



RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND

TOWN OF GREAT BARRINGTON, MA

Chapter 240

As most recently revised by vote of the Planning Board
February 14, 2008

Effective Date of the Subdivision Control Law in Great Barrington as of
January 14, 1970, Amended November 14, 1991

ARTICLE I General Provisions

§240-1. Authority and purpose.

ARTICLE II Terminology; Applicability

§240-2. Definitions.

§240-3. Plans believed not to require approval. (Form A)

§240-4. Recording of plan requiring approval. (Subdivision)

§240-5. General requirements.

ARTICLE III Procedures

§240-6. Preliminary discussion of requirements. (Sketch Plan)

§240-7. Preliminary plan.

§240-8. Definitive plan.

ARTICLE IV Design Standards

§240-9. General Design Guidelines.

Table 1.0. Subdivision Roadway Types

Table 1.1. Road Design Criteria

§240-10. Easements.

§240-11. Open Space.

§240-12. Protection of natural features.

ARTICLE V Required Improvements for Approved Subdivision

§240-13. Roads and right-of-ways.

§240-14. Monuments.

§240-15. Road name signs.

§240-16. Street trees.

§240-17. Screening.

§240-18. Utility wires.

§240-19. Streetlights.

§240-20. Cleanup of area.

§240-21. Inspections.

§240-22. Maintenance; Homeowners' Association; Acceptance.

ARTICLE VI Administration

§240-23. Waivers.

§240-24. Statutory authority.

ARTICLE VII Fees and Costs

§240-25. Fees.

§240-26. Employment of Outside Consultants.

§240-27. Failure to comply.

APPENDIX:

Form A: Application for Endorsement of Plan Believed Not To Require Approval

Form B: Application for Approval of Preliminary Plan

Form B-1: Inventory of Constraints and Opportunities

Form B-2: Certificate of Approval or Disapproval of Preliminary Plan

Form C: Application for Approval of Definitive Plan

Form C-1: Certificate of Approval or Disapproval of Definitive Plan

Form D: Performance Guarantee – Form of Guarantee

Form E: Performance Guarantee - Covenant Approval Release (Partial or Final)

Form F: Certificate of Completion

Appendix G: Uses and ADT Schedule

[HISTORY: Adopted by the Planning Board of the Town of Great Barrington 11/14/1991.¹
Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch, 4, Art. I.

Zoning — See Ch. 171.

¹ Editor's Note: These provisions supersede those of former Ch. 240, Planning Board's Subdivision Regulations, adopted 11-12-1986, as amended. These provisions also provided that the rules and regulations set forth shall be effective on and after 11-14-1991, and so remain until modified or amended by the Planning Board.

PREAMBLE

The Planning Board encourages subdivision planning that is sensitive to the natural features of the land, avoids environmentally critical areas, conserves farmland, and helps to meet the diverse housing needs of the town.

In order to proceed through the subdivision process in the most expeditious and cost effective manner, each applicant is strongly encouraged to meet with the Planning Board at the outset to go over the inventory of Constraints and Opportunities (Form B-1) and to discuss the general direction of the development. There is no fee for this meeting. Please call the Chairperson and ask to be put on the agenda.

ARTICLE I General Provisions

§240-1. Authority and Purpose.

These rules and regulations are enacted by the Great Barrington Planning Board under authority granted by MGL C. 41, §81Q for the purpose set forth in MGL C. 41, §81M. The powers of the Planning Board under the Subdivision Control Law (M.G.L. 41 §§81K to 81GG) shall be exercised with due regard for achieving the objectives, among others, shown below.

These Subdivision Rules and Regulations have been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the town by regulating the laying out and construction of public and private ways providing proper access to lots within subdivisions, ensuring sanitary conditions in subdivisions and, in proper cases, parks and open areas. The powers of the Board under these Subdivision Rules and Regulations shall be exercised to:

- Provide adequate access to all lots in a subdivision by ways that are safe and convenient for travel;
- Lessen congestion in such ways and in adjacent public ways;
- Reduce danger to life and limb in the operation of motor vehicles;
- Provide for safety of pedestrians and bicyclists;
- Secure safety in case of fire, flood, panic and other emergencies;
- Secure adequate provision for water distribution, underground utility service, sewerage, drainage, protection of natural water sources, erosion control, flood plains, and wetlands;
- Protect, promote and enhance the natural beauty, and rural and historical character of the town; and
- Coordinate the ways in a subdivision with each other, with public ways in the town and with ways in neighboring subdivisions.

ARTICLE II Terminology; Applicability

§240-2. Definitions.

As used in these rules and regulations, the following terms shall have the meanings indicated:

AVERAGE DAILY TRAFFIC (ADT) — The total number of vehicles that pass over a given point on an average day. Trip generation projection shall be determined by use and based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

BOARD — The Planning Board of the Town of Great Barrington.

BUILDING LINE — The front yard setback required by Zoning District.

CHAPTER 171 — The Zoning Code of the Town of Great Barrington.

DEFINITIVE PLAN — See §240-8.

DPW — Department of Public Works

LIMITS OF DISTURBANCE (LOD) — The area within which all construction activity will occur.

MHD — Massachusetts Highway Department, also known as Mass Highway.

OPEN SPACE — Land that is protected from development in perpetuity by deed restriction, including, but not limited to, land dedicated for communal purposes, farming, forestry, or passive recreation. The erection of any structure, other than that erected for the purpose of, or associated with, communal recreation or agriculture, shall be prohibited in Open Space.

OSRD — Open Space Residential Design. A form of development placing a premium on the conservation of Open Space and allowing dwellings to be placed on lots smaller than zoning minimums, thereby reducing infrastructure and development costs. See §171-79 of the Zoning Code of the Town of Great Barrington.

PARTIES IN INTEREST — Parties in Interest, as used in this chapter, shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300') feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town.

PRELIMINARY PLAN — See §240-7.

PURD — Planned Unit Residential Development. See §171-78 of the Zoning Code of the Town of Great Barrington.

ROAD — A road within a subdivision is a public or private way open to travel by the general public or a way shown on a plan of a subdivision duly approved by the Planning Board. A subdivision road is private unless accepted by the town.

ROADWAY TYPES — There are four roadway types based on the Average Daily Traffic to be accommodated: Small Lane, Minor Way, Major Way, and Collector Road. These roadway types are defined in Table 1.0 Subdivision Roadway Types.

SUBDIVISION — The division of a tract or parcel of land into two (2) or more lots, including re-subdivision, and when appropriate to the context, shall relate to the process of subdividing or to the land or territory subdivided; provided, however, that the division of a tract of land into two (2) or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law if, at the time when it is made, every lot within the tract so divided has frontage on:

- a public way, or a way which the Town Clerk certifies is maintained and used as a public way, or
- a way shown on a plan approved and endorsed in accordance with the Subdivision Control Law, or
- a way in existence prior to January 14, 1970 when the Subdivision Control Law became effective in the town of Great Barrington, having, in the opinion of the 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.

TRAVELED WAY — The portion of a road right of way, whether paved or not, open to vehicular traffic.

§240-3. Plans believed not to require approval. (Form A)

- A. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that such plan does not require approval under the Subdivision Control Law may submit a copy of his application to the Board accompanied by the necessary evidence to show that each lot has adequate access and that the plan does not constitute a Subdivision and therefore does not require approval. Said person shall file with the Board one Mylar and three (3) prints of the plan, an application (Form A)², and the filing fee in accordance with ARTICLE VII. Said person shall file, by hand delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination accompanied by a copy of said application. If notice is given by hand delivery, the Town Clerk shall, upon request, provide a written receipt.

² Editor's Note: The Appendix is included at the end of this chapter.

To facilitate maintaining the Town of Great Barrington records, such as the Assessors' tax maps, an electronic file (the "standard digital file") that complies with Level III of the current version of the MassGIS "Standard for Digital Plan Submission to Municipalities" (hereafter, "the standard") shall be filed within fifteen (15) business days of the plan being endorsed by the Planning Board. The standard is available on the internet at: <http://www.mass.gov/mgis/standards.htm>. The standard digital file submitted shall comply with Level III of the standard; the vertical datum shall be the North American Vertical Datum, 1988.

Upon written request, the Planning Board may waive the requirement for submitting the standard digital file or for complying with Level III of the standard. In place of the Level III requirement, the Planning Board may allow submission of a standard digital file that complies with Level I. Any request for a waiver shall include a statement indicating why submitting a digital file is not possible or why the requirement should be for Level I of the standard.

B. Requirements.

- (1) A plan believed not to require subdivision approval shall be prepared by a land surveyor registered in Massachusetts and shall be clearly and legibly drawn to the requirements of the Recording Rules adopted by the Registries of Deeds in Massachusetts.
- (2) The Plan shall clearly show all zoning district(s) and their boundaries that fall within the property.
- (3) The Plan shall include the following note: "Planning Board endorsement does not imply that the lots or parcels shown hereon are building lots nor that they comply with the Zoning Code of the Town of Great Barrington, wetlands regulations, Title 5 of the State Environmental Code, or other local, state or federal regulations."
- (4) The Plan shall include the following:
 - (a) Property boundaries, North point, date and scale.
 - (b) Zoning districts, and their boundaries if applicable.
 - (c) Locus plan drawn at a scale no smaller than 1"=1000' showing the location of the property and the vicinity.
 - (d) The area of each lot being created.
 - (e) The location of any structures on lots created by the plan and on parcels altered by it.
 - (f) The location of easements or ways, public or private, across the land, with a designation as to use.

- (g) The names of the record owners and the applicant, and the name, seal and signature of the registered surveyor who prepared the plan.
- (h) Suitable space to record the endorsement of the Board that approval is not required and the signatures of the members of the Board.

The Planning Board may reject a plan that does not show the required information adequately or accurately.

C. Determination.

- (1) In determining whether a plan complies with the purpose of the Subdivision Control Law³ as to the provision of adequate access to all of the lots by ways that are safe and convenient to travel, the plan must show that a buildable portion of each lot is accessible from the frontage shown on the plan and that there is no intent to provide access to any lot by a way not shown on the plan, as such access would constitute a subdivision within the meaning of the Subdivision Control Law.
- (2) When, in the opinion of the Planning Board, access may be questionable or illusory, the Planning Board may require additional documentation, such as driveway configurations, to demonstrate accessibility.

