

RULES AND REGULATIONS  
GOVERNING THE SUBDIVISION OF LAND IN  
ROCKPORT, MASSACHUSETTS

At a session duly convened, the Planning Board of the Town of Rockport did officially Adopt the following revised rules and regulations, effective as of January 9, 2001. Amendments were also made on March 22, 2001 and October 18, 2001

Eric Hutchins, Chairman  
Samuel W. Coulbourn, Vice-Chairman  
John Heinzmann  
Bill Dwyer  
Mary Ruth Sole

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**RULES AND REGULATIONS  
GOVERNING THE SUBDIVISION OF LAND IN  
ROCKPORT, MASSACHUSETTS  
(Adopted under the Subdivision Control Law  
Section 81K to 81GG inclusive, Chapter 41, M.G.L.)**

**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 town 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:

- A. for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel;
- B. for lessening congestion in such ways and in the adjacent public ways;
- C. for reducing danger to life and limb in the operation of motor vehicles;
- D. for securing safety in the case of fire, flood, panic and other emergencies;
- E. for insuring compliance with the applicable zoning ordinances or by-laws;
- F. for securing adequate provisions for water, sewerage, drainage and other requirements where necessary in a subdivision;
- G. for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions;
- H. for protection of natural water resources, flood control, wetland areas, and for protecting, promoting and enhancing the natural beauty of the Town.

It is the intent of the subdivision control law that any subdivision plan that is filed with the Planning Board shall receive 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 81M of Chapter 41, M.G.L.)

**SECTION 1. AUTHORITY AND ADMINISTRATION**

- 1.1 Under the authority vested in the Planning Board of the Town of Rockport, by Section 81Q of Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Rockport. Such rules and regulations shall be effective as of the 18<sup>th</sup> day of July 1, 2000, hereby amending rules and regulations previously amended April 10, 1999, August 3, 1988, July 12, 1973 and adopted the 21<sup>st</sup> day of June 1962 or otherwise amended.
- 1.2 **VARIATION.** Strict compliance with the requirements of these Rules and Regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.
- 1.3 **REFERENCE..** For matters not covered by these rules and regulations, reference is made to Sections 81K to 81GG, inclusive of Chapter 41 of the General Laws.
- 1.4 **FINAL ACTION.** The Planning Board must take final action on a preliminary or definitive plan and file a certificate with the Town Clerk in accordance with Massachusetts General Laws, Chapter 41, Sections 81S and U
- 1.5 **EXTENSIONS.** The Planning Board reserves the right to require extensions beyond these time periods if additional information is needed to satisfy the purpose of Sections 81K to 81GG of Chapter 41, M.G.L.

**SECTION 2.**

**2.1 DEFINITIONS**

**2.1.1 SUBDIVISION**

- A. shall mean the division of a tract of land into two or more lots;
- B. shall include re-subdivisions;
- C. shall, when appropriate to the context, 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 was made, every lot within the tract so divided has frontage on:
  - 1. a public way, or
  - 2. a way shown on a plan theretofore approved in accordance with the subdivision control laws, or

3. a way in existence when the Zoning Bylaw became effective July 14, 1951

Such way shall have, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide:

- A. for the needs of vehicular traffic in relation to proposed use of the land abutting thereon or served thereby, and;
- B. 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 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 fifty 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 remains standing, shall not constitute a subdivision (Section 81L of Chapter 41, M.G.L.)

2.1.2 **PRELIMINARY PLAN:** shall mean a plan of a proposed subdivision of land drawn on linen or mylar or print thereof, showing:

- A. The subdivision name, boundaries, north point, date, scale, legend and title "Preliminary Plan";
- B. The name of the record owner and the applicant and the name of the designer, engineer and surveyor;
- C. The names of all abutters, as determined from the most recent local tax list;
- D. The existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner;
- E. The proposed system of drainage, including adjacent existing natural waterways, in a general manner;
- F. The approximate boundary lines of proposed lots, with approximate areas and dimensions;
- G. The names, approximate location and widths of adjacent streets;



- H. The topography of the land in a general manner;
- I. The approximate line of mean high tide where the proposed subdivision is adjacent to tidewater;
- J. The proposed provision of water supply, fire protection and the disposal of sanitary wastes;
- K. Locus plan insert;
- L. North arrow.

(Section 81L of Chapter 41, M.G.L.)

2.1.3 **DEFINITIVE PLAN:** Shall mean the final plan on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, is filed with the Registrar of Deeds, Salem, Massachusetts.

2.1.4 **SUBDIVIDER:** Shall mean any person, firm, corporation, partnership or association who shall lay out for the purpose of sale or development any subdivision or part thereof as defined herein, either for himself or others.

2.1.5 **BOARD:** Shall mean the Planning Board of the Town of Rockport.

