

**RULES & REGULATIONS
GOVERNING
THE SUBDIVISION OF LAND**



**TOWN OF
WARE, MASSACHUSETTS**

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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 appeals under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision 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 co-ordinating 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 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 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, G.L.)

AUTHORITY

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

EFFECT OF SUBDIVISION CONTROL LAW

These rules and regulations shall include Section 81K to 81GG inclusive of Chapter 41 of the Commonwealth of Massachusetts General Laws as if these sections were set forth herein at length.

SECTION I GENERAL

A. Definitions

"Subdivision shall mean the division of a tract of land into two or more lots and shall include re-subdivision, and, when appropriate to the context, shall relate to the process of subdivision of 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 it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinances or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remain standing, shall not constitute a subdivision". (Section 81-L of Chapter 41, G. L.)

"Preliminary plan shall mean a plan of a proposed subdivision or re-subdivision of land drawn on tracing paper, or a print thereof, showing (a) the subdivision name, boundaries, north point, date, scale, legend and title "Preliminary Plan"; (b) the names of the record owner and the applicant and the name of the designer, engineer or surveyor; (c) the names of all abutters, as determined from the most recent local tax list; (d) the existing and proposed lines of streets, ways, easements and public areas within the subdivision in a general manner; (e) the proposed system of drainage, including adjacent existing natural waterways, in a general manner; (f) the approximate boundary lines of proposed lots, with approximate areas and dimensions; (g) the names, approximate location and widths of adjacent streets; (h) and the topography of the land in a general manner". (Section 81-L of Chapter 41, G. L.)

"Way shall mean a right-of-way or means of access to a lot. A public way is a way which has been accepted by and the land owned by the

Town of Ware or by other means created as a public street. Any other way (private way) as a way over land which is owned by a private party but which is set forth by deed covenant, deed description, or other means as a private way."

Additional Definitions

Abutter shall mean all those property owners whose land abuts the proposed subdivision or land described in a plan believed not to require approval. It shall also mean those property owners directly across a street or road from the subject subdivision or land.

Applicant shall mean the owner of the land referred to in an application filed with the Planning Board or the owner's duly authorized representative.

Board shall mean the Planning Board of the Town of Ware.

Building shall mean a dwelling, or garage, etc, not to be interpreted as a sewer, water, or other utility line.

Collector Street shall mean any street not classified as either a Minor or Major Residential Street.

Date of Submission shall be either the date of the next regularly scheduled Planning Board meeting in the case of personal delivery, or the date of receipt if the plan is submitted by registered mail.

Dead End Street shall mean local streets open at one end only with special provisions for turning around.

Easement shall mean a right acquired by public authority to use or control property for a utility or other designated purpose.

Frontage shall mean the length of common boundary between a lot and a street legally qualifying to provide frontage for the division of land. To be measured continuously along one street line between side lot lines and their intersection with the street line or, in the case of a corner lot, to the midpoint of the corner arc.

Highway, Street or Road. This shall be a general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.

Lot shall mean an area of land in one ownership, with definite boundaries used, or set aside and available for use, as the site of one or more buildings.

Major Residential Street shall mean a street which serves only the subject subdivision and does not provide connection between two ex-

isting streets nor which would be subject to non-subdivision traffic.

Minor Residential Street shall mean a street which provides access to less than ten (10) residential only properties and has no future potential for expansion or continuation.

Municipal Services shall mean sewers, storm water drains, water mains, gas pipes, electrical lines, telephone lines, TV cables, fire alarm system, street lights and their respective appurtenances.

Protective Covenant shall mean a contract between the subdivider and the lot purchaser expressing agreement covering use of land.

Restrictive Covenant shall mean a contract between the subdivider and the Planning Board or other public authority concerning the use of the land inscribed on the definitive plan, or contained in a separate document referred to on the definitive plan.

Subdivision Control Law shall mean Sections 81-K to 81-GG, inclusive, of Chapter 41 of the general Laws and any acts in amendment thereof, on addition thereto or in substitution therefor.

Town shall mean the Town of Ware.

Town Engineer shall mean an engineer hired either full- or part-time by the Town of Ware.

B. Plan Believed Not to Require Approval

1. Filing of Plan

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

- (a) File with the Board a properly executed application, Form A, in triplicate, and a ~~twenty~~-dollar (\$30) non-refundable fee to cover administrative costs. Such fee must be paid by a check made out to the Town of Ware.
- (b) Submit his plan, with seven prints thereof, to the Board accompanied by the necessary evidence to show that the plan does not require approval. Copies of the plans shall be used as follows: two copies shall remain with the Planning Board and one copy shall be forwarded to each of the following: Town Clerk, Board of Assessors, Conservation Commission, Board of health and Water and Sewer Department. The dimensions of said plan shall be as

required in "Plan Regulations of the Registry of Deeds." See definition of "date of submission" for specifics of when plan must be filed.

1. Identification of the plan by name of owner of record and location of the land in question. Locus of plan at an appropriate scale.
2. The statement "Approval Under Subdivision Control Law Not Required", and provide sufficient space for the date and the signatures of all members of the Board.
3. The zoning classifications of the land that contains the property, and location of any zoning boundary lines that lie within the area and a reference to the Town Zoning Map.
4. The entirety of any lot having its boundaries changed must be shown.
5. Notice of any decisions by the Zoning Board of Appeals, including but not limited to variances and exceptions regarding the land or any buildings thereon.
6. Abutters from latest available Assessor's records unless the applicant has knowledge of any changes subsequent to the latest available Assessor's records (Form F).
7. Approximate distance to the nearest road or to other permanent monument.
8. Location of existing buildings.

(c) If an area is left for possible future construction of a road, the Planning Board shall have the authority to require that adequate width be left for such construction.

2. Determination that Approval not Required

If the Board determines that the plan does not require approval, it shall, without a public hearing and within fourteen days of the date of submission, endorse on the plan the words "Planning Board Approval Under the Subdivision Control Law Not Required". This endorsement does not imply that the plan which has been submitted complies with the Zoning By-Law of the Town of Ware. The signed original of said plan shall be returned to the applicant and the Board shall notify the Town Clerk, in writing, of its action.

3. Determination that Approval is Required

If the Board determines that the plan does require approval under the Subdivision Control Law, it shall, within fourteen days of submission of said plan, so inform the applicant and return the plan. The Board shall also notify the Town Clerk, in writing, of its determination.

