.

Granite curbs, type VA4 as defined in Section M9.04.2 of the Massachusetts Department of Transportation – Highway Division Standard Specifications for Highways and Bridges shall be required as follows: at intersections with existing STREETS and at intersections within the SUBDIVISION for the distance of the arcs of the intersection radii plus a straight section at each end of the arc at least eight feet (8’) in length; surrounding any islands or chokers within the STREET including landscaped islands in loop turnarounds of CUL-DE-SAC STREETS; throughout the T-shape turnaround of a CUL-DE-SAC STREET except for the straight curb line on the right side.

Curb radii at intersections and in turnarounds shall be sufficiently large to allow for the turning of SU-30 design vehicles (typical size of fire engines and school buses).

In order to facilitate the use of natural drainage measures (i.e. swales), the BOARD may waive curbing or berms in places where the road’s design grade is less than three percent (3%).

7.7 **SIDEWALKS**

SIDEWALKS shall be provided on both sides of COLLECTOR STREETS and one side of all other STREETS. On the side of a STREET where no SIDEWALK is constructed the grading and planting of the RIGHT-OF-WAY shall be such that later addition of SIDEWALKS is feasible without major regrading.

SIDEWALKS shall be not less than five feet (5') in width and shall be located so that the back of the SIDEWALK is one foot (1') from the LOT lines.

The SIDEWALK shall have a transverse slope or crown of one-fourth of an inch (1/4") per foot, sloping towards the STREET.

Any soft spots of undesirable material shall be removed and replaced with gravel. The excavated area shall be filled with a minimum of eight inches (8") of gravel and well compacted (i.e., two passes of roller or vibratory compactors).

SIDEWALKS within the GR, C1, C2, and I1 Zoning Districts shall be constructed of Portland Cement Concrete. Forms shall be set to grade, and one four-inch (4") layer of Portland Cement Concrete (3000 p.s.i.) shall be placed on a minimum of eight inches (8") gravel base. The surface shall be broom-finished. The SIDEWALK shall have scored contraction joints every four feet (4').

SIDEWALKS within the SF RES, I2 and Rural RES Zoning Districts shall be constructed of Type I bituminous concrete. Forms shall be set to grade, then a one and a half inch (1 1/2") binder and one and a half inch (1 1/2") surface course of Type I bituminous concrete shall be placed.

SIDEWALKS and curb cuts shall be installed in accordance with the requirements of the Massachusetts Architectural Board (521 CMR) in effect at the time of application.

7.8 **GRASS STRIP**

Grass strips shall be provided on each side of the ROADWAY between the ROADWAY and the SIDEWALK on the side of the STREET. Where no SIDEWALK is to be installed, the grass strip shall extend between the ROADWAY and the STREET sideline. The minimum width shall be as follows:

<u>Major:</u>	5 feet if with SIDEWALK
	10 feet if no SIDEWALK
<u>Minor:</u>	5 feet if with SIDEWALK
	8 feet if no SIDEWALK

The finished grade of such planting strips shall be three-fourth inch per foot (3/4": 1') sloping toward the ROADWAY. Where unusual physical land characteristics or topographical conditions exist, the BOARD may approve the construction of a planting strip at a slope greater than three-

eight inch per foot (3/8":1') provided the finished slope will not project above or below a plane sloped two (2) horizontal to one (1) vertical upward or downward from the edge of the ROADWAY, and provided such variation is indicated on the DEFINITIVE PLAN.

The strip shall have a nine-inch (9") gravel foundation and the top six (6) inches of planting strips shall consist of good quality loam, screened, raked, and rolled with at least a one hundred (100) pound roller to grade. The loam shall be fertilized and seeded with lawn grass seed applied in sufficient quantity to assure adequate coverage, rolled when the loam is moist.

The BOARD may require such banks and all other disturbed areas adjacent to the traveled way to be loamed and seeded. However, it is suggested that consideration be given to the surrounding growth and terrain. Roadsides must be made to blend with the woods or natural surroundings that exist, and plantings in such areas should be chosen accordingly.

The APPLICANT shall be responsible for replacing all dead or diseased plantings for one full year from the time of planting or until STREET acceptance, whichever is longer.

7.9 GUARD RAILS

Guardrails and fences shall be installed as required by the BOARD. The BOARD shall approve guardrail design.

7.10 BOUNDS

Granite or concrete bounds shall be installed on the STREET sideline at all points of curvature where the sideline changes direction, at the sideline and points of intersection of all easements, and at other points where, in the opinion of the BOARD, permanent bounds are necessary. Bounds shall be not less than six inches (6") square and four feet six inches (4'6") long. Iron pipes shall be set at the intersections of LOT lines and STREET RIGHTS-OF-WAY, intersections of LOT lines and conservation EASEMENTS and at all points of change of direction of boundary lines of each LOT in the SUBDIVISION. In no case shall they be spaced any more than one thousand feet (1,000') apart.

No permanent bound shall be installed until all construction which would destroy or disturb the bound is completed. The tops shall be set flush with the finished STREET sideline grade and shall be set in well-tamped binding gravel. The point of each bound shall be marked by a three-eighths inch (3/8") drill hole in the top.

The APPLICANT'S ENGINEER or SURVEYOR shall furnish the BOARD with a letter certifying that bounds and iron pipes have been placed precisely as indicated on the DEFINITIVE PLAN.

7.11 SAFETY

All precautions should be taken by the APPLICANT and his subcontractors to observe common-sense safety requirements.

All construction activities in preparation of the SUBDIVISION shall comply with appropriate OSHA standards.

7.12 CLEANING UP AND RESTORATION OF DAMAGE

Before sale of a LOT, the APPLICANT shall clean up any debris thereon caused by STREET construction and installation of UTILITIES. All areas within the STREET lines damaged, destroyed or altered in construction operations shall be restored to satisfaction and the APPLICANT is responsible for said improvements for a period of one year from the time of the sale.

The applicant shall be responsible for correcting and repairing damage to the satisfaction of the City prior to acceptance of the streets and ways by the City of Gardner.

SECTION 8

ADMINISTRATION

8.0 AUTHORITY

The BOARD shall be the administrative agency of these regulations and shall have all the powers assigned to them by Section 81A to GG of Chapter 41 of the General Laws.

The BOARD may assign as their AGENTS appropriate CITY agencies or officials and may from time to time hire professional assistance to review plans and inspect improvements at the cost of the APPLICANT (See Section 3.9).

8.1 INSPECTION

The CITY Engineer's office and Director of Public Works shall be given at least twenty-four (24) hours' notice of work scheduled in order that inspections may be made at the following stages:

- After excavation and trenching, before placement of UTILITIES for foundation material;
- After placement of water mains and services, before backfilling;
- After placement of drainage structures, before backfilling;
- Foundation gravel to be approved before placement;
- After placing gravel, before placing paving;
- As required for confirmation of extent of completion for release of security verifying:
 - i. Placement of surface pavement
 - ii. SIDEWALKS
 - iii. Curbing
 - iv. STREET signs
 - v. Grading outside traveled way
 - vi. Trees

- vii. Bounds
- viii. Clean-up
- As required to advise on requested departures from approved plans;
- At other specific times deemed necessary by the BOARD.

The APPLICANT shall complete the relevant portions of Form E and submit said form to the Director after each inspection is completed.