2.1.6 **COURT:** Shall mean a street which, by its location and design, serves as a means of access for no more than four dwelling units, is not more than two hundred (200) feet in length, and has no potential to serve additional lots.

## 2.2 **PLAN BELIEVED NOT TO REQUIRE APPROVAL**

2.2.1 Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land prepared and certified by a registered land surveyor and who believes that this plan does not require approval under the Subdivision Control Law, may submit this plan;

- A. Four contact prints thereof, dark line on white background;
- B. Two copies of application Form A and one copy of the Questionnaire (which may be obtained from the Board or the Town Clerk) to the Board accompanied by the necessary evidence to show that the plan does not require approval;

C. There shall accompany each Form A, a non-refundable filing fee of \$50.00.

2.2.2 Such evidence shall describe clearly the intent and purpose of said plan, and shall include all information necessary for the Board to make a determination of endorsement. Failure to provide such evidence and information shall be deemed sufficient grounds to refuse consideration of the plan and the Board shall notify the Town Clerk and applicant that the submission is voided.

2.2.3 Said person shall file, by delivery or registered mail, two copies of Form A with the Town Clerk, who shall note the date of the submission on each copy, said date to be the next regularly scheduled Board meeting. The Town Clerk shall forward one copy to the Board and retain one such copy for the Town Clerk's file. If the Board determines that the plan does not require approval, it shall without a public hearing and within twenty-one (21) days of submission endorse said plan. The Board may add to such endorsement, a notation that endorsement by the Planning Board is not a determination of conformance with the Zoning By-Law.

2.2.4 Said endorsement shall be by at least a majority of the Board ( or by the signature of the person officially authorized by the Board). Prior to submission, the original plan accompanying the application for endorsement shall have marked thereon adjacent to the title, the following:

**TOWN OF ROCKPORT, MA  
PLANNING BOARD**

**Planning Board approval under Subdivision control Law not required**

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

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

2.2.5 The Board shall notify the Town clerk of its action, and said linen shall be returned to the applicant. One copy of the plan shall be retained by the Board for its files, two copies shall be filed with the Town Engineer and one copy shall be filed with the Board of Assessors

2.3 No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the 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 to and approved by the Board as hereinafter provided.

## **2.4 ADEQUATE ACCESS**

### **2.4.1 GENERAL**

Plans shall be endorsed as not requiring approval under the Subdivision Control Law and subdivision plans shall be approved only if each building lot to be created by such plans has adequate access as intended under the Subdivision control Law, Chapter 41, Sections 81-K through 81-GG.

### **2.4.2 STANDARDS OF ADEQUACY**

Streets within a subdivision shall be considered to provide adequate access if and only if complying with the standards established in these Regulations. Ways providing access to the streets within a subdivision or providing access to lots said not to be within a subdivision shall normally be considered adequate only if there is assurance that prior to construction on any lots, access shall be provided having sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby, and for the installation of municipal services to serve such land and buildings to be erected thereon.

### **2.4.3 OBLIGATIONS**

The Board may require, as a condition of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate a strip of land for the purpose of widening access ways to a width as required above, and that he either make physical improvements within such way or compensate the Town for the cost of such improvements in order to meet the standards specified above.

## **SECTION 3.**

### **3.1 PRELIMINARY PLAN**

#### **3.1.1 GENERAL**

- A. Linen or mylar and six (6) copies of a Preliminary Plan of a subdivision may be submitted by the subdivider to the Planning Board. One copy of the Preliminary Plan shall go to the following:

1. Planning Board files
2. Board of Health
3. Conservation Commission
4. Director of Public Works
5. Town Engineer
6. Planning Board's Consulting Engineer

for discussion and approval, modification or disapproval by each Board. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, the Board of Health, Conservation Commission, other municipal agencies and owners of the property abutting the subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case. A properly executed application Form B (which may be obtained from the Board) shall be filed with the Preliminary Plan submitted to the Board.

- B. 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 accompanied by a copy of the completed Form B.

### **3.1.2 CONTENTS**

The Preliminary Plan shall be drawn on tracing paper with pencil at a suitable scale. Said plan shall be identified as a Preliminary Plan and show all the information described under the definition of the Preliminary Plan so as to form a clear basis for discussion of its problems and for preparation of the Definitive Plan. During discussion of the Preliminary Plan, the complete information required for the Definitive Plan (Section 3.2.2 Contents) and the financial arrangements (Section 3.2.5 Performance Guarantee) will be developed.

### **3.1.3 APPROVAL**

The Board may give such Preliminary Plan its approval, with or without modification. Such approval does not constitute approval of a subdivision.

### **3.1.4 WAIVER OF REQUIREMENTS**

Upon review of the Preliminary Plan, the Board may exercise its discretionary powers as described in Section 1.0 Authority and Administration.