D. Board action.

- (1) If the Planning Board determines that the plan does not require approval under the subdivision control law, it shall, without a public hearing and within twenty-one (21) days, endorse on the plan the words "Approval under the Subdivision Control Law⁴ not required." The Planning Board may add to such endorsement a statement of the reason approval is not required. The plan will be returned to the applicant, and the Planning Board shall notify the Town Clerk of its action.
- (2) If the Planning Board determines that the plan does require approval under the Subdivision Control Law⁵ it shall, within twenty-one (21) days of submission of said plan, so inform the applicant and return the plan. The Board shall notify the Town Clerk of its action.
- (3) If the Planning Board fails to act upon a plan submitted under this section within twenty-one (21) days after its submission (unless the twenty-one (21) day period has been extended in writing by the Applicant), it shall be deemed to have determined that approval under the Subdivision Control Law is not required, and the Board shall forthwith make such endorsement on said plan, or, on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

§240-4. Recording of plan requiring approval. (Subdivision)

³ Editor's Note: See MGL C. 41, §81K through 81GG.

⁴ Editor's Note: See MGL C. 41, §81K through 81GG.

⁵ Editor's Note: See MGL C. 41, §81K through 81GG.

If the Planning Board determines a plan requires approval, said plan may not be recorded until such approval is obtained in accordance with the provisions of these regulations. After the Planning Board approves such plan, or modification thereof, it shall be recorded in the Registry of Deeds within six (6) months of the date of endorsement. If the plan is not recorded within six (6) months of endorsement, it shall have endorsed thereon, or recorded therewith and referred to thereon, a certificate from the Planning Board or the Town Clerk, dated within thirty (30) days prior to the recording, that the approval has not been modified, amended or rescinded, nor the plan changed, in accordance with MGL C. 41, §81X of the Subdivision Control Law.

To facilitate maintaining the Town of Great Barrington records, such as the Assessors' tax maps, an electronic file (the "standard digital file") that complies with Level III of the current version of the MassGIS "Standard for Digital Plan Submission to Municipalities" (hereafter, "the standard") shall be filed within fifteen (15) business days of the plan being endorsed by the Planning Board. The standard is available on the internet at: <http://www.mass.gov/mgis/standards.htm>. The standard digital file submitted shall comply with Level III of the standard; the vertical datum shall be the North American Vertical Datum, 1988.

Upon written request, the Planning Board may waive the requirement for submitting the standard digital file or for complying with Level III of the standard. In place of the Level III requirement, the Planning Board may allow submission of a standard digital file that complies with Level I. Any request for a waiver shall include a statement indicating why submitting a digital file is not possible or why the requirement should be for Level I of the standard.

§240-5. General Requirements.

No person shall make a subdivision, within the meaning of the Subdivision Control Law,⁶ of any land in the Town of Great Barrington or proceed with the improvement or sale of lots in a subdivision or the construction of ways or the installation of utility services therein unless and until a definitive plan of such subdivision has been approved and endorsed by the Planning Board as hereinafter provided.

The Board will not approve a subdivision unless the plan is in compliance with these Subdivision Rules and Regulations and with all applicable zoning bylaws. The applicant shall also submit information showing that the subdivision will comply with other local, state and federal regulations, and that the proposed subdivision complies with the intent of these Subdivision Rules and Regulations as previously set forth in Section 240-1, Authority and Purpose, and shall adhere to principles of environmentally sensitive land use planning and accepted engineering practice.

⁶ Editor's Note: See MGL c. 41, §81K through 81GG.

ARTICLE III

Procedures

§240-6. Preliminary discussion of requirements. (Sketch Plan)

Before preparing the preliminary plan, the applicant, with his land surveyor and professional civil engineer, each licensed in the Commonwealth of Massachusetts, is strongly encouraged to meet informally with the Planning Board with a sketch plan to discuss the requirements for subdivision of land and the proposed development. The applicant should provide the Board with an informal sketch plan showing the conceptual layout of the subdivision, along with any other information that might be helpful in discussing the suitability of the property, subdivision procedures, and alternative designs. Form B-1, Inventory of Constraints and Opportunities, may be used by the Board to guide the discussion and to enhance understanding of the site. The consideration of alternative forms of subdivision, such as Open Space Residential Development (OSRD) or Planned Unit Residential Development (PURD) is encouraged. There is no fee associated with this session.

Town representatives may provide informal, non-binding suggestions to the applicant, including highlighting particular subject areas in which the Town may require technical experts to make additional findings on behalf of the Town, at the expense of the applicant, if the project proceeds to formal application, as set forth in MGL Chapter 44, Section 53G and Section 240-26 of these regulations.

§240-7. Preliminary plan.

The subdivider may submit a preliminary plan of a residential subdivision for discussion and tentative approval by the Planning Board. The subdivider is required to submit a preliminary plan of a non-residential subdivision for discussion and tentative approval by the Planning Board.

It is strongly recommended that a preliminary plan be filed in every case. The submission of a preliminary plan will enable the subdivider, the Planning Board, municipal agencies, and other parties in interest to discuss and clarify the town's requirements for subdivisions, procedures, constraints and opportunities of the land, possible alternative layouts, and other issues presented by the proposed subdivision at an early stage before detailed engineering of the definitive plan is begun. During discussion of the preliminary plan, the complete information required for the definitive plan (contents) and the financial arrangements (Performance Guarantee) can be developed.

A. General.

- (1) The preliminary plan shall be clearly drawn at a suitable scale not smaller than 1"=100' on sheets not smaller than 8^{1/2}" x 11" nor larger than 24" x 36". Three (3) prints shall be filed with the Planning Board.

- (2) A properly executed application Form B (See Appendix)⁷ shall be filed with the Preliminary Plan submitted to the Planning Board, and a copy of this form shall also be filed with the Town Clerk by delivery or registered mail.
 - (3) Each application shall be accompanied by a non-refundable filing fee. The amount of the fee shall be determined under §240-25.
 - (4) Within five (5) working days of submission to the Planning Board, the subdivider shall distribute additional copies of the plan to the Board of Health, the Conservation Commission, the Great Barrington Fire District or Housatonic Water Works, as applicable, the Department of Public Works and, if the subdivision has frontage on a state highway, Mass Highway, and the Great Barrington Police and Fire Departments, to obtain the recommendations of these agencies, as may be applicable in each case.
- B. Contents. The Preliminary Plan shall be a plan of a proposed subdivision or resubdivision of land drawn on vellum or Mylar, or a print thereof, showing:
- (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) The names of all abutters, as determined from the most recent local tax list;
 - (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, including adjacent existing natural waterways, in a general manner;
 - (6) The approximate boundary lines of proposed lots, with approximate areas and dimensions;
 - (7) The names, approximate location and widths of adjacent streets; and
 - (8) The topography of the land in a general manner.
- C. Supplemental Submittals. In addition to those items above, it is suggested that the following information be submitted to assist the applicant and the Planning Board in discussing more fully the proposed subdivision:

⁷ Editor’s Note: The Appendix is included at the end of this chapter.

- (1) A locus plan of the Subdivision showing zoning district and zoning overlay district boundaries, as applicable, street configuration, and the full extent of contiguous land holdings by the applicant at the proposed site in relation to the surrounding area, at a scale no smaller than 1" = 1000'.
 - (2) A brief narrative description of the project approach, including rationale for selection of type of Subdivision — such as conventional subdivision, PURD or OSRD — and discussion of whether the proposed ways are intended to remain privately owned and maintained by a homeowners' association, or intended for acceptance as public ways. The narrative should also briefly discuss the compatibility of the subdivision with the town's most recent Master Plan; impact on inventory of affordable housing in the town; concerns about wetlands or floodplain; adequate access to proposed lots and traffic issues including pedestrian and bicyclist safety; adequacy of recreational and open space areas, grades and drainage.
 - (3) Form B-1, Inventory of Constraints and Opportunities, should be prepared and submitted to the Planning Board. This will help all parties understand the site and will be integral to all discussions with the Planning Board throughout the design and approval process.
 - (4) A preliminary draft municipal impact statement (water supply, fire protection, sewage disposal, and storm drainage) as well as an erosion and sedimentation control plan.
 - (5) Soil types and conditions as well as a description of the natural surface and subsurface drainage and its effect on the total project design, in a general manner.
 - (6) The proposed building sites or "building envelopes," in a general manner.
- D. Approval or disapproval.
- (1) The Planning Board may give the preliminary plan its approval, with or without modification, or may disapprove the plan. Approval of a preliminary plan does not constitute approval of a subdivision.
 - (2) In the event of a disapproval of a preliminary plan, the Planning Board shall state, in detail, the reason for its disapproval. The original of the plan shall be returned to the applicant and the Town Clerk shall be notified, in writing, forthwith of the Board's action.
 - (3) Disapproval of a preliminary plan by the Planning Board does not affect the applicant's right to submit a definitive plan application for approval of the same or similar subdivision.
 - (4) The Planning Board's disapproval of a preliminary plan is not subject to appeal.

- E. Time periods. The Planning Board shall approve or disapprove the preliminary plan within forty-five (45) days after submission. The applicant may make a written request to extend the time to a specified date and time.

§240-8. Definitive plan.

A. General.

- (1) Any person who submits a definitive plan of a subdivision to the Planning Board for approval shall file with the Board the following:
 - (a) Original drawings of the definitive plan and seven (7) contact prints thereof, dark line on white background.
 - (b) A properly executed application Form C. (See Appendix.)⁸
 - (c) A non-refundable filing fee. The amount of the fee shall be determined under §240-25.
 - (d) One (1) copy of a certificate of title duly searched and executed by an attorney or title company stating that the title to the premises shown on said plan is in the name of the applicant or in the name of the partnership, trust or other entity conferring effective site control on the applicant.
- (2) The applicant shall file by hand delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval, accompanied by a copy of the completed application Form C (See Appendix)⁹ and a copy of the plan. When a definitive plan is submitted and a preliminary plan has been filed previously and acted upon, the Planning Board must take final action within ninety (90) days from the date the application was filed with the Town Clerk. For a subdivision showing lots in a residential zone, if the applicant chooses not to file a preliminary plan and starts by filing a definitive plan, the Planning Board must take final action within one hundred thirty-five (135) days from the filing date. In either case, the applicant may make a written request to extend the time.

B. Contents.

- (1) The definitive plan shall be prepared by a professional civil engineer and a land surveyor—each registered in Massachusetts—and shall be clearly and legibly drawn in ink on Mylar. Each sheet of the plan shall have the stamp and seal of the professional who prepared it, the date of preparation and a title. The lot plan(s) shall be at a scale of 1" = 40'. Engineering drawings may be at a scale appropriate to the information being

⁸ Editor's Note: The Appendix is included at the end of this chapter.

⁹ Editor's Note: The Appendix is included at the end of this chapter.

shown, but in no case at a scale less than 1" = 40'. Sheet sizes shall not exceed twenty-four by thirty-six inches (24" x 36").