Any work which has been 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 BOARD or its AGENT to ensure 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 as shown on the DEFINITIVE PLAN.

The APPLICANT shall provide safe and convenient access to all parts of the SUBDIVISION, for the purposes of inspection by the CITY Engineer, Director of Public Works, representatives of the BOARD, or other CITY departments and boards.

When deemed necessary, the BOARD may require that an independent ENGINEER be hired at cost (See Section 3.9) to the APPLICANT to inspect any and all aspects of a SUBDIVISION. The ENGINEER shall be chosen by mutual consent between the BOARD and the APPLICANT. The CITY Engineer may make arrangements with an ENGINEER or engineering firm to carry out such inspection on behalf of the BOARD.

The APPLICANT may appeal the choice of the CITY'S inspection consultant only upon a claim that the consultant has a conflict of interest or does not meet minimum required qualifications. The appeal shall be made to the Mayor which may act within one month to overturn the BOARD'S selection of the engineering consultant. In the event that no decision is made by the Mayor within twenty (20) days following the filing of an appeal, the BOARD'S decision shall stand. The time within which the BOARD has to act on the original application under Chapters 41 or 40A shall be extended by the time of any appeal regarding selection of the consultant.

The APPLICANT has the responsibility to ensure that the approved construction plans are implemented. The inspection of the work shall not relieve the APPLICANT of any of his obligations to fulfill the requirements of the RULES AND REGULATIONS. Use of qualified persons to furnish adequate and timely engineering supervision during construction is required. Surveillance and field revisions by CITY officials cannot be construed as fulfilling this responsibility.

8.2 SEPARABILITY

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

8.3 *INVALIDATION BY STATE LAW*

Any part of these RULES AND REGULATIONS subsequently invalidated by a new state law or modification of an existing state 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 RULES AND REGULATIONS.

8.4 *AMENDMENTS*

These RULES AND REGULATIONS or any portion thereof may be amended, supplemented or repealed from time to time by the BOARD after a public hearing, on its own motion or by petition.

APPENDIX A

DEVELOPMENT IMPACT STATEMENT

In accordance with Section 5.1 of the City of Gardner's *Subdivision Rules and Regulations*, the APPLICANT shall submit, at the request of the Planning BOARD, a DEVELOPMENT IMPACT STATEMENT (DIS).

It is an APPLICANT'S responsibility to prepare and document the DIS in sufficient detail to permit an adequate evaluation by the Planning BOARD; however, the BOARD may request in writing additional data. It is necessary to respond to all sections of the DIS except when the BOARD grants a written exemption.

The BOARD may waive any section(s) of the requirements when, in their opinion, and upon submission of evidence from the APPLICANT, the requirements are non-applicable to the proposed project.

The entire cost of the DIS shall be the responsibility of the APPLICANT.

Name of Project _____

Date of Submission _____

Location of Project _____

Name(s) of Applicant(s) and Owner(s), if different _____

Address(s) and Telephone Number(s) _____

Name of Individual(s) preparing this DIS _____

Address(s) and Telephone Number(s): _____

Professional Credentials _____

I. PROJECT DESCRIPTION

- A. Describe the project including the number of lots; the number and type of dwelling units (e.g., single family, two family, condominium or apartment); the number of buildings and the number of dwelling units per building, if appropriate; number of bedrooms; number and square footage of buildings and the number of parking spaces if not residential; and approximate price (rent or purchase as appropriate) per dwelling unit or per square foot if not residential.

II. EXISTING BASELINE CONDITIONS

- A. Describe the site's topography, predominate soil types and characteristics (particularly related to drainage), and significant geological features. Indicate approximate percentages of the site covered by various soil types and slopes (e.g., 0 – 10%, 10 – 15% and greater than 15%).
- B. What is the site's total acreage? Give approximate acreage of existing land use(s) including developed areas (identifying separately significant uses such as roads, residential, commercial, and industrial) and undeveloped areas (identifying separately significant uses such as flood plain, forested, wetlands, and water surface).
- C. Is any part of the site located in an area or in close proximity to an area or location that is of special concern or of special interest, e.g., water supply protection district, historic district or site, distinctive rock formation, trees larger than 30 inches in diameter at breast height, vernal pool? If yes, please describe.

III. NATURAL RESOURCES

A. Land

1. Describe the potential and probable impacts of the proposed development on the existing baseline conditions, described in Section II above.
2. Describe any limitations on the proposed project caused by subsurface conditions, and the methods to be used to address those limitations.
3. Describe procedures and findings of percolation tests conducted on the site.
4. Give the approximate acreage of land that will be permanently affected by construction of the proposed project (identifying separately significant uses such as roads, residential, commercial and industrial).
5. Describe proposed rough grading plans and highlight the differences between the existing topography and the rough grading plans.

B. Air

1. Describe possible sources and duration of significant amounts of odors, smoke and dust.
2. Describe precaution to be taken to eliminate or minimize the adverse environmental effects of the smoke, dust or odors generated.
3. Describe the relationship of the location of the proposed project and prevailing wind patterns to nearby residences, businesses, recreation areas, and other public areas.

4. If incineration of any kind is proposed for the proposed project, describe the effects resultant emissions will have on air quality in the area. Include proof that the anticipated incineration will comply with the latest local and state standards.

IV. WATER AND WETLANDS

- A. Evaluate how and to what extent the project will affect any protected resource areas as defined in M.G.L. Chapter 131, Section 40. Document the project's status in regard to compliance with the City's Wetlands Protection Ordinance.
- B. Discuss compliance with Massachusetts DEP Stormwater Management Guidelines and directives.
- C. Evaluate how and to what extent the project will affect the quality and quantity of any existing or potential public or private water supplies, reservoirs and groundwater. This evaluation shall take into account the City's Water Supply Protection District regulations.
- D. Describe the methods to be used during construction to control erosion, sedimentation and siltation including use of sediment basins, mulching, matting, or temporary vegetation; approximate size and location of land to be cleared at any given time and length of time to stabilization; covering of soil stockpiles; and other control methods used. Evaluate effectiveness of proposed methods on the site and the surrounding areas.
- E. Describe the permanent methods to be used to control erosion and sedimentation. Include descriptions of:
 1. Any areas subject to flooding or ponding;
 2. Proposed surface drainage system;
 3. Proposed land grading and permanent vegetation cover;
 4. Methods to be used to protect existing vegetation;
 5. The relationship of the development to the topography;
 6. Any proposed alterations of shorelines, marshes or seasonal wet areas;
 7. Estimated increase of peak runoff caused by altered surface conditions, and methods to be used to return water to the soils.
- F. Discuss proposed compliance with the EPA permit program for sedimentation control as well as the probability that project will increase pollution or turbidity levels within receiving waterway and the precautions to be taken to minimize the effects.
- G. Discuss the project's effect on the waterway's aquatic biota and use as habitats.
- H. Discuss the project's effects on groundwater quality and supply and efforts to recharge groundwater supplies.
- I. Discuss what effect the project will have on increasing the incidence of flooding, including areas outside the subdivision.
- J. Discuss the effect of the proposed sewage disposal methods on surface and groundwater supplies and quality.