## **3.2 DEFINITIVE PLAN**

### **3.2.1 GENERAL**

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

- A. An original drawing of the Definitive Plan and ten contact prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval. A print shall be given by the Planning Board to each of the following:
  - 1. Planning Board files
  - 2. Board of Health
  - 3. Conservation Commission
  - 4. Director of Public Works
  - 5. Town Engineer
  - 6. Planning Board's Consulting Engineer
  - 7. Town Clerk
  - 8. Three field copies
  - 9. Board of Selectmen
- B. A properly executed application Form C (which may be obtained from the Board).
- C. Deposit to cover the cost of advertising and notices, not to exceed \$300.00, as may be required by the Board.
- D. There shall accompany each definitive plan of subdivision a certified check in the amount equal to \$10.00 per linear foot of proposed way, plus an inflation factor judged by the Board to be reasonable, such fee to be no less than \$500.00. Such fee is for the purpose of technical review, engineering review, inspection, testing and administrative costs.

### **3.2.2 SPECIAL ACCOUNT FOR SUBDIVISION REVIEW**

When reviewing a Preliminary or Definitive Subdivision Plan, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of the proposed subdivision or because of its potential impacts. The Board may require that the applicant pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application. The Board may determine that the fee in this section is adequate to pay for these costs, or it may determine that additional fees are necessary to pay for the requisite services.

The Board may hire outside consultants who can assist the Board in analyzing a proposed subdivision to ensure compliance with the Rules and Regulations.

Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific subdivision for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the subdivision.

Review fees may only be spent for services rendered in connection with the specific subdivision from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a subdivision, any excess amount in the account, including interest, attributable to a specific subdivision, shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

Any applicant may make an administrative appeal from the selection of the outside consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of an educational degree in, or related to, the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

A. Environmental Analysis. A comparative environmental analysis shall be submitted for any subdivision creating frontage potentially allowing more than four (4) dwelling units, and in other cases where the Board determines it appropriate in light of special circumstances. The scope of such analysis, including development alternatives to be compared and consequences to be studied, shall be as agreed to by the Planning Board, but will normally be required to include at least one major alternative to the plan proposed, with as much of the following information as determined by the Planning Board to be necessary for plan evaluation. The analysis shall indicate differences among alternatives regarding:

1. Impact upon ground and surface water quality and level including estimated phosphate and nitrate loading on groundwater and surface water from on-site sewage disposal, lawn fertilizer, and

other activities within the development. For subdivisions located in whole or in part within Watershed Protection Overlay Districts established in the Zoning bylaw, this shall include analysis of open and closed drainage system alternatives, examining effects upon the basin water budget and upon future contaminant levels.

2. Material effects upon important wildlife habitats, outstanding botanical features, marine life and shellfish beds, and scenic or historic environs.
3. Capability of soils, vegetative cover and proposed erosion control efforts to support proposed development without danger of erosion, siltation or other instability.
4. Volume of rock and ledge to be removed by blasting, proposed safeguards against damage to off-site premises properties from blasting, and proposed place of deposition of debris.
5. Relationship to the requirements of Chapter 131, M.G.L. Sections 40 and 40A (The Wetlands Protection Act or anything relative thereto)
6. Impact upon the existing municipal water supply and distribution capacity.
7. Ability of streets providing access to the subdivision to safely provide such access, including measurement of sight distances at each intersection with proposed streets, impact of development traffic on the traffic level of service, gap acceptance analysis, and analysis of hazards owing to limited sight distances, alignment or other characteristics of access roads.

The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed application Form C.

### **3.2.3 CONTENTS**

- A. The Definitive Plan shall include information prepared by a Registered Professional Engineer to show the design of:
  1. road pavements,
  2. water pipes, sewerage,
  3. other utilities,
  4. and prepared by a Registered Land Surveyor to show survey data including the division of property.

The plan shall be clearly and legibly drawn in black India ink upon linen or mylar.

The plan shall be at a scale of one inch equals forty feet or such other scale the Board may accept to show details clearly and adequately.

Sheet sizes shall preferably not exceed 24" x 36", with 1/2" margin on left-hand edge and 1/2" margin on remaining three sides. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. All revisions made to the Definitive Plan after the initial submission must be annotated on the plan with the date of the revision.