C. Subdivision

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the city or town 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 and approved by the Planning Board as hereinafter provided. (Section 81-0 of Chapter 41).

D. Procedures

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 therefrom in specified instances.

Any person desiring to make a subdivision within the meaning of the Subdivision Control Law of any land within the Town shall, before proceeding with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, submit to the board a plan of such subdivision and secure approval by the Board of a Definitive Plan as hereinafter provided.

The Board will not approve or modify and approve any plan of a subdivision of land unless all lots and other proposals shown on said plan comply with the zoning by-laws of the Town or a variance from the terms thereof has been granted by the Board of Appeals.

The official in Ware authorized to issue building permits 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.

The Board may assign as its agents appropriate Town agencies or officials and may from time to time hire professional assistance to review plans and inspect improvements at the cost of the applicant.

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 to status of an approved plan after due notice and opportunity to the owner to be heard in accordance with Section 81 W of Chapter 41 of the General Laws as amended.

The time requirements shall conform to those of Chapter 41 as amended by Chapter 699 as follows:

In the case of a subdivision showing lots in a residential zone, any person, before submitting his definitive plan for approval, may submit to the planning board and to the board of health, a preliminary plan, and shall give written notice to the clerk of such city or town by delivery or by registered mail, postage prepaid, that he has submitted such plan.

In the case of a nonresidential subdivision, any person before submitting his definitive plan for approval shall submit to the planning board and the board of health, a preliminary plan, and shall give notice to the clerk of such city or town by delivery or by registered mail, postage prepaid, that he has submitted such plan.

In either case, if the notice is given by delivery, the city or town clerk shall, if requested, give a written receipt therefor. Within forty-five days after submission of a preliminary plan, each board shall notify the applicant and the clerk of the city or town, by certified mail, either that the plan has been approved, or that the plan has been approved with modifications suggested by the board or agreed upon by the person submitting the plan, or that the plan has been disapproved and in the case of disapproval the board shall state in detail its reasons therefor. The planning board shall notify the city or town clerk of its approval or disapproval, as the case may be. Except as is otherwise provided, the provisions of the subdivision control law relating to a plan shall not be applicable to a preliminary plan, and no registrar of deeds shall record a preliminary plan.

In the case of a nonresidential subdivision where a preliminary plan has been duly submitted and acted upon or where forty-five days has elapsed since submission of the said preliminary plan, and then a definitive plan is submitted, the failure of a planning board either to take final action or to file with the city or town clerk a certificate of such action regarding the definitive plan submitted by an applicant within ninety days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the planning board with the city or town clerk.

In the case of a subdivision showing lots in a residential zone, where a preliminary plan has been acted upon by the planning board or where at least forty-five days has elapsed since submission of the preliminary plan, an applicant may file a definitive plan. The failure of a

planning board either to take final action or to file with the city or town clerk a certificate of such action on the definitive plan within ninety days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the planning board with the city or town clerk.

In the case of a subdivision showing lots in a residential zone, where no preliminary plan has been submitted and acted upon or where forty-five days has not elapsed since submission of such preliminary plan, and a definitive plan is submitted, the failure of a planning board either to take final action or to file with the city or town clerk a certificate of such action regarding the definitive plan submitted by an applicant within one hundred and thirty-five days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the planning board with the city or town clerk.

Plans intended for review at a regular meeting of the Planning Board shall be forwarded to the Planning Board at least three full working days prior to the Planning Board meeting. The day of the next regular Board meeting shall be considered to be the date of submission for all plans, except that the date of mailing shall be the date of submission for Definitive Plans sent by registered mail to the Planning Board in care of the Town Clerk. For plans transmitted to the Planning Board other than at a regular Board meeting or other than through the Town Clerk, the date of submission shall be considered to be the day of the next regular Planning Board meeting after such transmittal. Plans shall not be considered "submitted" until all required documentation has been received.

E. One Dwelling Per Lot

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision or elsewhere in the Town without the consent of the Planning Board. Such consent may be conditional upon the provision of adequate ways furnishing access to each such building and adequate improvements in the same manner as otherwise required for lots within a subdivision.

F. Compliance with Zoning By-Law

All proposed lots within a subdivision shall comply with the applicable Zoning By-Law of the Town of Ware, Massachusetts.

SECTION II. PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS

A. Preliminary Plan

1. General

A preliminary plan of a residential subdivision may be submitted by the subdivider to the Planning Board and to the Board of Health for discussion and approval, modification or disapproval by each board. For nonresidential subdivisions, a preliminary plan is mandatory, as per M.G.L., Chapter 699 of the Acts of 1986. The submission of such a preliminary plan will enable the subdivider, the Planning Board, and the Board of Health, to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared. A properly executed application Form D (see appendix) shall be filed with the Preliminary Plan submitted to the Planning Board.

The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval of a Preliminary Plan and said notice shall be accompanied by a copy of the completed application (Form D).

Submission

If such review and approval are desired, a properly executed Application Form D shall be filed with the Preliminary Plan submitted to the Board. The Preliminary Plan shall be submitted by delivery at a regularly scheduled meeting of the Board, or by certified mail, postage prepaid, to the Board. The date of submission shall be either the date of the next regularly scheduled Board meeting in the case of personal delivery or the date of receipt if the plan is submitted by registered mail. In addition, written notice of such submission using Application Form D shall be given by the applicant to the Town Clerk by delivery or by certified mail, postage prepaid. If notice is given by delivery, the Town Clerk shall, if requested, give a written receipt to the person who delivered such notice.

2. Contents

Any person who submits a Preliminary Plan of a subdivision to the Planning Board shall submit one (1) set of mylar reproducible plus seven (7) sets of prints of the plan with a preferable scale of one inch equals one hundred feet and shall show the following:

- (1) The subdivision name, boundaries, north point, date, scale, legend and title "Preliminary Plan."

- (2) The names of the record owner and the applicant and the name of the designer, engineer or surveyor.
- (3) Names and plan location of all abutters indicating approximate limits of intersecting boundaries and those owners of land separated from the subdivision only by a street, as determined from the most recent tax list (Form F).
- (4) The existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner.
- (5) The proposed system of drainage in a general way, the location and direction of flow of adjacent natural waterways, and all water bodies or areas classified as wetlands adjacent to or within the proposed subdivision.
- (6) The approximate boundary lines of proposed lots, with approximate areas and dimensions.
- (7) The names, approximate location and widths of adjacent streets.
- (8) The topography of the land in a general manner.
- (9) The names of proposed streets.