V. NOISE

- A. Describe the time, duration and types of noises generated by the project (including traffic generated from the development), both during and after construction.
- B. Discuss what effect these noises will have on both humans and wildlife.
- C. Describe the controls which will be used to eliminate or minimize the effects of these noises.

VI. LOCAL FLORA AND FAUNA

- A. Discuss the project's effects on land-based ecosystems, such as the indigenous wildlife, stream bank cover, and vegetal or wooded growth.
- B. Describe proposed types and amounts of vegetal cover.
- C. Discuss the existence of rare or endangered plant, wildlife or fish species in the project area.

VII. MAN-MADE ENVIRONMENT

A. Land Use

- 1. Describe how the project conforms with the growth plans for the area and the CITY in general.
- 2. Describe the project's compatibility with adjacent or nearby existing land uses, and private development plans, if known, for adjacent or nearby areas.
- 3. Describe any existing or proposed public or common recreational or open areas within the subdivision.
- 4. Discuss the site's proximity to transportation, shopping, educational facilities, recreational facilities, etc.

B. Density

- 1. Provide a tabulation of proposed buildings by type, size (number of bedrooms, floor area), ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, parking and other impervious areas, and usable open space.

C. Zoning

- 1. Indicate the zoning designations for the site and adjacent areas.
- 2. Discuss the need for a variance or special permit, if applicable.

D. Architecture

- 1. Describe the architectural style of the proposed buildings, including the type of materials to be used, the heights of the structures in relation to the surrounding area, and the landscaping techniques to be used.

2. Describe the location of common areas and service facilities (laundry, trash, garbage disposal) and discuss the visual impact of both.
3. Discuss the project's overall visual impact in relation to the surrounding area and possible interference with natural views.

E. Historic Buildings, Historic Sites and Archaeological Sites

1. Indicate location and significance of any historic buildings or sites on or adjacent to the project.

VIII. PUBLIC FACILITIES

A. Water Supply, Flow, Pressure and Distribution

1. Describe the groundwater and/or surface water supply to be used.
2. Identify where the connection(s) to the CITY distribution system is/are proposed, if appropriate.
3. Quantify the demands of the project for consumption and fire protection and describe the impact of such demand on the municipal water supply and distribution system.
4. Analyze the availability of adequate flow and pressure through the municipal water distribution system to the proposed project site.

B. Sanitary Wastewater Connection, Collection and Facilities

1. Identify the quantity and type of wastewater which will be generated by the project.
2. Describe the proposed sewage system and identify where the connection(s) to the CITY collection system is/are proposed.
3. Quantify the average and peak daily flow rates and describe the impact of such disposal on the municipal wastewater collection and treatment system or ground water.

C. Storm Drainage Facilities

1. Describe the proposed on-site storm drainage system and identify where the connection(s) to the CITY system is/are proposed.
2. Provide drainage calculations that prove compliance with Massachusetts DEP Stormwater Management Guidelines for "Best Management Practice".
3. Describe provisions for maintaining those parts of the system that will not become part of the CITY system.

D. Disposition of Stormwater

1. Indicate the location of all proposed outfalls.
2. Describe the effect of the outfalls and their discharge on the receiving waters, i.e., increased flows, pollution, etc.
3. Discuss the quantity of stormwater to be discharged.

E. Refuse Disposal

1. Estimate the quantity and types of refuse that will be generated by the project.
2. Describe the proposed methods of refuse disposal.

F. Traffic Facilities

1. Discuss the expected impact of traffic generated by the proposed development on area roadways. Discussion shall include existing average and peak traffic volumes and composition, projected average and peak traffic generation and composition, intersection impacts and analysis of area roadway and intersection capacities. Methodologies used to make projections shall be included. At a minimum, the analysis should include:
 - a. The existing Level of Service (LOS – see definition below) of relevant road systems including quantitative and qualitative measurements of operational factors including speed, travel delay, freedom to maneuver and safety;
 - b. The expected change in the condition of relevant road systems as a result of the proposed development;
 - c. The comparison on a per acre basis of the total vehicular traffic generation from the proposed development with:
 - i. The existing and potential vehicular traffic generation from all other developments accessing relevant road systems; and
 - ii. The vehicular traffic generation which would be expected to produce a LOS below LOS “C”.
 - d. In determining the impact of vehicular traffic generation from a development, the following standards and definitions shall be used (unless the APPLICANT demonstrates to the BOARD that given the nature of the proposed project or applicable road systems, other standards are appropriate):
 - i. Trip generation rates for land uses as listed in the most recent update of Trip Generations, Institute of Transportation Engineers, Washington D.C.
 - ii. Levels of Service (LOS) as used by traffic engineers to define the various operating conditions that occur on a roadway or intersection when accommodating various traffic volumes. Although LOS is a qualitative measure of traffic flow, it is an acceptable measurement for determining overall impact of development on roadway networks. LOS “A” is associated with relatively free-flow and average overall traffic speed in excess of thirty (30) miles per hour. LOS “B” represents stable flow with minor delays and speeds of 25 miles per hour or greater. LOS “C” corresponds to the design capacity of a road system and indicates stable flow with delays, and speeds of 20 miles per hour or more. LOS “D”, “E” and “F” correspond to decreasing abilities to travel greater than 15 miles per hour and correspond to the over-capacity of the road system.
2. Describe the proposed pedestrian circulation pattern.
3. Discuss the location and number of parking spaces proposed.

G. Electric Power and Gas

1. Discuss the source of the electric power and the method of supplying the project.
2. Discuss the source of natural gas, if available, and the method of supplying the project

IX. COMMUNITY SERVICES

A. Schools

1. Discuss the effect of the project on the school system, including number and ages of children generated by the project.
2. Describe the location of the schools to be effected and the capacity of those schools to accommodate the additional children generated by the project.
3. Discuss the effect that the additional children generated by the project will have on school bus routing or the need for additional bus routes.

B. Recreation

1. Describe existing recreational facilities in the area of the proposed project including active and passive types and identify the age groups participating; the general condition of the facilities; and the current level of use. Also state whether those recreational facilities, parks and open spaces are available to all residents.
2. Describe recreational facilities to be provided by the proposed development including active and passive types and identify the age groups that will likely use the new facilities. State any expected use limitations, e.g., hours of operation, and whether the facilities will be available to everyone or just residents of the project.
3. Indicate location and width of existing and proposed sidewalks, bike paths and other pedestrian ways on site and in adjacent areas.

C. Police

1. Describe the expected impact on police services, time and manpower needed to protect the proposed development and service improvements necessitated by the proposed development.

D. Fire

1. Describe the expected impact on fire services and service improvements necessitated by the proposed development.
2. Describe on-site fire fighting capabilities; on-site alarm or other warning devices; fire-flow water needs, and the source and delivery system proposed to meet those needs.

E. Public Works

1. Calculate the total linear feet of roadway to be publicly maintained and plowed.
2. Calculate the linear feet of street drains, culverts, sanitary sewers, and waterlines to be publicly maintained.
3. Analyze projected need, responsibility and costs to the CITY of roadway and utility maintenance.

X. HUMAN CONSIDERATIONS

A. Aesthetics and Visual Impact

1. Discuss the likely change in the present character of the area due to the project, i.e., land use, density of development, etc.
2. Discuss the measures to be taken to minimize any adverse effects of the project, i.e., architecture, buffers, etc.
3. Describe the type, design, location, function and intensity of all exterior lighting facilities. Attention given to safety, privacy, security, and daytime and nighttime

appearance shall be detailed.

