

Amended through
June 2007

SUBDIVISION RULES & REGULATIONS

TOWN OF CONCORD, MASSACHUSETTS



TOWN OF CONCORD SUBDIVISION RULES AND REGULATIONS

SECTION 1. AUTHORITY, PURPOSE AND DEFINITIONS	1
1.1 Authority	1
1.2 Purpose	1
1.3 Definitions	1
SECTION 2. GENERAL ADMINISTRATION	5
2.1 Unapproved Subdivision Prohibited	5
2.2 Limitation of One Dwelling on Any Lot.....	5
2.3 Effect of Prior Recording	5
2.4 Waivers	5
2.5 Interpretation, Conflict and Separability.....	5
2.6 Reservations and Appeal	6
2.7 Amendments	6
2.8 Invalidation by State Law	6
2.9 Enforcement.....	6
2.10 Forms, Applications and Fee Schedule.....	7
SECTION 3. APPROVAL UNDER SUBDIVISION CONTROL LAW NOT REQUIRED.....	9
3.1 Submission.....	9
3.2 Contents of the Plan.....	9
3.3 Determination of Frontage.....	10
3.4 Board Action.....	11
SECTION 4. PROCEDURE FOR SUBMISSION AND APPROVAL OF A PRELIMINARY SUBDIVISION PLAN	13
4.1 When Required	13
4.2 Application Procedure	13
4.3 Form and Contents.....	13
4.4 Action by the Board	14
4.5 Relationship of Preliminary Plan to Definitive Plan.....	14
SECTION 5. DEFINITIVE SUBDIVISION PLAN	17
5.1 Application Procedure	17
5.2 Form and Contents of Plan	17
5.3 Street Plans and Profiles.....	19
5.4 Site Evaluation	20
5.5 Review Procedures	21
5.6 Release of Performance Guarantee.....	24

CONCORD SUBDIVISION RULES AND REGULATIONS

5.7	Rescission	26
5.8	Ownership and Maintenance of Subdivision Improvements	26
5.9	Completion within Three Years	26
SECTION 6. REQUIREMENTS FOR IMPROVEMENTS AND DESIGN		27
6.1	General Requirements	27
6.2	Character of the Land.....	27
6.3	Lots	28
6.4	Construction Specifications	29
6.5	General Construction Procedures	29
6.6	Construction Methods and Materials	29
6.7	Streets – Basic Requirements	30
6.8	Streets – Design Standards.....	31
6.9	Curbing.....	34
6.10	Sidewalks	34
6.11	Monuments.....	35
6.12	Utilities – Basic Requirements.....	36
6.13	Storm Drainage	37
6.14	Water Facilities.....	38
6.15	Sewer	38
6.16	Electric and Communication Lines	39
6.17	Trees and Other Plantings	39
6.18	Street Signs.....	40
6.19	Street Lighting	40
6.20	Reservation of Land for Public Purpose	40
6.21	Reservation of Land for Housing Purposes	41

TOWN OF CONCORD SUBDIVISION RULES AND REGULATIONS

SECTION 1. AUTHORITY, PURPOSE AND DEFINITIONS

1.1 Authority

Under the authority vested in the Planning Board of the Town of Concord by Section 81Q of Chapter 41 of the General Laws, the Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Concord.

1.2 Purpose

The Concord Planning Board is authorized under the General Laws of Massachusetts to regulate the laying out and construction of ways in subdivisions to insure the safety, convenience and welfare of present and future inhabitants of Concord. The Board shall exercise its authority with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with applicable provisions of the Concord Zoning Bylaw and the Wetlands Protection Act; for securing adequate provision for water, sewerage, drainage, underground utility service, police and fire protection and other requirements where necessary in a subdivision; for coordinating the ways in a subdivision with each other and with the public ways in neighboring subdivisions; and for preserving the special historical and rural character of Concord.

In considering a proposed subdivision, the Planning Board solicits the opinions of other Town Boards, Committees, and Officials as they pertain to the activity of subdivision.

1.3 Definitions

In constructing these Regulations, the definitions in Section 81-L of Chapter 41 of the General Laws shall apply. In addition, the following other terms and words are defined:

1.3.1 Applicant: A person applying for approval of a plan under these regulations, including owner, agent or assigns of owner.

1.3.2 Base Flood Elevation: The level of flooding having a one per cent chance of being equaled or exceeded in any given year, as designated on the Flood Plain Conservancy District Map of the Zoning Bylaw, Town of Concord, June 1988 (Scale 1" = 1000' consisting of a single sheet); the Town of Concord Flood Insurance Rate Maps (FIRM) dated June 3, 1988 and issued by the Federal Emergency

CONCORD SUBDIVISION RULES AND REGULATIONS

Management Agency for the administration of the National Flood Insurance Program showing all special flood hazard areas as Zone A, AH, A1-30; and the FEMA Flood Boundary and Floodway Map dated June 3, 1988, or, in the absence of such designation, as may be determined based upon the best available information regarding flood hazards, including any available U.S. Geologic Survey, Soil Conservation Service, and Corps of Engineer studies.

1.3.3 Bench Mark: A mark made in a durable object of known position and elevation, as a reference point.

1.3.4 Board: The Town of Concord Planning Board. A quorum for a meeting or hearing is four members.

1.3.5 Cul-de-sac: A local, dead-end street with a turnaround at the end.

1.3.6 Easement: A right in land acquired by public authority or other person to use or control property for a utility or other limited purpose.

1.3.7 Engineer or Surveyor: A person registered by the Commonwealth of Massachusetts to perform professional civil engineering or land surveying services.

1.3.8 Lot: An area of land in one ownership with definite boundaries used, or available for use, as the site of one or more buildings. Areas endorsed by the Board upon a plan as "Not available for building purposes" shall not be considered lots.

1.3.9 Owner: The owner of record as shown by the records of the South Middlesex Registry of Deeds or Land Court.

1.3.10 Recorded: Recording in the Registry of Deeds for South Middlesex and , where registered land is affected, filing with the recorder of the Land Court.

1.3.11 Streets:

Local: A street that provides direct access to abutting properties only; this category includes cul-de-sacs and loop streets.

Collector: A street used primarily to connect local streets to arterial streets. It carries moderate volumes of traffic. Less than 25% of the average daily traffic of a collector is normally attributed to through traffic.

Minor arterial: A street used to provide movement between major arterials, collectors and other minor arterials. It carries relatively high volumes of traffic. At least 25% of the average daily traffic volume is normally attributed to through traffic.

Major arterial: A street of regional significance, with high volumes of traffic used primarily to carry traffic through the Town. It is not intended as a residential street.

AUTHORITY, PURPOSE AND DEFINITIONS

1.3.12 *Subdivision:* The division of a tract of land into two or more lots, including re-subdivision, provided that such division shall not be deemed to constitute a subdivision under the Subdivision Control Law (G.L.c. 41) if at the time it is made: every lot within the tract has frontage on a public way, a way which the Town Clerk certifies as maintained and used as a public way, a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or a way in existence as of February 28, 1938 meeting the standards of the Board as set forth in Section 3.3.

1.3.13 *Way, Public:* Any street which has been accepted as a public way pursuant to G.L.c. 82 and any way known as a public way before 1846 or any way established by court decree to be a public way by dedication, prescription or otherwise.

1.3.14 *Utilities:* Private or municipal services to be furnished within the subdivision including, without limitation, telephone, cable TV, electric light and power, gas lines, sanitary sewers, water drains, water pipes and appurtenances.

CONCORD SUBDIVISION RULES AND REGULATIONS

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GENERAL ADMINISTRATION

SECTION 2. GENERAL ADMINISTRATION

2.1 Unapproved Subdivision Prohibited

No subdivision of any land, improvement or sale of lots in a subdivision, or construction of streets or installation of municipal utilities therein shall be permitted unless and until a Definitive Plan of such subdivision has been submitted to and approved by the Board under the provisions of these regulations.

2.2 Limitation of One Dwelling on Any Lot

No more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the Town, without the consent of the Planning Board. Such consent may be conditioned upon the providing of adequate ways furnishing access to each site for each such building, in the same manner as otherwise required for lots within a subdivision.

2.3 Effect of Prior Recording

The recording of a plan of subdivision within the Town in the Registry of Deeds prior to the effective date of the Subdivision Control Law in the Town of Concord (February 28, 1938) shall not exempt the land within such subdivision from the application and operation of these Rules and Regulations except as specifically exempted by G.L.c. 41, Section 81.

2.4 Waivers

The Board may waive strict compliance with any of these Regulations if it deems such waiver to be in the public interest and if written record is kept of each such waiver and the reasons for it. In approving waivers, the Planning Board may require such conditions as will, in its judgement, secure substantially the objectives of the standard(s) or requirement(s) waived.