3. Approval

The preliminary plan will be studied in order to determine whether it is in compliance with the requirements of design adopted by the Board. Within 45 days after submission of the plan, the Planning Board shall tentatively approve, disapprove, or approve with modifications the Preliminary Plan, noting thereon any changes that should be made. One copy of the Plan will be returned to the subdivider. Approval of a Preliminary Plan does not constitute approval of a subdivision.

A preliminary plan submitted to the Planning Board, for which written notice has been given to the Town Clerk, and any definitive plan evolved therefrom shall be governed by the subdivision rules and regulations and zoning provisions in effect at the time of submission of the preliminary plan, provided the definitive plan evolved therefrom is duly submitted within seven months from the date on which the preliminary plan was submitted.

B. Definitive Plan

1. General

Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Planning Board the following:

- a. The original ink on mylar drawings, one (1) set of mylar reproducibles, plus seven (7) sets of prints (dark line on white background).
- b. Properly executed:
 - (1) Application Form, Form B
 - (2) Designer's Certificate, Form H
 - (3) Dedication of Public Areas Form, Form I
- c. A deposit to cover the cost of advertising and notices as determined by the Planning Board after a preliminary review of the project scope.
- d. A draft of a legal advertisement marked Form J, in triplicate, describing the land.
- e. A copy of the deed.
- f. Until all required information and materials are submitted, no legal submission will have taken place. The applicant and the Town Clerk will be notified in writing when all required materials have been received.

2. Contents

The Definitive Plan shall be prepared by a registered Massachusetts civil engineer and Massachusetts registered surveyor and shall be clearly and legibly drawn in black ink upon mylar. The plan shall be at a scale of one inch equals (forty) feet or such other scale as the Planning Board may accept to show details clearly and adequately. Sheet sizes shall be 24" x 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following information:

- a. Subdivision name, boundaries, north point, date, legend and scale.
- b. Name and address of record owner and subdivider and stamp and signature of engineer and surveyor.

- c. Names, addresses and plan location of all abutters indicating approximate limits of contiguous boundaries and those owners of land separated from the subdivision only by a street, as they appear in the most recent tax list.
- d. A locus map (or location map) at a scale of 1" = 1200' showing the relationship of the proposed subdivision to the community and its facilities for a 1/2 mile radius around the proposed subdivision.
- e. All information required in the Preliminary Plan.
- f. Lines of existing and proposed streets, ways, lots, easements, and public or common areas within the subdivision (the proposed names of proposed streets shall be shown in pencil until they have been approved by the Planning Board.
- g. Sufficient data to determine the location and length of every street and way line, lot line and boundary line, and to establish these lines on the ground.
- h. Location of all permanent monuments properly identified as to whether existing or proposed.
- i. Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision.
- j. The area of each lot.
- k. Lot numbers shown enclosed in a circle and street numbers shown enclosed in a square.
- l. Indication of purpose of easements.
- m. Suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board.
- n. Existing and proposed topography at a two foot contour for gentle slopes and a five foot contour for steep slopes.
- o. Reference identifying applicable Street Plans and Profiles, Covenants, or other relevant documents, whether recorded or not.
- p. 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 water course or other body of water. Cross sections of each drainage ditch or pond shall be included.

If surface water drains will discharge onto adjacent existing streets, or onto adjacent properties not owned by the applicant, the applicant shall clearly indicate what course the discharge will take, and shall present to the Board evidence from his engineer that such discharge is satisfactory.

- q. Proposed layout of water supply and sewage disposal systems. Size and location of existing and proposed water supply mains and their appurtenances, hydrants, sewer pipes and their appurtenances and/or sewage disposal systems, storm drains and their appurtenances, and easements pertinent thereto, and curbs and curb dimensions. These layouts shall include profiles (shown in pencil until after they have been constructed).
- r. Location of Base Flood elevation if encountered within 100 feet of subdivision.
- s. Location and elevation using the U.S.G.S. datum of at least two bench marks for the subdivision should be used if within one-half mile of the property or within the water or sewer service area.
- t. 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 TV, gas), curbs, gutters, storm drainage, all easements, and when required by the Fire Department, the fire alarm boxes.
- u. Street Plans and Profiles. For each street there shall be a separate plan at 1" = 40' horizontal, 1" = 4' vertical, elevations referenced to the datum used in Section "s" above, drawn in black ink on mylar, showing the following data--one copy of this shall be submitted to the town highway department.
 - (1) The plan shall show bearings and distances, radii and arcs, central angle and tangent distances on all curves with stationing on the center line.
 - (2) The profile shall show the existing ground on the center line in a solid black line, the existing right side in a short dash line, and the existing left side in a long dash line; the proposed grade shall be shown in a heavy black line with the elevation shown at each 50 foot station, with the rate of grade indicated.
 - (3) The grade of all streets intersecting the proposed streets shall be shown for at least 100 feet each side of the intersection of the street center line. Additional lengths may be required by the Planning Board;

- (4) The proposed drainage, catch basins, manholes, pipes and any other drainage facilities shall be shown on both plan and profile;
 - (5) Existing and proposed sidewalks, bikeways and walkways shall be shown with widths and grade elevations;
 - (6) All plans and profiles shall include a notation on each drawing that the same is one of an indicated total number of sheets;
 - (7) Such additional information as the Board may deem necessary, including the plan of the fire alarm installation.
- v. A sketch plan, acceptable to the Board, showing a possible or prospective street layout for any adjacent land owned or controlled by the owner or the applicant of the subdivision.

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

At the time of filing of the Definitive Plan, the subdivider shall also file with the Board of Health two contact prints of the Definitive Plan, dark line on white background. The Board of Health shall within forty-five days after filing of the plan, report to the Planning Board in writing, approval or disapproval of said plan. If the Board disapproves said plan, it shall make specific findings as to which, if any of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefore in such report, and, where possible, shall make recommendations for the adjustment thereof.

4. Public Hearing

Before approval, modification and approval, or disapproval, of the Definitive Plan is given, a public hearing shall be held by the Planning Board, notice of the time and place of which and of the subject matter, sufficient for identification, shall be given by the Planning Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of Ware, once in each of two successive weeks, the first publication being not less than fourteen days before the day of such hearing or if there is not such newspaper in such Town by posting notice in a conspicuous place in the Town Hall for a period of not less than fourteen days before the day of such hearing, and by mailing a notice of Public Hearing to the applicant and to all owners of land abutting upon the land included in such plan as appearing on the most recent tax list.