B. Parks, Forests and Recreational Areas

1. Discuss how the location and construction of the project will affect existing and potential park and recreation areas, open spaces, natural areas, and scenic vistas.

C. Public Health

1. Discuss the project's effects on residents' public health due to changes in water quality, air quality, noise levels, etc.

2.

APPENDIX B

FORMS

Form A	Application for Endorsement of Plan Believed Not to Require Approval
Form B	Application for Approval of Preliminary Plan
Form C	Application for Approval of Definitive Plan
Form D	Definitive Plan Record of Board Actions
Form E	Notification of Inspections
Form F	Subdivision Plan Available for Review
Form G	Notice of Subdivision Approval or Disapproval
Form H	Restrictive Covenant
Form I	Subdivision Performance Agreement Secured by Surety Bond
Form J-1	Request for Release of Performance Guarantees or Conditions
Form J-2	Certificate of Release of Covenant
Form K	Certified List of Abutters
Form L	Surveyor's Certificate
Form M	Intent to Dedicate Public Areas

FORM A

APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL

INSTRUCTIONS:

**Submit application to Department of Community Development and Planning.
Submit copy of application and fee (see Fee Schedule) to the City Clerk (hand delivery or certified mail).
See Section 4 of the Rules and Regulations Governing the Subdivision of Land.**

TO: Gardner Planning Board
115 Pleasant Street, Room 201
Gardner, MA 01440

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

1. Name of Applicant _____
Address _____
Telephone Number _____
2. Deed Reference: Book _____ Page _____
Certificate of Title: _____
3. Location and Description of Property (include acreage and number of lots)

4. Board of Appeals decisions pertaining to land or buildings, if any _____

5. Reason(s) plan does not constitute a subdivision _____

Signature of Applicant

Signature of Owner, if different

Date of Submission

Owner's Address

This information is to be filled in by the Department of Community Development and Planning, however, the applicant may find the checklist useful for plan preparation.

OFFICE USE ONLY

ANR Submission Requirements:

Date Plan Filed: _____ Decision Deadline: _____

- _____ Original of Plan (Mylar)
- _____ Two Prints of Plan
- _____ Form A (original and one copy)
- _____ Copy of Form A and Submission Fee to City Clerk
- _____ Digital Copy of Plan
- _____ Plan Title
- _____ Date
- _____ North Arrow
- _____ Scale (1" = 40')
- _____ Locus Plan (1" = 2000')
- _____ Record Owner
- _____ Engineer and/or Surveyor Stamp and Signature
- _____ Abutters to Property
- _____ Zoning Classification and Boundaries
- _____ Notice of Zoning Board of Appeals Decision(s)
- _____ Assessor's Reference
- _____ Name and Condition of Way Providing Frontage
- _____ Location, Direction and Length of Ways Abutting Property
- _____ Existing and Proposed Boundary Lines
- _____ Permanent Monuments
- _____ Wetlands and Floodplain Location or Note
- _____ Location of Existing Buildings with Setbacks
- _____ Parcels Labeled "Not a Building Lot"
- _____ Statement that "No Determination as to Compliance with Zoning Requirements has Been Made or Intended."
- _____ Signature Block

- \$_____ Submission Fee

_____ PLAN ACCEPTED _____ PLAN REJECTED (Circle missing items)

Planning Board Meeting Date: _____

_____ PLAN ENDORSED _____ PLAN NOT ENDORSED (State reasons)

COMMENTS:

FORM B

APPLICATION FOR APPROVAL OF PRELIMINARY PLAN

INSTRUCTIONS:

Submit application to Department of Community Development and Planning.

Submit copy of application and fee (see Fee Schedule) to the City Clerk (hand delivery or certified mail).

See Section 5.2 of the Rules and Regulations Governing the Subdivision of Land.

TO: Gardner Planning Board
115 Pleasant Street, Room 201
Gardner, MA 01440

The undersigned herewith submits the accompanying Preliminary Plan of property located in the City of Gardner for approval as a subdivision under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the City of Gardner.

1. Name of Proposed Subdivision _____

2. Name of Applicant _____

Address _____

Telephone Number _____

3. Name of Engineer _____

Address _____

4. Name of Surveyor _____

Address _____

5. Deed of property recorded in _____

Book _____ Page _____

6. Location and Description of Property (include acreage and number of lots)

Signature of Applicant

Signature of Owner, if different

Date of Submission

Owner's Address

This information is to be filled in by the Department of Community Development and Planning, however the applicant may find the checklist useful for plan preparation.

OFFICE USE ONLY

Preliminary Plan Submission Requirements:

Date Plan Filed: _____ Decision Deadline: _____

- _____ 10 Prints of Plan
- _____ Form B (original and 3 copies)
- _____ Form K – Certified List of Abutters
- _____ Copy of Application and Submission Fee to City Clerk
- _____ Technical Review Fee to Department of Community Development and Planning
- _____ Title Block, North Point, Legend
- _____ Scale (no less than 1" = 10' or greater than 1" = 100')
- _____ Abutters to Property
- _____ Index Plan (1" = 400')
- _____ Locus Plan (1" = 1000')
- _____ Zoning Districts
- _____ Streets, Ways, Easements, & Public Areas
- _____ Streets Within 500' of Subdivision Street(s)
- _____ Existing and Proposed Street Names
- _____ Drainage System
- _____ Sewer and Water Distribution System
- _____ Lot Boundary Lines, Areas and Dimensions
- _____ Topography at 10' Contour Intervals
- _____ Major Site Features
- _____ Sketch Plan of Applicant's Contiguous, Unsubdivided Land (if any)
- _____ Digital Set of Plans

\$ _____ Submission Fee \$ _____ Technical Review Fee

_____ PLAN ACCEPTED _____ PLAN REJECTED (Circle missing items)

Public Meeting Date: _____

_____ PLAN APPROVED _____ PLAN DENIED (State reasons)

Decision Date: _____

COMMENTS:

FORM C

APPLICATION FOR APPROVAL OF DEFINITIVE PLAN

INSTRUCTIONS:

**Submit application to the Department of Community Development and Planning.
Submit copy of application and fee (see Fee Schedule) to the City Clerk (hand delivery or certified mail).
See Section 5.3 of the Rules and Regulations Governing the Subdivision of Land.**

TO: Gardner Planning Board
115 Pleasant Street, Room 201
Gardner, MA 01440

The undersigned herewith submits the accompanying Definitive Plan of property located in the City of Gardner for approval as a subdivision under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the City of Gardner.

1. Name of Proposed Subdivision _____

2. Name of Applicant _____

Address _____

Telephone Number _____

3. Name of Engineer _____

Address _____

4. Name of Surveyor _____

Address _____

5. Deed of property recorded in _____

Book _____ Page _____

6. Location and Description of Property (include acreage and number of lots)

Signature of Applicant

Signature of Owner, if different

Date of Submission

Owner's Address

This information is to be filled in by the Department of Community Development and Planning, however, the applicant may find the checklist useful for plan preparation.