2.5 Interpretation, Conflict and Separability

2.5.1 The provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

2.5.2 These regulations are not intended to interfere with, abrogate or annul any other bylaw, regulation, statute, or other provision of law. Where any provision of

CONCORD SUBDIVISION RULES AND REGULATIONS

these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other regulations, bylaw, or other provision of law, whichever provisions are more restrictive or impose higher standards shall apply.

2.5.3 If any part or provision of these regulations, or if application of any part or provision of these regulations to any particular circumstances, is adjudged to be invalid by any court of competent jurisdiction, such judgement shall not affect or impair the validity of the remainder of these regulations or the application of these regulations as a whole to other circumstances.

2.6 Reservations and Appeal

Upon adoption of these regulations, the Subdivision Rules and Regulations of Concord adopted on November 11, 1974, as amended, are hereby repealed, except to such section(s) expressly retained herein.

2.7 Amendments

The Planning Board may from time to time amend the provisions imposed by these regulations. Public Hearings on all proposed amendments shall be held by the Board in the manner described in G.L.c. 41, Section 81.

2.8 Invalidation by State Law

Any part of these 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 effective immediately, without recourse to public hearing and the customary procedures for amendment and repeal of such regulations.

2.9 Enforcement

No building permit shall be issued for the construction of any building or structure located on a lot subdivided or sold in violation of the provisions of these regulations.

The Building Inspector 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 access to a lot within a subdivision is shown on a recorded plan and that any conditions endorsed on the plan limiting the right to erect or maintain buildings on such lot have been satisfied, or that the Board's endorsement, if required under Section 3, has been obtained.

GENERAL ADMINISTRATION

2.10 Forms, Applications and Fee Schedule

The forms, applications and a fee schedule for the administration of these regulations are available in the Concord Planning Division office. These documents are not part of the regulations and the content may be revised from time to time by administrative action of the Board, without a public hearing.

CONCORD SUBDIVISION RULES AND REGULATIONS

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APPROVAL UNDER SUBDIVISION CONTROL LAW NOT REQUIRED

SECTION 3. APPROVAL UNDER SUBDIVISION CONTROL LAW NOT REQUIRED

3.1 Submission

Any person who wishes to record a plan of land and who believes that the plan does not require approval under the Subdivision Control Law shall:

3.1.1 File with the Board, at its regular meeting, an application (Form A) accompanied by the necessary information to show that the plan does not require approval, and obtain an acknowledgement of said application.

3.1.2 Submit with the application an original drawing of the plan, in the form described in Section 3.2 with four (4) contact prints.

3.1.3 Submit with the application the appropriate filing fee as shown in the Planning Board fee schedule.

3.1.4 File written notice with the Town Clerk of the filing with the Board, using a copy of Form A.

3.2 Contents of the Plan

The original drawing of the plan and the four prints shall contain the following information:

3.2.1 Title, boundaries, north point, date and scale.

3.2.2 Name and address of owner and of the surveyor.

3.2.3 Seal and signature of the surveyor.

3.2.4 Names of all abutters as they appear in the most recent tax list.

3.2.5 The location of all structures, streets, ways, easements, and lots.

3.2.6 Location of all permanent bounds, identified as to whether existing or proposed.

3.2.7 The entire area of land of which the division takes place, including all parcels affected by an increase or decrease in size.

CONCORD SUBDIVISION RULES AND REGULATIONS

3.2.8 Sufficient data to determine location, width, direction and length of every street line, lot line and boundary line, and to establish these lines on the ground, with areas of lots and lot numbers.

3.2.9 Zoning classification and location of any zoning district boundaries, (including overlay districts) which may lie within the locus of the plan.

3.2.10 Frontage and area of any remaining adjoining land owned by the applicant.

3.2.11 The statement "Approval Under the Subdivision Control Law Not Required" and sufficient space for the date and endorsement of the Board.

3.2.12 Notation of any special permit/variance issued as to the land or any buildings thereon.

3.2.13 Evidence that each lot shown on the plan, or altered by the plan, meets at least one of the four following criteria: (1) has all the frontage required under zoning; (2) has been clearly marked on the plan to be either joined to or made part of an adjacent lot; (3) contains a building which existed prior to 1938; or (4) constitutes an existing parcel with no new lot division.

3.2.14 The statement "Planning Board Endorsement is not a determination as to the conformance with Zoning Requirements."

3.3 Determination of Frontage

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

3.3.1 In determining whether an existing private way is adequate to qualify a plan as not constituting a subdivision, the Board shall consider the following:

- (a) Is the right-of-way at least forty (40) feet wide and of reasonable horizontal alignment?
- (b) Does the existing horizontal and vertical alignment of the traveled way provide safe visibility?
- (c) Is the traveled way constructed at least eighteen (18) feet wide, with at least eight (8) inches depth of gravel, and with adequate provisions for drainage?
- (d) If the road could ever service more than five (5) dwellings, is it bituminous surfaced or have provisions been made for such surfacing without cost to the Town?
- (e) Have provisions been made for public utilities without cost to the Town?

APPROVAL UNDER SUBDIVISION CONTROL LAW NOT REQUIRED

3.3.2 In determining whether a way has been used and maintained as a public way, the Board shall require that written evidence be submitted by the Town Clerk of public maintenance under vote of the Town and of continued substantial use by the general public without permission of the landowners for at least twenty (20) years. Sporadic use, use by a few persons, or use by agreement of the abutter(s) shall not suffice.

3.3.3 Where direct access to a lot from the abutting street is not possible due to steep grades, wetlands, watercourses or other physical constraints, the Planning Board shall not consider the lot as having sufficient frontage to allow a division of land without approval under the Subdivision Control Law.

3.4 Board Action

If the Board determines that the plan does not require approval under the Subdivision Control Law, it shall endorse the plan under the phrase "Approval Under the Subdivision Control Law Not Required" within twenty-one (21) days of the date of submission and shall notify the Town Clerk of its action. Said plan shall be returned to the applicant.

If the Board determines that the plan does require approval under the Subdivision Control Law, it shall give written notice to the Town Clerk and to the applicant of its determination within twenty-one (21) days of submission of said plan. The plan shall be returned to the applicant.

If the Board fails to act upon the plan or fails to notify the Town Clerk and the applicant within twenty-one (21) days of submission, the plan shall be deemed not to require approval under the Subdivision Control Law and the Board shall make such endorsement on the plan. If the Board fails to endorse the plan, the Town Clerk shall issue a certificate to that effect.

CONCORD SUBDIVISION RULES AND REGULATIONS

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PROCEDURE FOR SUBMISSION AND APPROVAL OF A PRELIMINARY SUBDIVISION PLAN

SECTION 4. PROCEDURE FOR SUBMISSION AND APPROVAL OF A PRELIMINARY SUBDIVISION PLAN

4.1 When Required

A Preliminary Plan of a non-residential subdivision shall be submitted to the Planning Board prior to the submission of a Definitive Plan.

For residential subdivisions, a Preliminary Plan is not required. However, submission of a Preliminary Plan is strongly recommended in order to provide the applicant, the Board, and other municipal agencies an opportunity to discuss and clarify development issues before the applicant incurs the expense of preparing the Definitive Plan.

4.2 Application Procedure

Any person who desires approval of a Preliminary Plan for the subdivision of land shall:

4.2.1 File with the Board at its regular meeting, and with the Board of Health, an application (Form B) and obtain acknowledgement of receipt of said application;

4.2.2 Submit with the application an original Preliminary Plan, in the form described under Section 4.3, and the filing requirements as determined by the Concord Planning Division;

4.2.3 Submit with the application, the appropriate application fee as shown in the Planning Board fee schedule;

4.2.4 File a written notice with the Town Clerk by hand delivery or by registered or certified mail, postage prepaid, accompanied by a copy of the completed application. If notice is given by hand delivery, the Town Clerk will, if requested, provide a written receipt.

4.3 Form and Contents

The Preliminary Plan shall be drawn on a reproducible transparency at a suitable scale and shall show sufficient information about the subdivision to form a clear basis for discussion. Such information shall include the following:

4.3.1 Subdivision name or identifying title, boundaries, locus plan, north point, date, scale, legend, and the title "Preliminary Plan";

CONCORD SUBDIVISION RULES AND REGULATIONS

4.3.2 The names of the record owner and the applicant, if not the owner, and the stamp and signature of the registered Land Surveyor or Registered Professional Engineer;

4.3.3 Names of all abutters as they appear on the most recent tax list, including names of owners of land separated from the subdivision only by a street;

4.3.4 The existing and proposed lines of streets, ways, easements, and any public areas within the subdivision in a general manner;

4.3.5 Names, status (public or private), approximate locations and widths of adjacent streets;

4.3.6 The approximate boundary lines of proposed lots, with approximate areas and dimensions;

4.3.7 Topography of the land in a general manner at a two-foot contour interval based upon U.S.G.S. datum (NGVD29 or NAVD88) and S.C.S. soils maps, including major features such as wooded areas, ditches, wetlands, and water bodies;

4.3.8 The volume of earth to be removed, if applicable, or a statement that no earth is to be removed;

4.3.9 The zoning classification of all land shown on the plan including overlay districts, i.e., the Flood Plain, Wetlands, and Groundwater Conservancy Districts; and

4.3.10 Proposed system of drainage (in a general manner), including the location of all swamp, marsh, water bodies, streams, natural or manmade ditches, and public and private flowage rights adjacent to or within the proposed subdivision.