- (a) If multiple sheets are used, an index sheet showing the entire subdivision, and a table of contents sheet indicating sheet numbers and titles shall accompany them.
- (b) If revisions of plans are made over the course of an application for definitive plan approval, changes made from previous submittals shall be highlighted or "clouded" on each plan, and a revision block, listing the number, date, and description of such changes, shall be provided. The final approved Mylar for recording shall have all such highlighting removed.

(2) The definitive plan shall contain the following information:

- (a) The subdivision name, boundaries, North point, date, scale, legend and the title "Definitive Plan."
- (b) The name and address of the owner of record, subdivider, civil engineer and land surveyor.
- (c) The names of all Parties in Interest as they appear on the most recent tax list.
- (d) Lines and widths of existing and proposed roads, ways, easements and public or common areas within the subdivision and the names of proposed roads.
- (e) Boundary lines, areas and dimensions of all proposed lots designated numerically and in sequence.
- (f) Sufficient data to determine the location, direction and length of every road and way line, lot line and boundary line and to establish these lines on the ground.
- (g) Location of all permanent property corner markers and monuments properly identified as to whether existing or proposed.
- (h) The location, names and present widths of roads bounding, approaching or within the subdivision.
- (i) Identification of the location, dimensions, purpose, and holders of existing and proposed easements appurtenant to the subdivision. The holders of existing easements shall be notified by the applicant, by certified or registered mail return receipts, about the proposed subdivision at the same time as other Parties in Interest.
- (j) Suitable space to record the action of the Planning Board, Board of Health and Town Clerk.
- (k) The location of electric power and communications lines, as well as street lighting fixtures, their specific type and light source. All services shall be underground. All street lighting fixtures shall be designed with a horizontal cut-off light shield.

- (l) Directly above or below the layout plan of each road, a profile showing existing and proposed grades along the centerline of the road, together with the figures of elevation at the top and bottom of all grades and at intervals of one hundred feet (100') (or other interval as deemed practical by the Planning Board) along the grade. Intersecting roads shall be clearly identified on the profile. The horizontal scale of the profiles shall be 1" = 40' and the vertical scale shall be 1" = 4' or other such scales as the Planning Board may allow. These may be submitted on the same sheet as the definitive plan or on separate sheets.
- (m) The proposed layout of storm drainage, water supply and sewage disposal. This may be submitted on the same sheet as the definitive plan or on separate sheets.
- (n) Current zoning information, i.e., district, minimum lot size, frontage, lot width, required front, rear and side yards, maximum ground coverage ratio, and building height.
- (o) A drawing showing the outline of the tract being subdivided and other roadways in the vicinity of the subdivision sufficient to locate the subdivision on the Town of Great Barrington Zoning Map.
- (p) Landscaping Plan indicating the limits of disturbance (LOD), location and species of proposed street trees and wooded areas to be retained within forty feet (40') of the boundaries of each right of way, and location and species of street trees and wooded areas to be added within forty feet (40') of the boundaries of each right of way. The Landscaping Plan shall clearly delineate the limits of disturbance (LOD), whether within the right of way or beyond.
- (q) Control and Management of Invasive Species. The Landscaping Plan shall also discuss measures to control and manage existing invasive species and to avoid planting of known invasive plants within all right of ways of the proposed subdivision as well as the first forty feet (40') beyond said right of ways. Invasive plants to be managed include but are not limited to: Oriental Bittersweet; Multi-flora Rose; Japanese Barberry; Honeysuckle; Phragmites; Japanese Knotweed; Purple Loosestrife; Garlic Mustard; and Euonymus Alatus. All species proposed to be planted shall be native, non-invasive species, with reference made directly on the Landscaping Plan to a widely accepted compendium of plant species, such as the latest edition of: Invasive Plant Atlas of New England (IPANE); "The Evaluation of Non-native Plant Species for Invasiveness in Massachusetts," 2005 Final Report by the Mass. Invasive Plant Advisory Group; "Alternatives to Invasive Species," 2003 report of the New England Wild Flower Society, or similar current references.
- (r) Overall Site Plan at a scale no smaller than 1" = 100' showing existing and proposed topography of the entire subdivision with contour intervals of at most ten feet (10') in elevation and proposed locations of the roads, lots, utilities, drainage system, and approximate building sites or "building envelopes," Open Space areas, wetlands, floodplain, scenic roads, historical markers, including stone walls and significant trees, and other features of the site. All elevations shall refer to a

U.S.G.S. benchmark and its location shall be stated. All drawings shall be MassGIS compatible.

(3) Required additional information.

- (a) Impact statement. An impact statement that details the probable effects of the proposed subdivision on the following matters shall accompany any land subdivision plan expected to generate Average Daily Traffic (ADT) greater than fifty (50):
 - [1] Detailed narrative description of the project approach, including selection of type of Subdivision, whether the proposed ways are intended to remain privately owned and maintained by a homeowners' association, or intended for acceptance as public ways.
 - [2] Description of the natural environment, including soil types and vegetative conditions, topographic conditions, areas of slopes greater than fifteen-percent (15%), waterways, wetlands or floodplain, and features with special environmental, scenic or historical significance.
 - [3] List of other permits that will be required, e.g. Wetlands Protection Act, Scenic Mountains Act, Floodplain, Massachusetts Endangered Species Act, Water Quality Protection District, PURD, OSRD, utility connections and access to public ways, etc.
 - [4] Analysis of impacts of the proposed subdivision, based on the maximum allowable number of dwelling units, or other projected uses, on: municipal water supply and/or distribution system, or public or private on-site wells; fire protection measures; municipal sewer collection and treatment capacity, if applicable, or suitability of soils for on-site septic systems; storm water drainage mitigation and impacts on wetlands, waterways, and capacity of existing drainage system within the proposed subdivision and downstream of the subdivision.
 - [5] Statement of estimated impacts on other municipal facilities including school population, solid waste disposal, police, fire and other emergency services.
 - [6] A Traffic Impact Analysis. Any subdivision that will generate Average Daily Traffic (ADT) greater than four hundred (400), estimated according to the current Institute of Traffic Engineers (ITE) Trip Generation guidelines, will be required to submit a detailed traffic impact analysis. This report should analyze the projected increase in traffic compared to the existing conditions, no-build conditions in five years, and build conditions in five years, and identify any changes in Level of Service at nearby intersections. Applications for subdivisions with Average Daily Traffic (ADT) of one hundred to four hundred

(100 - 400) will require an abbreviated traffic analysis. Smaller subdivisions will require only a trip generation analysis for the morning and afternoon peak hours, unless the Planning Board, at its discretion, requests a detailed traffic impact analysis.

- [7] Statement of compatibility of the proposed subdivision of land with established, or future, land uses in the neighborhood, and with the town's most recent Master Plan and Open Space and Recreation Plan, which are available at the Town Clerk's office.
- (b) The definitive subdivision plan shall be accompanied by a plan for stormwater management and control of erosion and sedimentation prepared by a professional engineer registered in Massachusetts and shall include the following:
- [1] A plan showing property lines, wetlands, stream courses, water bodies, the location of areas to be stripped of vegetation and the location of areas to be regraded and contour data, including existing and proposed grades within the right of way and the first forty feet (40') outside the right of way, or the Limit of Disturbance (LOD), whichever is greater.
 - [2] A schedule of operations to show the sequence and timing of major improvement phases, such as clearing, grading, paving, installation of drainage features and the like.
 - [3] Plans and specifications for temporary and permanent seeding, sodding or revegetation and for stabilizing other unprotected or unvegetated areas.
 - [4] A plan showing the location, design and timing of structural sediment control measures, both temporary and permanent, such as silt fences, diversions, waterways, grade stabilization structures, debris basins and the like.
 - [5] The calculations used in designing erosion control structures.
 - [6] A description of procedures to be followed to maintain sediment control measures, including disposal of sediment removed from all storm water management structures including detention and evaporation ponds.
 - [7] Standards shall conform to the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas (Department of Environmental Protection, March 1997) as then in effect, and the applicable requirements under the U.S. EPA NPDES Stormwater Construction General Permit.

- (c) The Performance Guarantee required for improvements in connection with the proposed subdivision may be required to be sufficient to cover the costs of accomplishing the erosion and sedimentation control measures.

C. Review by other officials.

Within five (5) working days of submittal of a definitive plan, the subdivider shall distribute an additional copy of the complete set of the Definitive Plan Application materials, including plans, impact report and other documents, to the following agencies: Board of Health, the Conservation Commission, Great Barrington Fire District or Housatonic Water Works, as applicable, Great Barrington Department of Public Works and, if the subdivision has frontage on a state highway, Mass Highway, Great Barrington Police Department and Fire Department. Applicant shall obtain dated receipts verifying that the materials were submitted and shall make reasonable efforts to obtain the recommendations of these agencies. Each agency shall review the submittals and provide its comments within a thirty (30) day period from the date of submittal to the agency. Failure of any official or agency to respond within the thirty (30) day period shall be deemed an approval of the submission. The Planning Board shall not close the public hearing on applications for definitive plan approval until the subdivider provides documentation of approval or comments from these agencies, or more than thirty (30) days have passed from the receipt of the definitive plan by the agency in question. The following lists specific requirements applicable to the Board of Health:

(1) Board of Health.

- (a) The subdivider shall provide a copy of the definitive plan application materials to the Board of Health and the Board of Health shall report, in writing, to the Planning Board within thirty (30) days.
- (b) Every lot that is not proposed to have a connection to the town sewer system shall be provided with an onsite sewage disposal system satisfactory to the Board of Health. Applicant shall submit to the Board of Health the results of soils testing demonstrating the suitability for a septic system on each such lot.
- (c) 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. The Board of Health, in making such findings, shall show justification and, where possible, shall make recommendations for adjustment thereof.
- (d) The Board of Health may approve the plan on condition that prior to the issuance of a building permit for a dwelling on any lot, additional soil evaluations, percolation testing, and specific design plans of the septic system are submitted to verify the suitability of a specific location in compliance with the current regulations of the State Sanitary Code, Title 5.
- (e) Based on the recommendation of the State Department of Public Health or the town's Board of Health, where, due to restrictive water, soil, topographic, geologic

or other existing conditions, the proposed development is of a density that exceeds the sustaining capacity of the proposed lots for individual onsite sewage disposal systems and wells on each lot, the Board of Health may direct that the applicant revise the plan to provide either:

- [1] A consolidated on-site water supply system or connection to a municipal water system;
 - [2] A consolidated on-site sewage disposal system or connection to a municipal sewer system; or
 - [3] An increase in lot size so that individual wells and onsite sewage disposal systems may have adequate areas in which to function properly on the same lot.
- (f) The Board of Health may require as a condition of subdivision approval that a Performance Guarantee be furnished by the subdivider to assure the construction of surface drainage improvements recommended by the Board of Health and that all required improvements shall be made without undue erosion, siltation or flooding of traveled ways and without causing any condition of public nuisance through dust or surface drainage or any act of negligence by the subdivider or his agents during the periods of construction. Such Performance Guarantee may be released only after completion of the work to the satisfaction of the Board of Health.
- (2) Flagging and Site Review by Planning Board and Conservation Commission. Prior to the filing of the definitive plan, the applicant shall file a Request for Determination of Applicability (RDA) with the Conservation Commission to determine whether the subdivision will affect any state or federal wetlands.
- (a) Any wetlands on the subdivision property proposed for development (but excluding areas designated for permanent open space) shall be delineated by the applicant's wetland scientist prior to submission of the Definitive Plan, and the locations of all wetland boundaries shall be surveyed and shown on the plans. If any work is proposed within two hundred feet (200') of any identified wetlands, the applicant shall file an Abbreviated Notice of Resource Area Delineation (ANRAD) or other applicable form under the current Wetlands Protection Act regulations, for the review and approval of the Conservation Commission.
 - (b) To facilitate site inspection by the Planning Board and the Conservation Commission, the applicant shall flag the centerline of all proposed ways in the subdivision at fifty foot (50') intervals and all points where lot lines intersect right-of-ways. In performing this flagging and surveying, the applicant's surveyor should minimize the cutting of brush and avoid cutting any trees larger than four inches (4") in diameter at breast height (DBH).