OFFICE USE ONLY

Definitive Plan Submission Requirements:

- _____ 10 Prints of Plan
- _____ Form C (original and 3 copies)
- _____ Form K – Certified List of Abutters
- _____ Form L – Designer’s Certificate
- _____ Development Impact Statement (10 copies, if required)
- _____ Drainage Calculations
- _____ Results of Percolation Tests (if applicable)
- _____ Letter Documenting Authorizing Vote of Appropriate Entity (if applicable)
- _____ Copy of Deed
- _____ List of Mortgage Holders
- _____ Copy of Application and Submission Fee to City Clerk
- _____ Technical Review Fee to Department of Community Development and Planning
- _____ Scale (1” = 40’ horizontal, 1” = 8’ vertical)
- _____ Title Block (lower right corner)
- _____ Index Plan (1” = 400’)
- _____ Locus Plan (1” = 1000’)
- _____ Plot Plan
- _____ Site Plan
- _____ Street Plan
- _____ Sewer Plan
- _____ Water Plan
- _____ Landscape Plan
- _____ Digital Set of of Plans and Supporting Exhibits
- _____ Erosion & Sediment Control Plan
- _____ Planning Board Signature Area (lower left corner)

\$ _____ Submission Fee \$ _____ Technical Review Fee

_____ PLAN ACCEPTED _____ PLAN REJECTED (Circle missing items)

Public Hearing Date: _____

_____ PLAN APPROVED _____ PLAN DENIED (State reasons)

COMMENTS:

FORM D

DEFINITIVE PLAN
CERTIFICATE OF ACTION
(to be recorded with Definitive Plan)

Date Definitive Plan Filed: _____

Preliminary Plan Filed (Circle One): YES / NO

Decision Deadline: _____

<u>Referred to</u>	<u>Date Sent</u>	<u>Date Comments Received</u>
City Engineer	_____	_____
Conservation Commission	_____	_____
Board of Health	_____	_____
Department of Public Works	_____	_____
Police Department	_____	_____
Fire Department	_____	_____
Tree Warden	_____	_____

=====

TO BE COMPLETED AS DATES ARE SET/ACTIONS TAKEN

Date of Development Review Committee Meeting _____

Date of Next Planning Board Meeting _____

Date of Public Hearing (s) _____

Date of Board Approval or Denial _____

Date of Letter to City Clerk _____

Date of Planning Board Endorsement _____

Date of Recording at Registry of Deeds _____

Plan Book _____ Page _____

COMMENTS: _____

FORM E

NOTIFICATION OF INSPECTIONS

INSTRUCTIONS:

1. The City Engineer's Office, Department of Public Works and the Planning Board's Agent, if an Agent has been designated, shall be notified at least 24 hours prior to each inspection.
2. The City Engineer's Office and Department of Public Works reserve the right for further time if needed for extra consultation and/or information to be supplied by the Applicant or the Board's Agent.
3. All reasonable costs incurred for these inspections shall be paid by the Applicant.
4. It is the responsibility of the Applicant to ensure that the Department of Community Development and Planning has an updated copy of this form after each inspection.

Name of Subdivision _____

Name of Applicant _____

Name of Street _____

Inspection from Station _____ to Station _____ or

Location Description _____

<i>Subject</i>	<i>Signature of Inspector</i>	<i>Date of Inspection</i>
1. Clearing & Grubbing of ROW	_____	_____
2. Clearing & Grubbing of Lots	_____	_____
3. Sub-grade & Sub-base in ROW	_____	_____
4. Drainage (below grade installation)	_____	_____
5. Detention Basins	_____	_____
6. Water Installation	_____	_____
7. Sewer Installation	_____	_____
8. Pump Stations	_____	_____
9. Rough Grading of Lots	_____	_____
10. Binder Course Installation	_____	_____
11. Curb Installation	_____	_____
12. Sidewalk Installation	_____	_____
13. Finish Course Installation	_____	_____
14. Street Trees and Plantings	_____	_____

- 15. Loam & Seed _____
- 16. Street Light Installation _____
- 17. Street Signs & Line Painting _____
- 18. Monuments – Street Bounds
& Lot Corners _____
- 19. Final Clean-up _____
- 20. Other _____
- 22. As-Builts, Street Acceptance Plan
& Easements _____

COMMENTS: _____

Signature of Person Submitting Form _____

Date of Submission _____

Telephone Number _____

FORM F

SUBDIVISION PLAN AVAILABLE FOR REVIEW

TO: Mayor
City Council, c/o City Clerk
Fire Chief
Deputy Police Chief
City Engineer (1 copy of plan attached)
Director of Public Health (1 copy of plan attached)
Director of Public Works (3 copies of plan attached)
Building Commissioner (1 copy of plan attached)
Conservation Agent (1 copy of plan attached)

FROM: Planning Board

DATE: _____

Name of Subdivision:

A Preliminary/Definitive (cross out one) plan for the above named subdivision has been submitted to the Planning Board for review and approval.

A brief description of the subdivision and its location are set out below:

The Planning Board would be pleased to consider any appropriate comments you might have on the proposal.
If you did not receive a copy of the subdivision plan, a copy is available for review in the Department of Community Development and Planning. Arrangements can also be made for the Applicant to provide additional copies of the plan. A digital copy of the Plan and Supporting Exhibits is available from the Department of Community Development and Planning upon request.

Submit your comments to the Director of Community Development and Planning before _____.

COMMENTS:

Submitted by: _____ Date: _____
(Attach additional pages if necessary or send comments to tbeauregard@gardner-ma.gov)

FORM G

NOTICE OF SUBDIVISION CERTIFICATE OF ACTION

TO: City Clerk

The Planning Board on _____ by a vote of _____

(Circle action taken)

DISAPPROVED

APPROVED

APPROVED WITH CONDITIONS (listed on Certificate of Action)

MODIFIED AND APPROVED

the definitive subdivision plan named _____

Plan Dates (include modification/revision dates): _____

Applicant's Name _____

Applicant's Address _____

Engineer's Name _____

Engineer's Address _____

Planning Board

Chairman _____

Member _____

Member _____

Member _____

Member _____

Director _____

If notified by the City Clerk that twenty (20) days has elapsed without appeal, the Planning Board shall endorse the Mylar and notify the applicant.

cc:	Applicant	City Engineer
	Director of Public Health	Building Commissioner
	Conservation Agent	Director of Public Works
	Fire Chief	Deputy Police Chief

FORM H

RESTRICTIVE COVENANT

In consideration of the Gardner Planning Board approving a plan of land located in Gardner, Worcester County, Massachusetts entitled _____, dated _____ and last revised _____, without requiring a performance bond, the undersigned covenant and agrees with the City of Gardner as follows:

1. The undersigned represents and covenants that the undersigned is the owner* in fee simple of all the land included in the subdivision and that there are no mortgages of record or otherwise on any of said land, except for those described below and subordinated to this covenant, and that the present holders of said mortgages have assented to this covenant prior to its execution by the undersigned.
2. Except as otherwise expressly provided in Section 81-U of Chapter 41, M.G.L., no lot included in such plan shall be built upon or conveyed until work on the ground necessary to serve such lot has been completed, or a performance bond or other security in lieu of completion has been accepted by this Planning Board; and in accordance with the covenants, conditions, agreements, terms and provisions contained in the following:
 - a. The Subdivision Control Law and the Rules And Regulations Governing The Subdivision Of Land, Gardner, Massachusetts, adopted by the Planning Board.
 - b. The Certificate of Approval and the conditions of approval specified therein, issued by the Planning Board, dated _____.
 - c. The Definitive Plan as approved and as qualified by the Certified of Approval.
 - d. Other document(s), namely:

3. The undersigned will expeditiously and diligently proceed to construct the ways shown on the aforesaid plan and in the event that the Board concludes, in its sole discretion, that the undersigned is not so constructing such ways, the undersigned shall provide additional security other than this covenant sufficient in the Board's opinion for the construction and completion of such ways and services as shown on the aforesaid plan or for a portion thereof. Such additional securities shall comply with the requirements of the City's Subdivision Rules and Regulations, provided, however, that the Board shall determine the date by which the work, for which additional security must be posted, shall be completed.
4. This covenant shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned and shall constitute an agreement running with the land.
5. It is understood and agreed that lots within the subdivision shall, respectively, be released from the foregoing conditions upon the recording of a certificate of release executed by a majority of said Planning Board and enumerating the specific lots to be so released.
6. Nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board.

* If there is more than one owner, all must sign.

7. 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 or convey any lot, subject only to that portion of this covenant which provides that no lot be sold or conveyed or built upon until ways and services have been provided to serve such lot or surety has been posted in an amount determined to be sufficient by the Planning Board to secure the completion of work for the way and services for such lot and the Planning Board has executed a partial release from the provisions of this Restrictive Covenant for such lots.
8. This covenant shall be executed before endorsement of the approval of the definitive plan by the Planning Board and shall take effect upon such endorsement.
9. The undersigned agrees to record this covenant with the Worcester County Registry of Deeds, forthwith. Reference to this covenant shall be entered upon the definitive subdivision plan as approved.
10. Upon final completion of the construction of ways and installation of municipal services as specified herein, on or before (enter date) _____, or the posting of surety in an amount determined by the Planning Board to be sufficient, the Planning Board shall release this covenant for all or some of the lots by an appropriate instrument, duly acknowledged. Failure to complete construction and installation within the time specified herein or such later date as may be approved by the Planning Board, shall constitute reason for rescission by the Board of the approval of the Plan.

IN WITNESS WHEREOF, the undersigned, applicant as aforesaid, does hereunto set his hand and seal this _____ day of _____, 20__.

Owner(s)/Applicant(s)

Description of Mortgages: _____

(Give complete names and Registry of Deeds reference.)

Assent of Mortgagees

COMMONWEALTH OF MASSACHUSETTS

Worcester ss _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identity, which was/were _____, to be the person whose name is signed on the preceding or attached document, and acknowledge to me that (he) (she) signed it voluntarily and for its stated purpose.

Notary Public
My commission expires: _____

Approved and accepted by the Gardner Planning Board:

_____ Date: _____

- Original: Registry of Deeds or Land Court
- Copy to: Applicant/Owner
- Planning Board
- City Clerk
- Registry of Deeds or Land Court
- Building Commissioner
- City Engineer

FORM I

SUBDIVISION PERFORMANCE AGREEMENT SECURED BY SURETY BOND AND RELEASE OF COVENANT Name of Subdivision

AGREEMENT made this ____ day of _____, 2023 between _____, (the “Developer”), and the **City of Gardner**, a municipal corporation duly organized by law, acting by and through its duly authorized Planning Board (the “City” or sometimes herein, the “Planning Board”).

WITNESSETH

WHEREAS, on May 5, 2021, the Planning Board approved a Definitive Subdivision Plan entitled “_____ (Assessor’s Parcel _____); Date _____: Applicant: _____: Record Owner: _____: Land Surveyor/Site Civil Engineer: _____” said plan being comprised of multiple sheets recorded at Worcester North District Registry of Deeds as Plan No. ____ of ____ (the “Plan”);

WHEREAS, the Planning Board endorsed the Plan pursuant to the Developer executing and delivering a covenant, in accordance with M.G.L. Chapter 41, Section 81U, which was recorded at the Registry on _____ in Book _____ Page _____ (the “Covenant”);

WHEREAS, the Developer seeks, in accordance with the provisions of M.G.L. Chapter 41, Section 81U, to vary the method of securing its performance of the construction of ways and the installation of municipal services (the “Work”) to serve lots numbered _____, as shown on the Plan; and

WHEREAS, the Developer requested that the Planning Board release lots numbered _____ as shown on the Plan, from provisions of the Covenant.

NOW THEREFORE, in consideration of the promises exchanged herein and other adequate consideration, the sufficiency of which is hereby acknowledged, it is hereby mutually agreed as follows:

1. To secure the Developer’s completion of the Work, the Developer is held and firmly bound unto the City in the sum of _____ (\$_____._____._____.), for which payment, well and truly made, the Developer binds itself, its heirs, executors and administrators, successors and assigns, jointly and severally by these presents in the form of a Performance Bond, Number _____, dated _____ (the “Security”), issued by _____, with a principal place of business at _____, and licensed to act as a surety in Massachusetts (the “Surety”).

2. The Security shall be renewed or replaced prior to expiration with either a renewal of the then current Security or with a replacement Security, satisfying the requirements of this Agreement, in either case extending the expiration of the Security for at least twelve (12) months. At least sixty (60) days prior to the expiration of the then-current Security, the Developer shall notify the City in writing of its intention to deliver an original renewal or a replacement Security. The Developer shall deliver an original renewal or a replacement Security to the City at least thirty (30) days prior to expiration of the then current Security. If a satisfactory renewal or replacement Security has not been delivered to the City at least thirty (30) days prior to the expiration of the then current Security, the City shall be entitled to draw on the then existing Security and shall hold the funds in escrow until such time as a replacement Security has been provided to the City.

3. The Developer shall complete the Work in accordance with the covenants, conditions, agreements, terms and provisions contained in the following:

- a) The Definitive Plan as qualified and conditioned by: (i) the Definitive Plan Approval issued by the City of Gardner Planning Board and dated _____ and recorded with the said Registry of Deeds in Book _____, Page _____ (the “Approval”);
- b) The terms and conditions set forth in the Open Space Residential Development Special Permit issued by the Planning Board dated of _____ and recorded with said Registry of Deeds in Book _____, Page _____ (the “Special Permit”) a (if applicable);
- c) The Plan as qualified by the Approval and the Special Permit (if applicable); and
- d) The Subdivision Control Law and the Planning Board’s Subdivision Rules and Regulations.

4. This Agreement shall remain in full force and effect until the Developer has fully and satisfactorily performed all obligations under the terms of this Agreement and any amendments hereto, or until the City completes the Work pursuant to Section 9, hereunder.

5. The Developer shall complete the Work on or before _____ (the “Completion Date”), which may be extended by an amendment to this Agreement.

6. At least sixty (60) days before the Completion Date, or any duly authorized extension thereof, the Developer shall provide written notice to the Planning Board as to whether the Work will be completed as scheduled. If the Developer anticipates that the Work will not be completed on time, then the Developer may formally request an extension of the Completion Date. Upon the Developer first supplying an extension of the Security, the Planning Board may authorize an extension of the Completion Date, reflecting a time extension equal to the extension of the Security.