The Definitive Plan shall contain the following information:

1. subdivision name boundaries, north point, date, scale, locus plan;
2. name and address of record owner, subdivider, and engineer and surveyor;
3. names of all abutters and abutters to abutters as determined from the most recent tax list;
4. existing and proposed lines of streets, ways, easements and any public or common areas with the subdivision; the proposed names of streets in the subdivision shall be shown in pencil until approved by the Board;
5. location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision;
6. sufficient data to determine readily the location, bearing and length of every street, lot line, boundary line, and to establish these lines on the ground; all bearings shall be referred to true meridian;
7. location of all permanent monuments properly identified as to whether existing or proposed
8. boundary lines, areas, and dimensions of all proposed lots, and with all lots designated numerically and in sequence;
9. reference to wherever possible at least two existing permanent on or off the subdivision;



10. suitable space to record the action and conditions of the Board and the signatures of the members of the Board;
11. proposed system of storm drainage, sanitary sewer, water supply, and cable television and electrical and telephone systems; all grades pipe size and type of material shall be clearly indicated. Locations of all proposed street lighting poles within the sub-division and at the intersection of the proposed way with existing street(s).
12. existing and proposed topography at two (2) foot contour intervals compiled from recent field instrument survey;
13. existing and proposed streams and intermittent streams indicating direction of flow, wetlands, swamp, and large trees (those of significant specie or having a 24" circumference at 4 ½ feet above grade), existing paths, roads and trails, drainage swales and ponds, noting those to be disturbed by the proposed way(s).
14. a layout plan on a separate sheet showing existing and proposed sidelines, centerline, points of tangency, length of tangents, length of curves, intersection angles, and radii of curves, for each street in the subdivision, together with all buildings, walks, drives and other existing features within forty (40) feet of the sidelines of such street. The layout plan shall also show sewer mains, water mains and their appurtenances existing in or proposed for each street.
15. directly above or below the layout plan of each street a profile showing existing and proposed grades along the centerline of that street, together with figures of elevation at fifty (50) foot stations of all uniform grades and at twenty-five (25) foot intervals along all vertical curves. The horizontal scale of the profiles shall be forty (40) feet to one inch. All elevations shall refer to the Town datum. (U.S.C.G.S. mean sea level) Items 11 through 15 may be shown on the same plan which contains the space for the signatures of the Board, or on separate plans. All such plans, together with the layout plan (item 14) shall be deemed to constitute the Definitive Plan of the Subdivision.
16. at the same scale as the Definitive Plan, a development plan, showing (two-foot contour intervals) the distinction between upland and wetland, indication of mean high water, annual high water mark, location of tree cover, significant individual trees, existing structures including fences and walls, and

proposed streets, drainage facilities, and lot lines including Watershed Protection Overlay boundaries, if applicable. If located within the Flood Plain District, the location of the base flood elevation (one-hundred-year flood) and any Velocity Zones shall be indicated. Wetland delineation shall be based upon field identification and flagging by a botanist or other professional previously approved by the Board as being qualified for wetlands identification under the Wetlands Protection Act.

- 17. a typical cross section of each street at a horizontal scale of one inch equals five feet and a vertical scale of one inch equals one foot;
- 18. area of proposed roadway;
- 19. an outline of all areas within the Watershed Overlay District or Coastal Floodplain District;
- 20. Title Block.

**TYPE OF PLAN**

**NAME OF STREET OR SUBDIVISION**

**Owner** \_\_\_\_\_ **Engineer** \_\_\_\_\_

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

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

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

\_\_\_\_\_  
**Rockport Planning Board**

\_\_\_\_\_ **Application Filed**

\_\_\_\_\_ **Plan endorsed**

\_\_\_\_\_

\_\_\_\_\_

### **3.2.4 BOARD OF HEALTH**

The Planning Board shall file with the Board of Health one contact print of the Definitive Plan, dark line on white background. On those subdivisions not serviced by the municipal sewerage system, the Board of Health shall within forty-five (45) days after filing of the plan, report to the Planning Board in writing, approval or disapproval of the plan.

- A. If the Board of Health 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.
- B. Every lot (so located that it cannot be served by a connection to the municipal sewer system) shall be provided with a cesspool or septic tank and drainfield satisfactory to the Board of Health.

### **3.2.5 PUBLIC HEARING**

Before approval of the Definitive Plan is given, the Board shall hold a public hearing. Notice of such hearing shall be given by the Board at the expense of the applicant in a newspaper of general circulation in the Town of Rockport. Said notice shall appear once in each of two successive weeks, the first publication being not less than fourteen days before the day of such hearing. A copy of said notice shall be mailed to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax list.

### **3.2.6 PERFORMANCE GUARANTEE**

Before endorsement of approval of a Definitive Plan of a Subdivision, the subdivider shall agree to complete the required improvements, specified in Section 5, for any lots in a subdivision – such construction and installation to be secured by one, or in part by one, or in part by the other, of the following methods which may from time to time be varied by the applicant:.

#### **A. APPROVAL WITH BONDS OR SURETY**

The subdivider shall either file a performance bond or deposit of money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost of all or any part of the improvements specified in Section 5 not covered by a covenant under (B) hereof. Such bond or security, if filed or deposited, shall

be approved as to form and manner of execution by the Town Counsel and as to sureties by the Selectmen or Town Treasurer and shall be contingent on the completion of such improvements within two years of the date of the bond. Failure to complete within two years of the date of the bond shall automatically rescind approval of the plan.