D. Public hearing.

- (1) The Planning Board shall hold a public hearing before approval of the definitive plan may be granted. Notice of such hearing shall be given by the Planning Board at the

expense of the applicant at least fourteen (14) days prior thereto by advertisement in a newspaper of general circulation in the town once in each of two (2) successive weeks, the first publication being not fewer than fourteen (14) days before the day of such hearing or, if there is no such paper in the town, then by posting such notice in a conspicuous place in the Town Hall for a period of not fewer than fourteen (14) days before the day of such hearing and by mailing a copy of such advertisement to the applicant, civil engineer, land surveyor and to all Parties in Interest.

- (2) The applicant, and/or his engineer, landscape architect, and surveyor shall attend the public hearing.

E. Decision.

After the public hearing is closed, the Board, in due course, shall approve, approve with modifications, or disapprove the Definitive Subdivision Plan submitted.

- (1) Certificate of approval or disapproval.

- (a) Before final approval, application for all necessary permits under MGL C. 131 §40 (Wetlands Protection Act) shall be made, and all necessary permits shall be obtained from Mass Highway — if the subdivision has frontage on a state highway. The applicant shall notify the Planning Board, in writing, of any changes in the plan required by said permit or permits.
- (b) Before final approval of a definitive plan, the Planning Board shall establish that all lots conform to Chapter 171, Zoning, of the Code of the Town of Great Barrington. (Failure of the lots to comply will be grounds for disapproval of the plan. See MGL C. 41, §81Q and amendments thereto.)
- (c) In the event of approval, the Board shall either endorse conditions of approval of the definitive plan application on the definitive plan itself or set forth such conditions in a separate instrument that shall be referenced on the definitive plan and recorded therewith, and which shall, for the purpose of the Subdivision Control Law, be deemed to be a part of the approved plan.
- (d) The action of the Planning Board in respect to such plan shall be by majority vote of the full Board, copies of which shall be certified and filed with the Town Clerk and sent by delivery or registered mail to the applicant.
- (e) Final approval, if granted, shall be endorsed on the original drawings of the definitive plan by the signatures of a majority of the Planning Board, but not until after the statutory twenty (20) day appeal period has lapsed following the filing of the certificate of the action of the Planning Board with the Town Clerk, and provided that the Town Clerk endorses on the plan a statement to the effect that no notice of appeal to a court of proper jurisdiction has been received within the appeal period, and provided further, that any conditions of approval, if a part of the Board's action, are fulfilled to the satisfaction of the Board.

- (f) If the Planning Board approves with modifications or disapproves such plan, it shall state in its vote the reasons for its action.
 - (g) Final approval by the Board does not constitute acceptance by the town of the roads within a subdivision nor does it indicate compliance with the provisions of the State Wetlands Protection Act, MGL 131, §40, or the Code of the Town of Great Barrington.
 - (h) The endorsement of the plan approval by the Planning Board shall be valid for a period of two (2) years from the date of said approval, or other such period of time as specified, for the completion of all work within the right of way. Prior to the expiration of said approval period, the developer and/or owner shall, in writing, request of the Planning Board an extension of time if necessary. Failure to request an extension of time prior to the expiration of said approval period shall result in the Planning Board notifying the Building Inspector that no additional building permits may be issued in said development. Any request for extension shall state the reasons for said extension and also the length of time requested. Extension of time shall not, in any case, exceed one (1) year. Additional extensions, after the first, may be applied for, but not until at least ten (10) months have expired on the extension in effect.
- (2) Submission of documents. Proposed easement documents and Performance Guarantee shall be submitted to the Planning Board within twenty (20) days from the date of approval of the definitive plan. The Planning Board shall then submit the documents to Town Counsel for approval as to form and legality.
- (3) Filing of plans in Registry of Deeds or Land Court and with the Board of Assessors.
- (a) Approval of all subdivisions is subject to the condition that, unless an appeal has been taken from such approval as provided by statute, the subdivider shall record the subdivision plan in the Berkshire Southern District Registry of Deeds or the Land Court within six (6) months from the date of approval and shall notify the Planning Board, in writing, that said plan has been recorded and filed with the Registry or Land Court. Such notification shall include the date, plan, book and page numbers or certificate numbers.
 - (b) The applicant shall deliver to the Planning Board one (1) copy of the approved and recorded plan.
 - (c) At the same time as the plan is recorded in the Southern Berkshire Registry of Deeds or Land Court, the subdivider shall file it with the Great Barrington Board of Assessors.
 - (d) If the applicant delays recording of the approved plan past the allotted six (6) month period, such plan shall not be accepted for recording by the Registry of Deeds or Land Court unless and until it has endorsed thereon or recorded therewith and referred to thereon a certificate of the Planning Board or the Town Clerk, dated

within thirty (30) days of such recording, that the approval has not been rescinded, modified or amended. The Board or the Town Clerk shall issue such certificate unless the records of the Board, or the Town Clerk receiving the application, show that there has been such modification, amendment, or rescission.

(4) Appeal by any person. Any person, whether or not a party to the proceedings, aggrieved by a decision of the Planning Board concerning a plan of a subdivision or by the failure of the Board to take final action concerning such a plan within the required time, may appeal to a court of proper jurisdiction sitting in equity for Berkshire County, provided that such appeal is entered within twenty (20) days after such decision has been recorded in the office of the Town Clerk, or within twenty (20) days after the expiration of the required time as aforesaid, as the case may be, and that notice of such appeal is received by the Town Clerk within twenty (20) days.

(5) Modification, amendment, or rescission of approved subdivision plan.

(a) The Planning Board, on its own motion or on the petition of any person interested, may modify, amend or rescind its approval of a plan or require a change in a plan as a condition of retaining its status as an approved plan.

(b) All relevant provisions of the Subdivision Control Law and these rules and regulations relating to the submission and approval of a plan shall, to the fullest extent possible, be construed to apply under this section to both a rescission and the approval of any modifications or amendments to any plan.

(c) No rescission, modification or amendment of the approval of a plan or change in such plan shall affect the lots in a subdivision which have been sold or mortgaged in good faith and for valuable consideration subsequent to the approval of the plan or any rights appurtenant thereto, without the consent of the owner of such lots and of the holder of the mortgage or mortgages, if any, thereon.

(d) So far as unregistered land is affected, no modification, amendment or rescission of the approval of a plan, nor change in a plan under this section, shall take effect until:

[1] The plan, as originally approved, or a copy thereof and a certified copy of the vote of the Board making such modification, amendment, or rescission and any additional plan referred to in such vote have been recorded;

[2] An endorsement has been made on the plan originally approved as recorded referring to such vote and where it is recorded; and

[3] Such vote is properly indexed in the grantor index of the Registry of Deeds under the names of the owners of record of the land affected.

(e) So far as registered land is affected, no modification, amendment or rescission of the approval of a plan nor change in a plan under this section shall take effect until such modification, amendment or change has been verified by the Land Court, pursuant to Chapter 185 of the General Laws, and, in case of rescission, modification, amendment or change not so verified, until ordered by the Court pursuant to MGL C. 185, §114.

(6) Performance Guarantee; Completion Period. Before the Planning Board endorses its approval of a definitive plan, the applicant shall agree to complete, without cost to the town, all improvements required by these regulations and as conditions of the Board's approval, and shall provide a Performance Guarantee to assure proper completion of construction of the ways and utilities required to serve all of the lots in the proposed subdivision. The Performance Guarantee may also require completion of certain road and utility improvements within a specified period of time.

(a) Forms of Guarantee: The applicant may select any of the following forms of Performance Guarantee as specified by M.G.L. Ch. 41 §81U:

[1] A bond.

[2] A deposit of money or negotiable securities.

[3] A Lender Agreement.

[4] A Covenant, executed and recorded, running with the land, whereby such improvements shall be provided to serve any lot before such lot may be conveyed or built upon. A note shall be inscribed on the recorded Definitive Plan or a separate instrument recorded referencing the Covenant.

(b) Security amount. If the completion is secured by a financial guarantee listed above as [1], [2], or [3] the Board shall determine the amount. Applicant shall submit a completed copy of Form D with estimated costs for review by the Board. Costs shall include all construction costs plus the following:

[1] The cost to the Town, should it be obliged to install the required improvements, including supervision, bidding and state wage rates;

[2] Maintenance for one year;

[3] Inflation over the time allowed for completion of work; and

[4] Ten-percent (10%) contingency.

(c) Enforcement of Construction Upon Failure of Performance. Any financial guarantee may be applied by the Planning Board for the benefit of the town, as provided in M.G.L. Ch. 41, §§81U and 81Y, upon the applicant's failure of performance, to the extent of the reasonable cost to the town of completing such construction and installation. Town Counsel shall approve all such financial guarantees, which shall be deemed conditions of definitive plan approval. No

building permit shall be issued by the town until and unless the Planning Board votes to release the guarantee in whole or in part.