7. Upon receipt of a written request from the Developer, the Planning Board may vote to authorize a reduction in the amount of Security. The Planning Board’s approval shall be based upon inspection of the property by a duly authorized employee or agent of the City. Notwithstanding any reduction in the amount of the Security, the Planning Board reserves the right to require corrective work at any time from the Developer, until the Work secured hereunder has been fully completed by the Developer.

8. Should the Developer fail to perform the Work and bring it to completion in a continuous and expeditious a manner, the Planning Board may declare the Developer in default of its obligations hereunder and the Planning Board shall make a demand upon the Developer to cure such default. If the Developer fails to cure the default, the City may proceed to recover the Security pursuant to the terms and procedures in Section 9, hereunder.

9. In the event the Developer (i) abandons the Work; (ii) fails to prosecute the work in a continuous and expeditious manner, (iii) fails to complete the Work in accordance with the Approval; or (iv) fails to complete the Work by the Completion Date set forth therein, the Planning Board may vote to declare the Developer in default of this Agreement and authorize a claim on the Security to complete the Work. Upon receipt of funds from a claim upon the Security, the City shall apply the funds received to the completion of the Work. Upon completion of the Work by the City, any unused portion of the Security shall be released by the City and returned to the Developer.

10. The City shall have recourse to the Security notwithstanding any transfer in title or foreclosure, assignment, bankruptcy, or imposition of lien by or against the Developer.

11. Upon the satisfactory completion of the Work by the Developer, the Developer shall send by registered mail to the City Clerk and the Planning Board a written statement that the Work has been completed in accordance herewith. Such statement shall contain the address of the Developer. If the Planning Board

determines that the Work has been completed, it shall release the City's interest in the Security by an appropriate amendment hereto (which may be recorded). If the Planning Board determines that said Work has not been completed, it shall specify in a notice sent by registered mail to the Developer and to the City Clerk the details wherein said construction or installation fails to comply herewith. If the Planning Board fails to provide such notice within forty-five (45) days after receipt by the City Clerk of the statement from the Developer that the Work has been completed, the Developer may seek a certificate from the City Clerk that this Agreement has terminated by operation of law, pursuant to M.G.L. Chapter 41, Section 81U.

12. The City shall have no responsibility, duty, obligation, or liability to complete the Work for the benefit of the Developer, the Surety, or any other party. The obligations of the parties hereunder are to be construed consistent with the provision of the Subdivision Control Law and no rights granted thereunder are waived.

13. This Agreement may be amended only upon a written amendment duly executed by the parties hereto. Such amendments shall not otherwise affect any other substantive terms of the Agreement, which shall remain in full force and effect until the recording of a final amendment releasing the City's interest and certifying the Developer's completion of all required work hereunder.

Any amendments to this Performance Bond shall not take effect unless agreed upon in writing by all parties to this Agreement.

IN WITNESS WHEREOF, this instrument has been executed by the duly authorized representatives of the Applicant, Insurance Company and Planning Board.

Signed, sealed and dated: _____, 20__.

Signature for Applicant

Signature for Insurance Company

Signature for Planning Board

Attachment
s: Performance Bond
Power of Attorney for Person Signing on Behalf of Insurance Company
License of Insurance Company to Operate in the Commonwealth of
Massachusetts Construction Schedule

FORM J-1

REQUEST FOR RELEASE OF PERFORMANCE GUARANTEES OR CONDITIONS

TO: Director of Public
Works City Engineer
Fire Chief

FROM: Planning Board

NAME OF SUBDIVISION: _____

DATE OF DEFINITIVE PLAN: _____

SUBMITTED BY: _____

ADDRESS: _____

Attached is a letter requesting release of performance guarantees or conditions of approval on the above named subdivision based on completion of improvements as specified in the Planning Board's Rules and Regulations. Please indicate your approval or disapproval of the requested release **insofar as the requirements of your department** are concerned. If release of conditions is limited to specific lots, please specify for which lot(s) you are approving release.

DIRECTOR OF COMMUNITY DEVELOPMENT & PLANNING _____
DATE

.....(do not detach)

TO: Planning Board

FROM: _____

DATE: _____

Insofar as the requirements of this department are concerned, the requested release of performance guarantees and/or conditions for the above-named subdivision is (Circle one):

APPROVED

DISAPPROVED

If your approval is limited to specific lots, please specify which lots _____

If disapproved, please state reason(s) here or attach your comments: _____

FORM J-2

CERTIFICATE OF RELEASE OF RESTRICTIVE COVENANT

WHEREAS the Gardner Planning Board approved on _____ a certain subdivision plan, hereinafter described, subject to the provisions of a Restrictive Covenant executed by _____, dated _____, and recorded in Worcester County Registry of Deeds in Book _____, Page _____ (or registered in Worcester Land Registry as Document No. _____ and noted on Certificate of Title No. _____ in Book _____, Page _____); and

WHEREAS said subdivision plan is entitled _____, dated _____, and is recorded in Worcester County Registry of Deeds in Plan Book _____, Page _____; and

WHEREAS said applicant has completed the construction and installation of ways, utilities and other improvements to lots shown on said subdivision plan to the satisfaction of the Gardner Planning Board or has provide a performance guarantee acceptable to the Gardner Planning Board to secure completion of the construction and installation of ways, utilities and other improvements;

NOW, THEREFORE, the Gardner Planning Board, acting on behalf of the City of Gardner, hereby releases the below designated lots shown on said subdivision plan from the provisions of the aforesaid Restrictive Covenant.

Lots designated and released hereunder: _____

Nothing herein contained shall in any manner affect the application of the provisions of said Restrictive Covenant to all other lots in said subdivision not listed above and shown on said subdivision plan and said provisions are hereby expressly reserved and maintained in full force and effect as to all said other lots.

IN WITNESS WHEREOF, this instrument has been executed in the name and on behalf of the City of Gardner by its Planning Board this _____ day of _____, 20____

Being a majority of the Planning Board

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss. _____, 20____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identity, which was/were _____, to be the person whose name is signed on the preceding or attached document, and acknowledge to me that (he) (she) signed it voluntarily and for its stated purpose.

Notary Public
My commission expires: _____

ORIGINAL: APPLICANT FOR RECORDING IN REGISTRY OF DEEDS

**Copy: City Engineer
Building Commissioner
Public Works Director
Director, DCDP**

FORM L

SURVEYOR'S CERTIFICATE

I hereby certify that the accompanying plan entitled _____
_____ and dated _____ is correct, stating that the perimeter traverse of the subdivision before adjustment was closed to an accuracy of a ratio "error of closure" not to exceed 1:12,000; that it is a subdivision of (part or all of) the lands conveyed from _____ to _____ by a deed dated _____, and recorded in Worcester County Registry of Deeds, Book _____, Page _____; and that monuments shall be set as indicated on the Plan.

Furthermore, I certify that this survey was made on the ground in accordance with the "Procedural and Technical Standards for the Practice of Land Surveying", Section 250 CMR 5.0 between _____ and _____.
(date) (date)

(Seal)

Signature of Surveyor

Date

Address

Registration Number

FORM M

INTENT TO DEDICATE PUBLIC AREAS

The undersigned owners of the land described herein do hereby adopt the Definitive Plan entitled, _____, and do hereby agree to dedicate the streets, ways, parks and reserved areas as shown thereon to public use. And the undersigned hereby for themselves and their heirs, representatives, successors and assigns, release the City of Gardner of and from all claims for damages in case said reserved areas are ever taken for municipal use and agree upon request of said City of Gardner to execute and deliver any document necessary to establish said reserved areas as public lands.