**B. APPROVAL WITH 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 as specified in Section 5 not covered by bond or deposit under (A) hereof, 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 Planning Board. A deed of any part of the subdivision in violation hereof shall be voidable by the grantee prior to the release of the covenant but not later than three years from the date of such deed.

**3.2.7 REDUCTION OF BOND OR SURETY**

The penal sum of any such bond, or the amount of any deposit held under clause (A) above, may, from time to time, be reduced by the Board and the obligations of the parties thereto released by the 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.

**3.2.8 RELEASE OF PERFORMANCE GUARANTEE**

A. Upon the completion of improvements, required under Section 5, security for the performance of which was given by bond, deposit or covenant with respect to any lot, the subdivider may orally request and agree on terms of release with said Board, or he may send by registered mail to the Town Clerk a written statement in duplicate that the said construction or installation in connection with which such bond, deposit or covenant has been completed in accordance to the requirements contained under Section 5, such statement to contain the

address of the applicant, and the Town Clerk shall forthwith furnish a copy of said statement to the Board.

- B. If the Board determines that said construction or installation has not been completed, it shall specify to the applicant, in writing, the details wherein said construction and installation fails to comply with the requirements contained under Section 5.
- C. Should the Board fail to act on such application within sixty days after the receipt of the application by the Town Clerk, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such covenant shall become void. In the event that said sixty-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 Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

### **3.2.9 CERTIFICATE OF APPROVAL**

- A. The action of the 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 delivery or registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its actions.
- B. Approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Board (or by the signature of the person officially authorized by the Board) but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town clerk and said Clerk has notified the Board that no appeal has been filed.
- C. At the time of endorsement of the Definitive Plan, the applicant shall furnish the Board with five prints thereof which shall also be endorsed by the Board.
- D. Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

### **3.3 AS BUILT PLANS**

- A. Prior to final release of bond or covenant, the Developer shall file with the Director of Public Works certified As-Built Plans.

All plans submitted shall be endorsed by a Registered Professional Engineer and Land Surveyor certifying the accuracy of construction and showing the exact construction.

Plans shall include the precise location of:

2. water mains
3. sanitary sewer mains
4. storm drainage lines
5. water gate valves
6. water service valves
7. sewer manholes
7. drainage structures
8. and all other utilities as actually installed with sufficient ties, including depths shown as profiles, for proper and accurate identification and location.

Plans shall also include:

9. Layout of lots and roadways to permit the Town, at their option, to lay out and accept such ways at a Town Meeting
10. All plans must be “reproducible originals” which are acceptable by the Registry of Deeds.

### **3.4 LOCUS PLANS**

A locus plan shall accompany each Preliminary and Definitive Plan, either separately or as an inset, drawn to the same scale as the street plan showing the relations of the subdivision streets to the existing street system.

## **SECTION 4. DESIGN STANDARDS**

### **4.1 STREETS**

#### **4.1.1 LOCATION**

- A. All streets in the subdivision shall be designed so that, in the opinion of the 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. Provision, satisfactory to the Board, shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided.

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

**4.1.2 ALIGNMENT**

- A. Street jogs with centerline offsets of less than one hundred and twenty-five (125) feet should be avoided.
- B. The minimum centerline radii of curved streets shall be as follows:

Residential streets and courts	150 feet
Secondary streets	400 feet
Business streets	400 feet

- C. All reverse curves on secondary and inter-community highways and residential collector streets shall be separated by a tangent at least one hundred (100) feet long.
- D. Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty degrees.
- E. Property lines at street intersections shall be rounded with a curb radius of not less than twenty-five (25) feet. The Board may require greater radii to insure adequate sight distances.
- F. The area between the rounded curb and the chord between tangent points of the rounded curb and the street intersections shall be kept free of visual obstructions. No fences, shrubs, etc. shall be higher than three (3) feet within this area.

**4.1.3 WIDTH**

The minimum width of street rights of way shall be as follows:

Courts: Twenty-five (25) feet, except for streets having a grade in excess of six percent, in which instance the minimum right of way shall be thirty (30) feet.

Residential streets	40 feet
Secondary streets	50 feet
Business streets	60 feet

**4.1.4 GRADE**

- A. The centerline grade for any street shall not be less than one per cent (1%)
- B. The maximum centerline grades shall be as follows:
 

Residential streets and courts	12%
Secondary streets	6%
Business streets	6%
- C. All changes in grade exceeding one-half (1/2) per cent shall be connected by vertical curves of sufficient length to afford, in the opinion of the Board, adequate sight distance.