4.4 Action by the Board

As soon as practicable after receipt of the application and plan, the Board will study the Preliminary Plan and discuss it with the applicant. Within forty-five (45) days of submission, the Board shall approve the Preliminary Plan with or without modifications suggested by it or agreed upon by the applicant, or disapprove the Preliminary Plan giving the reasons for such disapproval. The Board shall send notice of its actions to the Town Clerk and the applicant.

4.5 Relationship of Preliminary Plan to Definitive Plan

Approval of a Preliminary Plan does not constitute approval of a subdivision, and a Preliminary Plan cannot be recorded in the Registry of Deeds.

PROCEDURE FOR SUBMISSION AND APPROVAL OF A PRELIMINARY SUBDIVISION PLAN

If a Definitive Plan is submitted within seven months from the date of submission of the Preliminary Plan, and if the Definitive Plan is approved by the Board, the Subdivision Rules and Regulations in effect at the time of submission of the Preliminary Plan shall govern the Definitive Plan. If the Definitive Plan is approved, the zoning provisions in effect at the time of submission of the Preliminary Plan shall govern the land shown on the plan for five years from the date of the Board's endorsement of the Definitive Subdivision Plan.

CONCORD SUBDIVISION RULES AND REGULATIONS

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DEFINITIVE SUBDIVISION PLAN

SECTION 5. DEFINITIVE SUBDIVISION PLAN

5.1 Application Procedure

Any person who desires approval of a Definitive Plan for a subdivision of land shall file with the Board, at its regular meeting, and with the Board of Health, an application form (Form C) with a Designer's Certificate (Form D) and obtain acknowledgement of receipt of said application. The application shall be accompanied by:

5.1.1 Copies of the Definitive Plan to the Planning Board and to the Board of Health as specified in the filing requirements as determined by the Concord Planning Division (the original drawing will only be needed if and when endorsement of the plan takes place);

5.1.2 Copies of the street plans and profiles as specified in the filing requirements as determined by the Concord Planning Division;

5.1.3 A site evaluation statement, if required (see Section 5.4);

5.1.4 A copy of the Abutters List Request Form documenting that a request has been filed with the Assessor's Office for a certified list of abutters;

5.1.5 A non-refundable filing fee as shown in the Planning Board fee schedule;

5.1.6 An application fee in the amount as shown in the Planning Board fee schedule.

5.1.7 If applicable, a list of any waivers of the regulations being requested and reasons for requesting such waivers.

The applicant shall submit to the Town Clerk by registered or certified mail, a notice stating the date of Definitive Plan application submission to the Planning Board and a copy of the completed application Form C.

5.2 Form and Contents of Plan

The Definitive Plan shall be prepared by a Registered Land Surveyor or Registered Professional Engineer in a form acceptable to the Middlesex South Registry of Deeds. The drawing shall be to a scale of one inch equals forty feet (1" = 40'), or such other scale as the Board may approve, on sheets 24 x 36 inches in size. Where a plan is drawn on multiple sheets it must be accompanied by an index sheet showing the entire subdivision.

CONCORD SUBDIVISION RULES AND REGULATIONS

The Definitive Plan shall contain the following information:

- 5.2.1 Subdivision name, north point, legend, date, scale and a locus plan at a scale of one inch equals one thousand feet (1"= 1,000');
- 5.2.2 Name and address of record owner and of the applicant and the stamp and signature of the Registered Land Surveyor and/or Registered Professional Engineer and any other professionals engaged in the design, in each case certifying that those elements of the plan for which they are responsible have been prepared in accordance with these regulations;
- 5.2.3 Location and names of all abutters as they appear on the most recent tax list, including owners of property on the opposite side of any streets abutting the subdivision;
- 5.2.4 Sufficient data to determine readily the location, direction, and length of every existing and proposed street, way, easement, lot and boundary line, and to establish those lines on the ground;
- 5.2.5 The area and dimensions of each proposed lot;
- 5.2.6 Lot numbers enclosed in a circle;
- 5.2.7 Location of all permanent monuments, identified as to whether existing or proposed;
- 5.2.8 Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision;
- 5.2.9 Existing and proposed water courses and water bodies;
- 5.2.10 Precise boundaries of any zoning district, including any overlay district insofar as the boundaries touch on the subdivision;
- 5.2.11 Location of base flood elevation if encountered within one hundred (100) feet of the subdivision;
- 5.2.12 Existing and proposed topography with two (2) foot contour intervals and an indication of annual high water mark;
- 5.2.13 The volume of "earth" to be removed as defined in the Concord Zoning Bylaw if applicable, or a statement indicating that no earth is to be removed;
- 5.2.14 Size and location of existing and proposed water supply mains and their appurtenances; hydrants; sewer pipes and their appurtenances and/or sewage

DEFINITIVE SUBDIVISION PLAN

disposal systems; storm drains and their appurtenances; all easements pertinent thereto; and data on borings and soil test pits;

5.2.15 Indications of all easements, covenants or restrictions applying to the land, including zoning setbacks. In addition, the plan shall show the proposed location of all buildings within the subdivision;

5.2.16 Suitable space for endorsement by the Board and certification by the Town Clerk, with spaces for annotating dates of approval and endorsement;

5.2.17 On a Separate Sheet: Existing and proposed drainage, including drainage areas inside the subdivision, areas outside the subdivision which drain into it, and the route for all existing and proposed drainage discharging from the subdivision to the primary receiving course or other body of water. Cross sections for each drainage ditch or pond shall be included.

If surface water drains will discharge into adjacent existing streets or onto adjacent properties not owned by the applicant, the applicant shall clearly indicate what course the discharge shall take and shall present evidence from the Town Engineer and the owner of the adjacent property that such discharge is satisfactory and permitted.

5.3 Street Plans and Profiles

For each street there shall be a separate plan at one inch equals forty feet (1" = 40') and a profile at a horizontal scale of one inch equals forty feet (1" = 40') and a vertical scale of one inch equals four feet (1" = 4'), showing the following data:

5.3.1 Existing grades along the center line and both side lines of the street;

5.3.2 Proposed finished center line grades with elevations at every 50-foot station, location of vertical curves and gradient of even grades, with the rate of grade indicated;

5.3.3 Bearings and distances, radii and arcs, central angle and tangent distances on all curves with stationing on the center line;

5.3.4 The grade of all streets intersecting the proposed street(s) shall be shown for at least two hundred (200) feet on each side of the intersection of the proposed street center line;

5.3.5 Proposed drainage, catch basins, manholes, pipes and any other drainage facilities;

5.3.6 Existing and proposed sidewalks;

CONCORD SUBDIVISION RULES AND REGULATIONS

5.3.7 Typical sections of streets showing widths and grades of street lines, pavement, sidewalks, grass strips, location and size of all utility lines, and the depth of sidewalk and roadway pavements and base courses;

5.3.8 The location and elevation of the starting bench mark and at least two other permanent bench mark. All elevations shall refer to U.S. Coast and Geodetic Survey Bench Marks.

5.4 Site Evaluation

A Site Evaluation shall be submitted for all subdivisions which create frontage for six or more lots.

The Board may require that certain elements of the site evaluation be prepared by qualified experts. The Board may require that certain of the following information is necessary to evaluate a plan for less than six (6) lots as well, because of special circumstances relating to the location, natural features, or the proposal itself.

The Site Evaluation shall consist of the following:

5.4.1 A set of plans at a uniform scale, encompassing the entire subdivision on a single sheet not larger than 24" x 36" showing:

- (a) Boundaries of the subdivision, existing and proposed streets, and proposed lot lines;
- (b) Topography at two (2) foot contour intervals, with graphic drainage analysis; location of all existing structures, including fences and stone walls; and location of all surface water bodies, wetlands, and aquifer or recharge areas for existing public water supplies;
- (c) Vegetative cover analysis, including identification of general cover type (wooded, cropland, brush, etc.); location of all major tree groupings and outstanding trees, important wildlife habitats, and identification of areas not to be disturbed by construction;
- (d) Soil types (based on the U.S. Department of Agriculture soils study), approximate groundwater level, and location and results of soil percolation and other subsurface tests;
- (e) Visual analysis, including analysis of scenic vistas and the visual impact of the subdivision on other properties.