There are no claims against said property upon which any suits have been brought, leases, liens, contract claims, encumbrances or trusts known to the undersigned affecting said property shown in Plan (except as follows):

This instrument is intended to be a sealed instrument. Any persons known to the undersigned as interested in said property, other than the undersigned, have indicated their assent to said Plan of Subdivision in this dedication.

IN WITNESS WHEREOF, we have hereto set out hand(s) and seal(s) (or, if a corporation) a corporation duly organized under the _____ of _____ has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by _____ its _____ hereto duly authorized _____ this _____ day of _____, 20 .

OWNER:

If individual owner:

PLANNING BOARD SPECIAL PERMITS WITH FEE SCHEDULE

- o **MARK THE CIRCLE IF PERMIT REQUIRED**

SPECIAL PERMITS	
------------------------	--

- | | |
|---|---|
| o Water Supply Protection Overlay District | <u>\$750</u> |
| o Smart Growth Planned Unit Development | <u>\$750</u> plus <u>\$50</u> /dwelling unit and <u>0.25</u> /SF for non-residential |
| o Flood Plain | <u>\$750</u> (<i>Sheds not necessary to Flood Plain uses</i>) |
| o Infill Development | <u>\$750</u> |
| o Open Space Residential Development | <u>\$750</u> plus <u>\$50</u> /lot |
| o Development Overlay District I (<i>some cases</i>) | <u>\$750</u> plus <u>\$50</u> per dwelling unit and <u>.25</u> per square foot of gross floor area of non- residential buildings |
| o Marijuana Establishments | <u>\$750</u> plus <u>.25</u> per square foot of building space
<i>For Retail</i>
<u>\$750</u> plus <u>.15</u> per square foot of building space
<i>For any another Marijuana Establishment</i> |
| o Senior Residential Development | <u>\$750</u> plus <u>\$50</u> /dwelling unit and <u>0.25</u> /SF for non-residential |
| o Accessory Uses to Assisted Living Residents or Continuing Care Retirement Community | <u>\$750</u> plus <u>.25</u> per square foot of gross floor area |

SITE PLAN REVIEW	
-------------------------	--

- | | |
|---|--|
| o Preliminary Site Plan | <u>\$500</u> |
| o Definitive Site Plan | <u>\$750</u> plus <u>\$50</u> /dwelling unit and <u>\$0.25</u> /SF for non-residential |
| o Large Scale Ground-Mounted Solar Voltaic Installation | <u>\$750</u> flat fee plus <u>\$50</u> each acre used for the solar array |

Application forms and instructions for Special Permits and Site Plan Review under the Planning Board’s jurisdiction are available on the City’s website: www.gardner-ma.gov under Planning Board “Forms and Applications”.

Note: The cost of publishing required for public notices IS included in the Planning Board fee schedules.

PLANNING BOARD SUBDIVISION FEE SCHEDULE

Type of Plan	Necessary Forms or Fee	\$ Amount	Description
ANR's	Form "A"	\$75 (no new lot) \$75 plus \$75 per lot	non refundable
Preliminary Plan (for Subdivision)	Form "B" Checklist	\$250 plus \$0.75/ft. of roadway	non refundable
	Review Fee	\$1,500 plus \$0.75/ft. of roadway	refundable
Definitive Plan – where Preliminary Plan WAS filed (for Subdivision)	Form "C" Checklist	\$500 plus \$3.00/ft. of roadway	non refundable
	Review Fee	\$2,500 plus \$3.00/ft. of roadway	refundable
	Inspection Fee	\$4.50/ft. of roadway	refundable
Definitive Plan – where Preliminary Plan was NOT filed (for Subdivision)	Form "C" Checklist	\$1,000 plus \$4.50/ft. of roadway	non refundable
	Review Fee	\$3,500 plus \$4.50/ft. of roadway	refundable
	Inspection Fee	\$4.50/ft. of roadway	refundable

ZONING BOARD OF APPEAL PERMITS AND FEE SCHEDULE

- Special Permits \$350
- Variance, Finding or Appeal \$350

All application forms and instructions are available on the City's website: www.gardner-ma.gov. Under Zoning Board of Appeals.

CONSERVATION COMMISSION PERMITS AND FEE SCHEDULE

Filings, Requests, and Applications under the Wetlands Protection Ordinance:

- Request for Determination of Applicability (RDA) \$50 Fee
- Request for Certificate of Compliance (CoC) \$50 Fee
- Other work subject to the Wetlands Protection Ordinance:
 - Any work on single family residential lot including, Addition to existing home, deck, garage, pool, shed, Or driveway. \$60 Fee
 - Driveway for single family home \$275 Fee
 - Construction of single family home or its equivalent (*Manufactured housing, trailers on slab*) \$275 Fee

APPENDIX C

Notice of Intent, Abbreviated Notice of Intent, and Abbreviated Notice of Resource Area Delineation filings under the Wetlands Protection Act and Wetlands Protection Ordinance:

<u>Category</u>	<u>Activities (Fee calculated for each activity)</u>	<u>WPA Fee</u>	<u>Ordinance Fee</u>
○ Category <u>1</u>	Sum of activities within category	\$110 ea.	\$55 ea.
○ Category <u>2</u>	Sum of activities within category	\$500 ea.	\$250 ea.
○ Category <u>3</u>	Sum of activities within category	\$1,050 ea.	\$525 ea.
○ Category <u>4</u>	Sum of activities within category	\$1,450 ea.	\$725 ea.
○ Category <u>5</u>	Work on docks, piers, revetments, dikes, etc. <i>Total fee not less than or greater than...</i>	\$4 per linear ft. \$100 ≥ \$2,000	\$2 per linear ft. \$50 ≥ \$1,000
○ Category <u>6</u>	Resource Area Determination	\$2 per linear ft.	\$1 per linear ft.

For each resource area delineation the fee shall not exceed \$100 for activities associated with a single family house or \$1,000 for all other activities.

Riverfront Area: Add 50% to the fee for each activity in the Riverfront Area

ALL WETLAND PROTECTION ACT APPLICATION FORMS ARE AVAILABLE ON LINE FROM MASSDEP:

⇒ <https://www.mass.gov/lists/wetlands-permitting-forms>

Note: The cost of publishing required for public notices is NOT included in the Conservation Commission fee schedules.

The exact fee associated with the application for any permit will be determined by the Issuing Authority.

OTHER FEES		
<u>BOOKS:</u>		
City of Gardner – Rules and Regulations Governing the Subdivision of Land	\$30.00	Can view free at Library or on the City’s website Can view free at
City of Gardner – Zoning Ordinance	Go to City Clerk’s Office	Library or on the City’s website
City of Gardner – Zoning Map	\$10.00	
Photocopies:	Letter Size	\$.05 per page
	Plans	\$10.00 per page
	Plan Sets	Go to the DPW/Engineering Office located at 50 Manca Drive, Gardner, MA
Research		TBD