**4.1.5. DEAD-END STREETS**

- A. Dead-end streets, whether temporary or permanent, shall be no longer than five hundred (500) feet, as measured from the centerline of the intersecting street from which access to the dead-end street is obtained and extending to the furthest point of the turn-around roadway pavement.
- B. Dead-end streets shall be provided at the closed end with a turnaround having a property line diameter of at least one hundred and twenty (120) feet.
- C. Courts shall provide a turn-around having a diameter, at curb-line, of at least eighty (80) feet and a property-line diameter of at least ninety (90) feet.
- D. Dead-end streets shall not be allowed where a continuation of streets is or will be needed.

**4.2 EASEMENTS**

- 4.2.1 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.
- 4.2.2 Where a subdivision is traversed by a water course, drainage way, channel or stream, the Board may require that there be provided a perpetual, unobstructed storm water easement or drainage right-of-way of adequate width to conform, substantially, to the lines of such water courses, drainage way, channel or stream, and to provide for construction or other necessary purposes.



Such easements and drainage right-of-ways shall be noted on the Definitive Plans and the As Built Plan.

#### **4.3 OPEN SPACE, PARKS AND PLAYGROUNDS**

Areas for open space, parks and/or playgrounds will be set aside and shall be of reasonable size, but generally not less than ten percent (10%) of the area of the subdivision, depending upon the location and quality of the land being set aside. Areas subject to protection under the Massachusetts Wetland Protection Act (M.K.G.L. c. 131, s. 40) and the regulations adopted thereunder (310 C.M.R. 10.00) as amended, or resource areas subject to protection under the Rockport Wetlands By-Law (Chapter 14.a of the Rockport code of By-Laws), as amended, shall not be included when calculating the minimum area to be set aside for open space, parks and/or playgrounds. (added July 18, 2000)

Before approval of a plan, the Board may require it to show parks, playgrounds, recreation areas, or other open spaces to serve the future residents of the subdivision, and by appropriate endorsement, require that no building may be erected on such site for three years without the approval of the Planning Board. Public acquisition may be accomplished by the community within the three year interval. Failure to purchase within three years from the approval date of the Definitive Plan shall free the owner from these restrictions on building.

Any open space, park, or playground shall provide at least fifty (50) feet of continuous frontage on a street, and pedestrian ways will normally be required to provide access from each of the surrounding streets, if any, to which open space, park or playground has no frontage. Further, such parks and/or playgrounds may be required to have maintenance provided for by covenants and agreements acceptable to the Board.

#### **4.4 PROTECTION OF NATURAL FEATURES**

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

## **SECTION 5: REQUIRED IMPROVEMENTS**

### **5.1 STREET GRADING**

Unless otherwise specified, all construction material and methods shall comply with the latest edition of Massachusetts Department of Public Works standard specification or, when applicable, manufacturers' standard specification.

- 5.1.1 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.
- 5.1.2 The full length and width of the proposed roadway pavement area shall be excavated or filled, as necessary, to a depth of at least fifteen (15) inches below the finished surface as shown on the profile. However, if the soil is soft and spongy, or contains undesirable material, such as clay, sand pockets, peat, stones over six (6) inches in diameter, or any other material detrimental to the subgrade, such material shall be removed and replaced with suitable well-compacted material as required by the Director of Public Works.

### **5.2 ROADWAYS**

- 5.2.1 Roadways shall be constructed for the full length of all streets within the subdivision shown on the plan. The centerline of such roadways shall coincide with the centerline of the streets rights-of-way unless a minor variance is specifically approved by the Board.

- 5.2.2 The minimum width of roadway pavements shall be as follows:

Courts: Sixteen (16) feet, except for streets having a grade in excess of six percent, in which instance the minimum width of pavement shall be twenty (20) feet.

Residential streets                      24 feet

Secondary streets                        34 feet

Business streets                         44 feet

The minimum outside diameter of roadway pavement area within turnarounds on dead-end streets shall be one hundred and two (102) feet and shall have a traffic island in the center having fifty-two (52) feet in diameter with curbing as specified herein.

5.2.3 Roadways shall be provided with a foundation consisting of at least twelve (12) inches compacted thickness of good binding gravel, which is satisfactory to the Director of Public Works and which conforms to specifications, rolled and compacted to a centerline grade four (4) inches below the proposed finished grade as shown on the profile, and having a transverse grade conforming to that shown on the Typical Cross-Section (Plate 1 & 2). The gravel shall be spread in two equal layers, each of which shall be thoroughly watered and rolled true to line and grade. Any depressions that appear during and after the rolling shall be filled with additional gravel and re-rolled until the surface is true and even.

5.2.4 In the event a high water table or natural springs are anticipated or encountered during construction, sub-drains shall be constructed and connected to outlets. All ledge sections shall have sub-drains connected to outlets.