5.4.2 A narrative statement, with references to the above plan as necessary, documenting:

- (a) Impact of the subdivision upon surface and groundwater quality and level;

DEFINITIVE SUBDIVISION PLAN

- (b) Effects upon important wildlife habitats, outstanding botanical features, scenic or historic sites or buildings;
- (c) Capability of soils, vegetative cover, and proposed erosion control measures to support proposed development without erosion, silting or other instability;
- (d) Estimated increase of peak run-off caused by altered surface conditions, and methods to be used to return water to the ground;
- (e) Description of proposed alterations of wetlands or flood plain areas;
- (f) A report estimating the traffic flow at peak periods in relation to existing traffic on the streets in and adjacent to the subdivision, and the effect of the project on public services such as water, sewer, schools, police, fire, waste disposal, and recreational facilities;
- (g) A summary tabulation of the total area being subdivided, the total area of all lots, the total area dedicated for streets and drainage or utilities, and the total area reserved for recreation, parks or other open land;
- (h) A projection of the direct, current Town costs and revenues associated with this development;
- (i) An analysis of the sight distances at the intersections of the proposed street(s) with any other street(s);
- (j) Impact of the subdivision on any historical or cultural resources located within one hundred (100) feet of the proposed development as identified in the Survey of Historical and Architectural Resources and Historic Resources Masterplan;
- (k) Impact of the subdivision on any open space or natural resources located within one hundred (100) feet of the proposed development as identified in the Town of Concord Open Space Plan.

5.5 Review Procedures

5.5.1 Application Review: Within fourteen (14) days after the filing of the Definitive Plan Application with the Planning Board, the Town Planner shall notify the Planning Board and the applicant in writing of any missing or incomplete information in the application. At that time, the applicant may withdraw an incomplete application by notifying the Planning Board and the Town Clerk, in writing, of his decision to do so. If the applicant withdraws his application, he shall forfeit the nonrefundable filing fee.

If the applicant does not withdraw an incomplete application within seven (7) days of notification of incompleteness, the Board shall proceed to advertise and hold a Public Hearing on the application as submitted. No additional information or materials shall be accepted for review after the receipt of the application is acknowledged by the Planning Board.

5.5.2 Public Hearing: Upon determination by the Board that the application for approval of the Definitive Plan is complete, or that it is incomplete and the applicant

CONCORD SUBDIVISION RULES AND REGULATIONS

has failed to withdraw the application, the Board shall set a date for the public hearing and so notify the applicant.

Notice of the hearing shall be arranged by the Board, at the applicant's expense, by advertisement in a newspaper of general circulation in Concord in each of two (2) successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing; and by mailing, return receipt requested, not less than ten (10) days before the date of the hearing, a copy of the advertisement to all owners of land abutting upon the land included in the plan as appearing on the most recent tax list.

5.5.3 Report of the Board of Health: The Board of Health shall report, within forty-five (45) days after the plan is filed, to the Planning Board in writing its approval or disapproval of said plan and, in report, and where possible, shall make recommendations for adjustment. Failure to report within forty-five (45) days after filing shall be deemed approval by the Board of Health. If the proposed subdivision is to be serviced by the Concord sewage system, failure to so report within forty-five (45) days after filing shall also be deemed approval by the Board of Health.

Extreme care shall be practiced in the layout of a subdivision in an unsewered area. The extent of soil evaluation shall be determined by the Concord Board of Health Agent based on the Town of Concord Soils Map and whatever other soil information is available. The tests which may be required include deep test holes, percolation tests and test borings, and the number of tests required shall be determined by the Board of Health.

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

5.5.4 Plan Review by Other Town Officials: Prior to approval of any Definitive Plan, the Planning Board shall give due regard to the reports of the Concord Public Works, the Department of Planning and Land Management, the Fire Chief, the Police Chief, and the Superintendent of the Concord Municipal Light Plant.

Where any deviations from the design requirements specified by these Rules and Regulations or the Town of Concord's design standards and construction specifications are indicated on the plan, the Town Engineer shall so notify the Planning Board and shall provide a written statement approving or disapproving of said deviation.

The Town Engineer shall also provide written estimates of the cost of performing the various items of work described in the plans so that the Board may determine the proper amount of security as required in Section 6.

DEFINITIVE SUBDIVISION PLAN

5.5.5 Action by the Board: After the Public Hearing, the Board will approve, modify and approve, or disapprove the plan as submitted. Criteria for action by the Board shall be the following:

- (a) Completeness and technical adequacy of the plans and supporting materials;
- (b) Determination that development at the proposed location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others because of possible traffic hazards, or environmental degradation which could be avoided or ameliorated through an alternative plan;
- (c) Conformity with the design and construction standards described in these Rules and Regulations and practices, specifications and standards required and approved by Concord Public Works;
- (d) Conformity with all applicable zoning requirements;
- (e) Consistency with the purposes of the Subdivision Control Law as described in G.L.c. 41, section 81-M.

5.5.6 Filing of Decision: Where a Preliminary Plan has been duly submitted and acted upon or where forty-five (45) days elapsed without action on said Preliminary Plan, the Board shall file with the Town Clerk a certificate of its action on the Definitive Plan within ninety (90) days of receipt of the Definitive Plan application, and shall send notice of its action by certified mail to the applicant.

In the case of a residential subdivision, where no Preliminary Plan has been submitted or where forty-five (45) days did not elapse between submission of a Preliminary Plan and submission of the Definitive Plan, the Board shall file with the Town Clerk a certificate of its action on the Definitive Plan within one-hundred and thirty-five (135) days of receipt of the Definitive Plan application, and shall send notice of its action by certified mail to the applicant.

5.5.7 Performance Guarantee: Before endorsement of approval, the Board shall require that timely construction of ways and installation of municipal services be secured by one, or in part by one and in part by another, of the methods described in Sections 5.5.7 a, b, and c, which method(s) may be selected and from time to time be varied by the applicant. The sufficiency of the amount of security shall be determined by the Board. The alternative methods are:

- (a) By a proper performance bond or a deposit of money or negotiable securities, in an amount determined by the Board to be sufficient to cover the cost of the construction of ways and installation of municipal services. Each bond or deposit shall be contingent upon such construction and installation being completed within such period as the Board shall determine. Each bond filed shall be approved as to form, manner of execution and sureties by the Town Manager and all deposit agreements and securities shall be approved as to form and manner of execution by the Finance Director. (See Form G for suggested form.)

CONCORD SUBDIVISION RULES AND REGULATIONS

- (b) By a covenant running with the land, which shall be executed and recorded by the owner of record, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed by other than mortgage deed, subject, however to the rights and limitations specified in G.L.c. 41, Section 81-U. (See Form E for suggested form.)
- (c) By delivery to the Board of an agreement executed by the applicant and the lender after 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. This agreement shall provide for retention by the lender of funds sufficient in the opinion of the Board to secure the construction of ways and the installation of municipal services.

The agreement shall provide for a schedule of disbursements which may be made to the applicant upon completion of various stages of the work and shall also provide that in the event the work is not completed within the time agreed to by the applicant that any funds remaining shall be available to the Town for completion of the outstanding work.

5.5.8 Endorsement and Filing of Documents: The Board's approval of a Definitive Subdivision Plan, if granted, will be endorsed on the plan only after the expiration of the twenty (20) day appeal period, certification by the Town Clerk that no appeals have been taken and submission to the Planning Board an electronic version of the plan in a format acceptable to the Town Engineer.

Following recording of the endorsed plan in the South Middlesex Registry of Deeds by the applicant, the applicant shall provide the Board with three (3) complete sets of prints of the recorded plan and one copy of the recorded covenants and restrictions. The Planning Board will transmit one set of the plans to the Building Inspector and one set to the Town Engineer.

5.6 Release of Performance Guarantee

5.6.1 Written Request: Upon completion of improvements required by these Regulations, the applicant may request either partial or full release of the bond, deposit or covenant by sending a statement of completion and a request for release by registered mail to the Planning Board and to the Town Clerk. The statement will include:

- (a) Written evidence from the Town Engineer that the streets and drainage conform to the Board's requirements in accordance with the approved Definitive Plan.
- (b) Written evidence from the Town Engineer that the underground wiring, water mains, sanitary sewers, storm sewers, hydrants and fire alarm conform to specifications and the Board's requirements in accordance with the approved Definitive Plan.

DEFINITIVE SUBDIVISION PLAN

- (c) Written evidence from the Town Engineer that as-built drawings have been submitted and accepted.
- (d) Written evidence from the Town Engineer that the improvements have been exposed to one complete winter environment (Dec.1 – April 30) without damage, or that damage, if incurred, has been repaired to the satisfaction of the Town Engineer.
- (e) Written evidence from the Tree Warden that installation of street trees and other plantings as described in Section 6 have been completed satisfactorily and that the warranty has been assigned to the Town.

5.6.2 Partial Release: Prior to final release of security, the Board may, at its discretion, grant up to three (3) partial releases from the required security for partial completion of improvements provided that:

- (a) No reduction shall reduce the bond, deposit or covenant to a value below the estimated cost of completing the unfinished portions of the improvements.
- (b) No lots shall be released from a covenant unless construction of ways and installation of services for those lots have been completed or another form of security has been substituted, sufficient to complete said way and service. Form F shall be submitted when applying for a release of lots from a covenant.
- (c) No partial release of security shall be granted until the Board has received written verification from the Town Engineer that substantially more than fifty (50) per cent of the required improvements have been completed satisfactorily.
- (d) No partial release shall reduce the security by more than fifty (50) per cent of the amount being held at the time the release is requested.