5. Performance Guarantee

Before endorsement of its approval of a Definitive Plan of a subdivision, by the Planning Board, the subdivider shall agree to complete the required improvements (construction of ways and its installation of municipal services) specified in Section IV for any lots in a subdivision, such construction and installation to be secured by one, or in part by one and in part by the other, of the following methods, which may from time to time be varied by the applicant:

a. Approval with a proper bond

The subdivider shall file a proper bond, sufficient in the opinion of the Board to secure performance of the construction of ways and the installation of municipal services required for lots in the subdivision shown on the plan, and the Planning Board may require that the applicant specify the time within which such construction shall be completed.

b. Approval with a deposit of money or negotiable securities

The subdivider shall file money or negotiable securities, sufficient in the opinion of the Planning Board to secure performance of the construction of ways and installation of municipal services required for lots in the subdivision shown on the plan, and the Board may require that the applicant specify the time within which such construction shall be completed. The applicant shall provide proof that the deposit of money or negotiable securities shall remain available to the Town of Ware until such time that the Planning Board approves a release of said monies.

c. Approval by covenant

The subdivider shall file a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed; provided, that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any such lot, subject to that portion of the covenant which provides that no lot shall be built upon until such ways and services have been provided to serve such lot, and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Board. A deed of any part of the subdivision in viola-

tion hereof shall be voidable by the grantee prior to the release of the covenant by not later than three years from the date of such deed.

d. Approval wherein lender retains funds

The subdivider shall deliver to the Board an agreement executed after 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, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of funds sufficient in the opinion of the Board and otherwise due the applicant, to secure the construction of ways and the installation of municipal services. Said agreement shall also provide for a schedule of disbursements which may be made to the applicant upon completion of various stages of the work, and shall further provide that in the event the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available for completion. The applicant shall arrange and show proof that the funds cannot be disbursed without Planning Board approval.

6. Certificate of Approval

The action of the Planning Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by registered mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reason for its action. Approval, if granted shall be endorsed on original drawing of the Definitive Plan by the signatures of a majority of the Planning Board but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Planning Board with the Town Clerk.

In case of approval of a plan by action of the Planning Board, after the expiration of twenty days without notice of appeal to the superior court, or if appeal has been taken after the entry of a final decree of the court sustaining the approval of such plan, the Planning board shall cause to be made upon the plan a written endorsement of its approval. In case of the approval of a plan by reason of the failure of the Planning Board to act within the time prescribed, the city or Town Clerk shall, after the expiration of twenty days without notice of appeal to the superior court or if appeal has been taken, after receipt of certified records of the superior court indicating that such approval has become final, issue a certificate stating the date of the submission of the plan for approval, the fact that the

Planning Board failed to take final action and that the approval resulting from such failure has become final. The plan bearing such endorsement of the plan and such certificate, as the case may be, shall be returned by the Planning Board, or in the case of the certificate, by the city or Town Clerk, to the person who submitted such plan. Except as provided in Section eighty-one E, the existence of an official map in a city or town shall not affect the operation of the subdivision control law therein.

After the Definitive Plan has been approved and endorsed, the applicant shall furnish the Planning Board with two originals and eight prints thereof. Approval by the Planning Board does not constitute approval of the streets as public ways.

If, within two years from the date of the agreement with a subdivider, the terms and conditions have not been performed, the Board will, upon the motion of the Planning Board or on the petition of any person interested, rescind the agreement and its approval of the plan, provided no lots, sites or divisions which have been sold or mortgaged in good faith and for a valuable consideration subsequent to the approval of the Plan, or any sites, appurtenant thereto shall be affected unless the owner and the holder of the mortgage or mortgages of the same shall consent in writing. If, however, at the end of two years an attempt in good faith to fulfill the terms of said agreement has been prevented by events beyond the control of the subdivider, the Board will consider extension of the time limit. If, at the expiration of two years, the work has not been performed acceptable to the Planning Board, any such bond may be enforced and any such deposit may be applied by the Planning Board for the benefit of such town as provided in Section eighty-one Y, of Chapter 41 upon failure of the performance for which any such bond or deposit was given to the extent of the reasonable cost to such town of completion such construction and installation.

7. Mandatory Notice Prior to Commencement of Construction Work in any Subdivision within Ware

A written notice sent by certified mail to the Planning Board advising the Board that construction within an approved subdivision shall commence not sooner than seven (7) days from the date that such notice is mailed to the Board. Such notice shall be signed by the applicant, subdivider, developer, or other authorized representative of the record owner of the subdivision. In addition, a deposit as is required in subsection "Inspection Fee Deposit" shall be submitted together with such notice as required herein. Failure to comply with the requirements as set forth herein shall be deemed reason by the Board to rescind its approval of said subdivision plan.

8. Inspection Fee Deposit

A minimum deposit in an amount equal to \$1.00 per linear foot of proposed roadway as shown on the plan, or one thousand dollars (\$1,000), whichever is greater, shall be submitted to the Board along with such notice as is required by subsection B.2.8 of these Rules and Regulations. Such deposit shall be submitted in check form only (no cash will be accepted), such check to be made out to the Town of Ware. Such deposit shall be used by the Board to cover expenses incurred by the Town relating to the inspection of construction work, and other related activities within an approved subdivision. If during the course of construction of such subdivision the Board finds that the deposit as prescribed above will not be adequate to cover expenses, the Board shall reserve the right to require such additional amount as the Board may deem necessary to cover such expenses. The Board shall notify the developer, or other authorized representative in writing that such additional amount is required. Said notice to be sent by certified mail. Failure to submit the additional amount as required above within seven (7) days of receipt of said notice shall constitute reason for the Board to deny all further inspection requests until such additional amount has been deposited with the Board. At such time when the Board deems that such subdivision has been completed in accordance with the Town of Ware, Subdivision Rules and Regulations, the Board shall authorize that any excess monies in said deposit account be refunded to the developer, or his authorized representative.

9. Reduction of Bond or Surety

The penal sum of any such bond, or the amount of any deposit held under clauses "a" or "b" above, may, from time to time, be reduced by the Planning Board and the obligations of the parties thereto released by said Board in whole or in part. If release is by reason of covenant, a new plan of the portion to be subject to the covenant may be required. In cases where a partial release of covenant is requested, the applicant shall substitute a deposit of funds for the released portion of the covenant to ensure completion of roadways and services.