- (d) Release of Performance Guarantee. When the applicant has completed some or all of the improvements required by the approved Definitive Plan for lots in the subdivision, the applicant may request a partial or final release of the Performance Guarantee for the lots. The applicant shall submit such a request on Form E. The Board, or its designated representative, shall perform an inspection of the completed work. (Refer to §240-21) If the improvements have been partially or totally completed to the satisfaction of the Board, the Board may issue a Certificate of Partial or Final Release of Performance Guarantee, releasing the applicable portion of the Performance Guarantee.
- (e) Partial Release of Performance Guarantee. The Board may, from time to time, reduce the amount of any financial guarantee in whole or in part or the number of lots held under the Covenant. The amount of the remaining Performance Guarantee shall reflect the estimated cost of the work remaining to be completed as defined in paragraph 240-8, E 6 (b) above.
- (f) Before the Board releases any Performance Guarantee, in whole or in part, the subdivider shall file with the Board a Form F Certificate of Completion, prepared and stamped by a registered Massachusetts professional civil engineer and land surveyor, where applicable, indicating that roadways, utilities and other required improvements have been constructed in accordance with, and are accurately located as shown on, the plans approved by the Board. Any deviations from the approved plans shall be indicated on a set of Record Plans submitted to the Board with the Certificate of Completion. The subdivider shall also furnish to the Board a certificate that he or she has complied with all the requirements of Articles III and IV of these regulations.
- (g) If the Board determines that the construction has been satisfactorily completed in whole or in part, it shall, within forty-five (45) days, release the applicable portion of the Performance Guarantee.
- (h) If the Board determines that the construction has not been satisfactorily completed, it shall specify in a notice, sent to the applicant and Town Clerk by registered mail or hand delivery, the specifics of the deficiencies or incomplete portions of the work as shown on the approved plans or how it fails to comply with the Subdivision Regulations.
- (i) If the request is for a partial release of a Covenant that would release one or more building lots for sale or building construction, the portion of the subdivision road and utilities shall be substantially completed, sufficient to provide adequate access and utilities to the released lots.
- (j) Failure of the Planning Board to act on an application for release of a Performance Guarantee within forty-five (45) days after receipt by the Board of the application

shall relieve all obligations under the Performance Guarantee and terminate by operation of law any deposit, which shall be returned, and any such covenant shall become void. In the event that the 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, the Town Clerk shall issue a certificate to this effect, which may be recorded.

- (k) Release of Performance Guarantee only during suitable weather conditions. To assure that the town agencies can perform an inspection of the work requested for release of Performance Guarantee, under reasonable weather conditions, the applicant shall schedule its applications for release of Performance Guarantee to occur only between March 1 and November 30. No application for release shall be submitted between December 1 and February 28.

ARTICLE IV

Design Standards

§240-9. General Design Guidelines

A. Basic Requirements

- (1) All roads, pedestrian paths and bicycle paths in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular and pedestrian travel. Due consideration shall also be given by the subdivider to the attractiveness of the road layout in order to maximize the livability and amenity of the subdivision. Roadway design appropriate to the site and compatible with the character of the neighboring roadways is encouraged. All roads should follow the existing contours to the fullest extent possible. Design shall minimize cut and fill. A system of paths for pedestrians and/or bicycles that may not necessarily follow the road layouts is encouraged as a means of increasing safety and enjoyment.
- (2) The specific criteria for design and construction of the roadways in the subdivision shall be determined by reference to the following. This determination is best made early in the design process by the applicant consulting with the Board with informal sketch plans and/or submission of a Preliminary Plan.
 - (a) Refer to zoning bylaws for maximum allowed lot density, frontage and yards.
 - (b) Refer to applicable portions of the Town of Great Barrington Master Plan.
 - (c) For each road in the subdivision, determine the roadway type in Table 1.0 based on the number of lots served, through road or dead-end, and topography.
 - (d) Refer to Table 1.0 for Subdivision Roadway Types.

- (e) Refer to Table 1.1 for Road Design Criteria.
- (f) Refer to Article III for design requirements.
- (g) Refer to Article IV for Design Standards.
- (h) Consult with utility companies, Great Barrington DPW and emergency services departments regarding utilities and other local requirements and conditions.

Table 1.0 Subdivision Roadway Types

Roadway Type Average Daily Traffic (ADT)	Road Description
Small Lane Up to 50 ADT	A small roadway that serves as frontage and access for a very low impact subdivision. The Small Lane is the lowest order of residential street with an intended speed limit of 10 to 20 MPH. It may be a cul-de-sac or a small loop road. The Small Lane may not be used to connect to a future subdivision.
Minor Way 51- 150 ADT	A road that serves as frontage and access for a low impact subdivision. Intended speed limit of 10 to 20 MPH. Road construction shall meet the town's design standards for acceptance as a public way.
Major Way 151 - 300 ADT	A Major Way may be a loop road or a through road providing access to other ways within the subdivision, to a potential future subdivision, or to an established neighborhood. Intended speed limit is 25 MPH. Road construction shall meet the town's design standards for acceptance as a public way.
Collector Road 300 or more residential ADT (or any Commercial or Industrial Use)	This is the highest order of roadway. It serves as a through road for the neighborhood. It may collect traffic from, and distribute traffic to, other adjoining residential streets. It may serve as the main entrance road for a large subdivision. A Collector Road should provide free and unobstructed flow for higher volumes of traffic reaching speeds of 30 to 40 MPH. Road construction shall meet local and state design standards.

Table 1.1 Road Design Criteria

	Small Lane	Minor Way	Major Way	Collector Road (Residential and all Commercial)
Average Daily Traffic (ADT)	0 to 50	51 to 150	151 to 300	300 or more
Right-of-Way (minimum width)	40'	40'	50'	50'
Paved Surface (minimum width)	16'	18'	22'	24'
Maximum Grade ¹	10%	10%	10%	8%
Shoulders ²	3' on both sides	3' on both sides	3' on both sides ⁴	3' on both sides ⁴
Maximum Dead-End Length	1000'	1000'	not permitted	not permitted
Dead-End Configuration	cul-de-sac, or "T" turn-around	cul-de-sac	not permitted	not permitted
Sidewalk & Curb ³	not required	not required	mountable curbs and one sidewalk required ⁴	mountable curbs and sidewalks both sides ⁴
Minimum Curb Radius	10'	10'	15'	20'

Footnotes:

¹The Board may allow roadways to exceed the Maximum Grade by up to two-percent (2%) for straight segments not exceeding five hundred feet (500') in length.

²Compacted gravel base at least twelve inches (12") deep.

³Sidewalks shall be a minimum of five feet (5') wide and separated from the shoulder by a landscaped buffer at least three feet (3') in width. Walking paths independent of the roadway system may be considered by the Planning Board in lieu of sidewalks.

⁴ At Planning Board's discretion, either shoulders or mountable curbs and sidewalks shall be provided.

B. Roadway design and construction

(1) Location and Alignment

- (a) All roadways in the subdivision shall be designed and located to provide safe vehicular travel.
- (b) If adjoining property is not subdivided, proper provision shall be made for extending roads to the adjoining property, except in the case of Small Lane Subdivisions which may not be extended.
- (c) Reserve strips prohibiting access to roads or adjoining property shall not be permitted except where, in the opinion of the Planning Board, such strips shall be in the public interest.
- (d) Road intersections with centerline offsets of less than one hundred twenty-five feet (125') should be avoided.
- (e) The minimum centerline radius of curved roads shall be one hundred feet (100'). Greater radius may be required for collector roads.
- (f) Roads shall be laid out to intersect as nearly as possible at right angles. No road shall intersect any other road at less than sixty degrees (60°).

C. Adequate access from public way.

- (1) Where the road system within a subdivision does not connect with, or in the opinion of the Planning Board does not have adequate access from, a public way, the Board may require, as a condition of approval, that adequate access be provided by the subdivider and/or that the subdivider make physical improvements to and within such a way of access, in accordance with the provisions of ARTICLES IV and V of these regulations, from the boundary of the subdivision to a public way.
- (2) Where the physical condition or width of a public way providing access to a subdivision is considered by the Planning Board to be inadequate to carry the traffic expected to be generated by such subdivision, the Board may require the subdivider to dedicate a strip of land for the purpose of widening the abutting public way to a width at least commensurate with that required within the subdivision. Subdivider may be required by the Planning Board to make physical improvements to and within the public way to specifications acceptable to the governmental agency having jurisdiction. Dedication of land for the purpose of a way and any work performed within the public way shall be made only with permission of the governmental agency having jurisdiction over such way, and all costs of any widening or construction shall be borne by the subdivider.

- (3) All roads in a PURD or OSRD development shall be considered subdivision roads and shall require a Form C¹⁰ application to the Planning Board, as well as any other permits or special permits required under town statutes.

D. Width.

- (1) Road right-of-way and the traveled way shall be in conformance with Table 1.1 of this section.
- (2) The Planning Board may require greater widths when deemed necessary for present or future vehicular traffic.
- (3) The minimum width of the right-of-way for pedestrian or bicycle paths shall be five feet (5'). A greater width may be required by the Planning Board based on local conditions and present or future use.

E. Grade.

- (1) Roadway finished grades shall be in conformance with Table 1.1
- (2) The grade of a side road intersecting a through road shall not exceed two-percent (2 %) for the first twenty-five feet (25') to provide a level area for traffic safety. The grade of a through road intersected by a side road shall not exceed eight-percent (8%) for a distance of twenty-five feet (25') in both directions from the projected centerline of the side road.
- (3) The grading of any right-of-way, except in special instances, shall be designed for surface runoff to flow away from the building line towards the road surface. Where one side of a subdivision road drops off so that surface water runoff cannot drain into the roadway, provision shall be shown for catch basins and/or other storm water management devices, with any easement required, to prevent overflow onto neighboring lots or erosion of banks. There shall be a leveling area of at least two hundred feet (200') and a maximum grade of two-percent (2%).
- (4) Where curves and grades combine to create potentially dangerous driving conditions, the Planning Board may require a higher curb or other protection.
- (5) Road grades shall follow the existing contours as much as possible to minimize cut and fill.
- (6) The grade of any road shall not exceed the maximum percentage grade specified in Table 1.1, except that, as approved by the Planning Board, portions of the road grade may be increased by as much as two-percent (2%) in any straight five hundred foot (500') segment.