5.6.3 Final Release of Security: If the Board determines that the required improvements have been completed in accordance with these Rules and Regulations, it will release the interest of the Town in any bond or deposit and return the bond or deposit to the applicant, or release the covenant by appropriate instrument, duly acknowledged. (Form F is suggested.)

However, even though all improvements covered by a bond, deposit or covenant have been completed, the Board may, upon recommendation of the Town Engineer, refuse to release the security if completion of construction on any remaining undeveloped or partially developed lots poses a substantial risk or injury to the covered improvements.

5.6.4 Refusal of Release: If the Board determines that required construction or installation has not been completed, it will specify the details wherein the construction or installation fails to comply with its Rules and Regulations in a notice sent by registered mail to the applicant and delivered to the Town Clerk. If the Board fails to so notify the Town Clerk and the applicant within forty-five (45) days of receipt of a request for release of security, as described in Section 5.6.1, the deposit or bond shall be returned and any covenant shall become void. In the event that the forty-five (45)

CONCORD SUBDIVISION RULES AND REGULATIONS

days period expires without such specification or without release of the security, the Town Clerk shall issue a certificate to such effect, duly acknowledged.

5.7 Rescission

Failure of an applicant to record the Definitive Plan within six (6) months of its endorsement by the Board; or to comply with the construction schedule incorporated into the performance agreement or to initiate construction of improvements or sell lots in a subdivision within seven years of the approval of the Definitive Plan; or to comply with all applicable Zoning Bylaw requirements and requirements of the Natural Resources Commission under the Wetlands Protection Act; or to comply with the approved plans and any conditions of approval, shall constitute reason for the Board to consider rescission of its approval in accordance with the requirements and procedures set forth in G.L.c. 41, Section 81-W.

5.8 Ownership and Maintenance of Subdivision Improvements

5.8.1 Acceptance: Approval by the Board of a Definitive Subdivision Plan, shall not constitute acceptance by the Town of any streets, sidewalks, or other improvements within a subdivision.

5.8.2 Ownership: Applicant shall retain title of the fee of each street, path or easement in, or appurtenant to, the subdivision until conveyed to the Town and shall maintain and repair the streets and drainage facilities in a manner satisfactory to Concord Public Works during that period.

Prior to final release of security, the applicant shall submit to Concord Public Works all necessary documentation for street acceptance, including plans in a form acceptable to the Registry of Deeds, legal description, easements, a list of owners and mortgagees of lots having rights in the street, and grants of right necessary.

5.9 Completion within Three Years

The Board may impose as a condition of approval on a Definitive Plan that construction of all ways and all installation of municipal services shown on the plan be completed within three (3) years of the date of approval. If the construction and installation is not completed within the three (3) year period, the approval shall automatically lapse and no way shall be laid out, constructed or opened for public use unless and until a new Definitive Plan application has been filed in accordance with the Rules and Regulations then in effect and the new plan has been approved by the Board.

REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

SECTION 6. REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

6.1 General Requirements

In order to provide for streets of suitable location, width and construction to accommodate prospective traffic and afford satisfactory access for police, emergency, fire fighting, snow removal, sanitation and road maintenance equipment; to coordinate streets so as to compose a convenient system; to avoid undue financial burdens for present and future taxpayers; and to avoid potential natural or technological hazards or nuisances, including the problems associated with uncontrolled storm water run-off, the Planning Board has established the design of subdivisions set forth in this Section.

In addition to the requirements established in these regulations, all subdivisions shall conform to the provisions of the Town of Concord Zoning Bylaw, the Regulations of the Concord Board of Health, and the practices, specifications and standards required and approved by Concord Public Works.

6.2 Character of the Land

6.2.1 Protection of Natural Features: In laying out a subdivision, the subdivider shall give due regard for all natural features such as large trees, watercourses, scenic or historic spots, aquifers, flood plains, habitats of rare or endangered species, and similar community assets which, if preserved, would add attractiveness and value to the subdivision. These features shall be left undisturbed wherever practical and the Board may waive design requirements in order to protect important natural features.

6.2.2 Unsuitable Land: Land which the Planning Board finds to be unsuitable for development due to flooding, improper drainage or adverse drainage, adverse topography, poor soils, bedrock, location of utility easements, or other features which the Board has reason to believe would be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding area, shall not be subdivided or developed unless adequate measures are formulated by the subdivider and approved by the Board to eliminate any short-term or long-term impacts created by development of the unsuitable land.

6.2.3 Subdivision Straddling Municipal Boundaries: The Board will not approve a subdivision of land where access to the subdivision tract in Concord is through land in another Town, unless the access is an accepted public way at the time the subdivision application is submitted. In general, lot lines should be laid out so as not to cross municipal boundaries.

6.2.4 Self-Imposed Restrictions: If, as part of a subdivision application, the subdivider or owner places voluntary restrictions on any of the land contained in the subdivision which are greater than the requirements of these Regulations or of the

CONCORD SUBDIVISION RULES AND REGULATIONS

Town of Concord Zoning Bylaw, such restrictions or references thereto shall be indicated on the Definitive Plan and recorded in the Middlesex South Registry of Deeds.

6.3 Lots

6.3.1 Lot Arrangement: Lots shall be arranged so that there will be no foreseeable difficulties for reasons of topography, soils, bedrock, improper drainage, or other conditions in securing building permits to build on all lots in compliance with the Town of Concord Zoning Bylaw, or in providing practical, feasible driveway access to the building on such lots.

6.3.2 Lot Dimensions: Lot dimensions shall comply with the minimum standards of the Town of Concord Zoning Bylaw. Dimensions of corner lots should be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Depth and width of properties laid out for business or industrial use shall be adequate to provide for the off-street parking and loading facilities required by the Zoning Bylaw.

6.3.3 Soil Preservation and Final Grading: The Board may condition approval of a Definitive Plan by requiring that no certificate of occupancy be issued for a building in the subdivision until final grading of the lot has been completed in accordance with the Definitive Plan, and the entire lot recovered with topsoil for an average depth of at least six (6) inches, except for that portion of the lot where the grade has not been changed or the vegetation seriously damaged. The topsoil shall be stabilized by seeding and/or sodding.

6.3.4 Lot Drainage: Lots shall be laid out so as to provide positive drainage away from all proposed buildings. Individual lot drainage shall be designed so as to avoid concentration of stormwater drainage from each lot to adjacent lots or to the street.

6.3.5 Debris and Waste: No debris, junk, rubbish, or other non-biodegradable waste materials shall be buried on any land in the subdivision or left on any lot or on the street right of way, and removal of same shall be required prior to final release of any covenant or security. Burial of biodegradable materials on the site shall be subject to approval of the Board of Health and the Town Engineer. The burial location(s) and description of buried materials shall be noted on the as-built drawings. The Planning Board may require that the description and location of buried materials be recorded in the Registry of Deeds prior to release of affected lots for sale or building.

REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

6.4 Construction Specifications

The practices, specifications and standards required and approved by Concord Public Works will be used as a guide to required construction specifications unless otherwise directed. The Town Engineer will determine if the standards have been met.

6.5 General Construction Procedures

6.5.1 Notification: No step in construction of required improvements shall commence until the Town Engineer and the Police Department have been notified at least two (2) business days in advance of the beginning steps.

6.5.2 Inspection: Each phase or step in the construction of required improvements shall be inspected and approved in writing by the Town Engineer or his representative. As a minimum, the subdivider shall request an inspection at the following stages of development:

- (a) Following installation of all underground drainage and utilities, prior to backfilling;
- (b) Following preparations of the street subgrade and shoulders;
- (c) Following spreading and compaction of the gravel base, prior to application of the binder course on the street;
- (d) Immediately prior to and during the application and compaction of the surface course on the street and, if required, on the sidewalk, and;
- (e) Following completion of all improvements and installation of bounds.

The subdivider shall not proceed with construction of any of the above stages of development until the Town Engineer has signed off on the previous stage.

The Town Engineer may require inspection at such other intervals as he may deem necessary to assure proper construction of improvements. In addition, the Town Engineer may require periodic inspection reports from the subdivider's engineer.

6.6 Construction Methods and Materials

6.6.1 Clearing and Grubbing: The area between property lines within the right of way shall be cleared and grubbed except for those trees which are intended to be preserved as street trees.

6.6.2 Earth Excavation: All excavation shall conform to the lines and grades shown on the approved Definitive Plan. Where mucky soils, ledge, or clay is encountered within the right-of-way, it shall be removed entirely and, where necessary, replaced with sand and gravel. Where water is encountered, or is expected to be

CONCORD SUBDIVISION RULES AND REGULATIONS

encountered, within four (4) feet of the finished grade of the street, subsurface drainage, of a design acceptable to the Town Engineer, shall be constructed.