5.2.5 The completed roadway base shall be a binder course of bituminous concrete, Class I, applied and compacted and rolled to a thickness of two and one-half (2 ½) inches with a true surface conforming to the cross section of the road. A second course consisting of bituminous concrete top, Class I, shall then be applied and compacted and rolled to a thickness of one and one-half (1 ½) inches with a true surface conforming to the cross section of the road. Specifications for the composition of material, workmanship, and the method of applying pavement material shall conform to the specification of the Department of Public Works.

### **5.3 UTILITIES**

All gas, telephone, electricity, cable television, and fire alarm lines, water and sewer pipes shall be installed underground. All light poles not provided by the electric company shall be provided by the developer.

5.3.1 Storm drains, culverts and related installations, including catch basins, gutters and manholes, shall be installed within or without the subdivision as necessary to permit unimpeded flow of all natural watercourses, to insure adequate drainage of all low points along streets, and to intercept storm water runoff along streets, at intervals reasonably related to the extent and grade of the area drained. Generally, catch basins will be required on both sides of the roadway on continuous grade at intervals of not more than four hundred (400) feet, unless flow requires closer spacing. Storm drains and culverts shall be no less than twelve (12) inches inside diameter and shall be of greater size when required by the Board. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. The necessary size of the facility shall be based on the anticipated run-off from a one hundred (100) year storm under conditions of total potential development permitted in the watershed by Zoning Regulations.

The Director of Public Works, the Planning Board and/or consultants shall study the effect of each subdivision on existing downstream drainage facilities and natural drainage facilities and natural drainage basins outside the area of the subdivision. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility during a one hundred (100) year storm, the Board shall not approve the subdivision until the subdivider has made such provision for the improvement of said potential condition as the Board deems reasonable to require of the subdivider. The Board shall notify the Board of Selectmen of such potential condition where town facilities may be involved, at the time of approval of the preliminary plan. The Developer must supply a complete calculation sheet showing design of the drainage system.

Performance Standards: The purpose of the rules and regulations pertaining to stormwater is to protect, maintain, or improve water quality or existing water quality standards for all receiving waters, water courses and water bodies. To do so, the surface run-off measures proposed for the site shall conform to the best management storm water practices described in the

Commonwealth's Stormwater Management Handbooks, volumes 1 and 2, and be designed so that the discharge meets or exceeds the state designated water quality criteria of the receiving waters found in the Commonwealth of Massachusetts Surface Water Quality Standards, 31 CMR 4.04

- 5.3.2 Water pipes and related facilities, such as hydrants, blow-offs and shut-off valves shall be installed within the subdivision as necessary, providing all lots on each street with adequate water supply for domestic and fire protection use. Hydrants shall be no further than five hundred (500) feet apart. The costs for materials, labor and installation shall be borne by the subdivider. Materials and supplies, used in such installations, shall conform to Town specifications. Water pipes shall be no less than eight (8) inches in diameter and shall be of larger size when required by the Board.

Whenever feasible, the water supply shall be from a public water supply system. In such cases, the water supply system will be considered adequate only if water service to each lot provides gravity pressure of at least forty (40) pounds per square inch at street grade, and water for fire protection is available at twenty (20) pounds per square inch residual pressure at five hundred gallons per minute flow, sustainable for two hours, or for uses other than single-family dwelling such higher flows as needed to meet Insurance Services Office (ISO) requirements.

If connection to the public water system is not feasible, the Planning Board shall approve a subdivision for reasons beyond the reasonable responsibility of the developer, the Board may approve the plan subject to a condition that any lot not adequately served shall not be built upon until service meets the above standards.

Where connection to an adequate public water system is not feasible, the Planning Board shall approve a subdivision, only upon its determination following consultations with the Fire Department, that reserved reasonable access to other provisions will adequately provide for fire safety.

- 5.3.3 Where adjacent property is not subdivided, provision shall be made for extension of the utility systems by continuing appropriate drains and water mains up to any other land of such size and grade as will allow for their proper projection, and with such accessories and appurtenances deemed appropriate by the Director of Public Works.
- 5.3.4 Drainage and water systems within or without the subdivision shall be laid out to the satisfaction of the Director of Public Works, and constructed in conformity with specifications.
- 5.3.5 The Director of Public Works shall supervise the design subject to Board approval, of all sewers serving the subdivision. When the subdivision is in or near the area of the existing sewer system of the Town of Rockport, sanitary sewers shall be installed by the subdivider in accordance with the regulations of the Water & Sewer Division. On-site systems may be permitted in subdivisions which are located in areas beyond the reach of the Town sewerage system. Installation of on site systems shall be under the supervision and jurisdiction of the Board of Health. On site sewerage systems shall be on the lot which the building serviced by the system is located. Sewerage systems servicing more than one lot (package wastewater treatment systems) are prohibited.