F. Dead-end roads.

¹⁰ Editor's Note: Form C is included in the Appendix at the end of this chapter

- (1) Roadways, except where allowed under Table 1.1 of these regulations or as permitted below, shall be connected as through streets to a public way, or to other existing subdivision roads or those proposed for construction in the near future.
- (2) Dead-end Road Alternatives. Where the applicant demonstrates to the satisfaction of the Planning Board that the frontage, configuration, topography or soils of the property preclude the feasibility of the roadway connecting to either a second road or to a substantially remote section of the same road, the applicant may propose alternative roadway designs to provide two (2) means of access and egress, including by emergency vehicles. The Planning Board must be satisfied, in its discretion, that the proposed alternative would be in the best interest of the town and would promote the health, safety, and welfare of the town.
- (3) A dead-end road shall not be longer than one thousand feet (1,000') measured from the intersection of another road, down the road's centerline, around the cul-de-sac to the furthest point from the point of beginning. A "T" turn-around, if allowed, shall be measured in a similar fashion to the farthest point along the road's centerline.
- (4) A dead-end road shall be provided at the closed end with a turnaround having an outside roadway diameter of at least one hundred feet (100') and a property line diameter of at least one hundred fifteen feet (115').
- (5) At the end of a dead-end road, the Planning Board may require the reservation of an easement twenty feet (20') wide to provide for the continuation of pedestrian traffic and/or utilities.
- (6) An island suitably landscaped with grass, ground cover and trees blending in with the surroundings shall be provided in the turnaround center and shall have a diameter of at least forty-six feet (46').
- (7) A "T" turn-around (sometimes called a "hammerhead"), where allowed under Table 1.1, may be considered in lieu of a cul-de-sac, at the Planning Board's discretion, on shorter dead-end roads. No hammerhead may exceed forty feet (40') in length and must be contained within the right of way.

§240-10. Easements.

- A. Easements for utilities across lots or centered on common rear or side lot lines shall be provided where necessary and shall be at least twelve feet (12') wide.
- B. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, the Planning Board shall require that there be provided a stormwater easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourse, drainage way, channel or stream and to provide for present or future construction of storm water management devices or other necessary purposes.

§240-11. Open Space.

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, prohibit the erection of any buildings upon such park or parks without its prior, written approval.

§240-12. Protection of natural features.

- A. Due regard shall be shown for historical and archaeological sites, and all natural features, such as large trees, watercourses, wildlife, scenic points, historic spots, stone walls or fences and similar community assets that will add attractiveness and value to the subdivision and preserve a town asset. The subdivider shall make every attempt to adapt the subdivision to the site with a minimum of cutting and filling operations and shall take whatever protective measures are needed to control erosion, siltation and flooding along drainage ways and adjacent lands.
- B. Water Quality Protection District. The provisions of §171-37.1 of the Zoning Code, when applicable, shall apply to subdivision applications made under these rules and regulations.

ARTICLE V
Required Improvements for Approved Subdivision

§240-13. Roads and right-of-ways.

- A. Earthworks and disturbance of vegetation of any kind in the approved right-of-ways shall be kept to the absolute minimum necessary for the orderly development of the site. Disturbed areas within the road right-of-way shall be cleared of all stumps, brush, roots, boulders, like material and all trees not intended for preservation. To the greatest extent possible, natural features shall be preserved consistent with §240-12.
- B. The full length and width of the traveled way shall be excavated or filled as necessary to a depth of at least twelve inches (12") below the finished surface as shown on the profile. If the soil is soft and spongy or contains undesirable material such as clay, sand pockets, peat or any other material detrimental to the subgrade, such material shall be removed and replaced with suitable, well-compacted material.
- C. All parts of the traveled way shall be cleared of stumps, brush, roots, boulders and like material and shall be brought to a finished grade as shown on the profiles of the definitive plan with depths of materials and other characteristics of the specific Roadway Type as set forth in Tables 1.0 and 1.1. Gravel subgrades shall consist of well-compacted binding stone and shall be placed and rolled in layers of six inches (6") or less, using a self-propelled roller weighing not less than eight (8) tons. All stones larger than four inches (4") in diameter shall be removed prior to rolling.

D. Paving.

- (1) Where, in the opinion of the Planning Board, the anticipated volume of traffic or grades of the finished traveled way or other conditions require it, roads shall be paved.
- (2) For paved roads, a bituminous, penetration-type surface shall be applied as follows:
Over compacted gravel base at least twelve inches (12") deep, spread a two inch (2") base course of bituminous concrete, referred to as type I-1 in *MassHighway Standard Specifications for Roads and Bridges*. Roll with a five- to eight-ton roller. Follow with a one inch (1") top course. Compact surface with an eight-ton roller, leaving finished pavement free from holes, rolls or other unsightly imperfections. Finished grades shall be run true and even with an instrument and depths of materials shall be verified to the satisfaction of the Town Engineer. The Planning Board, at its discretion, may allow substitution of other suitable materials for roadway construction.
- (3) The subdivider shall repair any settlement, frost heaves, or imperfection in this work during a period of one (1) year from the date of final release of Performance Guarantee.

E. Curbing

- (1) Curbing shall be installed on both sides of new roads where required based on specific Roadway Type selected from Tables 1.0 and 1.1. Curbing shall also be required along steep sections of roadways and where beneficial for storm water management purposes. Curbing shall be required in all major residential subdivisions, and in all non-residential subdivisions.
- (2) Curbing materials and methods of construction shall conform to the applicable portions of the MHD Standard Specifications for the specified type of curb or berm.
- (3) Where curbing terminates at driveway entrances and like conditions, the ends shall be rounded off or tapered down in a neat, workmanlike manner.
- (4) Curbing shall be installed before the top course paving is applied.

F. Storm water management

- (1) Adequate disposal of surface water shall be provided. The Planning Board may require that catch basins and culverts shall be built on both sides of the roadway on continuous grades at intervals of not more than four hundred feet (400'), at low points and sags in the roadway and near the corners of intersections.
- (2) The Planning Board may require the subdivider to carry away by pipe or open ditch any spring or surface water that may exist previous to or as a result of land development. Such drainage facilities shall be located in the subdivision right-of-ways, where feasible, or in perpetual unobstructed easements of appropriate width, and shall be

designed to prevent erosion, siltation or flooding of traveled ways or adjacent property.

- (3) A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. Approval shall be based on anticipated runoff from a one-hundred-year storm under conditions of total potential development permitted by Chapter 171, Zoning, in a watershed. A schedule of numbered culverts shall be included on the definitive plan and shall clearly show size, length and material used, including culverts under driveway aprons.
- (4) The applicant's engineer shall design the drainage system to achieve the basic requirements stated above, and to control runoff so that there is no increase in the peak rate of stormwater runoff from the fully developed subdivision compared to its pre-development condition, for the 2-year, 10-year, and 25-year design storms.

The development shall be analyzed for the 100-year storm to demonstrate that there will not be an increase in flooding as a result of the development.

All pipes, culverts, swales and other components of the storm drainage system shall be designed with capacity to handle the 25-year storm without surcharging. The design shall also provide for surface overflow conditions for excess runoff from more severe storms, or in case of blockage of the closed drainage system. Limited-duration (less than 24 hours) ponding of excess runoff may be allowed to depths of up to three inches (3") in roadways and up to six inches (6") on lots, provided that a reasonable area for a building site will remain un-flooded on each lot under all storm conditions up to and including the 100-year design storm.

- (5) The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage outside the area of the subdivision. The Town Engineer shall review this study. Where it is anticipated that the additional runoff incidental to the development of the subdivision could overload any existing downstream drainage facility or cause erosion, siltation or flooding, the Planning Board shall not approve the subdivision until provision has been made to prevent or correct said condition.
- (6) Any proposed subdivision in a Floodplain District, as delineated in Chapter 171-37 of the Zoning Code, shall be designed to provide adequate drainage and minimize any potential flood damage. Public utilities and facilities in flood hazard areas shall be located and constructed to minimize or eliminate flood damage and avoid impairment from floodwaters. The applicant shall obtain all appropriate permits for such work in accordance with all local, state and federal regulations.

G. Sidewalks.

- (1) Sidewalks shall be provided as indicated on Table 1.1. Sidewalks shall be separated from the traveled way by a landscape strip of no less than three feet (3').

- (2) A bike lane shall be provided within the roadway or in a separate bikeway where, in the opinion of the Board, the volume of vehicular traffic and bike traffic warrants such construction.
- (3) Sidewalks shall be constructed of bituminous concrete or cement concrete and shall have a well-compacted gravel base. Sidewalks shall have a slip-resistant surface and shall have a cross slope of at least one-percent (1%) and a maximum of two-percent (2%). Sidewalk construction shall conform to the applicable sections of the Mass Highway Standard Specifications and applicable accessibility laws and regulations, including the federal Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board.
- (4) Handicap Access. Where sidewalks are constructed, sidewalk ramps shall be provided at each intersection and across all driveway openings to form a continuous accessible route along the sidewalk. Curb ramps shall be designed to comply with all applicable slopes, transitions, dimensions, and materials as specified in the Rules and Regulations of the Massachusetts Architectural Access Board in effect at the time of application.

H. Driveway Aprons.

- (1) All driveways from paved roads shall be paved for at least ten feet from the completed road surface with at least three inches of bituminous concrete pavement or at least six inches (6") of concrete pavement, over at least twelve inches (12") of compacted gravel.
- (2) Driveway slopes steeper than three-percent (3%) shall end at the roadway right-of-way. The portion of a driveway within the street right-of-way shall be graded to be compatible with the line and grade of the sidewalk, handicap accessible sidewalk ramp, and/or shoulder.
- (3) Drainage from a driveway shall be controlled on the lot and shall not be allowed to drain directly onto the paved surface of the road.

I. Topsoil shall be placed to a depth of four inches (4") and thoroughly compacted on all tree lines and side slopes within the road right-of-way and in other areas disturbed by land development activities. Topsoil, when applied, shall be loose and friable and shall be free from a mixture of subsoil, refuse, roots, weeds, stones and other deleterious matter.

J. Seeding. Tree lines and side slopes within the right-of-way and anywhere within the Limits of Disturbance shall be seeded according to standard nursery practice with fresh, clean new-crop grass seed, sown at the rate of three and six-tenths (3.6) pounds to each one hundred square feet (100 ft²).

§240-14. Monuments.

- A. Permanent monuments shall be installed at all road intersections, at all points of change in the direction or curvature of roads and at other points no further apart than five hundred feet (500') where, in the opinion of the Planning Board, permanent monuments may be necessary.
- B. The permanent monuments, unless otherwise specified by the Planning Board, shall be of three thousand pounds per square inch (3,000 psi) reinforced concrete and shall measure five feet by six inches by six inches (5'x 6"x 6"). All permanent monuments shall be set below the frost line and shall have a suitable reference marker on the top.
- C. No permanent monuments shall be installed until all construction that might disturb them is completed. The tops of monuments shall be set relative to the established final grades. Backfill material shall be carefully placed around each monument and thoroughly tamped.

§240-15. Road name signs.

Posts with signs carrying the names of roads or other ways shall be installed at the beginning of all new ways and at the intersection of all ways within a subdivision. There shall be at least one (1) such signpost at each intersection. All signs and signposts shall follow the specifications of the Town Engineer.

§240-16. Street Trees.