10. Release of Performance Guarantee

Upon the completion of the construction of ways and the installation of municipal services in accordance with the rules and regulations of the Planning Board, security for the performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect to any lot, the applicant shall send by registered mail to the Town Clerk and the Planning Board a written statement that the said construction

or installation in connection with which such bond, deposit or covenant has been given has been completed in accordance with said rules and regulations, such statement to contain the address of the applicant. If the Planning Board determines that said construction or installation has been completed, it shall release the interest of the town in such bond and return the bond or the deposit to the person who furnished the same, or release the covenant by appropriate instrument, duly acknowledged, which may be recorded. If the Board determines that said construction or installation has not been completed, it shall specify in a notice sent by registered mail to the applicant and to the clerk of the city or town the details wherein said construction or installation fails to comply with its rules and regulations and upon failure to do so within forty-five days after the receipt by said clerk of said statement all obligations under the bond shall cease and terminate by operation of law, and deposit shall be returned and any such covenant shall become void. In the event that said forty-five day period expires without such specification or without the release and return of the bond or return of the deposit or release of the covenant as aforesaid, the said clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

SECTION III DESIGN STANDARDS

A. Basic Requirements

The subdivider shall observe all design standards for land division as hereinafter provided.

B. Relationship to Town Plans

The design and layout of a proposed subdivision should be guided by the goals and objectives of the Ware Comprehensive Plan and subsequent Town plans.

C. Lot Size and Frontage

All lots shall be of such size and dimensions as to at least meet the minimum requirements of the Zoning By-Law.

D. Additional Factors

All subdivisions shall be designed and improvements made by the developer so as to reduce the following impact factors:

- a. Volume of cut and fill;
- b. Area over which existing vegetation will be disturbed, especially on land within 100 feet of a water body as defined by the Wetland Protection Act;
- c. Extent of waterways altered or relocated;
- d. Removal of stone walls;
- e. Number of driveways exiting onto existing streets or collector streets;
- f. Alteration in groundwater or surfacewater levels or chemical constituents;
- g. Disturbance of important wildlife habitats, outstanding botanical features, scenic or historic environs;
- h. Soil loss or instability during and after construction.

All subdivisions shall be designed and improvements made by the developer so as to increase or encourage the following impact factors:

- a. Configurations using collector streets to avoid traffic on streets providing house frontages;

- b. Visual prominence of natural features of the landscape;
- c. Use of curvilinear street patterns.

E. Access within Ware

No subdivision plan shall be approved unless its street system will connect with a way qualifying to provide frontage under the Town of Ware Zoning By-Law and no subdivision plan shall be approved unless the Planning Board, following its public hearing and consultation with Police Chief, Fire Chief, Highway Surveyor and Selectmen, determines that access will be adequate in light of the expected traffic without increasing the level of service or creation of hazard.

F. Streets

1. Location and Alignment

- a. All streets in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.
- b. The proposed streets shall conform, so far as practicable to the Master Plan as adopted in whole or in part by the Planning Board.
- c. Provision satisfactory to the Planning Board shall be made for the proper protection of streets, or for access to adjoining property which is not yet subdivided.
- d. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips shall be in the public interest.
- e. Street junctions with center-line directly opposite or with offsets of less than one hundred and twenty five (125) feet shall be avoided.
- f. The minimum radii of curved streets shall be one hundred and fifty (150) feet. Greater radii may be required for principal streets.
- g. 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 an angle of sixty (60) degrees.

2. Width

- a. The minimum width of street right-of-ways shall be fifty (50) feet. Greater width may be required by the Planning Board when deemed necessary for present and future vehicular travel or for the proper grading of proposed slopes.
- b. The minimum width and alignment of roadway pavement within the right-of-way shall be shown on the Standard Construction Details, as designated by the Planning Board.

3. Grade

- a. Grades of streets shall be not less than 0.5%. Grades shall not be more than 6.0% for principal streets nor more than 10.0% for secondary streets.

4. Dead-end Streets

- a. Dead-end streets shall not be longer than five hundred (500) feet from the centerline of the road intersected by the dead-end street.
- b. Dead-end streets shall be provided at the closed end with a turn-around having an outside roadway diameter of at least one hundred and thirty (130) feet.

G. Easements

1. Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twenty (20) feet wide.
2. Where a subdivision is traversed by a water course, drainage way, channel or stream, the Planning Board may require that there be provided a stormwater easement or drainage right-of-way of adequate width to conform substantially to the lines of such water course, drainage way, channel or stream, and to provide for construction or other necessary purposes.
3. Where the limits of highway slopes exceed the limits of the highway right-of-way, slope easements shall be provided if it is determined that a wider right-of-way cannot be provided.
4. Layout of Easements

Wherever possible, easements shall be continuous from lot to lot and street to street, shall be along rear or side lot lines, and shall create as few irregularities as possible.

Utility and drain easements shall generally follow lot lines and shall be not less than 20 feet in width.

5. Conservation Restrictions

Watercourses shall be located within easements conforming substantially with the lines of their courses, whose width shall not be less than 20 feet and whose boundaries shall not be closer than five (5) feet 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 By-Law. Watercourses shall remain open except at street crossings.

In any subdivision, the developer may grant to the Town a conservation restriction over any portion of the subdivision providing the area subject to the restriction has the approval of the Conservation Commission and the Board of Selectmen.

H. Open Spaces

Before approval of a plan, the Planning Board may also, in proper cases, require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area, in relation to the land being subdivided and to the prospective uses of such land. The Planning Board may by appropriate endorsement on the plan require that no building be erected upon such park or parks without its approval for a period of three years.

Any open space, park or playground 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 park may be required to have maintenance provided for by covenants and agreements acceptable to the Board, until public acquisition is accomplished by the community.

I. Protection of Natural Features

Due regard shall be shown for all natural features, such as large trees, water courses, scenic points, historic areas, and similar community assets, which if preserved, will add attractiveness and value to the subdivision.