#### **5.4 SIDEWALKS**

- 5.4.1 There shall be a sidewalk having a width of five (5) feet on at least one side of each street. The Board may require sidewalks on both sides of secondary or business streets.
- 5.4.2 All materials shall be removed for the full width of the sidewalk to subgrade eleven (11) inches below the finished grade as shown on cross-section sub-drain detail (Plate 3); and all soft spots and other undesirable material below such sub-grade shall be filled with eight (8) inches of good quality gravel, and rolled with a pitch toward the curb of two (2) percent.

### 5.4.3 SURFACING

Forms shall be set to grade, filled with three (3) inches of compacted bituminous concrete to be applied in two courses (binder and finished courses), except four (4) inches at driveway entrances; provided, however, that if a granolithic surface is desired, specifications of the Massachusetts Department of Highways be used..

### 5.5 MONUMENTS

Monuments shall be installed at all street intersections, at all points of change in directions or curvature of streets and at other locations where, in the opinion of the Board, permanent monuments are appropriate. Such monuments shall be made of granite measuring four (4) feet long and five (5) inches square and shall be set according to specification. No permanent monuments shall be installed until all construction, which would disturb or destroy monuments is completed. All bounds shall be set flush with the sidewalk pavement.

### 5.6 CURBING

Curbing is required lining both sides of all roadways and shall be one of three types:

- (a) rolled bituminous berm (to be used only at driveway entrances);
- (b) vertical granite curb, Type VB-1
- (c) slope-edge granite

(All shown on Plate 3)

Specifications for curbing, workmanship, and method of setting shall conform to the specification of the Department of Public Works. All curves having a radius of sixty (60) feet or less at the street line, and a central angle of forty-five (45) degrees or more, and which meet one or more tangents, shall have the gutter line curbed with circular granite curbing cut to fit the curve.

### 5.7 SIDE SLOPES

- A. The area in back of the sidewalk shall be sloped at the rate of three to one (maximum) to a point where it precisely coincides with the finished grade of abutting lots.

B. Loam shall be applied to a depth of not less than six (6) inches, rolled and seeded.

**5.8 STREET SIGNS**

The developer shall furnish and erect necessary street signs to designate the name of each street in his development; said signs to conform with those used by the Town.

**5.9 FIRE ALARM BOXES**

At least one alarm box shall be provided for each one thousand (1,000) feet of street, or fraction thereof, in all subdivisions. The circuit shall be installed to connect with an existing Town-owned circuit in a street adjoining the subdivision. The costs for materials, labor and installation shall be borne by the subdivider. Materials and supplies used in such installation shall conform to Town specifications. All work shall be under the direction of the superintendent of the Fire Alarm System.

**5.10 TREES**

All reasonable care shall be exercised to preserve the trees in the subdivision. If any lot has less than three (3) natural trees of at least one and one-half (1 ½) inches in diameter after completion of the grading and building thereon, the builder shall plant trees having a minimum diameter of one and one-half (1 ½) inches so that the trees on said lot shall number at least three (3), and the trees so planted shall be of a variety specified by and of the quality acceptable to the Tree Warden.

**5.11 CLEANING UP**

The entire area must be cleaned up so as to leave a neat and orderly appearance free from debris and other objectionable materials.

**5.12 INSPECTIONS**

Inspections during the work shall be arranged for by the subdivider with the Director of Public Works or other person designated by the Director of Public Works prior to starting construction. The Director will provide the subdivider with a check-list covering the required inspections. The Director of Public Works or his designated agent will sign the itemized inspections on this list after satisfactory completion of each step by the contractor.



### **5.13 SLOPES AND RETAINING WALLS**

Where the grade of a proposed road is above or below the grade of adjacent land, retaining walls or slopes shall be constructed by the subdivider in conformance with the recommendation of the Board. The design of all retaining walls shall be included in the Definitive Plan.

### **5.14 GUARD RAILS**

Guard rails of approved design shall be required on all roads, where in the opinion of the Board, they are necessary for safety of vehicular and pedestrian travel along roads or sidewalks in the subdivisions.

### **5.15 CONTINGENCIES**

If it shall appear, during the course of the construction of any new street, or any change in an existing street or or any other improvements required by the Board in connection with the final approval of the plans, profiles and specifications thereof, that additional or extra work or requirements are necessary owing to unforeseen conditions, side hill drainage from cuts, ledge rock, or other conditions which were not apparent at the time of the final approval by the Board, the Board may modify the terms and conditions of the final approval so as to require such additional work to be done as may be necessary to conform to accepted engineering practices and, if it shall appear necessary, may require additional bond.

## **SECTION 6. ADMINISTRATION**

### **6.1 VARIATION**

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

### **6.2 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.