- A. General. Roads created in a subdivision shall be lined with trees on both sides at intervals of no more than 50 feet (50'). This shall be accomplished by retaining existing healthy trees wherever possible, and by planting new trees.
- B. Street Trees shall generally be located on the lots in a tree line easement outside the roadway right-of-way. However, existing individual specimen trees may be retained within the right of way where approved by the Board.
- C. Street trees shall be planted on each side of every roadway in the subdivision where, in the opinion of the Board, existing woodlands or suitable individual trees are not retained.
 - (1) Trees shall be nursery grown stock, with a caliper no less than one and one half inches (1^{1/2"}) measured one foot (1') above the root collar.
 - (2) Species shall be selected to be disease-resistant, salt-tolerant and hardy. Applicants shall show documentation that only native, non-invasive species are selected. A complete list shall be submitted to the Planning Board for approval. A mixture of species is preferred.
 - (3) Trees shall be spaced no more than 50 feet (50') apart and shall be planted within the tree line easement unless otherwise directed by the Board.
 - (4) Planting season shall be March 15 to May 15 or from August 15 to October 15. Subdivider is responsible for watering and nurturing trees to maximize survival.

- (5) Subdivider shall guarantee the success of the street trees and replace any trees that do not survive within two years after planting or at the time of request for release of Performance Guarantees, whichever comes later.

D. The subdivider shall consult with the Board prior to cutting trees on the subdivision property. Existing trees should be cut only where necessary and not merely for convenience. If the Board determines that needless cutting or land scarring has taken place during construction or prior to application for approval, the Board may require the subdivider to replace trees on lots and restore land as nearly as possible to its original condition. Clearing of the subdivision property prior to submitting an application for approval of a subdivision is strongly discouraged, and may be cause for the Board to require revegetation and restoration as part of its conditions of approval.

§240-17. Screening.

Where residential developments abut business and industrial zones or uses and where the developments abut arterial or limited access highways, a dense evergreen buffer at least twenty feet (20') in depth shall be planted along the common boundary. Exceptions shall be made at the intersections of roadways and driveways in accordance with corner view clearance requirements.

§240-18. Utility wires.

- A. All utility wiring and other distribution and control devices shall be buried in the ground unless, in the opinion of the Planning Board, estimates made by utility companies indicate that an unreasonable cost would be imposed on the subdivider.
- B. Utility wires or cables, other than those going across roads and those leading directly to individual consumer installations, shall be buried within the road right-of-way in a strip four and one-half feet ($4\frac{1}{2}$ ') wide running parallel to the edge of the right-of-way, unless soil or terrain require a different location. No wires or cables may be installed under the traveled portion of the right-of-way, except at necessary road crossings where suitable protective conduit shall be used.
- C. Copies of all plans showing the location of all buried wires or cables shall be presented by the subdivider before any paving of roads is started. One (1) copy shall be filed with the Planning Board, the Town Clerk, and the Department of Public Works.
- D. If underground installation is found by the Planning Board to be unreasonably costly to the developer, all overhead utility wires and related equipment shall be centered as much as possible on rear or side lot lines, unless this provision is waived by the Board. Easements shall be provided as outlined in §240-10.

§240-19. Streetlights.

- A. Street lighting shall be provided where the Board determines it is required for safety of vehicles or pedestrians. In general, street lighting will be required in higher density areas in

conjunction with sidewalks, and may also be required at intersections, crosswalks, cul-de-sacs, or hazardous road conditions. Light poles shall not exceed fifteen feet (15') in height.

- B. Street lighting fixtures, unless otherwise approved, shall be fully shielded luminaires with horizontal cutoffs directing all light towards the ground. The light source, unless otherwise approved by the Planning Board, shall be high pressure sodium.
- C. Applicants are encouraged to consider alternative low-level lighting methods that minimize glare, sky-glow, and light trespass, and that provide an attractive streetscape.

§240-20. Cleanup of area.

The entire area of the subdivision shall be cleaned up leaving a neat and orderly appearance, free from debris and other objectionable materials. The subdivider shall be responsible for providing thoroughly clean and unsilted storm drain lines within the subdivision.

§240-21. Inspections.

- A. The subdivider shall notify the Planning Board prior to the commencement of each of the major phases of construction. As each phase is completed, it must be inspected and approved by the Planning Board before the subdivider may start work on the succeeding phase. The Planning Board may designate the Town Engineer or any other qualified person as inspector for the construction done under these regulations, including the inspection of storm water management devices and their effectiveness for sediment and erosion control.
 - (1) The Planning Board, or its representative, shall perform a milestone inspection upon completion of each of the following milestones applicable to the approved plans, and prior to the Board granting partial or final release of any Performance Guarantee:
 - (a) Completion of clearing, grubbing and stripping;
 - (b) Completion of subgrade preparation;
 - (c) Installation of storm water management system;
 - (d) Installation of water and sewerage systems, as applicable;
 - (e) Completion of gravel base including installation of conduit for underground wiring under and along roadway;
 - (f) Base Course Paving and Curbing as applicable;
 - (g) Final Paving, sidewalks, and grassed shoulders, as applicable;
 - (h) Final Completion including established vegetation, street trees, street signs, monuments, and other applicable required improvements.

- (2) Engineer's Certificate. At each phase, prior to the town's inspection, the subdivider's engineer shall submit a dated, stamped and signed certification that all work requested to be inspected has been personally inspected by the engineer or his representative and that all work has been done in accordance with the approved subdivision plans and specifications. Any variation from the approved drawings shall be noted in writing and called to the attention of the Planning Board.
- B. Applicant's engineer shall prepare written records of the milestone inspections for endorsement by the town inspection agencies and submit a copy to the Board as each milestone is reached. Work on subsequent portions of the construction shall not proceed until each milestone has been completed to the satisfaction of the Planning Board and, where applicable, other public agencies.
- C. Record Plan. Applicant's Engineer shall prepare and submit to the Board and the Great Barrington DPW a reproducible copy and a digital copy, in a format acceptable to the Town Engineer, of a Record Plan showing tie measurements to all sewer service stubs, water service connections, underground electric and communication conduits, underground storm drain facilities, and other underground utilities. The Record Plan shall be filed with the Board and the Great Barrington DPW before the Performance Guarantee may be released.
- D. The Performance Guarantee covering the improvements outlined in these regulations shall not be fully released by the Planning Board until the applicant submits a Final Certificate of Completion, with signoffs by the Great Barrington DPW and other town departments' representatives, as applicable. Upon final completion of the improvements, applicant's engineer shall submit an Engineer's Certificate of Final Completion (Form F-2) to the Board prior to the final release of the Performance Guarantee.

§240-22 Maintenance; Homeowners' Association; Acceptance.

- A. Maintenance Responsibility. The subdivider, or successor organization such as a Homeowners' Association, shall maintain all portions of the subdivision roads and utilities within the roadway right-of-way, utility easements, and common areas until and unless the town votes to accept the subdivision roads and/or any of the utilities therein constructed. Snow removal, salting and sanding of roadway surfaces adequate for public safety shall be included in the maintenance responsibility.
- B. Legal Documents. The subdivider shall submit to the Board proposed documents for a Homeowners' Association, or other assurances as to the adequate provision for maintenance, either short-term or permanent, of the subdivision improvements at no expense to the town. The documents shall be reviewed and approved by Town Counsel for adequacy and form.
- C. Acceptance of Road and Improvements.
- (1) Approval of the Definitive Plan and release of the Performance Guarantee by the Board does not constitute acceptance as a town road nor imply that the town will vote to

accept the road or utilities. (Refer to the town's General Bylaws for provisions related to Road Acceptance.)

- (2) Roads in Subdivisions approved with waivers on the basis of private maintenance shall not be eligible for acceptance, unless the Subdivision is subsequently resubmitted to the Planning Board for approval as an amended Subdivision and the roads and other improvements are brought up to the current standards for a subdivision.
- (3) No road shall be eligible for acceptance by the town as a public way unless such road, utilities and all other required improvements are in compliance with all design and construction standards in effect at the time the road is proposed for acceptance.
- (4) No road shall be eligible for acceptance as a public way until the completed road has successfully been in service through at least one winter season (December 1 through March 1). The Board and the Great Barrington DPW shall inspect the road after the winter, to see if the road has any significant damage or defects. If so, the damage shall be repaired, and the road shall be required to go through the subsequent winter season and inspection before being eligible for acceptance.
- (5) Immediately prior to requesting acceptance of the subdivision road(s) and/or utilities, all parts of the drainage system shall be cleaned, all utilities shall be in good working condition, all roads swept, and the remainder of the right-of-ways and any other areas proposed to be transferred to the town shall be cleaned, mowed and put in workmanlike order, and so maintained until completion of the acceptance process.

ARTICLE VI

Administration

§240-23. Waivers.

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 public interest and not inconsistent with the Subdivision Control Law.¹¹

§240-24. Statutory authority.

For matters not covered by these rules and regulations, reference is made to MGL C.41 §81K through §81GG, inclusive and to the bylaws of Great Barrington.¹²

ARTICLE VII

Fees and Costs

¹¹ Editor's Note: See MGL C. 41, §§81K through 81GG.

¹² Editor's Note: See Division 1 of the Code.

§240-25. Fees.

A minimum nonrefundable filing fee shall be paid for each plan application submitted to the Board. Said fee shall be given to the Planning Board upon submission of the plan. Checks shall be made out to the Town of Great Barrington. See Appendix G for schedule of uses and Average Daily Traffic (ADT). For uses not found in Appendix G, ADT shall be as determined by the current Trip Generation Manual of the Institute of Transportation Engineers (ITE).

A. Fee for a Form A.

The fee for a plan submitted for a Form A (subdivision approval not required) shall be one hundred twenty five dollars (\$125), regardless of the number of lots shown.

B. Fee for a preliminary plan.

The fee for a Form B (preliminary plan) shall be one hundred fifty dollars (\$150), plus fifty dollars (\$50) per lot, or per Average Daily Traffic (ADT) increment of ten (10) based on the projected use, whichever is larger.

C. Fee for a definitive plan.

The basic application fee for a Form C (definitive plan) shall be five hundred dollars (\$500), plus one hundred dollars (\$100) per lot, or per Average Daily Traffic (ADT) increment of ten (10) based on the projected use, whichever is larger.

§240-26 Employment of Outside Consultants.