J. Utilities

1. Stormwater System

- a. Stormwater drains, including any of their related structures, shall be designed and installed by the applicant, wherever and whenever in the opinion of the Planning Board such are necessary to provide adequate disposal of surface water from all streets and lots within the subdivision and those lands and roadways immediately adjacent to the subdivision.
- b. The storm drainage system shall be designed and constructed in accordance with the Massachusetts Department of Public Works (MDPW) standards. Computations supporting the design of the drainage system may be required by the Board. The area to be used in the design computations of the storm drainage system, shall include the entire natural drainage basin tributary to the area being developed, including adjacent undeveloped land which shall be based on ultimate development of the area in accordance with the existing zoning laws.
- c. The piping for the stormwater drainage system shall be designed using the 10 year storm curve for street drains and the 25 year storm curve for culverts over existing natural waterways.
- d. Catch basins shall be designed for both sides of the proposed ways, on continuous grades, at intervals of not more than three hundred (300) feet, at low points and sags in the way, and near the corners of the way at intersected ways.
- e. The following are minimum sizes and strengths of stormwater pipes. Existing conditions and design criteria, using MDPW standards, shall determine the actual sizes and strengths of pipe to be used in all cases.
 - (1) Main Lines--Twelve (12) inch reinforced concrete Class IV unless volume indicates a larger size is required.
 - (2) Catch Basin Connections--Twelve (12) inch reinforced concrete pipe, Class IV.
 - (3) When deemed appropriate by the Planning Board, PVC pipe complying with ASTM standards may be used.

2. Sanitary System

- a. Sanitary sewers and their related equipment shall be designed and installed in conformance with the requirements of the Town of Ware Sewer Commissioners.
- b. Whenever septic tanks, or other similar systems, are allowed by the Board of Health of the Town of Ware, they shall be designed and constructed in conformance with their requirements and standards.
- c. Existing conditions and design criteria using MDPW standards or New England Interstate Sewerage Design Standards TR-16 shall determine the actual sizes and strengths of pipe to be used in all cases.

3. Water Systems

- a. Water Mains, including house laterals, and their related equipment, such as hydrants and main shut-off valves, shall be designed to serve all lots on each street within the subdivision, in conformance with the specifications of the Water Department of the Town of Ware and in conformance with MDPW standards.
- b. Whenever a well, or other private water system is allowed by the Board of Health of the Town of Ware, it shall meet the required standards of said Department and any other pertinent standards.

4. Utility Lines

- a. All lines and/or wires used for the transmission of electricity, cable television, telephone, fire alarms, etc., shall be placed underground within the subdivision, in a location as approved by the Planning Board, and in accordance with the Building Code of the Town of Ware, as amended.
 - (1) All lines and appurtenances for the distribution of electricity shall be buried at the minimum depth given in the following table based on the National Electric Code (p. 70-632).

Circuit Voltage	Direct Buried Cables	Rigid Nonmetallic Conduit Approved for Direct Burial	Rigid Metal Conduit and Intermediate Metal Conduit
Over 600-22 kV	30	24	24

(2) All utility lines and appurtenances shall be buried at a minimum depth of twenty-four (24) inches below the approved final grade of the street, in accordance with MDPW standards and specifications. All conduit lines under roadways shall be encased in concrete as per MDPW standards and specifications.

5. Gas Transmission Lines

- a. All main or distribution pipelines used for the transmission of gas shall be placed underground within the subdivision, in a location and at a depth approved by the Planning Board. Related equipment and accessories shall be installed in conformance with the Department of Public Safety Standards.

K. Sidewalks

- 1. Sidewalks having not less than five (5) feet width may be required on one side of the street by the Planning Board.
- 2. Sidewalks shall be pitched at the rate conforming to current MDPW standards.
- 3. Sidewalk requirement may be waived by the Planning Board when deemed appropriate.

L. Driveway Aprons

- 1. Driveway aprons shall be four (4) feet wider than the driveway width.
- 2. The grade of the driveway apron shall conform to current MDPW standards.
- 3. The nearest line of a driveway shall not be any closer than thirty (30) feet from the intersection of any two (2) street lines.

M. Monuments

1. Reinforced concrete or granite monuments or bounds shall be installed at all street intersections, at all points of change in direction or curvature of streets and at other points where, in the opinion of the Planning Board or according to MDPW and Land Court standards, permanent monuments are necessary.
2. All lot corners shall be monumented by acceptable standards according to ASCM and AMLCSE standards.
3. Large radius curves with a length which exceeds 300 feet shall have monumentation installed along the curve at a maximum spacing of 300 feet.

N. Construction Methods and Standards

1. Construction of all elements of subdivision streets within the street lines shall conform to the requirements of the Town of Ware and these regulations as described in Section IV-C.
2. All utility lines shall be constructed with laterals of appropriate size installed to the street line and appropriately staked and located on the "As Built" plans.
3. In areas served by cable television, appropriate provisions shall be included for such service.
4. The roadway surfacing shall be installed in two stages as follows:
 - a. The binder course shall be installed during the initial roadway construction immediately following installation of underground utilities and the gravel base.
 - b. The top course and curbing shall be installed only after all of the following conditions have been met:
 - (1) The binder course has been subjected to one winter season.
 - (2) All utilities (including laterals) are installed.
 - (3) All deficiencies, from the time of initial construction, have been corrected.
 - (4) A minimum of 75% of the lots in the subdivision have been constructed upon.
 - (5) Written authorization has been requested and received from the Planning Board.

SECTION IV REQUIRED IMPROVEMENTS IN AN APPROVED SUBDIVISION

A. General

The subdivider shall provide all of the improvements required herein and installed at his own expense. All work done under this section shall be done under the direction of the Board and the Town Engineer. No aforementioned bond or 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 from the Town Engineer.

1. All improvements hereinafter specified shall be constructed or installed, or caused to be constructed or installed, by the applicant, in conformity with the approved Definitive Plan and with:
 - a. These Rules and Regulations; and
 - b. Whenever applicable (sections referring to payment are never applicable) with the specifications of the Massachusetts Department of Public Works, as outlined in the current edition of Standard Specifications for Highways, Bridges, and Waterways, hereinafter referred to as Standard Specifications, as amended, and in the 1966 edition of the Massachusetts Department of Public Works Construction Manual, Construction Standards, and shall include all amendments and revisions as they occur.
 - (1) Whenever, in said Standard Specifications, reference is made to the Commonwealth of Massachusetts it shall mean the Town of Ware. The District Engineer shall mean the Town Engineer acting through the Planning Board.
2. Sectional installation of utilities and construction of roadway is permitted, PROVIDED that each section shall be for not less than five hundred (500) lineal feet of roadway.
3. Wetland Protection Act--The provisions of the Wetlands Protection Act, Chapter 131, S. 40, M.G.L., shall be complied with, if applicable, before any construction commences on an approved subdivision plan.