6.6.3 Ledge Excavation: Boulders or ledge shall be removed to a depth of at least twenty-four (24) inches below final grade when within the pavement area.

6.6.4 Retaining Walls: Retaining walls shall not exceed four (4) feet unless the Planning Board votes to waive this provision. Where street and shoulder grades require more than two (2) feet cut or fill, the Planning Board may require retaining walls along abutting property lines unless a suitable alternative is shown.

6.6.5 Materials: Specifications and standards may be obtained through the Concord Public Works.

6.7 Streets – Basic Requirements

6.7.1 Frontage: No subdivision shall be approved unless the land to be subdivided shall have frontage on an existing public street or on an existing private way in the Town of Concord, which way shall be improved by the subdivider to meet the minimum design and construction requirements set forth in this section.

6.7.2 Improving Existing Streets: Where a subdivision borders an existing, but inadequately constructed public street, the subdivider may be required to improve the street bordering the subdivision tract or provide the land necessary for future improvements for that portion bordering the subdivision. Land used for or reserved for future street improvements may not be counted in satisfying the yard and area requirements of the Town of Concord Zoning Bylaw.

6.7.3 Topography and Arrangement: Streets shall be designed to conform as closely as possible to the original topography of the site, but at the same time, a combination of steep grades and curves shall be avoided.

6.7.4 Street Names: Street names shall be sufficiently different in sound and in spelling from other street names in the Town so as not to cause confusion. A street which is planned as a continuation of an existing street shall bear the same name. The Planning Board, after consultation with the Fire Chief and the Historical Commission, shall have final authority over the names of streets in a subdivision.

REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

6.8 Streets – Design Standards

6.8.1 Table IA Minimum Design Standards for Local Streets
(Design Speed 25 MPH)

	ZONING DISTRICT			
	Res. AA	Res. A&B	Res. C	Non-Res.
Min. R.O.W. Width	50'	50'	50'	50'
Min. Pavement Width	22'	22'	26'	26'
Max. Grade	8%	8%	7%	7%
Min. Grade	1%	1%	1%	1%
Min. Sight Distance	150'	150'	250'	250'
Min. Radius of Curve	225'	225'	225'	225'
Min. Length of Vertical Curve	100', but not less than 20' for each algebraic difference in grade			
Min. Curb Radius at Intersection	30'	30'	30'	30'
<u>Cul-de-Sacs</u>				
R.O. W. Diameter	150'	150'	150'	170'
Pavement Width	22'	22'	22'	30'
Center Island Diameter	76'	76'	76'	90'
Outside Paving Diameter	120'	120'	120'	150'
Max. Length of Cul-de-Sac	600'	600'	600'	600'
Min. Length of Cul-de-Sac	200'	150'	125'	80'

CONCORD SUBDIVISION RULES AND REGULATIONS

6.8.2 Table IB Minimum Design Standards for Collector Streets
(Design Speed 35 MPH)

	ZONING DISTRICT			
	Res. AA	Res. A&B	Res. C	Non-Res.
Min. R.O.W. Width	50'	50'	50'	50'
Min. Pavement Width	26'	26'	28'	28'
Max. Grade	7%	7%	7%	7%
Min. Grade	1%	1%	1%	1%
Min. Sight Distance	250'	250'	250'	250'
Min. Radius of Curve	450'	450'	450'	450'
Min. Length of Vertical Curve	200', but not less than 40' for each algebraic difference in grade			
Min. Curb Radius at Intersection	30'	30'	30'	30'
<u>Temporary Cul-de-Sacs</u>				
R.O. W. Diameter	150'	150'	NA	NA
Pavement Width	22'	22'	NA	NA
Center Island Diameter	76'	76'	NA	NA
Outside Paving Diameter	120'	120'	NA	NA
Max. Length of Temporary Cul-de-Sac	1000'	1000'	NA	NA
Min. Length of Cul-de-Sac	200'	150'	125'	80'

ZONING DISTRICT

33

CONCORD SUBDIVISION RULES AND REGULATIONS

turnaround as measured along the shortest right-of-way line of the proposed dead-end street exclusive of intersection radii.

6.8.8 Reserve Strips: 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.

6.8.9 Intersections: Streets shall be laid out so as to intersect as nearly as possible at right angles, and in no case at less than a seventy-five (75) degree angle. New intersections at one side of an existing street shall align directly with any existing intersection at the opposite side of the street whenever feasible. Street intersection jogs with centerline offsets of less than one hundred fifty (150) feet shall not be permitted.

Intersections shall be designed with a flat grade (not greater than two (2) per cent) for a distance of at least sixty (60) feet from the intersecting street.

6.9 Curbing

As a minimum, a continuous, low-profile, modified Cape Cod berm shall be provided as an integral part of all new streets. On cul-de-sac turnarounds and at intersections with collector or local streets, sloped granite curbing shall be required. Vertical granite curb shall be required at the back of catch basins, on grades over five (5) per cent, and at intersections with arterial streets.

Reference is made to detail #1A, "Vertical Granite Curb"; detail #2B, "Modified Cape Cod Berm"; and detail #3C, "Sloped Granite Edging" appended to these Regulations in Appendix A.

6.10 Sidewalks

6.10.1 Requirement: Sidewalks will be required on both sides of the street along all arterials. Sidewalks will be required on one side of the street along all local and collector streets unless the Planning Board determines that pedestrian movement is otherwise provided for.

6.10.2 Design Standards: All sidewalks and ramps shall meet the most current ADA/MAAB standards. The design and construction of sidewalks shall be based upon the nature and density of development as shown in the following Table:

REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

Table II

Minimum Design Standards for Sidewalks

<u>Street Classification</u>	<u>Zoning District</u>				
	Residential			Non-Residential	
	Res. AA	Res. A&B	Res. C	Business District	Non-Res. Other
Local	bituminous meandering ¹ or standard ² 5' wide	bituminous meandering or standard 5' wide	bituminous meandering or standard 5' wide	concrete standard 6' wide	bituminous standard 5' wide
Collector	bituminous meandering or standard 5' wide	bituminous meandering or standard 5' wide	bituminous standard 5' wide	concrete standard 6' wide	bituminous standard 5' wide
Minor Arterial	bituminous meandering or standard 5' wide	bituminous meandering or standard 5' wide	bituminous standard 5' wide	concrete standard 6' wide	concrete standard 5' wide
Major Arterial	bituminous standard 5' wide	bituminous standard 5' wide	bituminous standard 5' wide	concrete standard 6' wide	concrete standard 5' wide

¹Meandering – follows existing terrain and major features such as stone walls, large trees, rock outcroppings, etc. Requires approval of the Planning Board.

²Standard – uniform width parallel to the street.

6.10.3 Exceptions: Where new sidewalks are to be constructed in short sections to connect existing sidewalks, the new sections shall be constructed to the same specifications as the existing sidewalks.

6.11 Monuments

6.11.1 Requirements: Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets, at two (2) property corners of all new lots, and at any other point where, in the opinion of the Planning Board, permanent monuments are necessary.

CONCORD SUBDIVISION RULES AND REGULATIONS

6.11.2 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. On curves, the maximum interval shall be one thousand (1000) feet.

6.11.3 Materials: Monuments shall be standard granite markers of not less than four (4) feet in length and not less than six (6) inches in width and breadth, and shall have a drillhole in the center. Monuments shall be set flush with the final grade.

6.11.4 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 land surveyor after installation of the street, and shall be shown on the as-built drawings.

6.11.5 Datum: All monuments shall be assigned (X,Y) coordinates based upon the Massachusetts State Plane Coordinate System. These coordinates shall be listed on the plan either by labeling individual bounds or in tabular form.

6.12 Utilities – Basic Requirements

6.12.1 Installation: All utility lines, water stops, and/or other subsurface facilities within street right-of-ways shall be installed prior to the preparation of the street sub-base.

6.12.2 Identification: The subdivider shall provide and install utility identification tape at all underground utility installations. The tape shall be placed in the trench a minimum of twelve (12) inches above the pipe, conduit, or cable and not closer than twelve (12) inches to the final grade.

Identification tape for utilities shall be a durable, non-biodegradable plastic, approximately six (6) inches wide by four-thousandths (.004) inches in thickness. The following colors shall be used:

Orange – Communication cables or conduit, alarm or signal lines

Yellow – Gas, oil, petroleum, steam or other gaseous material

Green – Sewer and drain lines

Blue – Water and irrigation

Red – Electric power lines, cables, conduit or light cables

6.12.3 Easements: Where necessary, the Planning Board shall require perpetual, unobstructed easements for sewers, storm drains, power lines, and water mains. Such easements shall be a minimum width of twenty (20) feet and shall be indicated on the Definitive Plan.

REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

6.13 Storm Drainage

Storm water run-off shall be disposed of through a combination of storage and controlled release. Drainage systems shall be designed according to the following principles and criteria.

6.13.1 Peak Flows: Property shall be developed in such a manner as to maximize storm water recharge on the site and to minimize direct overland run-off into adjoining streets and watercourses. Peak flows and run-off at the boundaries of the subdivision shall be no higher following development than before development.

6.13.2 Capacity: Drainage systems shall have adequate capacity to handle all storm water run-off presently flowing through the subdivision, as well as to dispose of any additional run-off generated by the proposed development up to and including the run-off from a one hundred (100) year storm using the following methods:

- (a) The flow from storms of up to a twenty-five (25) year frequency and the twenty-four (24) hour duration shall be conveyed through the subdivision site, following natural drainage patterns wherever possible, in a manner which will maintain the ratio of run-off to infiltration at the same percentage as under natural conditions;
- (b) Detention facilities shall be provided to handle all run-off which exceeds the percolation capacity of the site, up to and including the run-off generated by the one hundred (100) year, twenty-four (24) hour storm.

6.13.3 Release Rate: The combination of storage and design release rate shall not result in a storage duration of greater than seventy-two (72) hours. Maximum depth of storm water retention areas shall be four (4) feet. Detention area side slopes shall be kept as close as possible to natural land contours, ten (10) per cent or less wherever possible.

6.13.4 Outlet Structures: Outlet control structures shall be designed as simply as possible and shall require little or no attention for proper operation.

6.13.5 Emergency Overflow: Each storm water detention area shall be provided with a method of emergency overflow in the event of a storm in excess of the one hundred (100) year frequency type.

6.13.6 Natural Patterns: Natural drainage patterns shall be used wherever possible. All existing watercourses shall be left open unless approval to close them is obtained through the Natural Resources Commission. All new open watercourses shall be appropriately seeded, sodded, paved or riprapped.

6.13.7 Alteration: Any alteration of land on the site shall be such that changes in existing patterns of drainage shall not adversely affect properties outside the subdivision by increasing the amount or rate of peak flow.

CONCORD SUBDIVISION RULES AND REGULATIONS

6.13.8 Structured Systems: Where soil conditions or topography make natural drainage systems impractical and where existing drains in adjacent streets or easements are adequate in capacity to accommodate the drainage flow from the subdivision, a structured system shall be used and appropriate connection to the existing Town drainage system shall be made.

6.13.9 Calculations: Hydraulic calculations, prepared by a Registered Professional Engineer, shall be submitted to substantiate all design features of any proposed drainage system. Computations for run-off shall be made in accordance with standard engineering practice, acceptable to the Town Engineer, and the method of calculation shall be noted.

6.13.10 Drainage Easements: Where it is necessary to carry drainage across lots within the subdivision, storm water easements shall be provided, of such width and construction as will be adequate to accommodate the volume and velocity of the run-off. However, in no case shall the easements be less than twenty (20) feet in width.

When a proposed drainage system will carry water across land outside the subdivision boundaries to an approved outfall, appropriate drainage rights shall be secured by the subdivider and shall be referenced on the Definitive Plan.

6.14 Water Facilities

6.14.1 Installation: The subdivider shall be responsible for installing water facilities in accordance with the current Rules and Regulations, specifications, and standards of the Water and Sewer Division. Connections from the main to the exterior line of the street right-of-way shall be constructed for each lot unless the Board of Health has approved individual wells.

6.14.2 Fire Hydrants: Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located not more than four hundred (400) feet apart, and shall be approved for location by the Fire Chief.

6.14.3 Extensions: Reasonable provisions shall be made for extension of the water main to adjoining property, including installation of water gates and manholes if necessary. Appropriate easements may be required.

6.15 Sewer

Within the existing or proposed sewer service area of Town, the subdivider shall be responsible for installing sewer system facilities in accordance with the current Rules and Regulations, specifications, and standards of the Water and Sewer Division.

REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

6.16 Electric and Communication Lines

6.16.1 Installation: All electric and communication lines shall be installed underground. Communication lines shall include, but not be limited to telephone, fire alarm, and cable TV.

6.16.2 Electric Lines: The electrical power distribution shall be installed in accordance with the specifications of the Concord Municipal Light Plant (CMLP) in effect at the time.

6.16.3 Fire Alarm: A fire alarm system shall be installed in conformity with the National Fire Protection Association Standards. Such system shall include one fire alarm box for each one thousand (1000) feet of street, or any fraction thereof, within the subdivision. The location of all fire alarm boxes shall be approved by the Fire Chief and shown on the Definitive Plan.

6.17 Trees and Other Plantings

6.17.1 Location: Street trees shall be required to be planted, at the subdivider's expense, on all streets within the tract being subdivided. Trees shall be planted within the street right-of-way, between the area designated for sidewalks and the sideline of the street pavement and shall be spaced at intervals of approximately fifty (50) feet on center, but no closer than thirty-five (35) feet.

6.17.2 Species: The species of street trees selected shall be of Zone 6 hardiness and shall be of licensed nursery stock with good root development and branching characteristics, and with a one-year warranty. Existing trees may be preserved as street trees if inspected and approved by the Tree Warden

6.17.3 Size: The minimum size of street trees shall be two and one-half (2 ½) inches in caliper, measured four (4) feet from the ground level, and eight (8) to ten (10) feet of height in place.

6.17.4 Planting: Street trees shall be planted in holes at least six (6) inches deeper than the height of and one and one-half (1 ½) times as wide as the root ball. Trees shall be planted at their previous depth in good quality topsoil and shall be securely staked.

6.17.5 Cul-de-sac Plantings: The center island of a cul-de-sac shall be landscaped using one of the following options:

- (a) Planting of perennial grass by either sod or seed on a six (6) inch depth of loam;
- (b) Planting of nursery-grown, well-rooted shrubs and ground cover;
- (c) Planting of street trees, shrubs and perennial grass, or;
- (d) Retaining existing vegetation, if approved by the Planning Board.

CONCORD SUBDIVISION RULES AND REGULATIONS

6.17.6 Slopes: All cut and fill slopes within or contiguous to the street right-of-way shall be planted with suitable, well-rooted, low growing plant materials as determined by the Concord Public Works. A wood chip or comparable mulch shall be used with ground cover plants to minimize erosion. Planting of sod may be required.

6.17.7 Cleared Areas: All cleared areas of the street right-of-way, not to be planted with groundcover, and all disturbed area within public easements, shall be loamed with not less than six (6) inches compacted depth of good quality loam and seeded with turf grass seed or such mixture as may be approved by the Concord Public Works. Seeding shall be done at appropriate times of the year and in a manner to insure growth of grass.

6.18 Street Signs

Street signs shall be installed at all intersections in conformity with the Manual on Uniform Traffic Control Devices (MUTCD) and the specifications of the Public Works Commission. Until such time as each street is accepted by the Town as a public way, the sign posts at the intersection of such street with any other street shall have affixed thereto a sign designating such street as a private way.

6.19 Street Lighting

Provisions shall be made for street lighting connections at locations determined by the Superintendent of the Concord Municipal Light Plant (CMLP). Prior to endorsement of the plan, the applicant shall deposit with the CMLP a sum of money estimated to cover the cost of the required fixtures and their installation.

6.20 Reservation of Land for Public Purpose

The Planning Board may require the designation of a portion of the subdivision tract for reservation for a period of three years for municipal purposes. Reservation of land shall not be unreasonable in relation to the size of the tract being subdivided and to the prospective uses of the reserved land.

If the Board reserves land, a notation shall be made on the plan concerning the area being reserved and the requirements that no street, utilities, building, or other improvements within the boundaries of the land being reserved may be made without the Board's approval for a period of three years from the date of endorsement of the plan.

During the three year reservation period, the Town may elect to acquire any or all of the reserved land and shall justly compensate the owner for the land acquired. If the Town does not elect to acquire the land within the three year reservation period, the subdivider may proceed with improvements in accordance with the approved subdivision plan.

REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

6.21 Reservation of Land for Housing Purposes

In order to serve the public purposes of the Inclusionary Housing Bylaw adopted by the 1992 Town Meeting as Article 61 of addressing the Town's affordable housing needs and of encouraging the availability of housing in the Town for persons of all income levels, the Planning Board shall require, as a condition of approval of each new residential subdivision, the reservation of land within the subdivision for purchase by the Town or its designee, in accordance with the following specific requirements, procedures and exceptions:

6.21.1 Minimum Tract Size: The requirement for reservation of land shall apply to all tracts containing at least five (5) times the area required for a single family house lot in the underlying zoning district.