- A. General. The Board may determine that the size or complexity of a proposed subdivision or its impacts warrant the services of outside consultants (including but not limited to engineers, planners, lawyers, hydrogeologists, or others) for plan review, impact analysis, inspections, or other technical assistance in relation to the proposal. Such professionals shall be selected and retained by the Planning Board as provided in MGL c. 44, §53G, with the reasonable costs for their services to be paid by the applicant.
- B. Selection and administrative appeal. The applicant shall be notified in writing with the name of the selected consultant(s) at least seven (7) calendar days prior to initiation of the consultant's efforts, unless the applicant waives this notice period in writing. The applicant may administratively appeal the selection of the consultant(s) to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the proposed consultant has a conflict of interest or does not possess the minimum required qualifications. Such an appeal may be initiated by the applicant filing notice with the Town Clerk within five (5) working days after the Board's date of notice of its selection. The consultant shall not begin its services until any appeal has been decided or thirty (30) calendar days have elapsed without a decision by the Selectmen, in which case the Planning Board's selection shall stand. Required time limits for action by the Board upon an application shall be automatically extended by the duration of the administrative appeal.

- C. Funding. The applicant shall file with the Board an amount of money equal to the estimated cost for the services of the consultant(s), as determined by the Board. The cost will be estimated to be generally proportional to the size and complexity of the project, and the number of reviews and meetings required. The funds shall be deposited by the Town Treasurer into a special interest bearing account as provided by MGL c. 44 §53G. The funds in the special account, including accrued interest, shall be expended at the direction of the Board without further appropriation. If the unexpended balance falls below thirty-percent (30%) of the initial estimate, or the estimate is raised to pay for additional services deemed necessary by the Board, the account shall be restored to its original level or such lower level as determined to be reasonable and necessary by the Board. Upon completion of the project and final payment of the outside consultant(s), any unexpended balance, including accrued interest, shall be repaid to the applicant or the successor in interest.
- D. Reporting. The Town Accountant shall submit annually a report of all such special accounts to the Planning Board and Board of Selectmen for their review. The annual report shall be published in the Town Report and a copy submitted to the state Director of the Bureau of Accounts. A final report of the special account for a project shall be submitted to the applicant or his successor in interest.
- E. Remedy. Failure of an applicant to pay fees required hereunder (or any other fees required in other parts of this chapter) shall be grounds for the Board to continue hearings, disapprove the application, refuse to release Performance Guarantees, revoke prior approvals, or take other action.

§240-27. Failure to comply.

Failure of the applicant to comply with the requirements of the fee schedule in this Article shall be deemed adequate cause for disapproval of the plan.

PLANNING BOARD'S SUBDIVISION REGULATIONS

Form A

Application for Endorsement
of Plan Believed not to Require Approval

File one (1) completed form with the Planning Board and one (1) copy with the Town Clerk in accordance with the requirements of § 240-3A.

Great Barrington, Massachusetts _____ 19 ____

To the Planning Board:

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

1. Name of applicant _____

Address _____

2. Name of engineer _____

Address _____

3. Name of land surveyor _____

Address _____

4. Deed of property recorded in _____ Registry,
Book _____ Page _____

5. Location and description of property:

Signature of owner _____

Address _____

PLANNING BOARD'S SUBDIVISION REGULATIONS

Form B

Application for Approval

of Preliminary Plan

File one (1) completed form with the Planning Board and one (1) copy with the Town Clerk in accordance with the requirements of § 240-7A(3).

Great Barrington, Massachusetts _____ 19__

To the Planning Board:

The undersigned herewith submits the accompanying preliminary plan of property located in the Town of Great Barrington for approval as a subdivision as allowed under the Subdivision Control Law and the rules and regulations governing the subdivision of land of the Planning Board in the Town of Great Barrington.

1. Name of applicant _____

Address _____

2. Name of engineer _____

Address _____

3. Name of land surveyor _____

Address _____

4. Deed of property recorded in _____ Registry,

Book _____ Page _____

5. Location and description of property:

Signature of owner _____

Address _____

A list of the names and addresses of the abutters of this subdivision is attached. Verification will be made by the Planning Board.

FORM B – 1: Inventory of Constraints and Opportunities

The following checklist will guide discussion with the Planning Board in any pre-application conference (optional) or in application hearings relating to subdivisions of land. The purpose is to facilitate a discussion of the conditions of the site and anticipated characteristics of anticipated site performance in the context of various types of subdivision design.

SITE CONDITIONS: Check items discussed and refer to *conversation starters*

- ☐ **Open Space
& Master Plan
Compatibility** _____

- ☐ **Wetlands** _____

- ☐ **Floodplains** _____

- ☐ **Solar Exposure** _____

- ☐ **Steep slopes** _____

- ☐ **Soil types** _____

- ☐ **Agricultural
Lands** _____

- ☐ **Woodlands
& Mature Trees** _____

- ☐ **Solar Exposure** _____

- ☐ **Prevailing Wind** _____

- ☐ **Wildlife Habitat** _____

- ☐ **Aquifers & Recharge Areas** _____

- ☐ **Water Supply** _____

- ☐ **Storm Water Management** _____

- ☐ **Sewer Service** _____

- ☐ **Historic, Archeological & Cultural Resources** _____

- ☐ **Zoning & Overlay Districts** _____

- ☐ **Views into & out of the Site** _____
If you could only put one house on this property, where would it be?
- ☐ **Premium Building Sites** _____

- ☐ **Possible Road & Trail Routes** _____

- ☐ **Traffic Impact** _____

N. B. Note that if the applicant decides to proceed with a formal application under the Subdivision Rules and Regulations, the Board, at its discretion, may retain a qualified engineer or other qualified consultant professional to make determinations of existing conditions on site and/or anticipated site performance, with expenses to be covered by the subdivider, in accordance with MGL Chap. 44 §53(g).

PLANNING BOARD'S SUBDIVISION REGULATIONS

Form C

Application for Approval
of Definitive Plan

File one (1) completed form with the Planning Board and one (1) copy with the Town Clerk in accordance with the requirements of § 240-8A(1)(b).

Great Barrington, Massachusetts _____ 19__

To the Planning Board:

The undersigned herewith submits the accompanying definitive plan of property located in the Town of Great Barrington for approval as a subdivision under the requirements of the Subdivision Control Law and the rules and regulations governing the subdivision of land of the Planning Board in the Town of Great Barrington.

1. Name of applicant _____

Address _____

2. Name of engineer _____

Address _____

3. Name of land surveyor _____

Address _____

4. Deed of property recorded in _____ Registry,

Book _____ Page _____

5. Location and description of property:

Signature of owner _____

Address _____

A list of the names and addresses of the abutters of this subdivision is attached. Verification will be made by the Planning Board.

PLANNING BOARD'S SUBDIVISION REGULATIONS

Form D
Covenant

The undersigned _____

of _____ County, Massachusetts,
hereinafter called the "covenantor," having submitted to the Great Barrington
Planning Board a definitive plan of a subdivision entitled

dated _____ made by _____
does hereby covenant and agree with said Planning Board and the successors
in office of said Board, pursuant to MGL C. 41, § 81U, as amended that:

1. The covenantor is the owner of record of the premises shown on
said plan.

2. This covenant shall run with the land and be binding upon the
executors, administrators, heirs and assigns of the covenantor and
their successors in title to the premises shown on said plan.

3. The construction of ways and the installation of municipal
services shall be provided to serve any lot in accordance with the
applicable rules and regulations of said Board 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 the mortgaged
premises or part thereof may sell any such lot, subject only to that
portion of this covenant which provides that no lot so sold shall be
built upon until such ways and services have been provided to serve
such lot.

4. Nothing herein shall be deemed to prohibit a conveyance subject
to this covenant by a single deed of the entire parcel of land shown on
the subdivision plan or of all lots not previously released by the
Planning Board without first providing such ways and services.

5. This covenant shall take effect upon the approval of said plan.

6. Reference to this covenant shall be entered upon said plan and
this covenant shall be recorded when said plan is recorded.

The undersigned _____

_____ wife/husband of the
covenantor hereby agree that such interest as I/we may have in said premises

GREAT BARRINGTON CODE

shall be subject to the provisions of this covenant and insofar as is necessary
release all rights of tenancy by the courtesy, dower, homestead and other
interest therein.

EXECUTED as a sealed instrument this ____ day of _____ 19 ____

Commonwealth of Massachusetts

_____. ss. _____ 19 ____

Then personally appeared _____
and acknowledged the foregoing instrument to be _____
free act and deed, before me.

Notary Public

PLANNING BOARD'S SUBDIVISION REGULATIONS

Form F

Certificate of Performance

_____19____

To the Planning Board of the Town of Great Barrington:

I hereby certify that the required improvements for the following described subdivision have been constructed and conform in all respects to the rules and regulations of the Planning Board and the recommendations of the Board of Health and the specifications of the Board of Selectmen.

Subdivision names (or plan title) _____

Dated _____

Name of subdivider _____

Road name(s) _____

Stations _____ to _____

Civil Engineer

Land Surveyor

Address

Address

Registration Number and Seal

Registration Number and Seal

PLANNING BOARD'S SUBDIVISION REGULATIONS

Form G

Performance Bond – Surety Company

Know all men by these presents:

That we, _____ of
_____ in the County
of _____ in the Commonwealth of Massachusetts, as
PRINCIPAL and _____ a corporation duly
organized and existing under the laws of the Commonwealth (state) of
_____ and having an established place of business in
_____ in the County of _____

in the Commonwealth of Massachusetts, as SURETY are hereby holden and
stand firmly bound and obliged to the Town of _____, a Municipal
Corporation of the Commonwealth of Massachusetts, in its County of
Berkshire, in the full and just sum of _____ dollars (\$_____) to
the true payment whereof we bind ourselves and each of us our successors
and assigns and our heirs, executors and administrators, jointly and severally,
by these presents. This bond is subject only to the condition that if the above-
bounded _____, his (its, our) heirs, executors, administrators,
successors or assigns or its surety shall in all things stand to and abide by and
fully and satisfactorily observe, keep and perform within two (2) years from the
date and in the time and in the manner specified all of the conditions,
covenants, terms, agreements and provisions contained in the application for
the approval of a certain subdivision entitled _____ drawn by
_____ dated _____ 19____ and the conditions of
approval of the (name) Planning Board granted on _____ 19____, or is
hereby granted, then this obligation shall become null and void; otherwise it
shall remain in full force and effect.

IN WITNESS WHEREOF we have hereunto set our hands and seals this
_____ day of _____ 19____

Surety

Principal

Appendix G
Uses and ADT Schedule

Fees for Preliminary and Definitive Subdivision Plans are based on Average Daily Traffic (ADT). See §240-2 for definition of ADT and §240-25 for the fee schedule.

ADT, based on use, is as follows. ADT for any use not listed below shall be determined by the current Trip Generation Manual of the Institute of Transportation Engineers (ITE).

Use	ADT
Single family residence	10 per dwelling unit
Townhouses or Condos	5.87 per dwelling unit
PURD	7.5 per dwelling unit
Hotel	5.4 per room
Motel	5.29 per room
Office	11.06 per 1,000 gross square feet
Retail	41.42 per 1,000 gross square feet of leasable area