The Wetland Protection Act is as follows:

The Wetlands Protection act, Section 40 of Chapter 131 of the General Laws, states that "no person shall remove, fill, dredge or alter any bank, beach, flat marsh, meadow or swamp bordering . . . on any . . . creek, river, stream, pond or lake, or

any land under said waters . . . without filing written notice of his intention to so remove, fill, dredge or alter, including such plans as may be necessary to describe such proposed activity and its effect on the environment, at least sixty days prior to any such removing, filling, dredging or altering. Said notice shall be sent by certified mail to the Conservation Commission. No such notice shall be sent before all permits, variances and approvals required by local by-laws with respect to the proposed activity have been obtained." The Board may condition its approval of a Definitive Plan upon the issuance of an "Order of Conditions" by the Conservation Commission.

4. Effluent Discharge Permit--No person shall discharge pollutants into waters of the Commonwealth, nor make a new outlet for such discharge or any treatment works without obtaining a permit pursuant to Ch. 21, S. 43, M.G.L.
5. Development within Flood Plain Districts
 - a. 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 By-law, it shall be reviewed to assure that:
 - (1) the proposal is designed consistent with the need to minimize flood damage, and
 - (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage, and,
 - (3) adequate drainage systems shall be provided to reduce exposure to flood hazards, and
 - (4) base flood elevation (the level of the 100-year flood) data shall be provided for that portion of the proposed subdivision within the Flood Plain District.
 - b. All mobile homes within the Flood Plain District and Zoning District shall provide that:
 - (1) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level, and
 - (2) adequate surface drainage and access for a hauler are provided, and
 - (3) in the instance of elevation on pilings, lots are large

enough to permit steps, piling foundations are placed in stable soil no more than 10 feet apart, and reinforcement is provided for piers more than six feet above ground level.

- c. The placement of mobile homes, except in an existing mobile home park or mobile home subdivision, are prohibited in the floodway (or coastal high hazard area or V-zone) and in all cases must conform with the Zoning By-law.

B. Inspection of Construction

1. Before the initial construction work is begun, the applicant shall give the Planning Board a written notice by certified mail of his intent to begin said construction. Such notice shall state the date of such start of construction and shall be given at least five (5) full normal work days before the commencement of the work. Monday through Friday, except for holidays falling on such days, for the purpose of these regulations, shall be deemed normal work days. If the construction is carried on in an intermittent manner a separate notice, as required in the above, shall be given before the resumption of construction activity. Stoppage of work for more than five (5) full consecutive work days, as defined herein, shall be deemed work carried on in an intermittent manner.
2. All of the work and materials utilized in providing the required improvements for a subdivision shall be subject to inspection by the Planning Board or its Engineer. The Planning Board or its Engineer shall be allowed access to all parts of the work.

The inspection of the work shall not relieve the developer of any of his obligation to comply with the provisions of the Subdivision Control Regulations. Failure to reject any undetected defective work or materials shall not prevent later rejection when such defect is discovered, nor obligate the Planning Board to make a final acceptance.

C. Preparation of Roadway

1. The entire area within the exterior lines of all streets in the subdivision shall be cleared, excavated or filled as necessary, and graded in accordance with the following requirements:
 - a. The entire area of each street or way shall be cleared of all stumps, brush, roots, boulders, like material and all trees not intended for preservation.
 - b. All loam and other yielding material shall be removed from

the roadway area of each street or way and replaced with suitable material in accordance with current MDPW specifications.

- c. All roadways shall be brought to a finished grade as shown on the profiles of the Definitive Plan with at least the top twelve (12) inches consisting of well-compacted binding gravel to a width of at least thirty-two (32) feet, to be located, insofar as practicable, centrally within the street right-of-way. The gravel borrow shall conform to MDPW standards for roadway use.
- d. The completed gravel surface shall be treated for the full width of the roadway with one application of asphalt or tar according to current MDPW standards.
- e. The finished road shall consist of two and one-half (2-1/2) inches of Type I-1 Bituminous Concrete applied in two (2) courses. The first course shall be one and one-half (1-1/2) inches in rolled thickness and shall conform to the Massachusetts Department of Public Works specification for "Binder Mix." The top course shall be one (1) inch in rolled thickness and shall conform to the Massachusetts Department of Public Works specification for "Top Mix." The bituminous concrete shall be applied and finished in conformance with MDPW specifications. The final or finished roadway width (curb face to curb face) shall be thirty (30) feet. Bituminous concrete curb conforming to the Massachusetts Department of Public Works specification for "Type 2 Bituminous Concrete Curb" and shall be installed on both sides of the roadway.

D. Utilities

1. Stormwater systems shall be constructed in accordance with:
 - a. Current MDPW standards, and/or
 - b. The Standard Details (Appendix B) of the Engineering Department of the Town of Ware as applicable.
2. Sanitary sewer systems to serve each lot within the subdivision shall be constructed, where possible, in accordance with the specifications of the Sewer Department of the Town of Ware.
3. Septic tank systems shall be constructed in accordance with the current specifications of the Board of Health of the Town of Ware.

4. The applicant shall cause, where possible, water mains and their related accessories to serve each lot within the subdivision to be installed as shown on the approved Definitive Plan, and in accordance with the Rules and Regulations of the Board of Water Commissioners.
5. Individual potable water supplies (wells) systems shall be constructed in accordance with the current specifications of the Board of Health of the Town of Ware.
6. The applicant shall cause primary and secondary lines and/or wires used for the transmission of electricity and/or other utilities, and their related accessories to serve each lot within the subdivision.

E. Curb Construction

1. All ways shall have their entire gutter lines curbed with bituminous concrete berm EXCEPT for the driveway openings, catch basins, and curb circles at street intersections.
2. All curb circles shall conform to MDPW standards.

F. Sidewalk Construction

The standards to be used shall be the current MDPW specifications.

G. Driveway Apron Construction

The standards to be used shall be the current MDPW specifications.

H. Street and Traffic Signs

Street name signs, standards and other appropriate traffic directional signs of a design, materials or number required by the Safety Committee or Planning Board of the Town of Ware shall be secured, furnished and installed, or caused to be installed by the applicant, in accordance with current MDPW specifications.