6.21.2 Minimum Area To Be Reserved: With the exceptions stated in this paragraph, no less than ten (10) percent of each residential subdivision to which the reservation requirements applies shall be reserved for purchase by the Town or its designee for housing purposes. The exceptions are as follows:

- (a) If reservation of ten (10) percent of the subdivision tract area would reduce by more than twenty (20) percent the number of lots that could otherwise be created by the subdivision, then the Planning Board may designate less than ten (10) percent of the area, but not less than one-half (1/2) acre of buildable land, for reservation. If reserving one-half (1/2) acre of buildable land would reduce by more than twenty (20) percent the number of lots that could otherwise be created, then no area shall be designated for reservation.
- (b) The Planning Board may designate less than ten (10) percent of the subdivision tract area for reservation if it determines that reserving ten (10) percent of the area would result in a subdivision layout that would be deleterious to the Town.

6.21.3 Designation of Lots: After such consideration of comments from other Town boards and committees as the Planning Board deems appropriate, the Planning Board shall designate on the subdivision plan the specific portion of the tract to be reserved. Such land may be in one or more locations within the subdivision as the Board may determine.

In determining the areas to be designated for reservation, the Planning Board shall consider, at a minimum, the following characteristics of the land:

- (a) Suitability of soils for location of on-site sewage disposal systems;
- (b) Availability of Town sewer;
- (c) Availability of Town water;
- (d) Relationship of the lots or area to be reserved to the location and type of vehicular and pedestrian circulation;
- (e) Topography;

CONCORD SUBDIVISION RULES AND REGULATIONS

- (f) Location of the area(s) to be reserved in relation to wetlands, floodplain, and other surface water and groundwater resources, and;
- (g) Location of the area(s) to be reserved in relation to existing and proposed open space, active recreation areas, and trail networks.

The area or areas designated by the Planning Board for reservation shall be shown as one (1) or more lots on the Definitive Subdivision Plan approved and endorsed by the Planning Board.

6.21.4 Period of Reservation: The reservation period shall commence on the date the Planning Board endorses the Definitive Subdivision Plan and shall end three (3) years after the date of endorsement. The plan shall bear a notation that identifies the reserved area and states that no streets, utilities, buildings, or other improvements may be made, built or installed within the reserved area without the Planning Board's approval until a release of reservation signed by the Planning Board is recorded in the South Middlesex Registry of Deeds or, if the reserved area is registered land, is filed with the Land Court.

6.21.5 Exercise of Rights Under the Reservation:

- (a) By the Town: The Town shall be deemed to have exercised its purchase right with respect to land reserved hereunder if, at any time during the reservation period, the Town gives the owner of the reserved area written notice (the "Exercise Notice") that (i) states the Town's intention to purchase all or a portion of the reserved area, (ii) specifically identifies the land to be purchased, (iii) states the purchase price to be paid therefore, (iv) includes evidence that the Town Meeting and the Board of Selectmen have authorized the purchase, and (v) includes a copy of the appraisal report prepared in accordance with the requirements of the Uniform Procurement Act, G.L.c. 30B, Section 16(b).
- (b) By the Town's designee: The Town's designee shall be deemed to have exercised its purchase right with respect to land reserved hereunder if, at any time during the reservation period, the Town's designee gives the owner of the reserved area written notice (the "Exercise Notice") that (i) states the intention of the Town's designee to purchase all or a portion of the reserved area, (ii) specifically identifies the land to be purchased, (iii) states the purchase price to be paid therefor, and (iv) includes evidence that the Town has in fact named the designee to be the Town's designee hereunder.
- (c) Owner's response: The owner shall be deemed to have agreed to sell the land identified in the Exercise Notice at the price stated therein unless, within sixty (60) days after the Exercise Notice is given, the owner gives written notice to the Town or the Town's designee, as the case may be (the "Price Objection Notice"), that (i) states that the owner objects to the purchase price named in the Exercise Notice on the ground that it does not represent fair market value for the land to be purchased, (ii) states the purchase price that the owner would accept for the land to be purchased, and (iii) includes a copy of the written report of a qualified appraiser that supports the purchase price stated in the

REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

Price Objection Notice. If the owner does not submit a Price Objection Notice within sixty (60) days after the Exercise Notice was given, the Town or its designee, as the case may be, will tender the purchase price named in the Exercise Notice to the owner and the owner shall give good clear and marketable title to the land specified in the Exercise Notice to the Town or the Town's designee, as the case may be, at a date, time and place mutually agreeable to the parties, but no later than one hundred and twenty (120) days after the date the Exercise Notice was given, unless the parties to the transaction agree otherwise in writing.

- (d) Response to Price Objection Notice: If the owner submits a Price Objection Notice, the Town or its designee, as the case may be, may choose to object to the purchase price named in the Price Objection Notice and elect to have the fair market value of the parcel determined by a disinterested, qualified appraiser to be named by the parties, and said fair market value shall be the purchase price. If it elects to have the fair market value determined by a disinterested appraiser, the Town or its designee shall, within sixty (60) days after the Price Objection Notice is submitted, give the owner written notice of this election and submit the names of three (3) appraisers whom the Town or its designee would accept as qualified and disinterested. Within fifteen (15) days after receiving the foregoing notice, the owner shall respond in writing selecting one (1) of the three (3) appraisers so named. The cost of the appraisal shall be evenly shared by the owner and the Town or its designee, as the case may be, and the parties to the transaction agree that the fair market value established by the appraisal shall be the purchase price for the property. If the Town or its designee does not elect, within sixty (60) days after the Price Objection Notice is submitted, then the parties agree that the purchase price named in the Price Objection Notice shall be the purchase price for the property.

If the owner submits a Price Objection Notice, then the Town or its designee shall have one (1) year after the purchase price is established within which to obtain any additional Town Meeting or Board of Selectmen authorizations or designations necessitated by the change in purchase price from that stated in the Exercise Notice (collectively, the "Authorizations"). The Town or its designee shall attempt to obtain the Authorizations at the next scheduled Annual or Special Town Meeting following the date on which the purchase price is established and shall give the owner prompt written notice if the Authorizations are obtained or, if no Authorizations are necessary within one hundred and twenty (120) days after the purchase price is established.

- (e) Area to be Purchased: The Town or its designee may choose to purchase all or a specified portion of the reserved area. If it is necessary to modify the previously approved subdivision plan in order to include the portion of the reserved area not purchased in either a previously created lot or a new lot, then the Planning Board shall make such modification in accordance with the provisions of G.L.c. 41, Section 81W, and the Town or its designee shall pay the expense of effecting the modifications.

CONCORD SUBDIVISION RULES AND REGULATIONS

- (f) Notices: Any notice given in accordance with these regulations shall be deemed to have been duly given when mailed by registered or certified mail, return receipt requested, postage and registration or certification charges prepaid. Notices to be given to the Town shall be addressed to the Town Manager, Town House, Monument Square, Concord, Massachusetts, 01742, with one copy addressed to each of the following: c/o Town Clerk, the Board of Selectmen, the Planning Board, and the Affordable Housing Committee.

6.21.6 Release of Reservation: The reserved area shall be released from reserve status and the owner or developer shall be free to proceed with the improvements on the previously reserved land in accordance with the approved subdivision plan if neither the Town nor the Town's designee takes the actions set forth in Paragraph 6.21.5 to exercise its rights with respect to the reserved land within the time periods specified in Paragraph 6.21.5. If the conditions for release of the reservation have been met, the Planning Board shall promptly, upon request of the owner, provide the owner with a recordable form of Release of Reservation signed by the Planning Board.

6.21.7 Just Compensation: The Town or its designee shall justly compensate the owner of the land by paying fair market value for that portion of the reserved land that the Town or its designee elects to purchase. Fair market value shall be determined in accordance with the procedures set forth in Paragraph 6.21.5.

6.21.8 Maximum Number of Units on Reserved Land: No more than one (1) housing unit shall be built for every ten thousand (10,000) square feet of land purchase or acquired by the Town or its designee hereunder.

6.21.9 Applicability: The reservation shall be binding upon the owner, the developer, any mortgagee that acquires an interest in the property after the subdivision plan is approved or otherwise benefits from the subdivision plan approval, and any successor in interest, whether through purchase, foreclosure or deed in lieu thereof, bankruptcy, or other transfer.

6.21.10 The requirement established herein for reservation of land shall not apply to residential compound subdivisions, residential cluster subdivisions, or planned residential development subdivisions.

6.21.11 The requirement for reservation of land shall not apply to a subdivision tract created from a larger tract in which land was reserved for housing purposes after April 1987.

6.21.12 Options in Lieu of Reservation: Notwithstanding the foregoing provisions of 6.21, the Planning Board may, at its discretion and at any time, release an owner or developer from the requirements for the reservation of land provided that a majority of the Board of Selectmen have agreed to accept, at no cost to the Town, for affordable housing purposes, adequate alternative contributions of land, housing, and/or money to the Town or its designee.

REQUIREMENTS FOR IMPROVEMENTS AND DESIGN

In releasing the owner or developer from the reservation requirement, the Planning Board shall find that the alternative proposal adequately addresses the purpose of this regulation while being sufficiently advantageous to the town to warrant departure from the reservation requirement.

CONCORD SUBDIVISION RULES AND REGULATIONS

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