I. Grassed Areas

All unpaved areas, between an exterior right-of-way line and a curb line, and within that area contained by a paved turn-around circle, shall be graded, loamed with at least four (4) inches of loam or plantable soil borrow, after compacting, and seeded with a suitable cover of seed. All work and material standards shall be the then current MDPW specifications.

J. Monuments

1. Monuments, or bounds, as required under Section III, Subsection H.
2. Monuments shall be in conformance with specifications of the MDPW standards.

K. Clearing Up of Right-of-Way

All rights-of way, within the subdivision, shall be cleared of any and all materials, tools or structures used in the development work but not intended to be a permanent part thereof, prior to the request for release of Performance Guarantee, Security or Covenant.

L. 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 the specifications of the Town of Ware. 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 the Board of Health 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.

M. Utilities

Massachusetts Law (Chapter 82, Section 40--effective 8/16/59 A.K.A Dig-Safe) requires that contractors notify public utility companies, in writing, at least 48 hours before excavating in a public way. This is to permit the companies to cooperate in protecting underground cables and mains from accidental damage.

N. Plantings

Trees and Plantings

1. Existing Trees

Trees on the site, especially those over twelve (12) inches in

diameter should be preserved. Following is a list of recommended measures for the protection of trees:

- a. There should 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. All drainage from paved areas should be directed away from root zones.

2. Street Trees

- a. The subdivider may be required to plant suitable broad-leaved deciduous shade trees along roads or ways 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 the branching structure should be sound.
- b. Large-growing trees shall be spaced at appropriate intervals in accordance with recommended nursery procedures. 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 set-back area in all cases.
- c. Minimum acceptable sizes of trees to be planted shall be as follows:

Large-growing: 2 and 1/2 inch trunk diameter, .
caliper at 1' above ground

Medium-growing: As above

Small-growing: 9' crown height, 5' spread

- d. Planting operations shall be as specified in Section 8, Subsection A, C, E, and F, of the Recommended Standard Specifications for Planting Trees, Shrubs, and Vines--Associated Landscape Contractors of Massachusetts, Inc.
- 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. The subdivider shall be responsible for maintenance of planted trees and replacement of those which have died or become diseased from the time of planting through one full growing season.

3. Bank Plantings

- a. All cut or fill bankings that tend to wash or erode 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. If bank plantings are of a type which are properly spaced at close intervals, 4" of plantable soil borrow shall be spread over the entire bank. If the plantings are to be widely spaced they may be planted in loam pits.
- c. Mulch (wood chips or equal) shall be spread heavily among plantings for weed and erosion control.
- d. The subdivider shall be responsible for maintenance of bank plantings and replacement of those which have died or become diseased from the time of planting through one full growing season.

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 one

hundred (100) feet of the intersection of the curbs adjacent to the corner lot.

5. Cul-de-sac Plantings

The central portion of a permanent dead-end street should be landscaped. The following options are permitted:

- a. Planting with ground cover, using an 4" to 6" base of plantable soil borrow, and spreading mulch between plants for weed control.
- b. Planting perennial grass by either sod or seed.
- c. Planting ornamental shrubs of a type acceptable to the Board.
- d. Retaining existing vegetation, with the approval of the Board.
- e. Standards and Specifications--The standards of the American Nurserymen Association and the specifications of the Associated Landscape Contractors of Massachusetts shall apply to landscaping subject to these regulations.

6. 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 covered with not less than six (6) inches compacted depth of good quality plantable soil borrow and 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 plot within three feet of the edge of the pavement. All materials and methods shall conform to MDPW standards and specifications.

0. Paths

Pedestrian ways or bridle paths or bicycle paths having a right-of-way of not less than 15 feet in width may be requested where deemed desirable to provide circulation or access to schools, playgrounds, parks, shops, transportation, open spaces and/or other community facilities.

SECTION V ADMINISTRATION

A. Variation

Strict compliance with the requirements of these Rules and Regulations may be waived when, in the judgment of the Planning Board, such action is in the best interest of the Town and not inconsistent with the Subdivision Control Law.

B. Reference

For matters not covered by these Rules and Regulations, reference is made to Section 81-K to 81-GG, inclusive, of Chapter 41 of the General Laws.

C. Validity

The invalidity of any Section or provision of the by-law shall not invalidate any other section or provision thereof.

D. Re-Subdivision

A subdivision Plan that has been approved by the Planning Board and duly recorded in the Registry of Deeds, may not be changed in any line or grade until the petitioner has followed the same procedure as that required for a new subdivision. In addition, the Planning Board shall consider what developments have taken place in the said Plan, by individuals, in their reliance on its official records in the registry of Deeds and whether the granting of the requested change or changes would affect any individual right required thereunder. The Planning Board shall require the petitioner to secure releases to himself from all abutters who may be affected within the tract, relieving him of all damages which may be caused by any action taken under the proposed change. The new subdivision Plan shall contain a clear and distinct reference to the former subdivision Plan and to the book and page on which it is recorded in the Registry of Deeds and shall show revisions or departures from the original in red ink.

E. Legal Instruments

The developer shall cause to be executed and submit to the Planning Board all legal instruments necessary for the approval of the subdivision. These instruments shall be in a form satisfactory to the Town Counsel.

F. Inspection Fees

At its option, the Planning Board may appoint a full time inspector to be present during all construction required by these Rules and Regulations. The inspector will be employed by the Town and will be under the supervision of the Planning Board or Building Inspector if so directed by the Planning Board. The subdivider shall reimburse the Town for the cost of the inspector.

The developer has the responsibility to insure that the approved construction plans are implemented. Use of qualified persons to furnish adequate and timely engineering supervision during construction is required. Surveillance and field revisions by town officials cannot be construed as fulfilling this responsibility.

G. As-Built Drawings

Upon acceptance of the work as complete, the developer shall revise the original plans to show the subdivision as built and shall return the original plans with seven sets of prints to the Planning Board. (Prints will be distributed as follows: Planning Board (2), and one each to the Board of Assessors, Board of Health, Sewer and Water Commission, Highway Department, and Conservation Commission.) The as-built drawings shall be on file with the Planning Board before the Performance Guarantee is released.

H. Amendments

These 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.

I. 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 to be effective immediately, without recourse to a public hearing and the customary procedures for amendment or repeal of such regulations.